HOUSE TRANSPORTATION COMMITTEE
LIST OF FILES (PAGE 1)

AK RAILROAD/ GENERAL

AK RAILROAD/ TRANSFER ACT OF 1982

AK RAILROAD/ PROPOSAL - CORRESPONDENCE

AK RAILROAD/ FISCAL NOTE - CSHB 512

AK RAILROAD/ FISCAL NOTE - SB 352

AK RAILROAD/ BILL DRAFTS (FILE 1)

AK RAILROAD/ BILL DRAFTS (FILE 2)

AK RAILROAD/ COMPARISON: SB 10, SB 352, HB 512

AK RAILROAD/ ANALYSIS: CSHB 352 - HB 512

AK RAILROAD/ NOTES - HB 512

AK RAILROAD/ STAGGERS RAIL ACT OF 1980

AK RAILROAD/ EMPLOYEE INFORMATION (FILE 1)

AK RAILROAD/ EMPLOYEE INFORMATION (FILE 2)

INTERIM REPORT #1 - SEPT. 14, 1984

INTERIM REPORT #2 - NOV. 15, 1984

1983 COMMITTEE MEETING SCHEDULES

1984 COMMITTEE MEETING SCHEDULES

ATC CONFIRMATION HEARINGS

CONFIRMATION HEARINGS

CONFIRMATION HEARING: COMMISSIONER KNAPP

CONFIRMATION HEARING: BD. OF MARINE PILOTS

DEPT. OF TRANSPORTATION OVERVIEW

FEDERAL HIGHWAY ADMIN. OVERVIEW

ORIENTATION/ MUNICIPAL GRANT OVERVIEW

WORK SESSION: GOALS & ISSUES

HB 40

HB 41

HOUSE TRANSPORTATION COMMITTEE
LIST OF FILES (PAGE 2)

HB 55

HB 68

HB 69

HB 70

HB 72

HB 74

HB 98

HB 150

HB 154

HB 169

HB 170

HB 173

HB 189

HB 190

HB 199

HB 203

HB 228

HB 237

HB 238

HB 248

HB 286

HB 287

HB 294

HB 295

HB 303

HB 313

HB 321

1983-84
HOUSE TRANSPORTATION COMMITTEE
LIST OF FILES (PAGE 3)

HB 322

HB 335

HB 349

HB 361

HB 390

HB 391

HB 399

HB 400

HB 401

HB 405

HB 452

HB 472

HB 493

HB 510

HB 512

HB 543

HB 601

HB 622

HB 660

HB 661

HB 701

HCR 2

HCR 4

HCR 10

HCR 25

HCR 29

HCR 44

SB 165

SB 184

SB 315

SB 370

SB 389

SCR 5

SCR 6

SCR 7

SCR 9

SCR 20

SCR 27

AK. RAILROAD

General Info.

ACTION PAPER

1984

The New Alaska Railroad

THE NEW ALASKA RAILROAD

A Commonwealth North Report

First printing....January 1984

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THE NEW ALASKA RAILROAD

AN ACTION PAPER
BY THE
COMMONWEALTH NORTH
RAILROAD COMMITTEE

January 1984

CONCLUSIONS AND RECOMMENDATIONS

1. The state should buy the Alaska Railroad.

   - it is vital to our economy;
   - the Alaska Railroad Transfer Act provides prenegotiated arrangements on contract rights, liabilities, land rights, and benefits that may not be achievable again;
   - the Alaska Railroad has the capability of being financially self-sufficient.

2. The railroad can be self-sufficient if it is allowed to be fully competitive; is organized as an independent corporation; and the cost of transferring the railroad is funded by the state rather than the railroad.

3. The potential for "making it on its own" is critical to the mission and future of the new Alaska Railroad.

4. A streamlined public purpose goal of self-sufficiency provides a clear measurement of success and makes it known that the railroad is to be run like a business.

5. The faster the railroad shows itself capable of self-sufficiency, the sooner it will be attractive to a private buyer.

6. Even though state-owned, the railroad should be operated like a private business and be allowed to compete in the marketplace without artificial restraints.

7. Adequate safeguards exist within the Interstate Commerce Commission (ICC) and federal antitrust laws to protect competing private carriers from predatory railroad pricing of unfair advantage.

8. The legislature should refuse special interests that propose to limit the railroad's scope of operations; such limits to competition would act to the detriment of the people of Alaska.

9. The organization of the new railroad must meet the requirements of federal transfer legislation and support the railroad's potential to be self-sustaining.

10. A public corporation provides the best opportunity for success of the new Alaska Railroad, allowing both semi-autonomous management and adequate control by the state.

11. If the state funds the equivalent of the first five years' transfer liabilities in advance -- $37.7 million -- the railroad will not require further appropriations and can pay remaining transfer liabilities from internally generated funds.

12. The legislature should appropriate $37.7 million to the Alaska Railroad Corporation for the purpose of meeting transfer-related liabilities and $22.3 million to the federal government for the purchase of the Alaska Railroad.

13. Transfer-related funding should be made to the Alaska Railroad Corporation immediately upon acceptance of the railroad to give the Corporation a clean start.

SHOULD THE STATE BUY THE ALASKA RAILROAD?

For almost six years Alaskans have been debating the pros and cons of taking over the Alaska Railroad from the federal government. In the beginning of the move to transfer the railroad, the question was simply whether Alaska would accept the railroad -- no price tag attached.

The final question, which the state must decide during the first seven months of 1984, is whether Alaska will accept the price and conditions mandated in the Alaska Railroad Transfer Act of 1982.

The Price: $22.3 million

Interestingly, public debate over whether or not to accept the purchase price of the railroad has focused on the same two concerns expressed when no purchase price was involved:

- First, will the railroad be a continuing, long-term drain on the state?

- Second, is it appropriate or even possible for the state government to operate a commercial enterprise like the Alaska Railroad?

The particular issues related to the transfer price are:

- Is the valuation fair?

- How much more, over and above the purchase price, will the transfer cost the state?

All of these concerns are debated against a background of conjecture as to what would happen if the state does not accept the railroad.

Commonwealth North first focused on the importance of the railroad transfer when draft legislation was introduced in 1981. We issued an interim report in January 1982 suggesting provisions that should be part of any transfer legislation passed by Congress.

In 1983, it became apparent to the Commonwealth North Board of Directors that further investigation of the railroad issues was required. Besides the immediate question of whether the transfer proposal was fair, the corollary questions of how the railroad should be operated under state control, and to what purpose, became increasingly important.

This report summarizes the conclusions reached after six months of independent work by the Commonwealth North Railroad Committee.

The committee examined the purchase of the Alaska Railroad on an "as is/ where is" basis. While many Alaskans believe the only reason to accept the railroad is for purposes of extension, we concluded that today's railroad, with its capabilities and limitations, is what is being offered, and it is today's railroad that must meet the test of purchase.

The committee examined the Alaska Railroad on an "as is/where is" basis.

YES! THE STATE SHOULD BUY THE RAILROAD

The Alaska Railroad is vital to Alaska's economy.

The railroad is central to the state's extremely limited land transportation system. It fosters movement of bulk freight that would otherwise be impossible to move long distance; offers an important transportation alternative and balance to the competitive pricing structure in Alaska; and offers the only economical method of moving mineral resources to markets.

The purchase price is reasonable. *

The committee was intensely involved in monitoring the valuation process. Overall, we are satisfied that the state's interests were accounted for and that there is no "hidden" information.

There was particular concern that the state have a true picture of the physical condition of the railroad. There is a spread between the United States Railway Association (USRA) assessment of condition and the state's engineering experts. Because this area is so critical, we used the state's higher forecasted costs in our analysis.

---

* See Appendix for breakdown of the transfer package.

The Railroad Transfer Act provides prenegotiated arrangements on contract rights, liabilities, and land rights that may not be achievable again.

These include statutory protection of the railroad's rights-of-way; tax exempt status, which permits tax-free industrial revenue bond use for capital improvements; exemption from certain federal railway employee-related laws; and a guarantee that the survey of lands to be conveyed to the state will be finished within a five-year time period.

The Alaska Railroad has the capability of being financially self-sufficient.

This conclusion is based on published and proprietary financial reports of USRA, the state transfer team, and the railroad. In analyzing future revenue projections, the committee learned it could not rely entirely upon historical perspective.

Since 1980, there have been three critical changes that can make the difference between the railroad's past subsidized performance and the capability for self-sustaining future performance:

- Deregulation of the railroad industry nationwide positions the Alaska Railroad to benefit in the more competitive and less regulated marketplace that is evolving.

- Projected market changes in Alaska, particularly in products like coal, gravel, and pipe which are especially suited to railroad transportation.

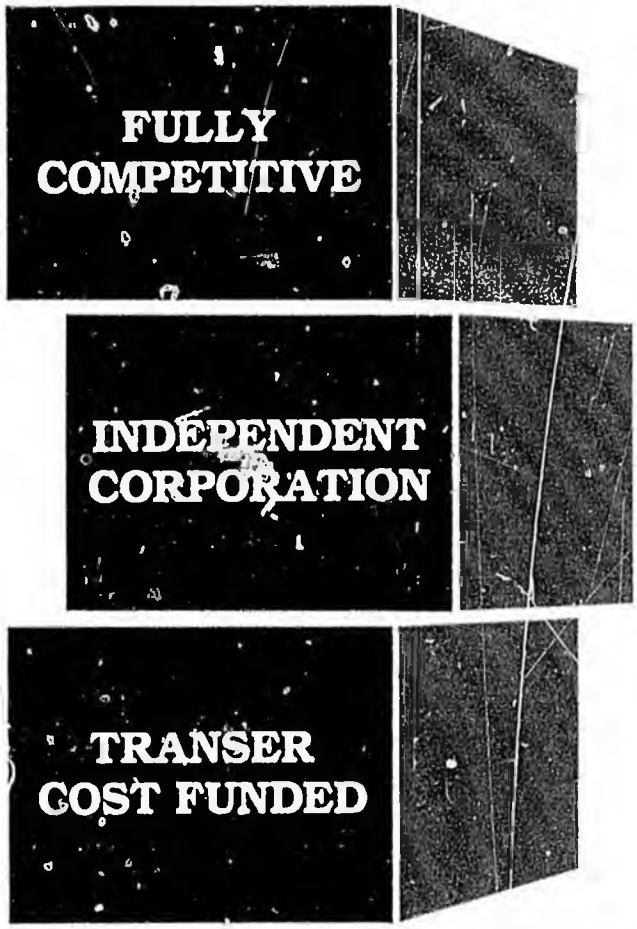
- Opportunity for tighter management performance and cost control as a result of the change from federal ownership to state ownership.

THE NEW ALASKA RAILROAD

The most unexpected and encouraging conclusion reached by the committee is that the railroad has the potential of being financially self-sufficient from the time of purchase, and of operating without continuing appropriations from the state.

This will only happen, however, if the legislature is willing to meet three conditions necessary for a self-supporting railroad:

- The railroad must be allowed to be fully competitive.
- It must be organized as an independent corporation.
- The cost of transferring the railroad to the state must be recognized and funded by the state rather than the railroad.



This potential for "making it on its own" is critical to the mission and future of the new Alaska Railroad.

As to the mission, if the legislature agrees that the railroad has the potential to provide efficient, competitively priced freight and passenger service on a self-sustaining basis, they should direct it to do so.

If properly structured, the railroad promises to be financially self-sufficient.

Too many public corporations in Alaska and elsewhere have weakly worded policy goals in their enabling legislation that satisfy special interests but do not provide any means of measuring their success; or they have conflicting goals that are impossible to meet.

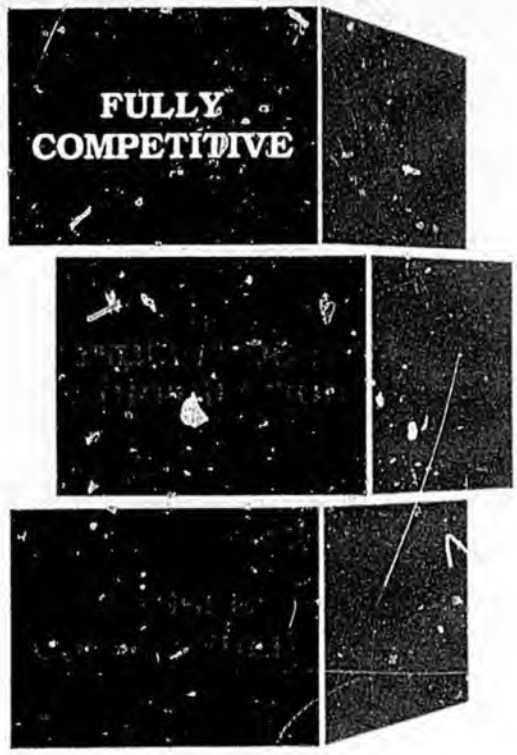
The concept of a streamlined public purpose goal of self-sufficiency provides a clear measurement of success and makes it known that the railroad is to be run like a business.

Under a legislative mandate to operate in a self-sufficient manner, all decisions related to such potentially political issues as level and purpose of capital expenditures, employee wage agreements, and level of debt are the direct function of revenue and the ability to pay.

Under a legislative requirement to operate in a self-sufficient manner, all special interests are on notice that if the railroad is required to undertake a service that is not economically viable, the state will have to fund that service.

A successful railroad will become attractive to private industry.

As to the future, the committee believes that the faster the Alaska Railroad shows itself capable of self-sufficiency, the sooner it will be attractive to a private buyer. If the railroad is never attractive as a successful business enterprise, the state may own it forever.



THE RAILROAD MUST BE FULLY COMPETITIVE

Railroads are capital intensive and as such, require large volumes of shipments to meet the cost of maintaining track, roadbed, and equipment. Market share and competition are the economic underpinning of any railroad.

Even though state owned, the railroad should be operated like a private business and be allowed to compete in the marketplace without artificial constraints.

Adequate safeguards exist within the Interstate Commerce Commission (ICC) and federal antitrust laws to protect competing private carriers from predatory railroad pricing or unfair advantage.

The legislature should refuse special interests that propose to limit the railroad's scope of operations; such limits to competition would act to the detriment of the people of Alaska.

Pricing and service decisions should be vested with the railroad: questions of private vs. public ownership in rate decision making must be left to experts who deal with these issues on a nationwide basis - the ICC and the courts.

The Staggers Act, passed in 1980 to allow railroads nationwide to become more competitive, requires the same rate-making methods, accounting requirements, and market dominance tests for publicly owned railroads as it does for privately owned railroads. The Act clearly requires all railroads to fix rates that cover at least 100 percent of

variable costs and to define maximum rate levels indicating a carrier is not exercising market dominance.

The Alaska Railroad has been partially subject to the ICC since 1963 and has been fully subject since July, 1983, as it will continue to be after the transfer. In addition, the transfer legislation makes the railroad subject to federal antitrust laws.

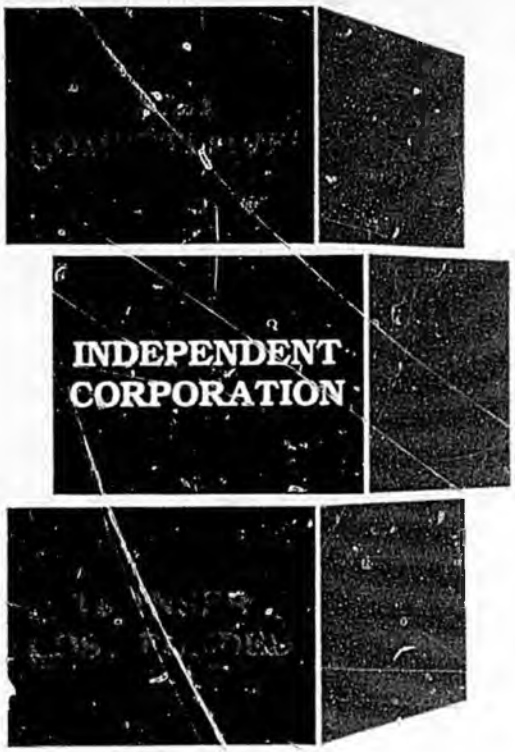
Finally, the committee concluded that it is doubtful that a lasting or meaningful compromise between competing carriers and the Alaska Railroad could be fashioned.

The railroad both competes with and cooperates with truck and water carriers; it would be impossible to determine where the railroad should offer special pricing without influencing the competitive advantage of one private carrier over another.

A competitive marketing philosophy has already resulted in the announcement of new private carriers serving Alaska in cooperation with the railroad.

Continued competition will encourage innovative marketing and use of technology to move goods at lower prices. The shipper and the Alaskan consumer will benefit and the revenues generated will strengthen the Alaska Railroad.

The legislature should refuse special interests that try to limit operations.



THE RAILROAD MUST BE AN INDEPENDENT CORPORATION

In examining the form of organization to operate the railroad, the committee was guided by two basic criteria:

1. That the organizational format meet the requirements and restrictions of the federal transfer legislation.

2. That the format support the railroad's potential to be self-sustaining.

The intent is to recommend a format that will isolate railroad management from unreasonable political pressure to provide services that are neither economic nor in the state's best interest, and at the same time protect the public interest.

The dilemma is historic for publicly funded corporations: how to hold such corporations accountable while providing freedom to manage.

Four basic organizational formats were examined: a mixed private/public organization; a separate railroad department; a line agency of a state department; and an independent public corporation/public authority.*

The committee concludes that a public corporation provides the best opportunity for success for the new Alaska Railroad. It provides for

* The term public corporation and public authority are used interchangeably.

semi-autonomous management; allows for adequate control by the state; and clearly falls within the transfer legislation's offer of tax exempt status "to a public corporation, authority, or other agency of the state."

The mixed private/public ownership format was attractive because it allows for the easiest transition to wholly private ownership. Such organization could be either a private corporation formed under Alaska Statute AS 10.05, or a limited partnership.

Management must be isolated from undue political pressure.

The mixed private/public format was ultimately rejected because of numerous disadvantages, including the probability that the railroad would be unable to finance capital expenditures with tax-exempt bonds.

It was determined that the disadvantages of line agency status to the railroad--particularly the lack of management flexibility--were so obvious that the railroad would never be self-supporting under this format.

Consideration was also given to the concept of a separate, independent department. Article III, Section 22 of the Alaska Constitution provides for the formulation of up to 20 departments in the executive branch of government.

As there are 17 departments at present, it is possible to place the railroad in its own department, under the direction of a commissioner appointed by the governor and subject to confirmation by the legislature.

A public corporation provides the best opportunity for the success of the railroad.

This form of organization was rejected principally on the basis that it offers few, if any, advantages over an independent corporation established pursuant to the Constitution.

RECOMMENDATIONS FOR THE ALASKA RAILROAD CORPORATION

1. The corporation should have full control over the surface and subsurface railroad lands.

   The purchase of the Alaska Railroad is often referred to as "a real estate deal" because of the value of land included in the transfer package.

   Some private leaseholders and municipal governments with railroad-owned waterfronts or city centers would like to see the land transferred to themselves. The corporation, as a matter of policy, should not sell revenue-producing property because it is in the interest of the entire state that the railroad hold these properties for its own needs.

2. The corporation and its union employees should cooperate in modernizing existing labor agreements during the two-year transitional period mandated in the federal transfer legislation.

   Particular attention should be given to any archaic work rules that inhibit efficiency. The goal should be to increase productivity rather than diminish compensation to employees.

   Efficient utilization of railroad employees is essential for a self-sufficient operation.

3. The corporation should not be mandated to propose or conduct feasibility studies for cross-country track extensions or sale of the railroad.

   Major rail extensions and sale issues are not operating issues. The mission of the railroad corporation should be closely focused on matters that affect economics and service to shippers and passengers on existing routes. Fea-

sibility studies are expensive, require extensive staff time, and could drain the limited funds of the railroad.

Extensions and sale proposals have broad policy implications that can best be considered by the executive and legislative branches of state government or private entities.

4. Passenger operations should be modified to take advantage of revenue opportunities and re-evaluate uneconomic services; a system should be devised to accurately identify passenger service costs.

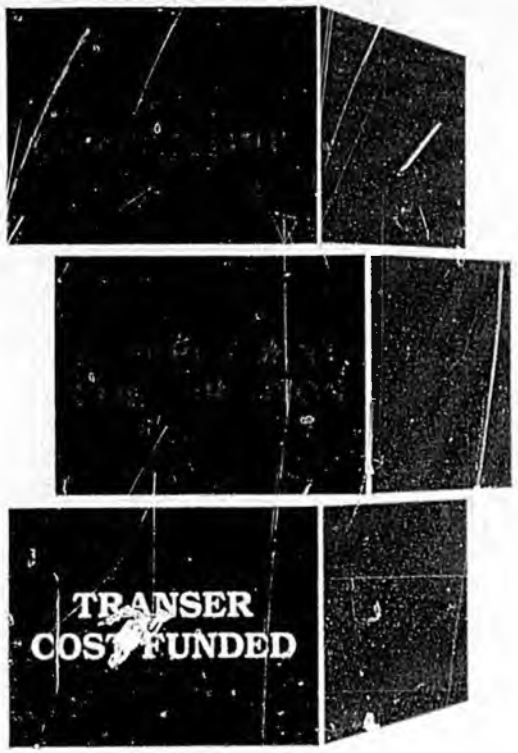
Just as land leasing by the railroad is projected to be profitable, passenger service will likely remain a loss operation if all related expenses and capital costs are considered. To control these costs, however, it is important to account for them accurately.

Reliable cost information is crucial in considering service levels, pricing issues, and capital expenditure decisions.

5. The Board of Directors of the Alaska Railroad Corporation should consist of five to seven voting members representing the interest of the entire public; no board member should be appointed to represent a special interest.

Directors should be chosen for their professional judgment rather than their representations of special interests or home town. Similarly, non-voting membership is inappropriate.

Board members should be limited to two five-year terms of service and with staggered terms to mix continuity of experience with new ideas.



COST OF TRANSFER MUST BE FUNDED BY THE STATE

The USRA valuation report on the Alaska Railroad describes the railroad's operations as "modest when compared with railroads in the lower 48 where it would be classified as a medium-sized 'short-line' carrier with below average freight traffic density."

Historically, operations of the railroad have ranged from modestly profitable years to periods of substantial losses.

While optimistic for improved performance of the new Alaska Railroad, the committee concludes that the minimal cash margins forecast for the first five years will be insufficient to meet the purchase or transfer-related costs on top of operating and capital expenditures.

Marginal railroads fail historically because of a combination of acquisition cost, rehabilitation cost, and debt service.

The Alaska Railroad comes to the state debt free; however, there are four substantial transfer-related liabilities (in addition to the purchase price) connected with acquisition and rehabilitation that have been identified by the USRA and state transfer teams.

These liabilities primarily result from the manner the federal government operated the railroad and were partially recognized in the appraisal process as deductions from the overall value of the railroad.

1. Under state ownership the railroad will be subject to Occupational Safety and Health Act (OSHA) standards

and from Alaska fire and building-related codes. Substantial funds are needed to correct deficiencies now existing.

2. Maintenance-of-way and capital expenditure needs result from facilities which have been allowed to deteriorate but are necessary for the ongoing use of the system. For example, the condition of cross ties, rail, and structures in certain areas has been allowed to slip behind prudent replacement schedules, according to some independent experts.

3. At the time of transfer there will be a number of legal, administrative and consulting costs to start-up under state control. This is part of the railroad purchase cost and should be funded as such.

4. The final category of start-up costs is adequate working capital to cover cash timing requirements of the railroad corporation.

Until very recently, the transfer liabilities included an extremely high employee retirement figure, generally referred to as the "unfunded pension liability." While this liability was considered in the valuation process, the committee strongly believed that the state should not have to pay for this federal problem. Fortunately, the federal Office of Personnel Management has rendered an opinion relieving the state of responsibility for the unfunded pension cost.

Resolution of the pension liability issue was critical to purchase.

Resolution of this issue was critical to our recommendation to purchase the railroad.

USRA and the state transfer team "worst case" calculations for these four categories of liabilities alone may total $64.8 million over the next ten years. This amount is in addition to the $22.3 million purchase price payable to the federal treasury.

If the start-up liabilities were funded annually, the railroad would not

show positive cash flow until 1990, according to these projections.

However, the committee's analysis shows that if the state funds the equivalent of the first five years' liabilities in advance -- $37.7 million -- the railroad can be self-sufficient from the transfer date onward and not require further appropriations. (See Appendix.)

The cash required for funding the purchase and five years' transfer costs is as follows ($ million):

Code and OSHA compliance	$16.0
Deferred maintenance	15.3
Working capital	4.7
Start-up expense	1.7
Cash required by railroad corporation	$37.7
Purchase price payable to federal treasury	22.3
Funding required for transfer	$60.0

The legislature should appropriate $37.7 million to the railroad corporation for transfer-related costs.

If the state pays all of these costs at transfer, the railroad projections show the capacity to fund the remaining $27.0 million of liabilities from internally generated funds.

While $37.7 million is a substantial cost, it ultimately cannot be avoided. The expenditure would represent approximately 1.1 percent of the proposed $3.5 billion FY 85 state budget that would be in effect during the railroad transfer period. In consideration of the benefits derived, we believe this choice of funding would be well justified.

It is recommended that the legislature appropriate $37.7 million dollars to the Alaska Railroad Corporation for the purpose of meeting transfer-related liabilities and $22.3 million to the federal government.

Transfer-related funding should be made to the Alaska Railroad Corporation this legislative session to give the Corporation a clean start. By separating expenses generated as a result of transfer, the railroad management's success or failure in meeting a goal of self-sufficiency can be clearly measured.

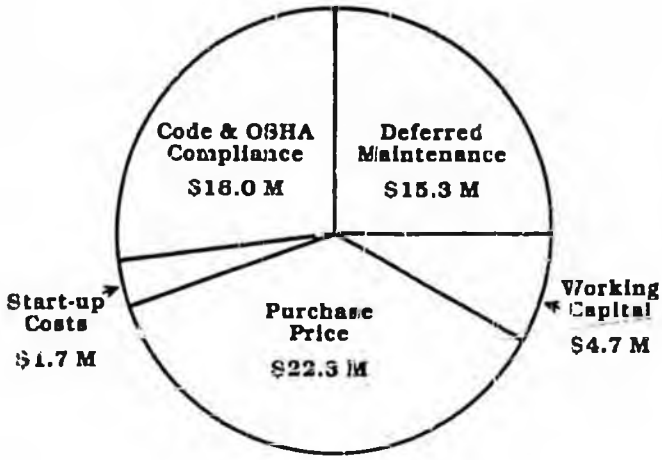
In determining whether a goal of financial self-sufficiency was possible, the committee found that the more conventional financial statement approach in analyzing profit and loss analysis fails in two respects when examining the railroad's financial staetments.

Government accounting at the railroad allowed capitalizing certain track maintenance programs that otherwise would have been charged against profits currently. Therefore, in viewing historical performance of the railroad, it is more useful to calculate cash flow including capital expenditure programs, to measure the degree of self-sufficiency over time.

Capital expenditures historically and prospectively exceed depreciation charges, further supporting cash flow as the relevant measure in this analysis.

If the transfer-related liabilities are funded, the railroad will have four sources of revenue: the start-up monies from the legislature; operations; real estate; and borrowing capabilities.

While our cash flow analysis does not rely on debt, the transfer legislation provides for the tax-exempt status of the railroad and the ability to issue tax-exempt debt. However, to the extent possible, this source should only be



The Alaska Railroad Transfer-Related Costs: $60 million

The success of the railroad may parallel the fortunes of Alaska.

used for funding investments in equipment or facilities that will generate new revenues or reduce operating costs.

It is emphasized that the starting point in all of these analyses is revenue projections by current management. As noted in the discussion related to competition, revenues are all-important for economic success. High fixed costs will not drop significantly with reduced traffic. If major sustained shipments fail to materialize as expected, periods of negative cash flow could result. Management believes its base projections to be realistic, and, perhaps, conservative.

The Commonwealth North Railroad Committee is encouraged by the railroad's potential to be of even greater benefit to the State of Alaska. In many respects, the success of the railroad may parallel the future of Alaska's overall economy.

THE FUTURE OF THE ALASKA RAILROAD

The optimistic conclusion that the Alaska Railroad can be self-supporting on its existing system still must meet the test of fact.

But, for the first time in the Alaska Railroad's history, it will be Alaskans writing the legislation and making the decisions that will determine the railroad's future.

What about that future?

Two major policy questions concern extension of the track system and transfer of the railroad to private ownership.

The railroad has always held the potential of reaching out far beyond the "railbelt" of Alaska. Even after 60 years of operation the railroad system remains short of its original charge to be a frontier development tool.

The problems will remain the same under state ownership: rail extension is expensive; feasibility studies of major route expansions by both public and private interests have not yet been positive.

But, if the problems remain the same, the decision makers will be different and so will the criteria of public need and public good.

Issues of project funding and operating cost coverage can be looked at on an ability-to-pay basis from a state perspective, and while economic returns must be real, they may not need to be so immediate.

Major track extension of the Alaska Railroad may be in the far future, but under state ownership, Alaskans will decide how far.

We will also have control over the question of whether or not it is in the public interest to sell the railroad to a private buyer.

This issue should be carefully explored. However, until a favorable operating record can be demonstrated, it is unlikely that a responsible private buyer would offer to purchase the railroad, unless it were to gain control of its valuable landholdings.

These questions do not need to be solved immediately.

The challenge right now is to set up a successful Alaska Railroad Corporation and build on the future from there.

APPENDIX

THE TRANSFER PACKAGE

THE PURCHASE PRICE OF $22.3 MILLION BUYS THE STATE OF ALASKA THE FEDERAL ALASKA RAILROAD SYSTEM:

- 520 miles of single main and branch line track between Seward and Fairbanks--via Anchorage, Wasilla, Healy, and Nenana;
- 64 miles of branch track linking Fairbanks to Eielson Air Force Base, Healy to Suntrana, Matanuska Junction to Palmer, Portage to Seward, and an International Airport spur;
- 62 locomotives, 1653 freight cars, 46 passenger cars, and over 200 pieces of maintenance and emergency equipment;
- railroad yards, offices, maintenance buildings, storage, in Anchorage, Seward, Whittier, Healy, Nenana, and Fairbanks;
- 38,000 acres of land: 12,000 of right-of-way; 1,000 acres leased (for approximately $3 million annual rental income); 11,000 used as actual or future gravel sources; 7,000 acres for terminal and yard areas;
- 539 employees: 455 full time permanent, 84 temporary, 51 special categories.

THE ALASKA RAILROAD TRANSFER ACT (ARTA):

- requires the state to agree to operate the railroad as a rail carrier in intrastate and interstate commerce;
- requires the state to protect retirement benefits and to negotiate employment arrangements during the first two years of ownership;
- places the state-owned railroad under full and formal regulation by the Interstate Commerce Commission and federal anti-trust laws;
- requires that all revenues generated by the state-owned railroad are to be maintained and managed by the railroad for railroad-related purposes;
- qualifies the railroad "as a public corporation, authority, or other agency of the state" for tax exempt status.
- guarantees that the state will receive nothing less than an exclusive-use easement on railroad rights-of-way for transportation, communication, and utility purposes in all areas (except Denali National Park where the easement is for rail purposes only).

APPENDIX

ALASKA RAILROAD
PRO FORMA CASH FLOW ADJUSTMENTS
(1983 $000)

	(1) FY 84	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Adjusted Transfer Team Cash ("Worst Case")	(19267)	(11315)	(8830)	(5366)	(3048)	(66)	82	341	245	248
Pensions (2)	3165	3044	2939	2830	2740	2651	2558	2468	2374	2285
Cash Adjusted for Pension Issue	(16102)	(8271)	(5891)	(2536)	(308)	2585	2640	2809	2619	2533
State Adjustment Reversals:										
CODE/OSHA Compliance	1200	1200	1200	1200	1200(3)					
MOW/Capital Needs	2500	2500	2500	1500	1500					
USRA Adjustment Reversals:										
One-Time Startup	1750									
Working Capital	4377	95	168	57	49					
OSHA	500	500	500	500	500					
CODE	1500	1500	1500	1500	1500					
Maintenance-of-Way	1220	810	850	870	1010					
Total Adjustments Requiring Funding	13047	6605	6718	5627	5759(4)	-	-	-	-	-
C/N Adjusted Cash	(3055)	(1666)	827	3091	5451	2585	2640	2809	2619	2533

Notes: (1) USRA and State used FY 84 as full-year transfer period. It is likely that transfer will occur in FY 85 and all adjustments should be moved one year forward.

(2) Pension adjustments for 10 years is due to funding requirement change. Includes USRA and State adjustments.

(3) Commonwealth North proposes adjustments only to fund first five years' costs of transfer.

(4) Total up-front funding proposed by Commonwealth North totals $37,756,000.

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A REPORT BY



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DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

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OFFICE OF THE COMMISSIONER

ALASKA RAILROAD TRANSFER TEAM

April 12, 1984

The Honorable Al Adams
Chairman, House Finance Committee
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

This letter is in response to several questions raised by your staff regarding the fiscal note for the CS for HB 512, an Act establishing the Alaska Railroad Corporation. In an attempt to offer more specificity for our estimates, enclosed is a package of information which should provide the requested justification.

The complexity of the transfer project and the need to plan for unknown contingencies given the unresolved legislative process make it difficult to present a full and detailed fiscal analysis. This is further complicated by the lack of a complete and accurate data base from which to project fiscal activity.

Although considerable independent analysis has been given to the available data in the preparation of this fiscal note, it has also been necessary to rely on historical railroad data and current railroad projections to complete our submittal. Once established under state ownership, it should be easier to provide more detailed documentation to support future funding requests.

The following is a brief discussion in response to all of the major points which I understand are of concern to your committee. It has been structured to give most of the requested information in the actual letter, with the various attachments serving as back-up for further review.

° Railroad Labor Relations Agency

I understand there is some concern over why a separate railroad labor relations agency has been proposed in the committee substitute. It was offered in response to concerns raised by both the House and Senate Transportation Committees, who wished to keep railroad employees as separate from normal state systems as possible. Further, it was thought that having a separate labor relations agency would allow the appointment of people with some special expertise in this area.

The alternative would be to require the State's existing Labor Relations Agency to assume the additional responsibility for the Alaska Railroad Corporation. The $35,000 cost estimate for FY 85 should not change significantly under this approach, since new expenses will be incurred under either arrangement.

The breakdown of this estimate is $7,000 for travel and per diem charges by board members, with the remaining $28,000 for contractual assistance by labor relations attorneys and specialists to resolve specific issues as they arise. This estimate is based on the actual experience of our existing Labor Relations Agency, and reflects performing activity for about nine months of the fiscal year, with work beginning as the corporation gears up for acceptance of the railroad.

° Operating Expenditures

I understand another issue for your committee is the desire to see more justification for the various estimates within the operating expenditure categories. Attachment A presents by month and object category additional information in this regard, including a detailed breakdown of railroad expenditures by individual departments.

These costs represent the overall expenses associated with operating the railroad during the pro-rated period of FY 85, and do not represent the level of general fund assistance needed to cover the anticipated shortfall. It is also important to note that no effort has been made on the fiscal note to allocate the projected shortfall as either capital or operating assistance, since such a distinction would be totally arbitrary.

Board of Directors: Expenditures for the Board of Directors have been assessed in the 100 and 200 level categories. A total of $160,000 has been budgeted for board members' compensation and travel expenses during FY 85. The estimate of $120,000 for compensation has been calculated on an assumption of 40 days of meetings and work activity by the board during FY 85. This estimate is in response to legislative intent expressed in the House Transportation Committee that a "working board" is envisioned during at least the first year of activity.

The $40,000 in funds for travel has been estimated on an assumption of approximately $500 per trip for air fare, per diem and expenses x four board members, which also assumes that two of the public members and the union representative will be from Anchorage. It is assumed there would be approximately 20 separate occasions for meetings or related activity requiring travel by board members during FY 85.

Personal Services: Except for the compensation to board members and some additional temporary and part-time assistance related to start-up activities, all expenditures projected for wages and fringe benefits during the December-to-June period of FY 85

represent maintaining current work force levels. Attachment A provides a complete breakdown for this area by month and by individual railroad department. All personal services for the Alaska Railroad Transfer Team are depicted under the contractual category since these funds will be passed by RSA to DOT&PF.

Travel: In addition to the $40,000 in funds set aside for travel by board members, another $100,000 expenditure is projected for expenditure by the Alaska Railroad during FY 85. Attachment A shows the monthly breakdown by each operating department. These estimates are based primarily on historical data from the railroad, along with some anticipated increase resulting from of the transfer. All travel expenditures for the Transfer Team are depicted as part of the single request under the contractual category.

Please note that the total of $140,000 in funds under this category represents a decrease from the original $300,000 requested in the fiscal note attached by the House Transportation Committee to the CS for HB 512. In reviewing the back-up, I discovered that the Transfer Team's travel estimate was inadvertently added to those for the railroad and the board. As a result, Attachment B is a revised fiscal note which shows the correct breakdown for this category. The net effect of this change is a reduction of $160,000 to the overall shortfall for FY 85.

Contracts: Approximately $2.5 million of this estimate is allocated to cover normal railroad needs during the pro-rated period in FY 85. These estimates are based on actual railroad experience and cover such items as the provision of data processing services, rolling stock per diem charges, specialized power and rolling stock maintenance, and general utility payments.

Please note that the total of $6.0 million for contracts as depicted on the revised fiscal note includes a re-allocation of $1.2 million from the supply category on the first submittal. In reviewing the back-up to this material, I discovered some service-related contracts which would be more appropriate for allocation under the contractual category. Accordingly, the supply category in the revised fiscal note has been reduced an equal amount.

Another $1.2 million of this category represents part of the total $2 million in estimated costs to the corporation for one-time, start-up expenditures for a range of services such as inventorying and remarking of all personal property, printing of new stationery and payment warrants, revising purchasing and leasing systems, and the initiation of a new accounting system. The remaining items under this category have already been explained in prior submittals or will be further detailed below as part of the expanded discussion on the Transfer Team's activity.

Supplies: This category covers all normal supply acquisitions for the railroad during this period which are treated as expenses to the business. The major items included under this category are fuel acquisition, small tools and lubricants used for maintenance of equipment, all paper materials used for railroad administration, and a miscellaneous inventory of such items as ties, rail and switches used in the maintenance of the track and roadbed. This allocation is based on historical railroad data for FY 83 and FY 84.

Equipment: This category covers all normal equipment acquisitions for this period that are not treated as capital investments by the railroad. The majority of these expenditures are in the mechanical and engineering departments. Major items covered by this category include replacement of miscellaneous mechanical shop equipment and maintenance-of-way equipment as described in Section IV of Appendix G to the Alaska Railroad Transfer Report; hy-rail vehicles; and replacement of microwave communication parts. This breakdown of cost is also based on historical railroad data.

Grants & Claims: This consists of expenses for workmen's compensation, along with overall risk management needs (i.e., tort actions; loss and damage claims; etc.). Attachment C is a recent analysis of these needs prepared by the Department of Administration's Division of Risk Management.

° Alaska Railroad Transfer Team

Several additional questions have been raised about the responsibility and needs of the Transfer Team during FY 85. If the State elects to purchase the Alaska Railroad this legislative session, the Transfer Team will have the primary responsibility to ensure an orderly transition from federal to state ownership, including directing and coordinating all related state activity. In addition, the Transfer Team will have the task to assist in the establishment of the new public corporation to own and operate the railroad, including technical assistance to the new board as it assumes its duties. This will mean a large amount of work, particularly in the first six to nine months of FY 85.

It is important to reiterate that the Transfer Team is an interim organization to coordinate state activities and to oversee the transition from federal ownership. Its duties should be largely completed by the end of FY 85. Any additional fiscal impact to state agencies as a result of acquiring the railroad can be budgeted for as part of normal budgeting activity starting in FY 86. This approach to budgeting for FY 84 and FY 85 has given the Legislature the opportunity to review all transfer-related costs in one specific budget request, instead of having all of the individual agencies separately budget for these impacts.

All of the positions in the various agencies to perform this work are specifically for this project, and are being funded solely with these monies. Most of these positions are already in existence during FY 84, and will merely continue during FY 85 until the completion of the project.

DOT&PF: A specific question has been raised about the size of the projected travel budget for DOT&PF and several of the other agencies. While I agree there is a large travel budget for this project, actual activity during the end of FY 83 and throughout FY 84 substantiates these estimates.

This project has required a large amount of constant travel by staff because of the statutory time limits set by the federal transfer legislation. In addition, this has been further exacerbated by the inherent conflict assocated with managing this project from Juneau given the policy implications of the issue and the location of the needed information at the railroad headquarters in Anchorage. Finally, there has been an ongoing need for a limited amount of travel back to Washington, D.C., Seattle, and Fairbanks. If the State elects to purchase the railroad, we anticipate this kind of activity to continue, particularly from July to December, in order to facilitate a quick and orderly transfer.

The travel component in this area covers the Transfer Team staff and all other DOT&PF officials from Juneau, Anchorage, or Fairbanks for travel directly related to the railroad transfer. There have already been several occasions when staff from other divisions (e.g., the facilities planning section) has assisted on specific work tasks for this project.

Based on a review of the initial estimate in relation to our actual expenditures during FY 83 and 84, I have adjusted our funding request in this area down to $46,000. This is based on an assumption of 40 trips during FY 85 between Anchorage and Juneau at approximately a total cost of $700 per trip for air fare, per diem and expenses; five trips between Juneau and Washington, D.C. at a cost of $1,600 per trip; eight trips between Juneau/Anchorage and Seattle at a $800 per trip; and eight trips between Juneau/ Anchorage and Fairbanks or other points along the line at $450 per trip.

An additional concern has been raised about the $35,000 projected for printing and miscellaneous professional services. $30,000 of this amount is projected for expenditure under an existing professional services contract with the Woodside Consulting Group to refine a capital improvement planning effort for ongoing use by the railroad and for use during preparation of the FY 86 budgets. This contract will also allow us to maintain a readily available railroad management expertise to assist with the establishment of the corporation. The remaining funds will be needed to print copies of the transfer documents for official state use.

° Department of Natural Resources

Most of these funds will be used to continue existing work by the Division of Technical Services for the preparation of conveyance documents and related title review work. There are currently two full-time positions engaged in this activity, with a third technical assistant scheduled to be added if the State proceeds with the transfer. A fourth non-permanent position would also be created in the Division of Land and Water Management to assist with transfer-related impacts. Attachment D presents a more detailed explanation for these estimates.

In re-checking DNR's original request, it was determined that the following changes can be made to the breakdown provided in Attachment B to the original fiscal note:

Object of Expenditure	Description	Amount
Personal Services	4 positions - DNR	$148.0
Travel	4 positions - DNR	13.6
Contractual	Appraisals/Printing	6.5
Supplies	Miscellaneous Commodities	3.0
Total		$170.1

This change reduces the DNR request to the level minimally needed to perform the necessary title and conveyance document work, to coordinate and oversee the cadastral survey work, and to ensure accomplishment of the tasks by the Division of Land and Water Management as explained in their attached memo.

In addition to these DNR impacts as part of the Transfer Team, an additional $35,000 funding request has been added to this note under the contractual line item in response to the anticipated impact from implementing Sec. 42.40.370 of the CS for HB 512. This section authorizes the Alaska Railroad Corporation to obtain state land from DNR through an expedited review and decision-making process. DNR is of the opinion that this section gives the corporation priority standing and will impact their ability to perform their other duties. Accordingly, these funds are for non-permanent staff assistance and some travel during FY 85 to respond to all such corporation requests. Fiscal impact during FY 86 is expected to be greater once the corporation has been organized and begins to explore expansion proposals.

Please note that the net effect of this revised budget for DNR, when combined with the reduced travel estimate for DOT&PF, is a reduction of $100,000 in funds being requested for the Transfer Team during FY 85. An appropriate adjustment has been made to both Attachment A and the revised fiscal note to reflect this change.

° Department of Labor

Attachment E provides a detailed breakout and explanation of the funding request of $213,500 for the Department of Labor to perform an extensive survey of the railroad's physical facilities in relation to federal and state occupational safety and health laws, regulations and standards. This funding will allow the Department of Labor to properly perform their statutory responsibilities on a one-time basis in relation to the Alaska Railroad.

° Department of Administration

Most activity in this area will consist of continuing work efforts initiated during FY 84. Particular attention must be paid to the analysis of the five collective bargaining agreements, which will be made available for use by the corporation in the process of renegotiating these agreements as required by the federal transfer law. Attachment F contains additional explanation and back-up with respect to the funding request for the Department of Administration. Please note that in addition to the $257,400 highlighted in the Transfer Team's attachment, another $80,000 in funds is being requested to hire a knowledgeable railroad labor relations attorney and to perform support work needed in relation to the preservation of railroad archives.

It is important to reiterate that this request does not fund permanent increases in the department's operations or staffing. The two non-permanent staff assistants will perform support work in a range of areas such as risk management, data processing, telecommunications, and EEO issues. The projected travel budget includes supporting these efforts, and any other department travel needs related to this project.

In terms of the contractual component, $45,000 has been set aside for the ongoing actuarial analysis by Mercer, Inc.; $50,000 for the labor relations attorney; $60,000 to perform DOA liaison work and staff assistance for the pre-transfer audit; and the remaining $30,000 to assure the State receives copies of all personnel records, and to assure an orderly cataloguing and storage of archival records at the railroad, at Sand Point, Washington, and at Washington, D.C.

° Department of Law

The Department of Law component to assist the Transfer Team is based entirely on actual experience during the last year and half of work. There will be a sizeable need for this legal assistance assuming state acceptance of the transfer, particularly during the first six months of FY 85. Considerable work is anticipated to represent the State in the adjudication process of 3(e) (ANCSA) claims against railroad property by native village corporations. Additional legal assistance will be needed for the preparation of the transfer documents relating

to land conveyances and personal property, preparation of personnel-related legal documents in concert with the U.S. Office of Personnel Management, timely responses to third parties concerns which may arise as a result of the transfer, and representation of the State vis-à-vis the Interstate Commerce Commission (ICC) to obtain certification and to initiate filings for rate-making purposes. An additional legal expense to be encountered relates to the actual establishment of the corporation and all of the legal work necessary to assist that effort.

The outside special counsel used in this project will be directly involved in all of the above functions. These efforts are coordinated with staff within the department, who also participate in performing this work. It should be noted that FY 85 costs in this area is less than for prior years, which is due to a projected downswing for this type of activity following actual transfer in late 1984.

° ICC Rate Valuation/Capital Plan Activity

The funding in this area will be used to initiate planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification. In addition, the railroad needs to continue an ongoing capital planning effort to better assist the corporation in making investment decisions, and provide additional support for the ICC filings. An overall amount in excess of $1 million will probably be needed to properly complete such a full-scale valuation.

Included in this effort is the need to completely disassemble the current accounting system, restructure all cost center allocations accordingly, and appraise the value of the railroad as a going concern. Since condition and capital needs play a key part in this kind of assessment, it is important to coordinate the work to the maximum extent possible. The consulting assistance will consist of financial and operational railroad experts familiar with similar types of railroads and Class II ICC rate-making procedures.

Although the federal transfer legislation gives the State a two year hiatus before these filings must be made, it is important to initiate these efforts as soon as possible given the uncertain status of the current accounting system and the overall complexity of the actual project. The Transfer Team will use these funds to initiate the effort and then transfer responsibility for completion of the work task to the corporation.

° Summary

I would like to reiterate that the shortfall figure of $15.54 million has not been allocated between capital and operating needs. While to make such a distinction would be quite arbitrary,

it is possible to identify the following items as the major reasons for the shortfall: the replacement of the working capital fund; the OSHA and building code rehabilitation needs; the one-time, start-up expenditures; and funding for Transfer Team activities. This covers most of the projected shortfall and does represent those expenditures directly attributable to the transfer project.

I apologize for the length of this submittal, but I wanted to address as many of the specific concerns as possible. I trust this information satisfies your request and helps give some perspective to the complexity of this project. If you have any more questions, please give me a call at 465-3900.

Sincerely,

Mark S. Hickey
State Railroad Coordinator

cc: Ray Gillespie, Director of Legislative Relations,
Office of the Governor
Ben Harding, Special Staff Assistant,
Office of the Governor
R. J. Knapp, Commissioner,
Department of Transportation & Public Facilities
House Finance Committee Members
Alaska Railroad Transfer Team Members

TESTIMONY

BEFORE

THE ALASKA HOUSE AND SENATE TRANSPORTATION COMMITTEES

JANUARY 26, 1984

JUNEAU, ALASKA

H. L. SCHUYLER

SEA-LAND SERVICE, INC.

I AM HAROLD L. SCHUYLER, DIRECTOR OF PUBLIC AFFAIRS FOR SEA-LAND SERVICE, INC.'S ALASKA DIVISION.

WE, AT SEA-LAND, DO NOT OPPOSE THE TAKEOVER OF THE ALASKA RAILROAD BY THE STATE OF ALASKA FROM THE FEDERAL GOVERNMENT. THE RAILROAD IS NECESSARY FOR THE FUTURE GROWTH OF ALASKA RESOURCE DEVELOPMENT AREAS AND COMMUNITIES. COAL, MINERALS, AND FARMING PRODUCTS MUST HAVE AVENUES TO TIDEWATER PORTS IN ORDER TO BE EXPORTED TO WORLD MARKETS. THE MARKET FOR ALASKA'S MINERALS, WOOD PRODUCTS, AND GRAINS WILL BE FOREIGN, AND THE MOST ECONOMICAL METHOD TO MOVE BULK CARGOES TO TIDEWATER IS BY RAIL.

WE HAVE ANALYZED IN GREAT DETAIL SENATE BILL NO. 352 AND HOUSE BILL NO. 512 AND APPLAUD THEIR IMAGINATIVE AND FAR-REACHING PURPOSE; HOWEVER, WE, AT SEA-LAND, ARE CONCERNED ABOUT THE ADMINISTRATION, OPERATION, POLICIES, AND RULES AND REGULATIONS UNDER WHICH THE ALASKA RAILROAD AUTHORITY WILL BE OPERATING IN CARRYING OUT ITS MISSION.

AS PRESENTLY DRAFTED, THE LEGISLATION PROVIDES US THE FOLLOWING CONCERNS:

1. A STATE OWNED ENTITY WHICH IS EXEMPT FROM ALL FEDERAL, STATE, AND LOCAL TAXES HAS A GREAT ADVANTAGE OVER OTHER COMPETITIVE MODES OF TRANSPORTATION THAT ARE PAYING TAXES TO THE FEDERAL, STATE, AND LOCAL COMMUNITIES.

2. THE OPPORTUNITY FOR THE PROPOSED RAILROAD AUTHORITY TO SELL BONDS OR BOND ANTICIPATION NOTES AS TAX EXEMPT VEHICLES GIVES THE AUTHORITY ANOTHER DEFINITE EDGE IN OBTAINING CAPITAL FOR IMPROVEMENTS AS COMPARED TO PRIVATE TRANSPORTATION THAT MUST COMPETE FOR MONEY IN THE OPEN MARKET, PAYING CONSIDERABLY HIGHER INTEREST RATES THAN DOES THE STATE GOVERNMENT.

3. THE RAILROAD AUTHORITY IS VESTED WITH THE ABILITY TO ACQUIRE AND OPERATE OTHER MODES OF TRANSPORTATION SERVICE CONNECTING TO THE RAILROAD'S RAIL SERVICE IN DIRECT COMPETITION WITH PRIVATE TRANSPORTATION. THIS ALLOWS THE RAILROAD TO BUY TRUCK LINES, WATER CARRIERS, AND AIRLINES. THIS PART OF THE BILL IS PARTICULARLY WORRISOME AS THE ALASKA RAILROAD AUTHORITY COULD VERY WELL BECOME A STATE TRANSPORTATION SYSTEM WITH NO COMPETITION AS THE PRIVATE SECTOR WOULD NOT BE ABLE TO FINANCIALLY COMPETE WITH THE AUTHORITY. THERE IS ALSO THE FACT THAT THE STATE WOULD LOSE A CONSIDERABLE AMOUNT OF TAX BASE IF AND WHEN PRIVATE SECTOR TRANSPORTATION COMPANIES ARE FORCED OUT OF BUSINESS.

4. THE LEGISLATION LIBERALLY DISCUSSES RATE MAKING, AND RATE POLICY. THE ESTABLISHMENT OF RATES FOR ALASKA RAILROAD AUTHORITY'S REVENUES WILL EFFECT THE PRIVATE CARRIERS OF OTHER MODES OF TRANSPORTATION. WE ARE CERTAINLY NOT SUGGESTING THAT THE LEGISLATURE DICTATE THE AUTHORITY'S RATE POLICIES, HOWEVER, WE FEEL THAT ALL RATES PRESCRIBED BY THE AUTHORITY MUST BE AT A LEVEL SUFFICIENT TO RECOVER THE FULL COST OF PROVIDING THE PARTICULAR TRANSPORTATION CONCERNED, TAKING INTO FULL ACCOUNT THE LEVEL OF SUBSIDY AND THE COST OF BORROWED CAPITAL. SEA-LAND WOULD URGE SPECIFIC LEGISLATIVE AMENDMENTS WHICH WOULD PROHIBIT A STATE-OWNED RAILROAD FROM CHARGING RATES WHICH ARE BELOW THOSE CHARGED BY PRIVATELY-OWNED CARRIERS, FOR FREIGHT ON WHICH BOTH CARRIERS COMPETE, WHERE THE RATES DO NOT RECOVER THE FULL COST OF THE SERVICE OFFERED (TO INCLUDE ANY DIRECT OR INDIRECT SUBSIDY).

5. WE FEEL THE LEGISLATION NEEDS AN ANTITRUST PROVISION. THE LEGISLATION NEEDS TO BE AMENDED TO PLACE THE STATE-OWNED RAILROAD UNDER STATE ANTITRUST

LAWS. ALL OF THE PRIVATELY-OWNED WATER CARRIERS AND MOTOR CARRIERS ARE SUBJECT TO THE FEDERAL AND STATE ANTITRUST LAWS, AND WHILE THIS BODY CANNOT PLACE THE RAILROAD UNDER FEDERAL ANTITRUST LAWS, STILL IT IS OUR BELIEF THAT THE RAILROAD SHOULD BE SUBJECTED TO THE SAME LAWS AS ARE THE PRIVATE CARRIERS. IN SHORT, WE SHOULD ALL PLAY BY THE SAME RULES.

6. I AM SURE THIS COMMITTEE IS AWARE THAT THE STAGGERS RAIL ACT OF 1980 HAS VIRTUALLY DEREGULATED INTERSTATE RAIL SERVICE. AS A PRACTICAL MATTER, THE ALASKA RAILROAD AND ALL OTHER MAJOR RAIL LINES ARE TOTALLY UNREGULATED. WHILE DEREGULATION MAY BE GOOD IN THEORY, THE TRADE BETWEEN ALASKA AND THE LOWER 48 IS IN ESSENCE A MICROCOSM: ALL TRANSPORTATION MODES COMPETE DIRECTLY WITH EACH OTHER FOR THE SAME BASIC CONSUMABLES. WE READILY ACKNOWLEDGE THAT LARGE PORTIONS OF THE ALASKA RAILROAD'S FREIGHT ARE BULK COMMODITIES; STILL, ALL OF THE COMPETING MODES ARE REGULATED WHILE THE RAILROAD IS NOT, THUS GIVING THE RAILROAD A DISTINCT COMPETITIVE EDGE WHICH CAN BE SUBJECT TO ABUSE.

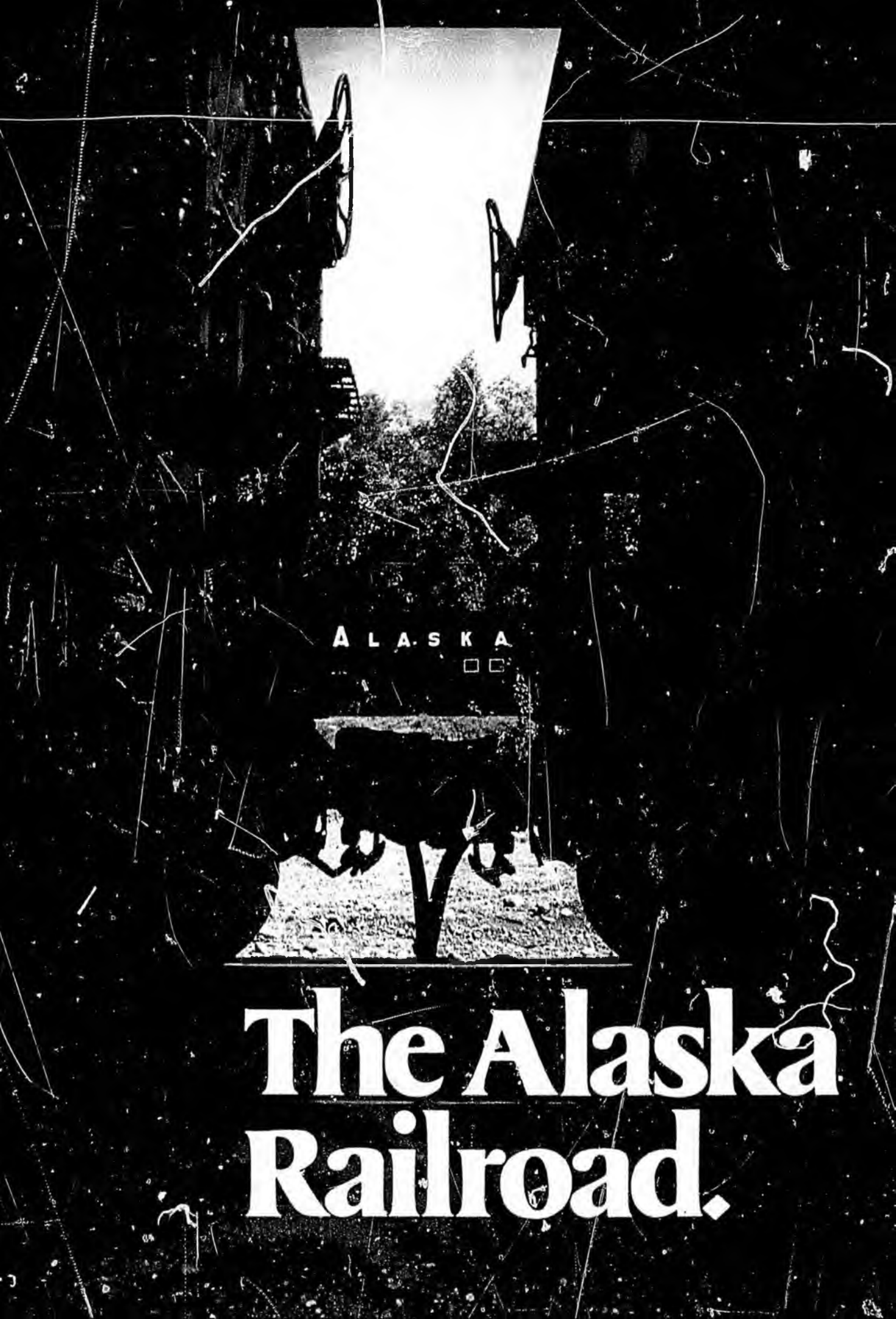
7. THE BILL PROVIDES FOR THE ESTABLISHMENT OF CONTRACT RATES BY THE RAILROAD. THE STAGGERS ACT ALLOWS CONTRACT RATES BUT THAT LAW CONTEMPLATED THE RAILROADS ENTERING INTO CONTRACTS WITH MAJOR SHIPPERS WHOSE CARGO THEY HAD HISTORICALLY HANDLED FOR THE BENEFIT OF BOTH. THAT CONTRACT ABILITY WAS NOT ENVISIONED TO BE USED AS A COMPETITIVE TOOL, AS IT HAS BEEN UTILIZED BY THE ALASKA RAILROAD. SEA-LAND HAS CHALLENGED THESE PRACTICES, BOTH BEFORE THE INTERSTATE COMMERCE COMMISSION AND IN THE COURTS, TO NO AVAIL BECAUSE THE RAILROAD IS UNREGULATED AND IMMUNE FROM SUIT WHILE OWNED BY THE FEDERAL GOVERNMENT. WE CANNOT LEGALLY ESTABLISH CONTRACT RATES AND, THEREFORE, CANNOT EFFECTIVELY COMPETE WITH SUCH RATES. WE URGE THIS BODY TO CRITICALLY SCRUTINIZE THAT PORTION OF THE BILL AND DELETE SUCH PROVISIONS FROM THE LEGISLATION.

8. ARTICLES 4 AND 5 OF THE LEGISLATION PROVIDE FOR THE AUTHORITY TO EXERCISE THE STATE'S POWER OF EMINENT DOMAIN/CONDEMNATION. SEA-LAND DOES NOT CHALLENGE THE STATE'S ABILITY IN THIS AREA, BUT WE STRONGLY FEEL THIS RIGHT SHOULD NOT BE LODGED WITHIN THE AUTHORITY BUT SHOULD BE RESERVED TO THE STATE TO PRECLUDE ANY COMPETITIVE USE OR ABUSE. IT IS A SIMPLE MATTER FOR THE RAILROAD AUTHORITY TO APPROACH THE STATE TO OBTAIN THE ABILITY TO ACQUIRE THE NECESSARY RIGHTS OF WAY.

9. SEA-LAND NOTES THAT THE AUTHORITY CAN DETERMINE WHAT INFORMATION IT KEEPS CONFIDENTIAL. WE URGE THAT THIS ABILITY IS SUBJECT TO POSSIBLE ABUSE. AT A MINIMUM, ALL RATES, RULES, PRACTICES, DIVISIONS OF REVENUE, CONTRACTS, IF ANY, AND COST DATA MUST BE OPEN TO PUBLIC INSPECTION.

WE, AT SEA-LAND, ARE NOT HERE MERELY TO TELL YOU WHAT IS WRONG WITH THIS PROPOSED LEGISLATION. WE WISH TO BE CONSTRUCTIVE AND ASSIST IN REACHING THE BEST POSSIBLE COMPROMISE WHICH WILL WORK TO THE BENEFIT OF THE STATE, ITS CITIZENS, AND THE TRANSPORTATION CARRIERS SERVING ALASKA, AS WELL AS TO SEE A VIABLE RAILROAD PAYING ITS WAY IN THE STATE OF ALASKA AND GROWING WITH THE RESOURCE DEVELOPMENT.

WE CERTAINLY WOULD LIKE TO THANK THESE COMMITTEES FOR ALLOWING SEA-LAND SERVICE, INC. TO TESTIFY AND EXPLAIN OUR VIEWS. IT IS CERTAINLY NOT OUR INTENT TO HINDER THE RAILROAD'S OPERATION OR ITS DEVELOPMENT AND EXPANSION. THE RAILROAD IS A NECESSARY INGREDIENT FOR THE FUTURE OF THIS STATE. ALL WE ARE ASKING FOR IS FAIR COMPETITION FOR ALL MODES OF TRANSPORTATION IN THE ALASKA MARKET PLACE.



The Alaska Railroad.

In 1914, when railroads spanned the major continents of the world and man was taking to the air with increasing enthusiasm, Alaska was still raw wilderness, mostly untouched by civilization. The cities that did exist were remote and isolated, particularly in the area called Interior Alaska. There was no land link between these frontier outposts and the rest of the world; and their marine supply networks were only useable on a seasonal basis. Yet there was much that needed to be shipped in—and great wealth had to be shipped out. So, in 1914—after two private railroad companies had failed to penetrate Alaska's interior—Congress authorized the government to take over the 70 miles of track already laid, and to construct the remaining 400 miles of railroad needed to reach Fairbanks.



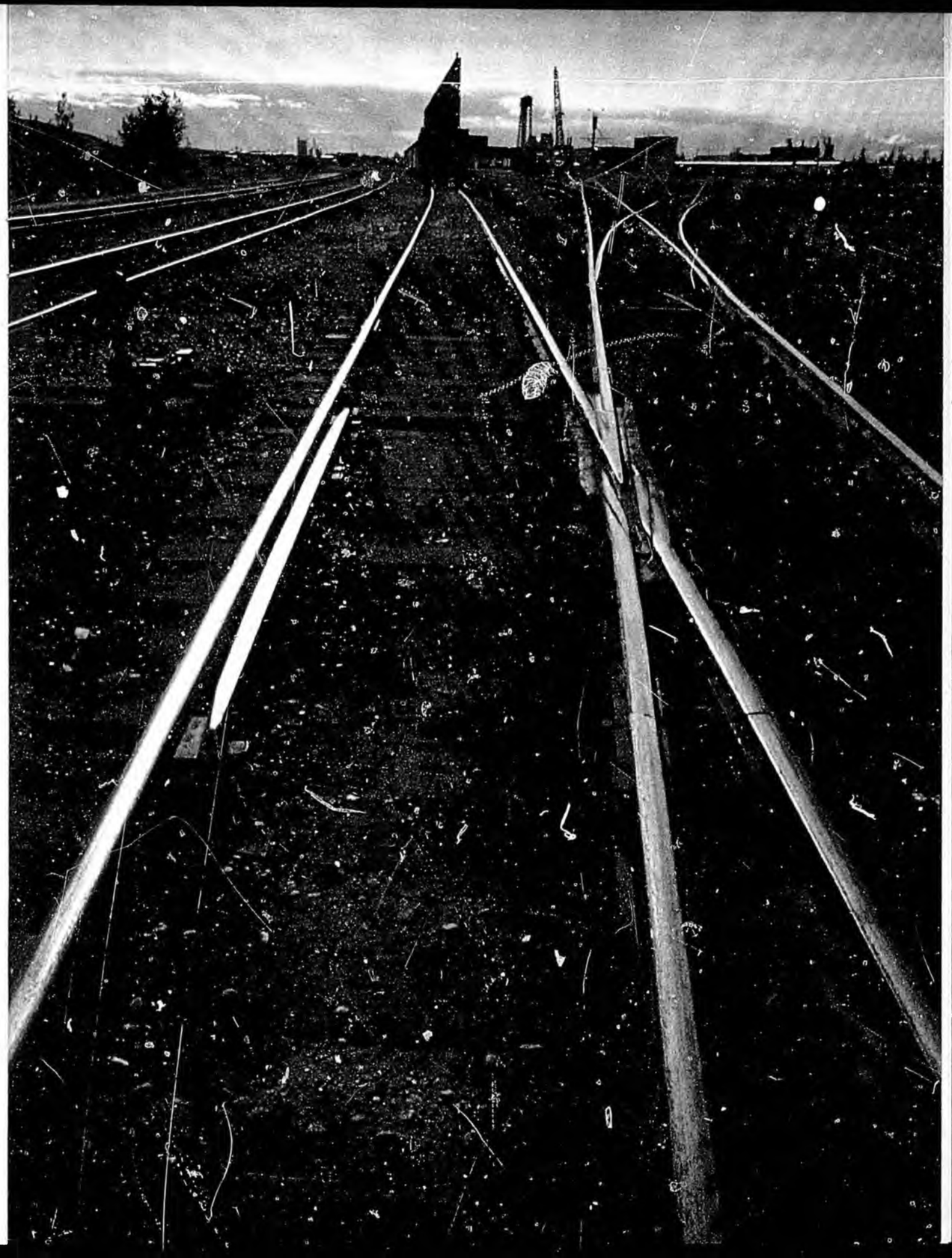
The Alaska Railroad.

Shipping freight to and from Alaska is a lot less complicated than many shippers think. While it's true that Alaska has no direct land railroad link with the lower 48, Alaska does have something equally effective. And that's The Alaska Railroad.

Interlining with the major railroad, truck, air, and marine transport networks of the continental United States and Canada—and, through them, with the carriers of the world—and utilizing rail barge transport from Seattle and Prince Rupert, The Alaska Railroad is one of the most efficient, economical ways possible to get your goods to or from Alaska.

We offer a comprehensive range of facilities, services, and special equipment to help transport your shipments, as you'll discover in reading this brochure.

The Alaska Railroad system. It's unique. It's timely. And it saves you money.





It wasn't a job to be lightly undertaken. Mountain ranges, canyons, glaciers, thick forest, subzero temperatures—these obstacles, and many others, faced the railroad planners and builders every mile of the way. There were some who said it could never be done; but there were others determined to try. Construction took eight years, cost $52 million, and demanded some of the most innovative railroad engineering in history.



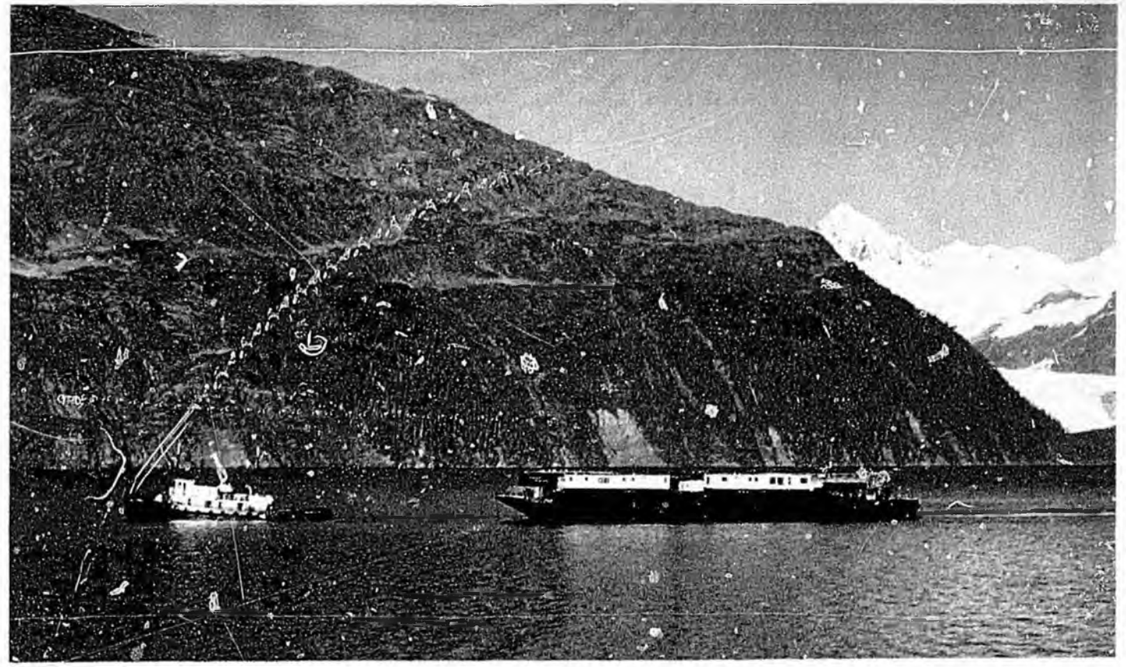
When You're Shipping To Alaska, We'll Do All The Work.

The Alaska Railroad offers direct interchange connections with the North American railroad network. And that works to your advantage. No matter what you're shipping—furniture from North Carolina, pipe from Pueblo, building materials from the Pacific Northwest, or drilling pipe and machinery from Texas—your goods will arrive at their Alaskan destination quickly, securely, and with a minimum of effort on your part.

When you specify The Alaska Railroad as your designated Alaskan carrier, your cargo is routed via the continental railroad network to Seattle (1300 miles from Alaska destination ports) or Prince Rupert, British Columbia (870 miles.) There it is transferred to the rail barges of the Hydro-Train and Aqua-Train services for the sea voyage to Alaska. Rail cars are transferred to trains at Whittier, on Southcentral Alaska's Prince William Sound.

Bulk or break-bulk cargoes are offloaded in the Kenai Peninsula port of Seward, where extensive break-bulk and bulk freight facilities are available. Both of these ice-free ports serve as year-round marine terminals for The Alaska Railroad.









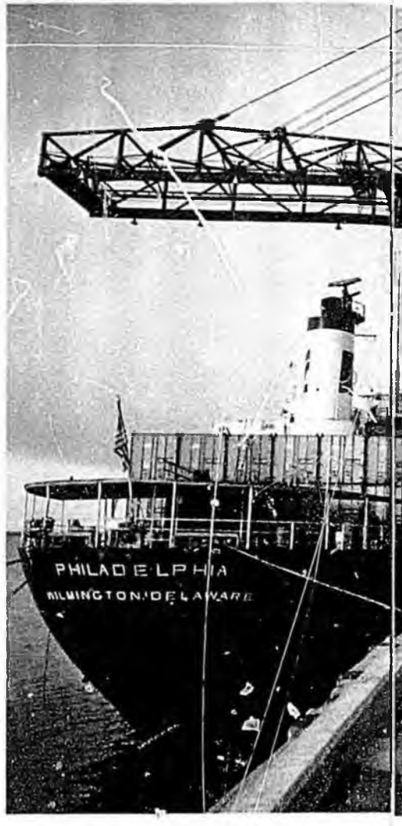


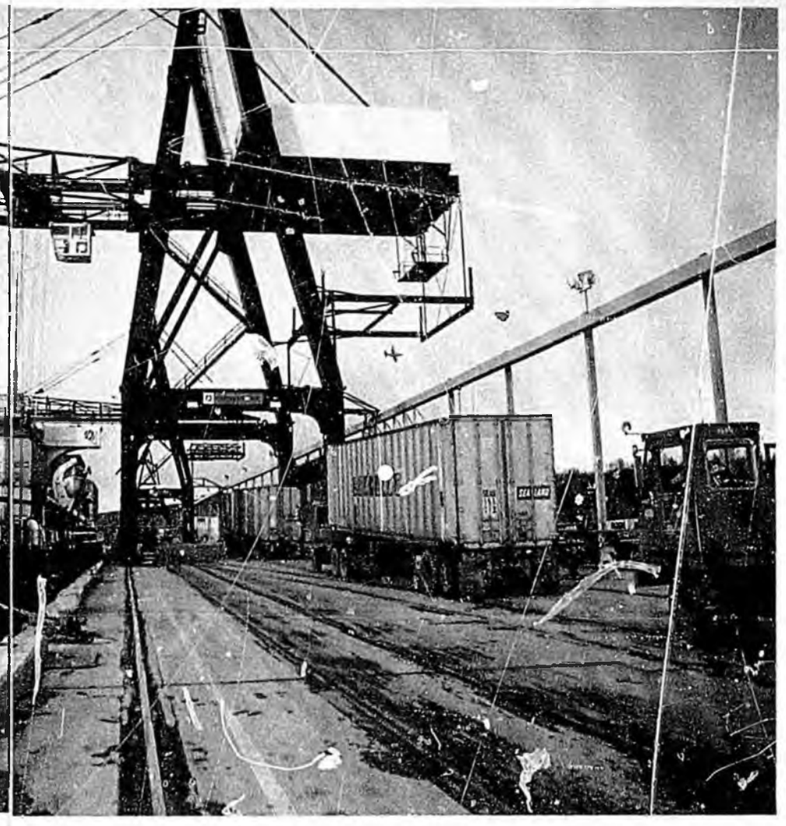
In 1923, President Harding traveled to Nenana, a small town in Alaska's interior. At the north end of the 700-foot single-span steel bridge across the Tanana River, the President drove a golden spike to signify the completion of The Alaska Railroad.

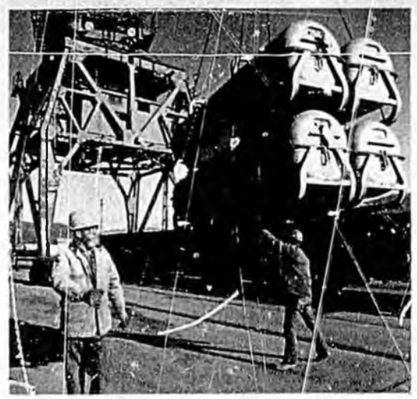


If you're shipping goods from Seattle to Fairbanks or beyond—in trailers on Totem Ocean Express, or in containers on Sea/Land—it costs less to "piggyback" those goods on The Alaska Railroad than it does to move them by highway transportation.

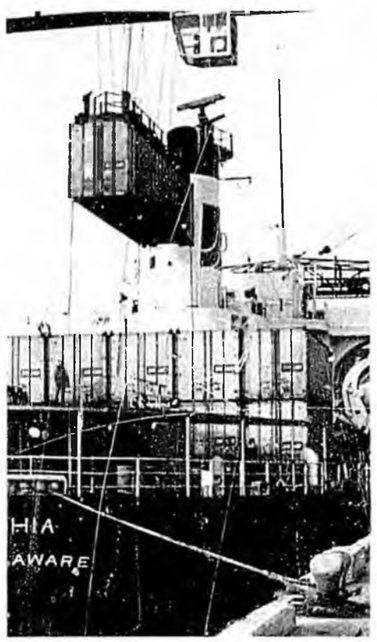
This far-reaching network works smoothly and effectively to bring those building materials, or that machinery, to Alaska in good time—and in good shape. We also have the potential to ship petrochemical products world-wide. In fact, we can ship almost anything, almost anywhere. And all you have to do to set the wheels in motion is be sure that The Alaska Railroad is specified on your bill of lading as your Alaskan carrier.

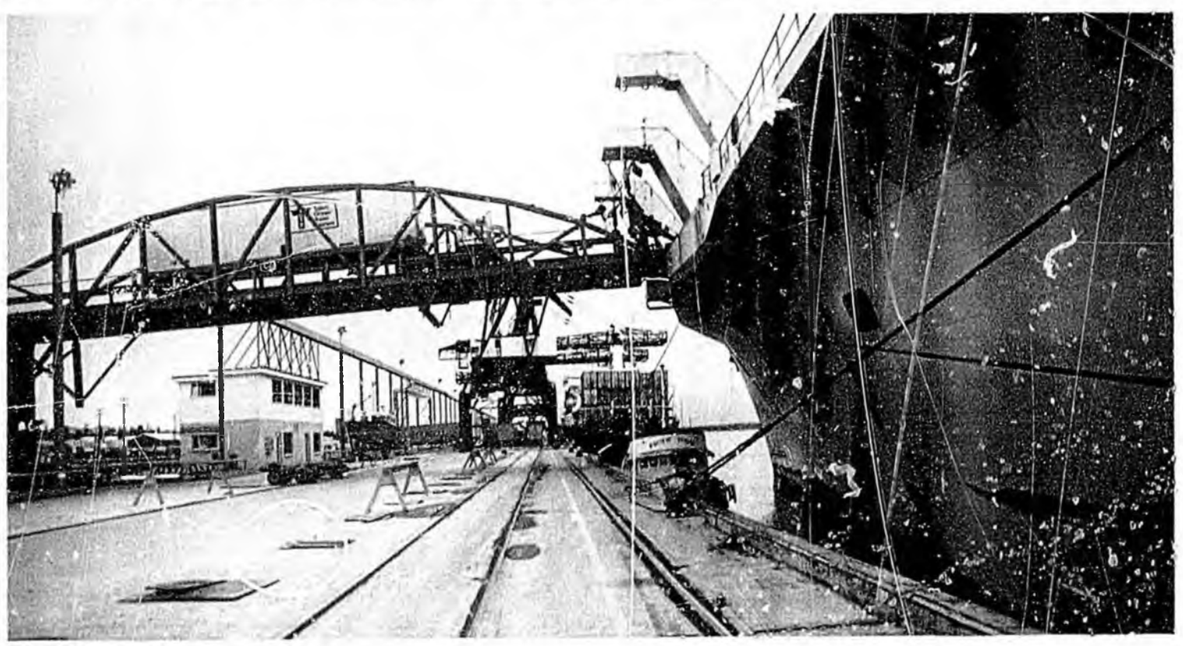










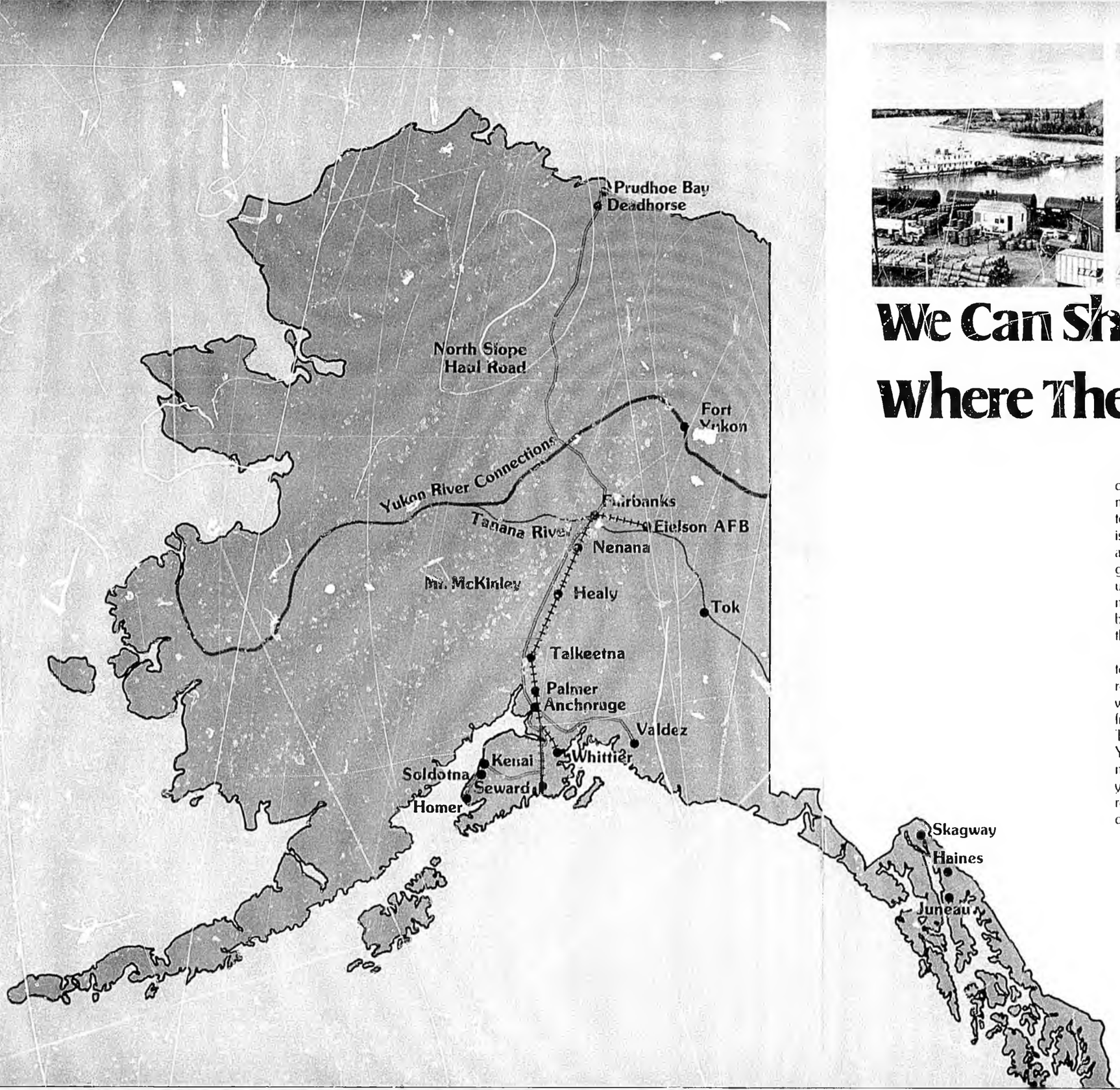




We Can Ship Your Freight Where The Rails Don't Run.

The area known as Interior Alaska covers thousands of square miles, much of it primitive wilderness; and its towns and settlements are often isolated by distance and terrain. But, although The Alaska Railroad itself goes no farther than Fairbanks, we utilize a combination of transportation modes—including motor carriers, river boats, and aircraft—to carry freight to the remote corners of the state.

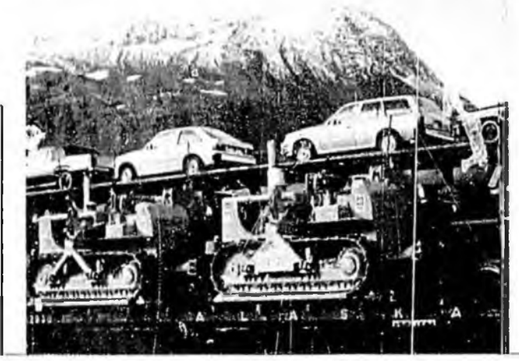
Freight can be transferred at Nenana to river barges, which provide through routes and rate service in cooperation with The Alaska Railroad. This river freight service extends along the Tanana and Yukon Rivers to Fort Yukon, and even to Marshall, just 150 miles from the Bering Sea. So when you've got cargo destined for the bush, remember that The Alaska Railroad can take it there.











Yukon River Connections

Truck Connections to Prudhoe Bay Oilfields

Vessel and Rail Barge Connections from Lower 48 and Canadian Ports

Rail Connections from Lower 48

Domestic And Foreign Markets

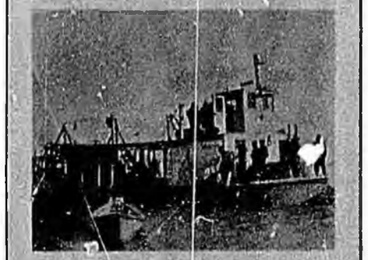
Over the past few years, we've begun to extend the reach of The Alaska Railroad to markets around the world. One key element of our system is our office in Seattle. Many shipping connections, both foreign and domestic, can be made through this office. For instance, if a broker in England requests that a shipment of canned Alaska salmon be delivered in Liverpool, arrangements can be made through the Seattle office. Shippers can ask for, and receive, almost any shipping arrangements they please--and they can call The Alaska Railroad in Seattle from anywhere in the United States, or the world.

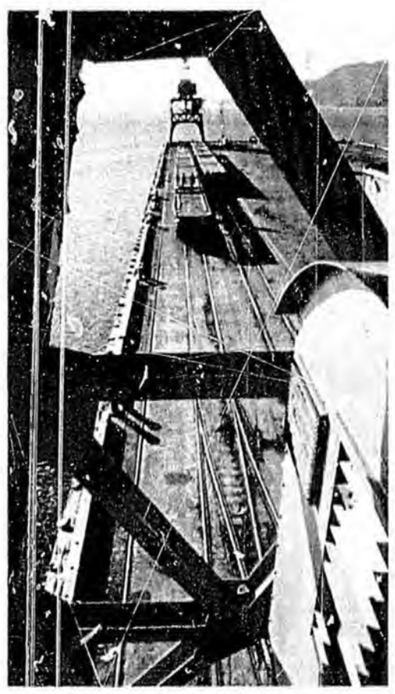
Today, we're shipping logs, wood chips, and scrap metal to Korea, Japan, and Taiwan; and have the capability to transport coal, grain, and other materials to any destination in the world. We've developed and maintained a position in foreign markets, and see them as an integral part of our future shipping network. And of course we're more than familiar with major domestic destinations. In addition, we have the flexibility to develop and expand facilities as required.

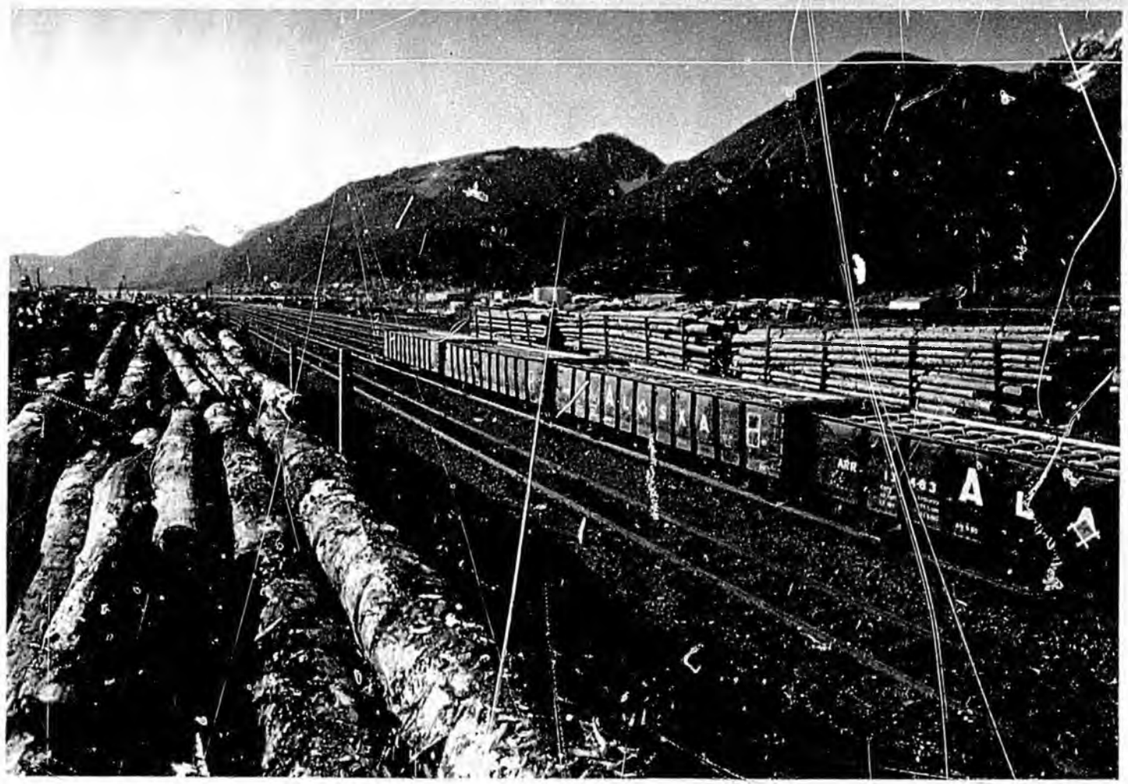
As Alaska grew, so did its railroad. Shipping goods to remote points became easier, less costly, and more effective. During World War II, the Railroad served as a vital supply link for the armed forces operating in Alaska.



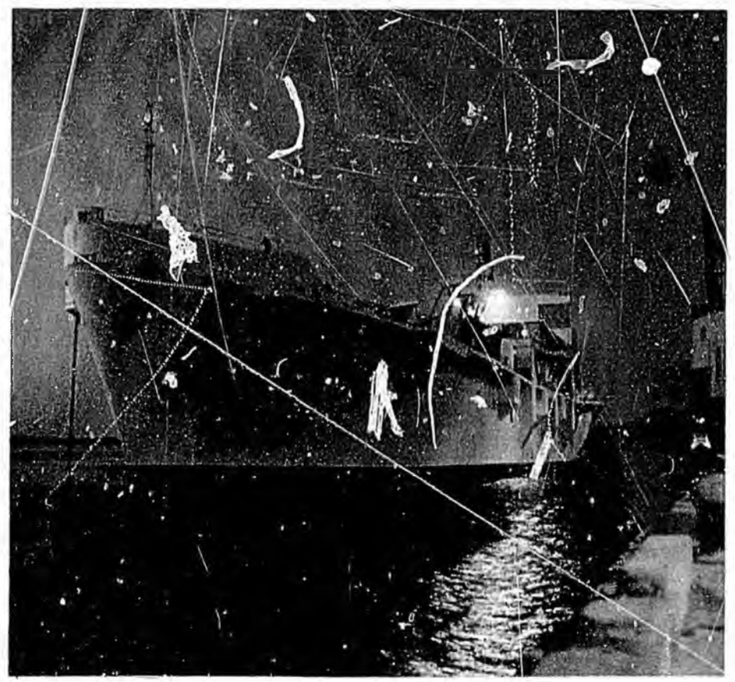
In May of 1962, the Railroad passed another milestone. Canadian National Railways initiated rail barge service from Prince Rupert, B.C., and, for the first time, the cars of other lines were rolling on Alaska Railroad tracks. Alaska Hydrotrain service from Seattle quickly followed; and today, freight from all over the continent—and the world—comes to Alaskans via The Alaska Railroad.

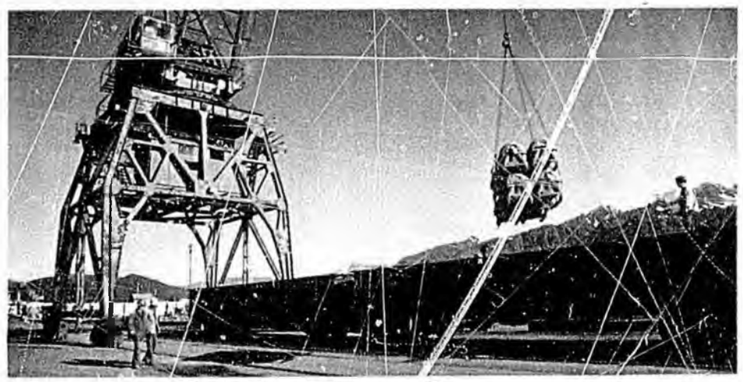




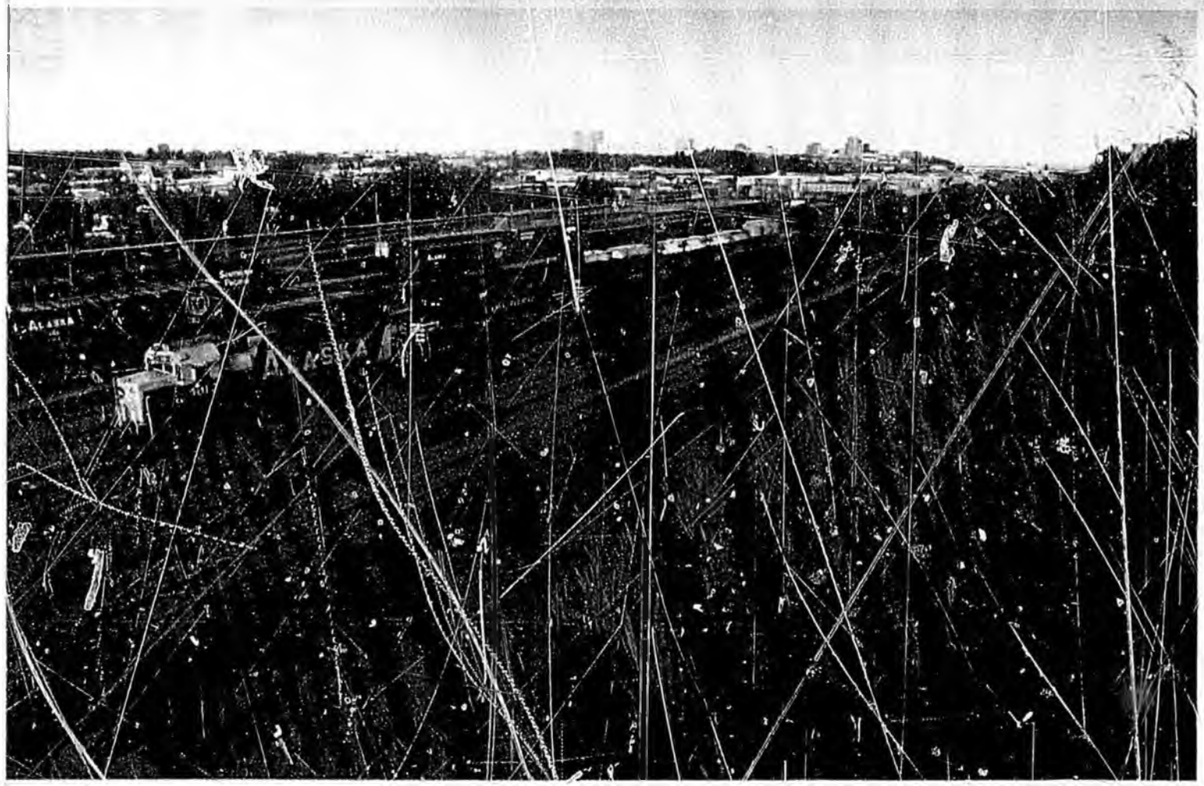


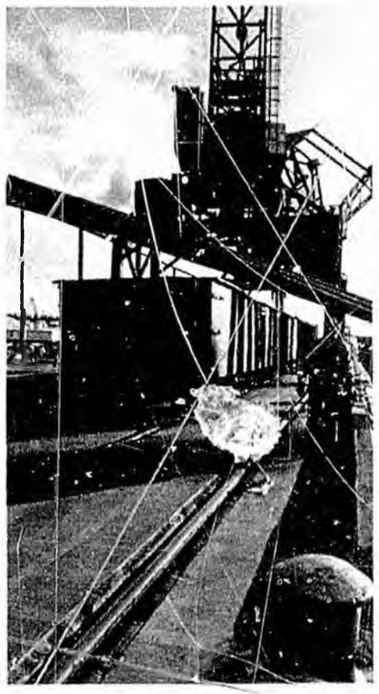






Special Equipment To Keep Freight Moving.





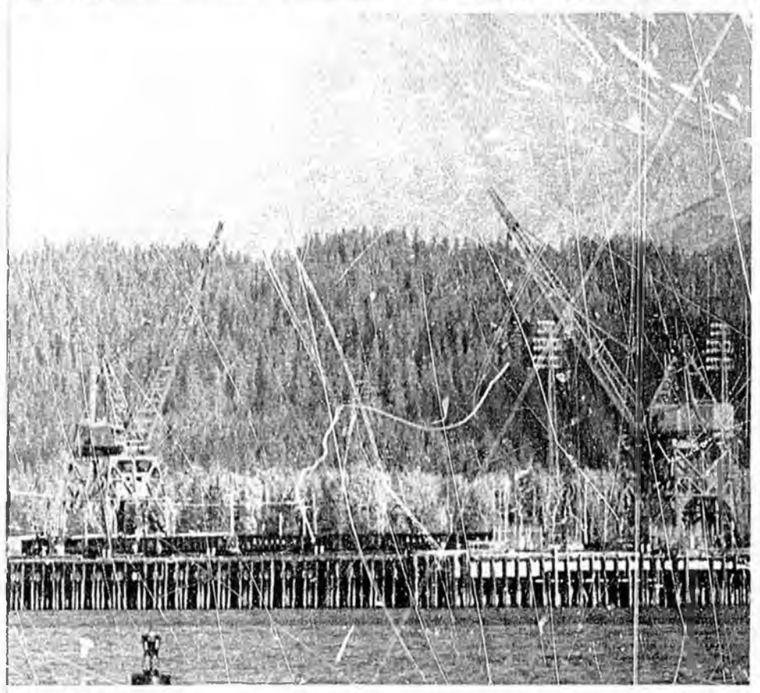
SEWARD FACILITIES

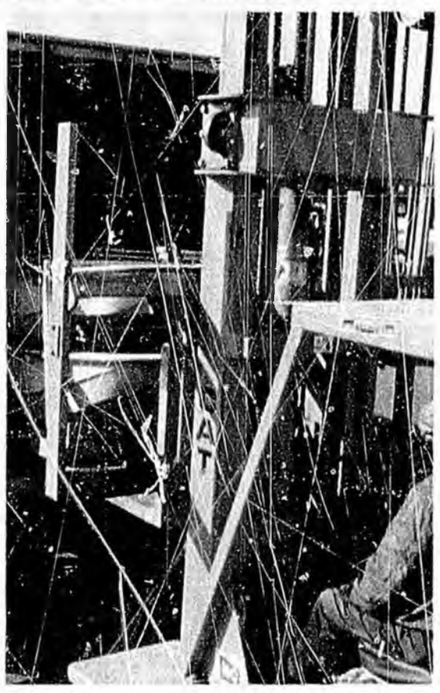
When you've got bulk freight to be shipped, we can handle it. Our freight bulk facilities in Seward include ample storage area, as well as crane facilities of up to 75 tons. Other cranes, as well as fork lifts and additional equipment, are available through The Alaska Railroad stevedoring contractor.

The Seward dock itself, owned by The Alaska Railroad, can accommodate ships up to 650 feet in length, with drafts of up to 35 feet. Storage accommodations available at the Seward terminal include over 23,000 square feet of covered area and 112,000 square feet of paved outside storage space, served by rail spur.

ANCHORAGE AND FAIRBANKS TERMINALS

Fast, efficient handling of freight is all in the day's work at The Alaska Railroad's Anchorage and Fairbanks terminal yards. Each is equipped with ample support equipment; including crawler and wheeled cranes, fork lifts, trucks, trailers, and tandem- and single-trailer chassis. Our transfer facilities in Fairbanks are capable of lifting 75 tons; those in Anchorage can lift 100 tons.



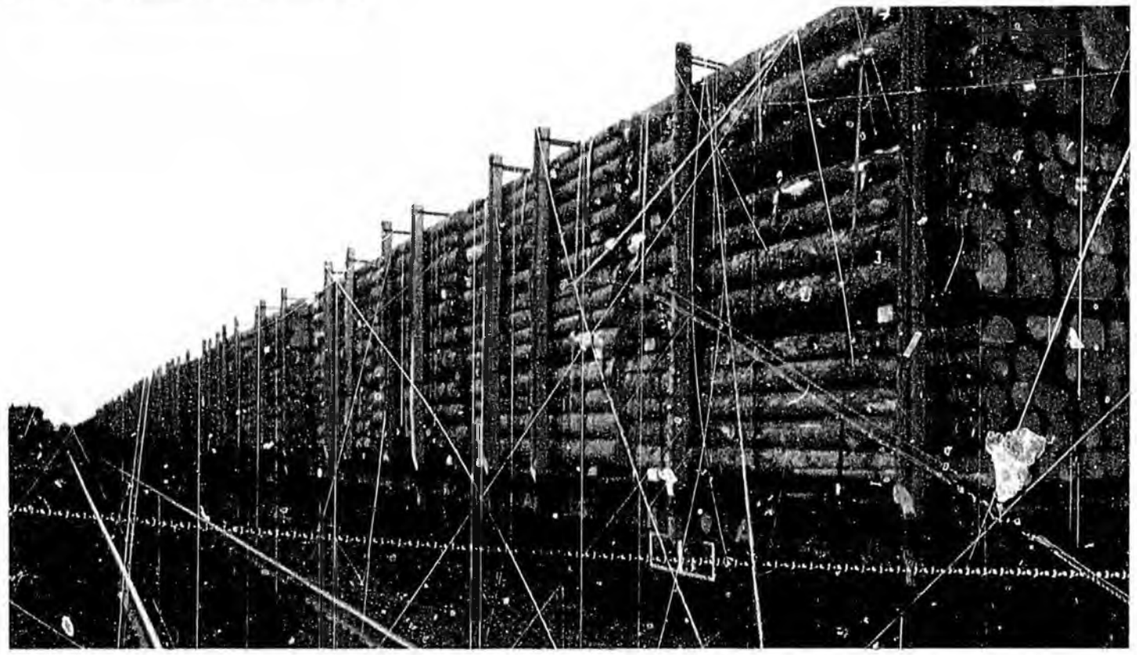


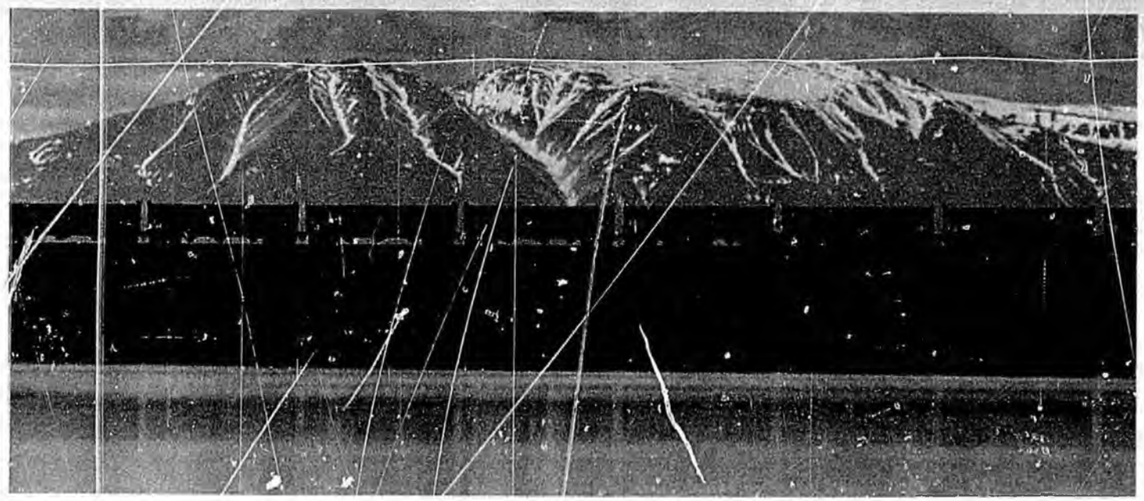


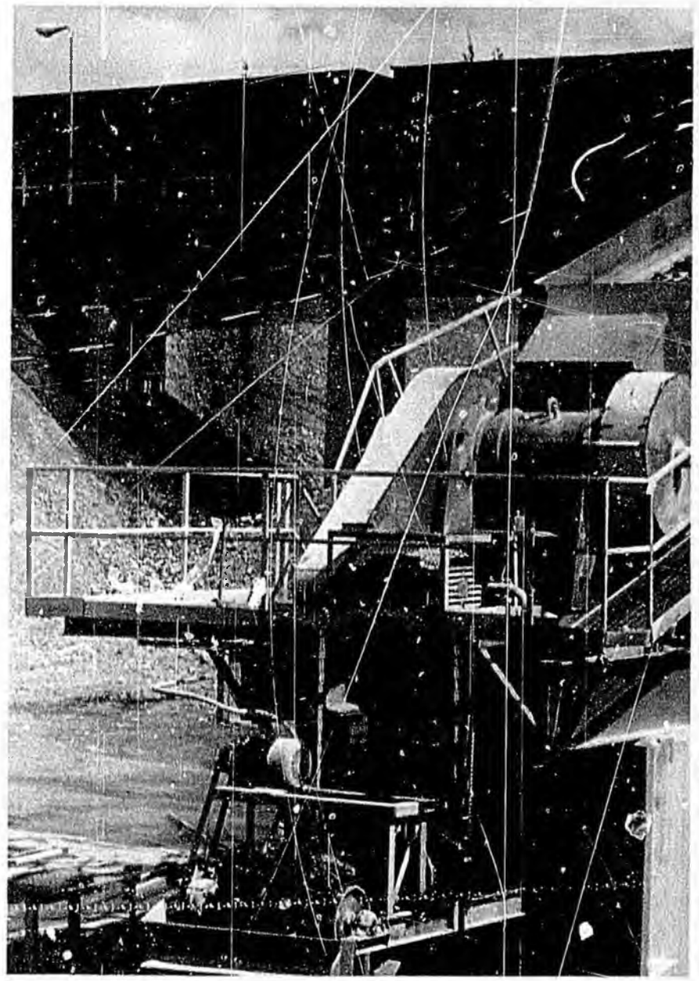
Unit Train Economy On The Alaska Railroad.

The Alaska Railroad also operates unit train service—single-commodity transport within Alaska. Unit trains devoted to the transportation of such bulk items as coal and gravel have become very popular with Alaskan shippers, and it's easy to see why.

When dealing with shipments as massive as 70 or 80 carloads of coal, or their equivalent, it makes sense to utilize simple, efficient rail transport. The Alaska Railroad can handle unit train shipments smoothly—saving time, trouble, and money for all the individual shippers, handlers, and consignees involved.

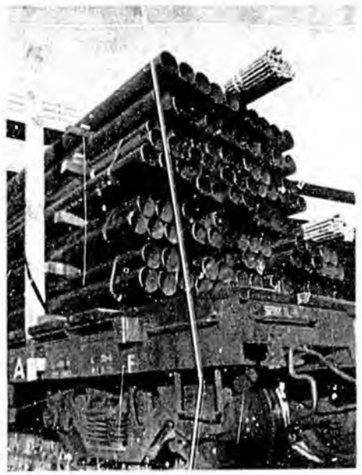










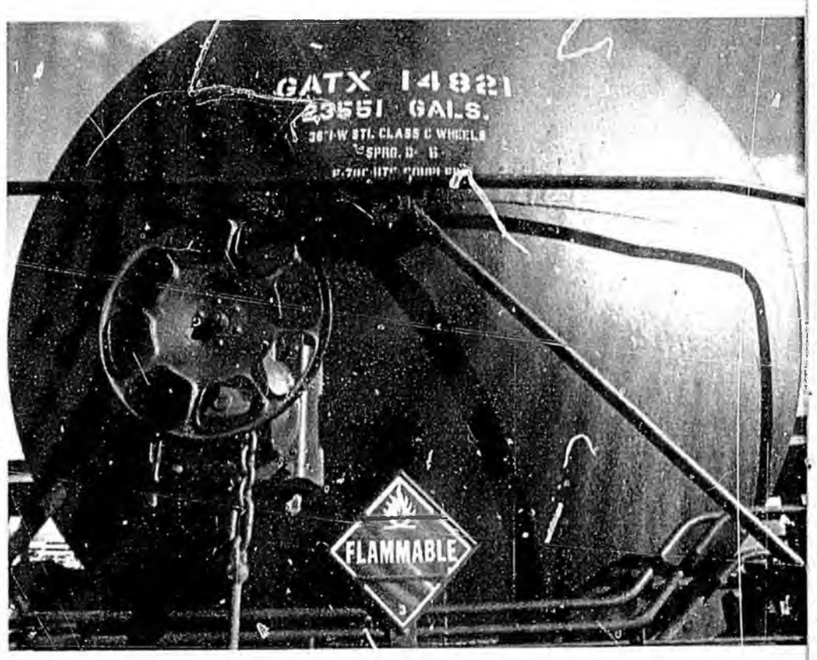


Specialized Shipping Needs Precision Handling.

Much of the pipe used in construction of the Trans Alaska Pipeline was shipped north via The Alaska Railroad. To ensure the safe, undamaged arrival of the lengths of pipe, special equipment and handling techniques were developed and used.

The care displayed in this project is part of the standard procedure we follow for all clients of The Alaska Railroad.



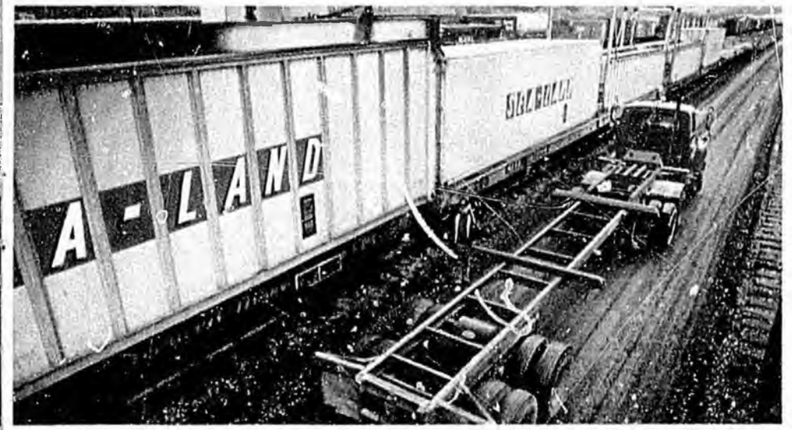


Piggyback

The Alaska Railroad has all the facilities necessary to handle the shipment of both wheeled and unwheeled containers. When containerized goods arrive in Alaska by ship or barge, we can transfer the original containers to flatcars and expedite their shipment into the interior.







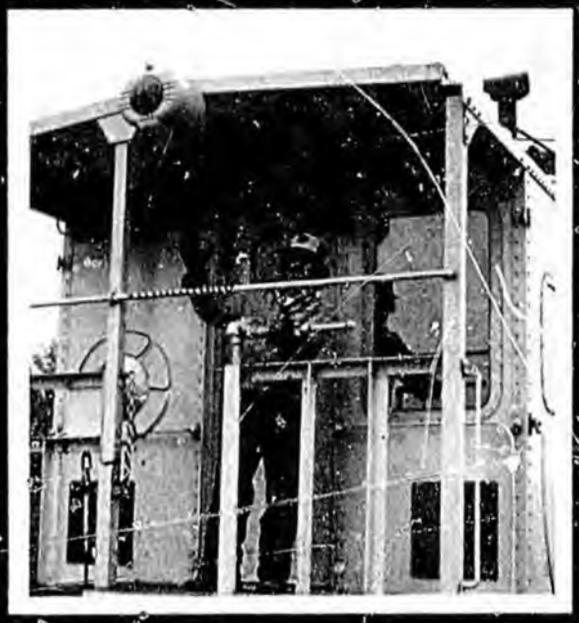
Climb Aboard.

When President Harding drove the final spike that completed The Alaska Railroad, it signified the beginning of a new era in Alaskan transportation.

Today, The Alaska Railroad is part of a vital shipping network linking the remotest points of Alaska with the rest of the state—and all of Alaska with the world.

Whether you're exporting logs to the Far East, importing fine wines from Europe, shipping bulk freight to Marshall, or just looking for a unique way to get close to the northern wilderness—you can do it all on The Alaska Railroad. So give us a call, and climb aboard.





THE ALASKA RAILROAD
ANCHORAGE, ALASKA

FOR MORE INFORMATION ON FREIGHT AND PASSENGER SERVICE, CONTACT

THE ALASKA RAILROAD
TRAFFIC DEPARTMENT FB
ROOM 3150 FEDERAL BLDG
915 SECOND AVE
SEATTLE, WA 98174
(206) 442-5416

OR

THE ALASKA RAILROAD
TRAFFIC DEPARTMENT FB
POUCH 7-2111
ANCHORAGE, AK 99510
(907) 265-2490

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

FEBRUARY 21, 1984

FOR IMMEDIATE RELEASE
CONTACT: REP. JOE HAYES
465-3720
REP. BETTE CATO
465-4858

HOUSE TRANSPORTATION COMMITTEE TO HOLD RAILROAD HEARINGS IN ANCHORAGE AND FAIRBANKS

JUNEAU - The House Transportation Committee will hold public hearings on House Bill 512 - a bill which would create an Alaska Railroad Corporation once the railroad is purchased by the State of Alaska - in Anchorage on Thursday, February 23 and in Fairbanks on Saturday, February 25.

The hearing in Anchorage will begin at 1:30 p.m. at the Legislative Information office at 1024 W. Sixth Avenue. The Fairbanks hearing will being at 10 a.m. at the Borough Assembly Chambers.

The bill was introduced in the House by Speaker Joe Hayes. A similar bill was introduced in the Senate by President Jay Kerttula.

(MORE)

Hayes, R-Anchorage, said input from Anchorage and Fairbanks will be essential for creating an operating entity by which to effectively manage the railroad.

"This bill is one of the final steps necessary to acquire the railroad from the federal government," Hayes said. "By establishing an entity to operate and manage it, it's my hope that the railroad can eventually be transferred to private enterprise. This bill sets up interim management until that becomes possible."

Hayes said HB 512 includes many of the issues addressed by the Alaska Railroad Transfer Advisory Commission, a public member group that presented recommendations to the legislature last years. The measure also embodies many of the concepts included in previous bills relating to the operation of the Alaska Railroad.

Committee members scheduled to attend the hearings are Rep. Bette Cato (D-Valdez), Rep. Mike W. Miller (R-North Pole), Rep. Mitch Abood (R-Anchorage), Rep. Adelheid Herrmann (D-Naknek), Rep. Jack McBride (D-Ketchikan), Rep. Mike Davis (D-Fairbanks), Rep. Bob Bettisworth (R-Fairbanks), Rep. Mike Szymanski (D-Anchorage), and Rep. Joe Flood (D-Anchorage).

Rep. Milo Fritz (R-Anchor Point) and committee staff members will also attend the hearings.

On Friday, February 24, the committee and staff will travel from Anchorage to Fairbanks on the railroad with Frank Jones, the general manager of the railroad.

(MORE)

"I would hope that the people of Anchorage and Fairbanks take this opportunity to voice their opinion on this bill," Cato said. "This is certainly one of the most important issues facing the Legislature this year and the Legislature will definitely take some action before adjourning. But before we act, we need to know how the people of Anchorage and Fairbanks feel about how the railroad should be operated and managed in future years.

"The railroad will play a vital role in the development of Alaska's resources and will also serve an important transportation service to the entire state for decades to come."

# # # #

THE ALASKA RAILROAD - A STATUS REPORT
GIVEN AT THE ASCC ANNUAL CONVENTION IN SITKA, ALASKA, OCTOBER 1, 1983

BY JIM HARLE

GOOD MORNING:

I AM VERY PLEASED TO HAVE THIS OPPORTUNITY TO SPEAK TO MY FELLOW MEMBERS OF THE ALASKA STATE CHAMBER OF COMMERCE AND GUESTS. THIS MORNING I WOULD LIKE TO SHARE WITH YOU MY PERSONAL VIEWS ON AN ISSUE WHICH I BELIEVE WILL PLAY AN CONTINUING IMPORTANT ROLE IN THE DEVELOPMENT OF OUR GREAT STATE. THIS ISSUE IS THE TRANSFER AND OPERATION OF THE ALASKA RAILROAD.

THERE ARE THREE KEY CURRENT ELEMENTS INTERTWINED IN THIS ALASKA RAILROAD ISSUE WHICH I WOULD LIKE TO HIGHLIGHT FOR YOU TODAY. THESE ELEMENTS ARE AS FOLLOWS:

1. THE ALASKA RAILROAD TRANSFER ACT OF 1982
2. THE USRA RAILROAD CLOSING REPORT
3. THE STATE PURCHASE AND OPERATION OF THE ALASKA RAILROAD

THE ALASKA RAILROAD ACT OF 1982 IS THE FEDERAL LEGISLATION WHICH CREATES THE PROVISIONS OF THE TRANSFER OF THE RAILROAD FROM THE FEDERAL GOVERNMENT TO THE STATE OF ALASKA. THE KEY PROVISION OF THIS ACT, OF COURSE, IS THAT A FAIR MARKET VALUE IS TO BE ESTABLISHED FOR THE SALE OF THE RAILROAD NO LATER THAN OCTOBER 14, 1983. THIS VALUE IS TO BE DETERMINED BY THE U.S. RAILWAY ASSOCIATION, THE ARBITRATER SELECTED BY THE FEDERAL GOVERNMENT.

THE OTHER KEY PROVISION OF THE ACT IS THE PREPARATION OF THE CLOSING REPORT OR INVENTORY OF ALL ASSETS, PHYSICAL PLANT AND OBLIGATIONS OF THE RAILROAD. THIS CLOSING REPORT, WHICH WAS ISSUED ON JULY 14 OF THIS YEAR, WILL BE DISCUSSED IN MORE DETAIL A LITTLE LATER IN MY TALK.

AFTER ISSUANCE OF THE CLOSING REPORT, THE SECRETARY OF TRANSPORTATION HAS 12 MONTHS OR UNTIL JULY 14, 1984 TO CERTIFY ALASKAS AGREEMENT TO ALL CONDITIONS REQUIRED IN THE ACT. FIVE OF THE CONDITIONS OF THE ACT THAT ARE REQUIRED ARE HIGHLIGHTED AS FOLLOWS:

1. THE STATE MUST OPERATE THE RAILROAD AS A RAIL CARRIER UNDER ICC RULES.
2. THE STATE WILL PROVIDE FOR A TWO YEAR EMPLOYEE PROTECTION PROGRAM INCLUDING HEALTH AND LIFE INSURANCE AND REEMPLOYMENT RIGHTS.
3. PROVIDE FOR A ONE YEAR MANAGEMENT PROTECTION PROGRAM.
4. CONTINUE ALL COLLECTIVE BARGAINING AGREEMENTS FOR TWO YEARS.
5. PAY THE APPRAISED VALUE ESTABLISHED BY U.S.R.A.

SHOULD THE STATE NOT SATISFY THE CONDITIONS OF THE ACT, THE SECRETARY IS AUTHORIZED TO OTHERWISE DISPOSE OF THE RAILROAD IF SHE SO CHOOSES, GIVING PRIORITY TO A PURCHASER WHO WILL OPERATE THE RAILROAD.

IT IS INTERESTING TO THIS SPEAKER THAT THE FEDERAL LAW PROVIDES FOR LITTLE GUIDANCE SHOULD THE STATE LEGISLATURE DECIDE THAT THE VALUATION PRICE OF THE RAILROAD IS TOO LARGE. IN MY OPINION THIS IS AN ALL TOO REALISTIC POSSIBILITY.

SEVERAL STATE LEGISLATORS HAVE ALREADY BEEN HEARD TO SAY THAT "ANY PRICE FOR THE RAILROAD IS TOO HIGH". HOWEVER, I CAN JUST IMAGINE WHAT OUR FRIENDLY FEDERAL SENATOR FROM OHIO WILL SAY.

I WOULD PROPOSE THAT THE VALUATION OF $22.3 MILLION ANNOUNCED ON SEPTEMBER 21 BY U.S.R.A. IS AN EXTREMELY ATTRACTIVE PRICE WHICH SHOULD BE ACCEPTED BY GOVERNOR SHEFFIELD AND THE STATE LEGISLATURE.

THE SECOND ELEMENT, OF THIS RAILROAD ISSUE, IS THE CLOSING REPORT PREPARED BY THE U.S.R.A. AND JOINTLY SIGNED BY SECRETARY ELIZABETH DOLE AND GOVERNOR SHEFFIELD ON JULY 14, 1983. THE CLOSING REPORT IS ACTUALLY AN INVENTORY OF RAILROAD PROPERTY, ROLLING STOCK, AND LIABILITIES. TWO OF THE MOST OUTSTANDING ASSETS OF THE RAILROAD ARE ITS 700 EXPERIENCED EMPLOYEES AND ITS 41,000 ACRES OF LAND. THE 700 EMPLOYEES ARE MADE UP OF OVER 500 PERMANENT POSITIONS AND APPROXIMATELY 200 SEASONAL PERSONNEL WHO RECEIVED OVER $29 MILLION IN PAYROLL OUT OF TOTAL REVENUES OF $59 MILLION (49%). OR TO PUT THIS IN SIMPLER TERMS, THIS PAYROLL IS 49% OF REVENUE. THESE WAGES AND SALARIES ACTIVELY PARTICIPATE IN THE ALASKAN ECONOMY.

THE RAILROAD LANDS COMPRISE 41,000 ACRES OF LAND DISTRIBUTED THROUGHOUT THE RAILBELT AREA. THIS ACREAGE IS COMPRISED OF:

12,000 ACRES OF RIGHT-OF-WAY WHICH IS GENERALLY 200' WIDE.

29,000 ACRES OF MARINE AND RAIL TERMINALS, GRAVEL RESOURCES, INDUSTRIAL LEASES, MATERIAL AND ROCK RESERVES, ADMINISTRATION AREAS AND LAND FOR FUTURE DEVELOPMENT AND FACILITY EXPANSION.

1,000 ACREAS ARE UNDER LEASE TO BUSINESS PROVIDING $3 MILLION EACH YEAR IN REVENUES.

11,000 ACRES ARE ACTIVE GRAVEL AND ROCK QUARRIES.

10,000 ACRES DESIGNATED FOR FUTURE USE AND WATER SHED.

4,000 ACRES OR ABOUT 10% ARE SUBJECT TO CLAIMS BY NATIVE VILLAGES

THE LARGEST CLAIM UNDER THESE 4,000 ACRES IS AN 1,800 ACRE TRACT AT EAGLE RIVER.

THERE ARE THREE PRINCIPAL LIABILITIES OF THE RAILROAD:

FIRST, THE LONG TERM EMPLOYEE PENSION LIABILITIES WHICH ARE ESTIMATED AT $142 MILLION DOLLARS. THIS IS THE PRESENT VALUE OF THE TOTAL COSTS TO THE STATE-OWNED RAILROAD TO PAY BOTH THE PAST UNFUNDED RETIREMENT LIABILITIES AND TO PAY FUTURE RETIREMENT OBLIGATIONS. THIS LIABILITY WOULD EXIST EVEN IF THE RAILROAD WERE NOT TRANSFERRED TO THE STATE.

A SECOND PRINCIPAL LIABILITY IS THE AGE OF THE RAILROAD'S ROLLING STOCK. THE AVERAGE AGE OF THE FREIGHT CAR FLEET IS 30 YEARS AND THIS FLEET NUMBERS APPROXIMATELY 1,650 UNITS. THE LOCOMOTIVES, WHICH NUMBER 62 UNITS HAVE AN AVERAGE LIFE OF 14 YEARS, 15 OF THOSE LOCOMOTIVES ARE 3,000 HP UNITS BUILT BY GENERAL MOTORS BETWEEN 1975 AND 1978. ON THE OTHER HAND, LAST YEAR, 5 REBUILT UNITS WERE PURCHASED AND 4 NEW GENERAL MOTORS SUPER SERIES LOCOMOTIVES WERE TO ARRIVE BY THE END OF SEPTEMBER. THESE NEW ACQUISITIONS ARE COMPARABLE TO THE MOST MODERN EQUIPMENT ON ANY RAILROAD.

THE THIRD AND LAST PRINCIPAL LIABILITY IS THE AGE AND CONDITION OF THE RAILROAD'S BUILDINGS. MORE THAN 90% OF THE BUILDINGS ARE LOCATED AT ANCHORAGE, FAIRBANKS, WHITTIER, SEWARD AND HEALY. THESE STRUCTURES ARE USED FOR MAINTENANCE AND REPAIR OF EQUIPMENT; ADMINISTRATION; WAREHOUSING; SECTION HOUSES AND LIVING QUARTERS; TRANSIT SHEDS; AND TERMINAL FACILITIES. THESE FACILITIES ARE FROM 20 TO 25 YEARS OLD. AS YOU MIGHT IMAGINE, THE ALASKA RAILROAD, AS A FEDERAL AGENCY, HAS NOT BEEN SUBJECTED TO THE SAME HEALTH, SAFETY AND LOCAL BUILDING CODES THAT MIGHT APPLY TO NON-FEDERAL BUSINESS. TO BRING THESE

FACILITIES UP TO OSHA STANDARDS WOULD COST APPROXIMATELY $9.4 MILLION AND IT IS ESTIMATED TO BRING THESE STRUCTURES UP TO LOCAL BUILDING CODES MAY COST AS HIGH AS $50 MILLION DOLLARS.

IN A BUSINESS CASH FLOW SENSE, IT IS SOMEWHAT SATISFYING TO REALIZE THAT EACH OF THESE LIABILITIES IS A LONG TERM OBLIGATION. FOR INSTANCE, THERE IS NO IMMEDIATE NEED TO COMPLETELY REPLACE ALL RAIL FREIGHT UNITS, NOR WOULD IT BE PRUDENT TO INVEST $50 MILLION INTO UPGRADING THE EXISTING RAILROAD BUILDINGS. A WELL PLANNED CAPITAL IMPROVEMENT PROGRAM OVER A 10 TO 15 YEAR TERM SHOULD SATISFY ALL DEFICIENCIES.

THE PENSION OBLIGATION OF $142 MILLION IS A VERY LONG TERM OBLIGATION, BUT TO PUT THIS LIABILITY INTO PERSPECTIVE LET ME POINT OUT THAT IN 1982 THE ALASKA RAILROAD EMPLOYEES CONTRIBUTED $1-1/2 MILLION AS THEIR 7% CONTRIBUTION WHICH WAS MATCHED BY THEIR EMPLOYER CONTRIBUTING AN EQUAL 7% OF 1-1/2 MILLION DOLLARS. AS A POINT OF REFERENCE, EMPLOYEES OF THE STATE OF ALASKA CURRENTLY CONTRIBUTE 5% OF THEIR SALARIES TO RETIREMENT WHILE THE STATE TAXPAYERS CONTRIBUTE ANOTHER 12% TO THE STATE EMPLOYEE PENSION ACCOUNT.

MY ESTIMATE FOR THE ANNUAL CAPITAL REQUIRED TO SATISFY THESE THREE PRINCIPAL LIABILITIES SHOULD NOT EXCEED $18 MILLION.

LET ME GIVE YOU MY SNAPSHOT VIEW OF THE OVERWHELMING PLUSES OF THE ALASKA RAILROAD: THE RAILROAD IS A 520 MILE STANDARD GUAGE RAILROAD THAT OPERATES FROM TWO ICE FREE PORTS ON THE SOUTH, TO EIELSON AIR FORCE BASE ON THE EAST TO NENANA, WITH ITS ACCESS TO THE TANANA AND YUKON RIVERS ON THE WEST.

THE RAILROAD SERVICED 175,000 PASSENGERS IN 1983 AND EXPECTS TO SERVICE OVER 200,000 IN 1984. WHAT THE RAILROAD DOES BEST IS HAUL LARGE BULK QUANTITIES SUCH AS COAL, GRAVEL, HEAVY FREIGHT AND PIGGYBACKS. IN 1983 THE RAILROAD WILL HAVE HAULED 4 1/2 MILLION TONS OF GRAVEL, 650,000 TONS OF COAL AND HANDLED OVER 12,000 CARLOADS OF INTERLINE FREIGHT. THE BIGGEST PLUS IN FREIGHT HANDLING WILL BE ADDED NEXT YEAR WITH A 15 YEAR COAL HAULING CONTRACT WITH SUN-EEL. THIS CONTRACT WILL CALL FOR SHIPMENT OF 800,000 TONS OF COAL FROM HEALY TO SEWARD ADDING MORE THAN $10 MILLION OF REVENUE ANNUALLY AS WELL AS 40 TO 50 EMPLOYEES TO THE RAILROAD PAYROLL. THE WORLD CLASS COAL PORT AT SEWARD WILL BE ABLE TO HANDLE 4 MILLION TONS EACH YEAR FROM A LOCATION WHICH IS 1,100 MILES CLOSER THAN VANCOUVER, B.C. AND 1,850 MILES CLOSER THAN LONG BEACH TO FAR EAST MARKETS. I WOULD EXPECT THAT OTHER FOREIGN PURCHASERS WILL BE WATCHING THE SUCCESS OF THIS ENTERPRISE CLOSELY.

FOR THOSE PESSIMISTS WHO NEED FURTHER ENTICEMENT TO REALIZE A BARGAIN, THE RAILROAD OWNS 600 ACRES OF LAND BETWEEN GOVERNMENT HILL AND FIRST AVENUE IN ANCHORAGE, CONSERVATIVELY ESTIMATED TO BE WORTH 1 1/2 TO 2 MILLION DOLLARS PER ACRE. IN FAIRBANKS THE RAILROAD OWNS 300 ACRES OF SIMILARLY LOCATED LAND VALUED AT 1 MILLION DOLLARS PER ACRE.

THIS MARKETABLE LAND WOULD BE WORTH IN EXCESS OF 1.5 BILLION DOLLARS AFTER THE 5 YEAR WAITING PERIOD WHICH IS REQUIRED BY THE FEDERAL TRANSFER ACT. AND AS MY <u>LAST</u> OFFER TO THOSE INDIVIDUALS WHO BELIEVE WE PAY TO MUCH ALREADY TO THE FEDERAL GOVERNMENT; I SUBMIT THESE ARGUMENTS:

1. THE FEDERAL TRANSFER ACT LANGUAGE ALLOWS FOR THE SALE OF TAX FREE BONDS TO FINANCE THE RAILROAD, AND,
2. THE RAILROAD HAS ABSOLUTELY NO DEBT.

BEFORE I CLOSE, I WANT TO TELL YOU WHAT NEEDS TO BE ADDRESSED AFTER THE TRANSFER OF THE RAILROAD TO THE STATE. THE TREATMENT OF THIS ACTION WILL HAVE A MUCH MORE COST IMPACT THAN THE SALE OF THE RAILROAD. THE CRITICAL ACTION TO BE DETERMINED IN THE NEXT SESSION OF THE LEGISLATURE WILL BE HOW THE RAILROAD IS OPERATED AND WHO WILL MANAGE THE OPERATIONS.

THE ALASKA STATE CHAMBER OF COMMERCE IS ON RECORD IN BOTH PUBLIC TESTIMONY AND AT HEARINGS BEFORE VARIOUS LEGISLATIVE BODIES FOR THE CREATION OF AN ALASKAN RAILROAD AUTHORITY MADE UP OF 7 PUBLIC MEMBERS WHO WOULD DEVELOP THE POLICY UNDER WHICH THE RAILROAD WOULD OPERATE.

IT HAS BEEN PROPOSED THAT THIS RAILROAD AUTHORITY WOULD CONTRACT THE DAY-TO-DAY OPERATIONS OF RAILROAD, TO A PRIVATE OPERATOR WHO WOULD MANAGE THE RAILROAD ON A PROFIT INCENTIVE BASIS. YOUR CHAMBER HAS FURTHER PROPOSED THAT THE EXPANSION ACTIVITIES FOR RAILROAD GROWTH, BE RETAINED BY THE STATE DEPARTMENT OF TRANSPORTATION WHO WOULD BE RESPONSIBLE FOR THE PLANNING, DESIGN, CONSTRUCTION OF ALL NEW ROUTES. ONCE THESE ROUTES WERE COMPLETED THEY WOULD BE TURNED OVER TO THE CONTRACT OPERATOR FOR PUBLIC USE. WE FEEL THIS PROPOSAL IS MOST RESPONSIBLE TO THE PUBLIC GOOD AND WILL PREVENT BUREAUCRATIC STAGNATION AND PREVENT AN IMMEDIATE LARGE GROWTH OF STATE EMPLOYEES ON THE STATE'S BUDGET.

I BELIEVE IT IS VERY AUSPICIOUS THAT WE GATHERED HERE IN SITKA, TO DISCUSS THE PENDING TRANSFER AND SALE OF THE ALASKA RAILROAD. SITKA WAS THE CAPITAL AT THE TIME OF THE SALE OF ALASKA TO THE UNITED STATES FOR A PURCHASE PRICE OF $7.2 MILLION. SO FOR THOSE OF YOU WHO SEE THE FUTURE OF OUR GREAT STATE AS WILLIAM SEWARD ONCE DARED, I URGE YOU TO SPEAK YOUR OPINION AND LET YOUR VOICE BE HEARD IN SUPPORT OF YOUR STATE CHAMBER'S PROPOSAL ON THE TRANSFER AND OPERATION OF THE ALASKA RAILROAD.

THANK YOU.

Railroad Floor Action Due

The Alaska Railroad legislation may come before the state House this week, but little resolution of differences between the state administration and the House leadership are in sight. Differences involve difficult consitutional issues and feelings run strong on both sides. Compromise will probably have to come as a result of counting votes on the House floor, or later as differences between the House and Senate are hammered out.

In many respects differences focus on the consitutional amendment granting confirmation rights to the Legislature, now restricted to heads of departments and certain boards and commissions. However, HJR-72 goes a step farther and insulates the governor from any say in the selection of a chief executive officer. Constiututional amendments require a two-thirds vote in each body of the legislature, making passage of such issues difficult unless there is substantial consensus. However, the House leadership has a certain advantage tactically with the threat of possible inaction on the railroad issue. The issue is presently a House vs. Administration issue, but could become a House vs. Senate issue also.

5

LEGISLATIVE DIGEST 4-29-84

Illegal Use Telecommunications

The Senate has passed SB-504 prohibiting the unauthorized use of telecommunications. The bill would make theft of cable, subscription or pay television a crime of criminal mischief in the third degree, with the exception of interception of signals from a satellite by a home earth station or other device. Criminal mischief in the third degree is a class A misdemeanor punishable by up to one year in jail and a fine of up to $1,000.

Revision "Marital" Rape

The Senate Judiciary Committee is considering legislation concerning spousal defense of sexual assault. SB-528 would make marital rape a Class A felony punishable by a mandatory eight year jail sentence. The Committee is leaning towards reducing the penalty for a first time offense to a Class A misdemeanor, although chances of passage of any such legislation look dim this year.

Recriminalization Of "Pot"

HB-698, recriminalizing the use of marijuana passed out of House Judiciary last week and was given a further referral to House Finance.

Railroad report sent to Congress

Governor Bill Sheffield and U.S. Transportation Secretary Elizabeth Dole delivered to Congress and the Alaska Legislature on July 19 a report on the proposed transfer of the federally-owned Alaska Railroad to the state.

Sheffield said delivery of the transfer report is an important step forward in the decision process regarding possible transfer of the railroad. Main purpose of the report, which satisfies a key statutory provision of the transfer legislation passed last December by Congress, is to provide in-depth information about the assets and liabilities of the railroad and other transfer matters on which a decision can be based.

"Delivery of the transfer report in no way represents a commitment by the State of Alaska to proceed with acceptance of the transfer," Sheffield said.

"The next step will be an assessment by the United States Railway Association of the fair market value of the Alaska Railroad. These two reports will serve as the basis for deciding whether to proceed with the transfer.

"This report," Sheffield said, "provides detailed descriptions of the rail properties, assets, and liabilities of the Alaska Railroad that would be transferred to the State. Highlights of the report include specific employee protection obligations, parcel-by-parcel identification of all railroad land holdings, comprehensive lists involving personal property and all leases, permits, and contractual obligations, and a detailing of the valuation procedures.

"More refined information will be provided in the months ahead, especially pertaining to certain employee protection obligations, OSHA consideration and state and local building code violations, and a method of amendment is provided for as more exact information becomes available.

"My administration is committed to assuring that all of this information, in detail, is fully known by the start of the next legislative session when we, the people of Alaska, begin in-depth deliberations about this very important issue," Sheffield said.

"Many hundreds of hours of hard work by both state and federal personnel have made this a thorough and very useful document," Sheffield concluded as he thanked all of those involved in compiling it.

Seward Phoenix Log
Thursday, July 28, 1983

Fish spilled in accidents

Two semi trucks loaded with frozen fish went into the ditch July 24 in separate incidents, according to State Troopers. Both accidents were costly but neither caused serious injury.

At 7:40 a.m. a semi hauling frozen fish for Tachick Freight of Soldotna turned over at Mile 52, Sterling Highway with an estimated $75,000 loss. Driver Paul Miller, 22, of Anchorage, swerved to avoid a passing vehicle that nearly caused a head-on collision, but his truck overturned. he was not hurt.

At 5:12 the same evening a truck hauling 40,000 pounds of frozen fish to Anchorage overturned near Mile 50, Seward Highway, dumping part of its load. Operator David Berkelo, 22, of Anchorage, and passenger Gregory Hutson received minor injuries. Damage was estimated at $60,000.

Troopers noted that seat belts were not worn in either accident.

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ALASKA RAILROAD
Operating Expenses*
FY 85 (in $000)

ATTACHMENT A

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (HB 352)

	Alaska Railroad									Other Expenditures			
	Dec.	Jan.	Feb.	March	April	May	June	Total	Board of Dir.	ARR Trans. Team	Est. Corp.	Other	Total
Personal Services													
Wages	2,400	2,640	2,640	2,800	2,910	3,035	3,160	19,585					
Fringe	540	590	590	625	650	675	700	4,370					
Sub Total								23,955	120		275		24,350
Travel	12	12	12	16	16	16	16	100	40				140
Contracts	370	370	360	350	350	350	350	2,500		1,650	1,200	550	5,900
Supplies	340	350	330	480	555	700	720	3,475			525		4,000
Equipment	100	148	140	180	200	212	220	1,200					1,200
Grants & Claims	200	200	200	200	200	250	250	1,500					1,500
Total	3,962	4,310	4,272	4,651	4,881	5,238	5,416	32,730	160	1,650	2,000	550	37,090

*Minor Discrepancies due to rounding

04/10/84

ALASKA RAILROAD
Operating Expenses*
Analysis by Department
FY 85

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (HB 352)

	December	January	February	March	April	May	June	Total
General Manager & Staff								
Personal Services								
Wages	72	92	92	98	101	106	110	671
Fringe	16	21	21	22	22	23	24	149
Travel	2	2	2	3	3	3	3	18
Contracts	2	2	2	2	2	1	1	12
Supplies	9	9	8	11	12	15	16	80
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	101	126	125	136	140	148	154	930
Transportation								
Personal Services								
Wages	985	1,080	1,080	1,148	1,190	1,241	1,290	8,014
Fringe	222	243	243	257	267	277	286	1,795
Travel	2	2	2	2	2	2	2	14
Contracts	166	165	166	166	164	165	165	1,157
Supplies	140	143	133	202	236	300	310	1,464
Equipment	5	13	10	15	20	20	20	103
Grants & Claims	0	0	0	0	0	0	0	0
Total	1,520	1,646	1,634	1,790	1,879	2,005	2,073	12,547
Motive Power & Equipment								
Personal Services								
Wages	505	557	557	588	609	634	661	4,111
Fringe	114	124	124	131	137	141	146	917
Travel	1	1	1	2	2	2	2	11
Contracts	49	48	47	47	47	47	47	332
Supplies	76	77	73	107	124	157	162	776
Equipment	60	80	75	100	105	110	110	640
Grants & Claims	0	0	0	0	0	0	0	0
Total	805	887	877	975	1,024	1,091	1,128	6,787

*Minor Discrepancies due to rounding

(Continued)

	December	January	February	March	April	May	June	Total
Engineering								
Personal Services								
Wages	480	539	539	558	580	604	629	3,929
Fringe	108	118	118	125	130	134	140	873
Travel	1	1	1	2	2	2	2	11
Contracts	18	19	15	12	12	12	12	100
Supplies	70	74	69	100	115	143	147	718
Equipment	30	50	50	60	65	67	75	397
Grants & Claims	0	0	0	0	0	0	0	0
Total	707	801	792	857	904	962	1,005	6,028
Administration								
Personal Services								
Wages	289	304	304	332	347	362	377	2,315
Fringe	65	67	67	74	78	80	84	515
Travel	2	2	2	3	3	3	3	18
Contracts	111	113	101	101	104	104	104	744
Supplies	9	9	8	10	11	14	15	76
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	476	495	488	520	543	563	583	3,668
Marketing & Sales								
Personal Services								
Wages	48	48	48	53	58	58	62	375
Fringe	11	11	11	12	13	13	14	85
Travel	4	4	4	4	4	4	4	28
Contracts	6	5	5	4	4	4	4	32
Supplies	3	3	3	4	4	5	6	28
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	72	71	71	77	83	84	90	548
Overheads								
Personal Services								
Wages	21	21	21	24	25	30	32	174
Fringe	5	5	5	5	5	7	7	39
Travel	0	0	0	0	0	0	0	0
Contracts	18	18	18	18	17	17	17	123
Supplies	35	37	35	46	51	65	67	336
Equipment	5	5	5	5	10	15	15	60
Grants & Claims	200	200	200	200	200	250	250	1,500
Total	284	286	284	298	308	384	388	2,232

Attachment B

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/11/84

REQUEST
Bill/Resolution No.: CS for HB 512
Title: Alaska Railroad Corporation Act of 1984
Sponsor: Hayes, et. al.
Requestor: Representative Cato
Date of Request: 3/22/84

FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Alaska Railroad

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		24,350				
200 TRAVEL		140				
300 CONTRACTUAL		5,900				
400 SUPPLIES		4,000				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING	-0-	37,090	57,800	58,050	57,350	57,950
CAPITAL	-0-	15,800	20,450	20,450	20,450	20,450
REVENUE	-0-	37,350	67,200	70,200	73,300	76,350

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,540	11,050	8,300	4,500	2,050
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	37,350	67,200	70,200	73,300	76,350
TOTAL	-0-	52,890	78,250	78,500	77,800	78,400

POSITIONS:

FULL-TIME	-0-	478	478			
PART-TIME	-0-	38	38			
TEMPORARY	-0-	64/300	64/300			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund (Although the legislation does not speak to this point, every indication suggests use of a general fund appropriation to offset fiscal impact.)

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coord. Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 4/11/84

Approved by Commissioner: R. J. Knapp Date: 4/11/84
Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

COMPREHENSIVE RISK MANAGEMENT PROGRAM

ALASKA RAILROAD

State of Alaska

Department of Administration

Division of Risk Management

November 23, 1983

I. Preface

This proposed Comprehensive Risk Management Program has been structured to provide the Alaska Railroad (ARR) with the broadest most comprehensive program at the lowest possible cost projections, on the basis of various assumptions.

The program design utilizes broadly written insurance protection in conjunction with acceptable levels of self-insured retentions. The concept is based upon spread of risk, real and personal and business interruption values and probable maximum loss studies. It includes aggressive marketing efforts in order to achieve the lowest premium cost projections.

These lower premium cost projections are achieved by using insurance markets and brokers presently protecting and handling other State risks. This approach maximizes economy of scale producing lower pricing than had separate risks been presented to different underwriters or different brokers.

It should also be noted that because of time constraints we have not had sufficient time to conduct detailed risk management exposure analyses and, therefore, had to make numerous assumptions. These assumptions have resulted in cost of risk allocations, which are projections, based on the limited information available to us at the time of this study.

However, given additional time, we could more accurately project the cost of risk.

II. Description by coverage lines of Cost of Risk Analysis including insurance limits of liability, self-insured retentions and premiums.

A. Casualty Insurance

The casualty insurance includes:

Comprehensive General Liability
Automobile Liability
Workers' Compensation/Employer's Liability
Errors and Omissions Liability Insurances
Railroad Protective Liability

The policy providing this insurance is a manuscripted warranty policy containing broad liability protection excess a self-insured retention.

Limits

The limit of liability is $200,000,000 each occurrence.

Self-Insured Retention (SIR)

The SIR is $300,000 per occurrence. This is for claims brought against the Alaska Railroad.

Premium

The premium for the casualty insurance is negotiated by State Risk Management on behalf of the ARR and allocates the appropriate premium to the ARR.

B. Property Insurance

The property insurance program includes:

All Risks Physical Damage Insurance, including Earthquake, Flood and Subsidence

Business Interruption Insurance

Extra Expense Insurance

The policy providing this insurance is a manuscripted warranty policy providing all risk of physical damage protection including the broad form of extended coverages. It is written on a "replacement amount" basis and would provide a $100,000,000 limit of protection for each occurrence without a co-insurance or contribution clause.

The business interruption insurance is manuscripted so as to include "gross earnings and profit" and extra expense.

Limits

The limit of protection is $100,000,000 each occurrence, with automatic reinstatement of the limit following an occurrence. This limit includes all insured perils - not separately for each peril.

Self-Insured Retention (SIR)

The SIR is $200,000 per occurrence for all perils except earthquake, flood and subsidence.

The earthquake, flood and subsidence retention is $650,000 each occurrence for losses within the Borough of Anchorage, and $300,000 per occurrence on losses outside the Borough of Anchorage.

Premium

The premium is based on the estimated real and personal property--rolling stock of ARR, foreign rolling stock of others, locomotives and engines, railroad track and railroad bedding and business interruption values. State Risk Management negotiates the premium rate and allocates the appropriate premium to the ARR.

C. Boiler and Machinery Insurance

The boiler and machinery insurance can be written with or without machinery breakdown coverage for the locomotives which would cover the drive engine, generators, motors and gear sets. We understand the large railroads generally totally self-insure for the machinery breakdown risk.

Because we have not had sufficient time to adequately analyze this risk, we have provided the following alternative boiler and machinery programs:

Alternative 1

Object Covered:

Boilers, Pressure Vessels, Motors, Generators, Internal Combustion Engines, Transformers and Electrical Switch Gear.

Also includes any object that utilizes, transmits or generates mechanical or electrical power or is a fired or unfired pressure vessel.

Deductible

$10,000 each accident.

Coverage

Insuring against any kind of accident which necessitates repair or replacement or shows evidence of damage.

Alternative 2

Objects Covered:

All of the above shown in Alternative 1, except for rolling stock (61 locomotives).

Deductible

$2,500 each accident.

Premium

The premium for boiler and machinery insurance is a function of size and value of the various locomotive equipment/objects, such as generators, engines, various pressure or non-pressure vessels and transformers, listed above.

The premium is negotiated by State Risk Management who allocates the appropriate premium to the ARR.

D. Marine Insurance

1. Cargo Coverage

All risk coverage or as required by ICC-ARR freight tariff 3095-A, page 44, section 1, Insurance.

Limit: $50,000 per railcar with higher limits available upon request.

Deductible: $500 per occurrence.

2. Cargo Legal Liability

Legal Liability covering railroads liability, if any for any trans-shipments.

Limit: $250,000 per railcar with higher limits available upon request.

Deductible: $500 per occurrence.

3. Owned Vessels

Hull and Machinery Limit: As required

Protection and Indemnity Limit: $200,000,000

SIR: $100,000 per occurrence.

4. Non-Owned Vessels

Hull and Machinery Limit: As required

Protection and Indemnity Limit: $200,000,000

SIR: $100,000 per occurrence.

Premium

State Risk Management negotiates the premium for these insurances and allocates the appropriate premium to the ARR.

Note: Cargo premiums would depend on gross receipts of the railroad and would vary from FY to FY. Any owned vessel coverage would be based on hull and machinery values.

E. Pollution Liability

Pollution liability resulting from bodily injury, property damage, and environmental damage claims caused by pollution incidents.

Limit

$20,000,000

Note: Higher limits can be arranged once a detailed inspection of the ARR operations has been completed.

Self-Insured Retention

The SIR is $50,000.

Premium

This premium can only be negotiated after a careful study is concluded of the railroad's operating procedures. Because we have not had the opportunity to conduct this study, our premium indication can only be considered at best a preliminary projection.

F. Automobile Physical Damage

Owned automobile physical damage is totally self-insured by the owner (State agency).

Leased and short-term rental vehicle claims are handled by Division of Risk Management.

G. Miscellaneous Insurance(s)

1. Employee Dishonesty

Coverage/Limits

Covers all employees' dishonest acts to a limit of $15,000,000. Deductible is $5,000.

There is a need for ARR to supply employee data to State Risk Management for this coverage on an annual basis.

Premium

The annual premium allocation is based on total number of employees, broken down by classification of duties.

2. Aviation Insurance

Coverage

This insurance is provided under the State program. It covers any ARR-owned and non-owned aircraft, i.e., those cases in which ARR may hire or charter aircraft for travel purposes or those cases in which ARR may hire an aircraft for photography or supply purposes.

Limit

The coverage and limit comes within the State's Broker's Warranty Policy of $200,000,000.

Self-Insured Retention

There is no allocation of the SIR of $300,000 to ARR because of the minimal exposure.

Premium

The premium allocation is nil annually and there is no underwriting information requirement in view of the minimal exposure.

3. Employee Business Travel Accident Insurance

Coverage

Employee business travel accident insurance is provided through State Risk Management. This provides protection to ARR employees on a 24-hour basis while traveling on behalf of ARR. This is 24 hour protection, meaning that recovery is available on a 24-hour basis, while in a hotel, business office, restaurant, etc. The employee need not be in an airplane, train or bus to recover for injuries or death.

The limit of protection is $75,000.

Premium

The premium allocation is based on an underwriting requirement to furnish employee data to Risk Management on an annual basis.

4. Excess of Aggregate Insurance

Is an additional type of excess coverage which limits the amount the State pays for a series (or accumulation) of losses in one year.

Premium

Negotiated with underwriters, based on detailed loss projections furnished by our actuarial contractor.

III. Other Expenses

Safety Engineering

A preliminary study of the existing safety function indicates a need for:

A. One more full-time employee
Total estimated cost: $40-50,000

B. Outside safety contractor to be used on special projects for a minimum of 520 hours @ $70 per hour = $36,400 + out of pocket expenses of $5,000.

Total estimated cost: $41,400

We have not included these additional costs in our cost of risk allocation.

IV. Administration

A. Introduction

The foregoing is a description of various insurances provided through the services of State Risk Management in conjunction with brokers for the ARR.

This is a separate Risk Management program designed specifically to meet the needs of ARR.

The above assumes that ARR is an instrumentality of the State which falls within the Division of Risk Management area of responsibility.

The Division of Risk Management has the responsibility to design and administrate the risk management program for the State. As a part of that responsibility it must negotiate the premiums for the various insurance programs, brokers fees and establish and fund the various levels of SIR. These responsibilities extend to the ARR.

Premiums for various insurance programs are allocated by Risk Management to the various departments and division of the State based upon a proportional assessment of risk. The premiums and SIR fund amounts are communicated by Risk Management annually in advance of the budgeting process and the forthcoming fiscal year. This process is called "Cost of Risk Allocation."

B. Cost of Risk Allocation

Premiums/SIR Funding for FY 85

The following are projections for FY 85; however, if the purchase of the ARR was effected during FY 84, pro rata distributions would have to be established.

Casualty insurance premiums are $150,000.00. This is an annual premium allocation to be paid.

Casualty insurance SIR fund is established at $1,250,000.00.

Total of $1,400,000.00. (Please note, this projected amount is based on Alaska Workers' Compensation benefits. There is a remote possibility that FECA/Workers' Compensation benefits may apply and we would have to adjust our projection upward.)

Property, Business Interruption, Extra Expense premiums are estimated to be $150,000.00 annually.

The SIR fund for this insurance is established at $400,000. This fund should be established as soon as possible, but in any event as of the date the ARR authorizes the institution of this program. The SIR fund is not pro-rated.

Total is $550,000.00.

C. Boiler and Machinery

The annual premium for FY 85

Alternative 1

$10,000 excluding rolling stock

Alternative 2

$215,000 including rolling stock for machinery breakdown coverage

The SIR fund for this insurance is established at $10,000 for Alternative 1.

This should be established as soon as possible, but in any event as of the date ARR authorizes the institution of this insurance. The SIR fund is not pro-rated.

Total Alternative 1 is $20,000; Alternative 2 total is $215,000.

D. Marine

The annual premium for FY 85 is $60,000.

Marine insurance SIR fund is established at $75,000.

E. Pollution Liability

The annual premium for FY 85 is $50,000.

Pollution liability insurance SIR fund is established at $50,000.

F. Miscellaneous Insurance(s)

The annual premium for FY 85 is $10,000.

Total $10,000.

No SIR fund allocations because of minimal exposure and/or the nature of the applicable insurance coverage.

G. Recap of Estimated FY 85 premiums and SIR fund contributions

Coverage	Premium	SIR	Total
Casualty	$150,000	$1,250,000	$1,400,000
Property	150,000	400,000	550,000
Boiler and Machinery (1)	10,000	10,000	20,000
Marine	60,000	75,000	135,000
Pollution Liability	50,000	50,000	100,000
Miscellaneous	10,000	-0-	10,000
Excess of Aggregate	100,000	-0-	100,000
Subtotal	$530,000	$1,785,000	$2,315,000
Administrative and Miscellaneous Expenses			250,000
Grand Total Risk Management Costs			$2,565,000
Additional to Include Boiler and Machinery Alternative 2	215,000	-0-	215,000
Grand Total Including Alternative 2	$745,000	$1,785,000	$2,780,000

H. ARR Insurance Financing

Since Risk Management's Budget has already been determined by the interagency billings for FY 85, it would be necessary for the ARR to allocate the insurance costs to a separate account to enable Risk Management to pay the insurance premiums and reserve for self-insured retention.*

In the future FY's the cost of risk can be allocated prior to budget and be included as an interagency billing under the normal RSA handling.

We would appreciate special note be taken that the SIR funding levels are only early preliminary projections which would need to be verified by our actuarial contractor. The ARR would be included as part of our Annual Aggregate (Stop Loss) which affords protection for the various funded SIR's (limits the amount the State pays for a series or accumulation of losses in one year) up to a limit of 10,000,000. This coverage is shared and affected by the SIR losses assumed by other State agencies. Therefore, there is no guarantee that full $10,000,000 would directly benefit the ARR.

*Risk Management would not be allowed any more overhead for FY 85.

Attachment D

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF TECHNICAL SERVICES

TO: Stan McAlister, Staff Analyst
Alaska Railroad Transfer Team

DATE: November 21, 1983

FILE NO:

TELEPHONE NO: 786-2293

FROM: Warner T. "Bud" May
Deputy Director

SUBJECT: Proposed Budget FY'85 -
ARR Transfer Project

Reference your memo dated 11/2/83 and our telephone conversation this morning. Attached is a proposed budget for DTS's involvement in the ARR project. We will revise our budget accordingly. As you indicated and as I understand it, necessary funds, even if the dollar amount is not the same, will be RSA'd to DTS if DOT/PF is budgeted for the project in FY'85.

I also understand that the Division of Land & Water Management has indicated its needs to you in the amount of $47.0. I will follow up on your advice to see how DNR will coordinate the work requested of us both this fiscal year and next. I agree with you tnat DNR should have a single contact for the project.

WTM:rs

cc: Joseph C. Burch
Mary Halloran

02.001A/Rev. 10/79

DTS/FY 85 Alaska Railroad Transfer Team Budget

100	**Personal Services**			
	NRM II	-	53.5	
*	Cad Sur I	-	49.2	
*	NRO I	-	35.5	191.9
	NRT I/II	-	28.3	
	AST II	-	25.4	
200	**Travel**			
	1 trip to Seattle		.8	
*	1 trip to Seward		.8	
*	1 trip to Kenai		.8	
*	2 trips to Fairbanks		1.5	
	3 trips to Juneau		2.3	
	Monitor survey activities of ARR parcels and Right-of-way		5.0	11.2
300	**Contractual**			
	Reproduction, printing and photos		1.5	1.5
400	**Commodities**			
	Supplies, paper, etc.		2.5	2.5
			Total	207.1

*NOTE: This funding or portion thereof will only be necessary if certain additional identified work is to be accomplished.

MEMORANDUM
State of Alaska

DEPARTMENT OF NATURAL R[illegible]S - Division of Land and Water Management

TO. Dick LeFebvre
Deputy Director

DATE November 15, 1983

FILE NO 180.6

TELEPHONE NO 265-4347

FROM. Frank Mielke
Chief, Land Management

SUBJECT. Manpower Needs, ARR Transfer

In response to Mark Hickey's 11/2/83 memo regarding budget input for the Alaska Railroad Transfer item, it is certain that there will be a significant involvement by the Division of Land and Water Management in implementing the Railroad Transfer.

The involvement of the Division in the ARR Transfer will include activities related to:

1. Researching status of state land:

   (a) as replacement land for lands claimed under 3(e) of ANCSA;
   (b) that may be considered for an exchange for lands necessary for operation of the railroad;

2. Implementing any transfer of land to the entity that will operate the railroad;

3. Evaluating exchange proposals to achieve necessary lands for operation of the railroad;

4. Preparation of maps, plats and other material on affected lands;

5. Appraisals of materials and land considered for disposition; and

6. Other realty services involving state lands, materials, timber and minerals.

The following are estimated costs:

1.	Personal Services (1 NRO II, Anchorage, incl. benefits)	$40,800
2.	Travel (2 trips to Juneau @ $336 plus 2 days per diem @ $80)	1,416
3.	Contractual (Appraisals)	5,000
4.	Commodities (Maps, displats, plats, mylars, etc.)	500
	TOTAL	$47,716

FGM:kmb

Attachment E

MEMORANDUM State of Alaska

TO: Stan McAlister
Alaska Railroad Transfer Team
DOT-PF

DATE: November 10, 1983

FILE NO:

TELEPHONE NO: 465-4870

FROM: Bob Bacolas, Diector
Division of Labor Standards
and Safety
Department of Labor

SUBJECT: Budget Needs of Alaska
Department of Labor

Attached is a detailed budget of Alaska Department of Labor's needs in FY 1985 if we are to fully participate in the AAR Transfer Project.

The proposed budget would allow us to do an extensive survey of the Alaska Railroad's physical facilities and review the work practices currently employed by the railroad. This survey and review will determine renovations to facilities and changes in work procedures that will be necessary to bring the railroad into compliance with Alaska's Mechnical Inspection laws and regulations and federal and state occupational safety and health laws, regulations and standards.

Our budget calls for a full time safety consultant and a full time electrical inspector. The safety consultant would survey the railroad for occupational safety and health hazards and the electrical inspector would do a survey of the electrical systems. The one-day survey we conducted on the railroad's Anchorage facilities indicates that one of the most pressing needs is to determine what changes are necessary in the electrical systems of the existing facilities to bring these systems up to Alaska code.

We are also asking for 6-months Administrative Officer I and Clerk Typist III positions in order to assure that a comprehensive report will be prepared from the surveys conducted by the two technical specialists.

These positions will be supported by the rest of the technical staff in our division. We have on our staff specialists in pressure vessels, plumbing, cranes and occupational health. Also, we will provide administrative and management support. We currently envision this special projects team to be under the supervision of one of our Deputy Directors in order to assure that they are dedicated to this project.

If you have any questions, please call me.

Attachment

cc: Mark S. Hicky, State Railroad Coordinator
Richard Arab, Deputy Director (w/attachment)
Don Wilson, Deputy Director (w/attachment)

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DOT
COMMISSIONER'S OFFICE

02-001A (Rev. 10/79)

PROPOSED ADOL BUDGET
FOR ALASKA RAILROAD TRANSFER

Position required in FY 1985 for Alaska Department of Labor to survey Alaska Railroad to determine what is needed to bring it into compliance with state occupational safety and health and building codes:

1. Occupational Safety and Health Consultant, salary range 50B; Stationed in Anchorage; full-time position.

Personal Services	$41,906
Fringe Benefits	$12,177
Sub-total	$54,083

2. Electrical Inspection, salary range 50B; stationed in Anchorage; full-time position.

Personal Services	$41,906
Fringe Benefits	$12,177
Sub-total	$54,083

3. Administrative Officer I, salary range 17B; stationed in Anchorage; 6-month position.

Personal Services	$17,166
Fringe Benefits	$4,988
Sub-total	$22,154

4. Clerk Typist III, salary range 8B; stationed in Anchorage; 6-month position.

Personal Services	$9,588
Fringe Benefits	$2,786
Sub-total	$12,374

Total Personal Services: $142,694

Non-personal services required to survey Alaska railroad:

Travel: 6 trips each for Safety Consultant and Electrical Inspector to visit Alaska Railroad facilities in various communities.

Transportation	6 X 2 X $250 =	$3,000
Per Diem	6 X 2 X 4 days X $90 =	$4,320
Sub-total		$7,320

Out-of-state training for Safety Consultant and Electrical Inspector to receive instruction about railroad operations.

Transportation	2 X $2,500 =	$3,000
Per Diem	2 X 14 days X $80 =	$2,240
Sub-total		$5,240

Total Travel: $12,560

Contractual:

Telephone and postage	$9,000
* Lease cars (2)	9,000
Rent (350 sq. ft. X $1,125 per sq. ft.)	4,725
* Repairs to lease cars	500
Department of Labor's administrative support services (13.17% of salaries)	14,562
Tuition for railroad operations course	2,000
Total Contractual	$39,787

* If DOT-PF will provide vehicles for these employees, it will not be necessary to lease cars.

Supplies:

Scientific supplies	$1,500
Personal protective equipment (Respirators, safety shoes, ear plugs, goggles, etc.)	3,000
Office supplies	2,000
Total Supplies	$6,500

Equipment:

Industrial health sampling equipment - minimum required 2 dosemiters with calibrators $1,500 unit; 6 high velocity sampling pump $500 unit; 6 sipin MSA sampling pumps @ $500/unit; 1 carbon monoxide reometer @ $500/unit	$9,500
Memory Typewriter	$2,500
Total Equipment	$12,000

Total Non-personal Services: $70,847

GRANT TOTAL FOR ADOL: $213,541

Attachment F

MEMORANDUM State of Alaska

TO: Mark Hickey
State Railroad Coordinator
Department of Transportation & Public Facilities

DATE: March 21, 1984

FILE NO:

TELEPHONE NO:

FROM: Commissioner Lisa Rudd
Department of Administration

SUBJECT: Fiscal Note for CSSB 352

The items budgeted for this department in the fiscal note for CSSB 352 do not fund permanent increases in Department operations or staffing, and are not included in the Department's FY 85 budget. Rather, these costs relate to:

- tasks that must be completed prior to transfer to meet the requirements of the Alaska Railroad Transfer Act, and assure an orderly transition from federal to state ownership, and

- post-transfer effort to assist the Railroad Corporation during their start-up period.

Specific tasks are described below:

Retirement and Benefits Retirement and insurance benefits must be provided for railroad employees. There are specific Transfer Act requirements that must be met for transferring employees, and benefits must also be provided for new employees hired after the transfer. These systems must be in place on the date of transfer. The budget for this effort is primarily for actuarial consulting services needed to establish the new systems. The Division of Retirement and Benefits is coordinating this work. The Division of Retirement and Benefits will absorb this additional workload for coordination with consultants, and communications with employee representatives without increased personal services costs.

Labor Relations The Alaska Railroad has labor agreements with six separate bargaining units. Because these agreements are linked to the federal system (e.g. leave is accrued according to federal personnel regulations, and grievances are settled through the Federal Labor Relations Agency) alternate arrangements will have to be made prior to transfer. In addition, the Transfer Act requires that all of these contracts be renegotiated within two years after transfer. We expect to assist the Railroad Corporation with this process. This work will be done through contractual services and with one full-time employee in a limited term exempt position that was established for this specific purpose.

Liaison and start-up assistance Many of our divisions will be providing start-up assistance to the Railroad Corporation. For example, the Division of Risk Management will help them design their risk management program. Most of this assistance will be provided within the normal division activities and budgets. We have included some personal services costs in the fiscal note to cover the cost of non-permanent staff assistance that is directly related to the railroad transfer effort.

Records Transfer The work in this area involves two specific projects. First is a project to assure that the Railroad Corporation has copies of essential personnel records. The original personnel records remain federal property and will be transferred to the Federal Office of Personnel Management at transfer. The second project is to assure orderly cataloging and storage of archival records. We anticipate that both of these projects will be done on a contractual basis.

The budget for the impact that CSSB 352 will have on this Department in FY 85 is summarized below.

Personnal Services	One full-time exempt position and funding for non-permanent staff assistance.	$105,000
Travel	Travel directly related to transition effort.	45,000
Contractual	Actuarial (to set up retirement system, etc.) Liaison/ Coordination, Records Transfer.	185,000
Supplies	Misc.	2,400
	TOTAL	$ 337,400

LR/EM/tc

cc: Eleanor Andrews
Deputy Commissioner
Human Resources
Department of Administration

Anselm Staack
Deputy Commissioner
Administrative Management
Department of Administration

Rebecca Burch
Special Assistant
Department of Administration

AK. Railroad Transfer Act - 1982

15176

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Former Chairman, Department of Political Science, Dartmouth College; former Managing Editor, *American Political Science Review;* former Director, Legislative Reference Service, Library of Congress

The Alaska Railroad

Edwin M. Fitch

FOREWORD BY

Senator E. L. Bartlett

FREDERICK A. PRAEGER, *Publishers*
New York • Washington • London

APPENDIX I

Public Law No. 69—63d Congress

(S. 48)

An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of this Act; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of this Act; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of this Act; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under this Act; to fix the compensation of all officers, agents, or employees appointed or designated by him; to designate and cause to be located a route or routes for a line or lines of railroad in the Territory of Alaska not to exceed in the aggregate one thousand miles, to be so located as to connect one

or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields so as best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, and for other governmental and public uses, and for the transportation of passengers and property; to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders, sidings, switches, and spurs; to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of this Act; to exercise the power of eminent domain in acquiring property for such use, which use is hereby declared to be a public use, by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force there; to acquire rights of way, terminal grounds, and all other rights; to purchase or otherwise acquire all necessary equipment for the construction and operation of such railroad or railroads; to build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads; to fix, change, or modify rates for the transportation of passengers and property, which rates shall be equal and uniform, but no free transportation or passes shall be permitted except that the provisions of the interstate commerce laws relating to the transportation of employees and their families shall be in force as to the lines constructed under this Act; to receive compensation for the transportation of passengers and property, and to perform generally all the usual duties of a common carrier by railroad; to make and establish rules and regulations for the control and operation of said railroad or railroads, or any portion thereof, including telegraph and telephone lines, after completion under such terms as he may deem proper, but no lease shall be for a longer period than twenty years, or in the event of failure to lease, to operate the same until the further action of Congress: *Provided,* That if said railroad or railroads, including telegraph and telephone lines, are leased under the authority herein given,

then and in that event they shall be operated under the jurisdiction and control of the provisions of the interstate commerce laws; to purchase, condemn, or otherwise acquire upon such terms as he may deem proper any other line or lines of railroad in Alaska which may be necessary to complete the construction of the line or lines of railroad designated or located by him: *Provided*, That the price to be paid in case of purchase shall in no case exceed the actual physical value of the railroad; to make contracts or agreements with any railroad or steamship company or vessel owner for joint transportation of passengers or property over the road or roads herein provided for, and such railroad or steamship line or by such vessel, and to make such other contracts as may be necessary to carry out any of the purposes of this Act; to utilize in carrying on the work herein provided for any and all machinery, equipment, instruments, material, and other property of any sort whatsoever used or acquired in connection with the construction of the Panama Canal, so far and as rapidly as the same is no longer needed at Panama, and the Isthmian Canal Commission is hereby authorized to deliver said property to such officers or persons as the President may designate, and to take credit therefor at such percentage of its original cost as the President may approve, but this amount shall not be charged against the fund provided for in this Act.

The authority herein granted shall include the power to construct, maintain, and operate telegraph and telephone lines so far as they may be necessary or convenient in the construction and operation of the railroad or railroads as herein authorized and they shall perform generally all the usual duties of telegraph and telephone lines for hire.

That it is the intent and purpose of Congress through this Act to authorize and empower the President of the United States, and he is hereby fully authorized and empowered, through such officers, agents, or agencies as he may appoint or employ, to do all necessary acts and things in addition to those specially authorized in this Act to enable him to accomplish the purposes and objects of this Act.

The President is hereby authorized to withdraw, locate, and

dispose of, under such rules and regulations as he may prescribe, such area or areas of the public domain along the line or lines of such proposed railroad or railroads for town site purposes as he may from time to time designate.

Terminal and station grounds and rights of way through the lands of the United States in the Territory of Alaska are hereby granted for the construction of railroads, telegraph and telephone lines authorized by this Act, and in all patents for lands hereafter taken up, entered, or located in the Territory of Alaska there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines to the extent of one hundred feet on either side of the center line of any such road and twenty-five feet on either side of the center line of any such telegraph or telephone lines, and the President may, in such manner as he deems advisable, make reservation of such lands as are or may be useful for furnishing materials for construction and for stations, terminals, docks, and for such other purposes in connection with the construction and operation of such railroad lines as he may deem necessary and desirable.

Section 2. That the cost of the work authorized by this Act shall not exceed $35,000,000, and in executing the authority granted by this Act the President shall not expend nor obligate the United States to expend more than the said sum; and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,000,000 to be used for carrying out the provisions of this Act, to continue available until expended.

Section 3. That all moneys derived from the lease, sale, or disposal of any of the public lands, including townsites, in Alaska, or the coal or mineral therein contained, or the timber thereon, and the earnings of said railroad or railroads, together with the earning of the telegraph and telephone lines constructed under this Act, above maintenance charges and operating expenses, shall be paid into the Treasury of the United States as other miscellaneous receipts are paid, and a separate account thereof shall be kept and annually reported to Congress.

Section 4. That the officers, agents, or agencies placed in charge of the work by the President shall make to the President annually,

and at such other periods as may be required by the President or by either House of Congress, full and complete reports of all their acts and doings and of all moneys received and expended in the construction of said work and in the operation of said work or works and in the performance of their duties in connection therewith. The annual reports herein provided for shall be by the President transmitted to Congress.

Approved March 12, 1914

Public Law No. 232—84th Congress

(H.R. 3332)

An Act to amend section 1 of the Act of March 12, 1914.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1 of the Act of March 12, 1914 (38 Stat. 305), as amended (48 U.S.C., sec. 301), is amended by striking out "but no lease shall be for a longer period than twenty years," and inserting in lieu thereof "but no lease of such railroad or railroads shall be for a longer period than twenty years and no other lease authorized in this Act shall be for a longer period than fifty-five years."

Approved August 4, 1955

APPENDIX II

Executive Order No. 1

Alaska Railroad

By authority of an act entitled "An Act to authorize the President of the United States to locate, consruct, and operate railroads in the Territory of Alaska and for other purposes," I do now designate and cause to be located the following routes for lines of railroad in the Territory of Alaska:

For a main line of railroad—

Commencing at the town of Seward on the westerly shore of Resurrection Bay, Alaska: thence following along said westerly shore in a northerly direction to the head of said bay: thence following up the drainage of Salmon Creek to a summit between said drainag and the drainage of Snow River: thence following the drainage of Snow River to Kenai Lake: thence continuing northerly along the easterly shore of Kenai Lake, along Falls Creek, along the shores of Lower and Upper Trail Lake, and up Trail Creek to a summit in the Kenai Mountains near mile 45 from Seward: thence descending along the drainage of Placer River to the head of Turnagain Arm of Cook Inlet: thence following the northeasterly shore of said Turnagain Arm and crossing Portage Creek and Twenty Mile River to the mouth of Kern Creek near mile 71 from Seward: thence in a northwesterly direction along the shore of Turnagain Arm to near the mouth of Big Rabbit Creek: thence leaving Turnagain Arm and running northerly to a summit in section 26, Township 14 North, Range 3 West, Seward Meridian: thence running northeasterly to near the head of Knik Arm of Cook Inlet: thence running northerly across the flats at the head of said Arm and crossing Knik and Matanuska Rivers, to a point about two miles north of the Matanuska River: thence running in a westerly and northwesterly direction, crossing the little Susitna River and following along the south-

(c) Shall post the rates for public inspection and file them with the Interstate Commerce Commission.

Section 3. *Rates; Interstate Commerce Commission.* (a) In respect of rates filed with the Interstate Commerce Commission pursuant to the provisions of this order, the Commission may act, to the extent practicable, and subject to the limitations provided in subsection (b) of this section, in the same manner as though the railroad were subject to Sections 1(1)(a), 1(4), 1(5), 1(5½), 1(6), 6(3), 6(6), 6(9), 13(1), 13(2) (to the extent that it relates to action by the Interstate Commerce Commission on its own motion), 15 (except 15(12) and 15(14)), 15a, 202(c) (1), and 202(c)(2) of the Interstate Commerce Act, as amended.

(b) When determining the justness and reasonableness of rates or charges maintained, or from time to time proposed to be maintained by the railroad, the Interstate Commerce Commission shall exclude for valuation and cost finding purposes the portion of capital investment allocated to national public purposes by the Secretary of the Interior under Section 2(a) hereof, and such rates and charges shall not be deemed to be unjust or unreasonable by reason of failure to yield sufficient revenues to cover any amounts for taxes not actually required by law to be paid or provide a return on capital investment.

Section 4. *Transitional provisions.* (a) The issuance of this order shall not affect any action heretofore taken by the Secretary of the Interior or his representative until such action has been modified or revoked in accordance with the provisions of this order.

(b) As promptly after the date of this order as may be convenient, the Secretary of the Interior shall post for public inspection and file with the Interstate Commerce Commission rates as referred to in Section 2(c) of this order. The rates posted and filed under this subsection may be the rates in force on the date of this order, with or without subsequent changes or modifications, or new rates.

This order supersedes Executive Order No. 3861 of June 8, 1923, and shall be codified for inclusion in the Code of Federal Regulations.

JOHN F. KENNEDY

The White House
April 25, 1963

APPENDIX III

Statement of Assets and Liabilities of The Alaska Railroad

June 30, 1966

ASSETS		
Current assets		
Cash	$ 7,281,762.89	
Accounts receivable	3,033,651.75	
Inventories of supplies and materials	3,743,169.79	$ 14,058,584.43
Fixed assets		
Road property	$ 98,315,998.64	
Equipment	30,269,989.55	
Non operating property	3,604,428.96	
	132,190,417.15	
Less: Provision for depreciation	27,518,911.25	
	104,671,505.90	
Additions and betterments in progress	1,016,077.80	
Construction work in progress (Seward dock)	10,129,886.47	115,817,470.17
Other assets and undistributed charges		10,964,163.84
Total assets		$140,840,218.44
LIABILITIES		
Current liabilities		
Accounts payable	$ 2,647,246.72	
Accrued payrolls payable	351,572.76	$ 2,998,819.48
Other liabilities		778,110.48
Total liabilities		3,776,929.96
Proprietary interest of the U.S. Government		
Net investment		139,220,907.11
Retained earnings:		
Retained earnings July 1, 1964 to June 30, 1965	— 936,648.21	
Current year operating results	—1,220,970.42	—2,157,618.63
Total proprietary interest of the U.S. Government		137,063,288.48
Total liabilities and capital		$140,840,218.44

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad Transfer Act of 1982.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201 note.

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

45 USC 1201.

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202.

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

Definitions

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0303-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than $2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code. "Accrue."

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transfered employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 *et seq.*

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to Congress and State legislature.
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of $300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.".

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

Post, p. 2568.

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghotthele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

43 USC 1611 note.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property; 43 USC 1611 note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land. "Real property."

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.".

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended— 43 USC 1611 note.

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "I(C)(2)(e)" and inserting in lieu thereof "I(C)(2)(e)(iii)(A)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)".

43 USC 1611 note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611 note.

(5) Section 12(b)(8) of such Act is amended to read as follows:

"12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Ante, p. 2564.

Ante, p. 2568.

Ante, p. 2556.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.".

43 USC 1611 note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

Ante, p. 2568.

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

48 USC note prec. 21.
43 USC 1635.
43 USC 1611, 1615, 1621.
43 USC 1611 note.
94 Stat. 2499, 2501-2515, 2518-2544, 2546.
43 USC 1611 note.

"12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339): 43 USC 1635. 48 USC note prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1978 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).".

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license. 45 USC 1205.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability 45 USC 1206. 5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available. 45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad. 45 USC 1209.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs. Publication in Federal Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210.

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564.

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title. 45 USC 1212. 5 USC 500 *et seq.*

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law. 45 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.). 16 USC 353a.

48 USC 301a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation "(b)".

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking "and the Alaska Railroad".

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking "employees of the Alaska Railroad and".

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad Transfer Act of 1982

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201 note

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

45 USC 1201

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a saving to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 875 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law; Definitions.

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 304(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(5) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 506(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 505(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than $2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code. "Accrue."

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transfered employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 et seq

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to Congress and State legislature. 45 USC 1204

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(bX1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(bX1XC) of this title; and (3) the easements to be reserved pursuant to section 304(cX2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(bX3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of $300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(dX1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.".

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

Post, p. 2568.

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Tyonek Native Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

43 USC 1611 note

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

40 USC 1611 note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"Real property."

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(CX2Xe) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(CX2Xg) of that document has been fulfilled, the acre-equivalents under subparagraph I(CX2XeXiiiXA) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.".

40 USC 1611 note.

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "I(CX2Xe)" and inserting in lieu thereof "I(CX2XeXiiiXA)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(CX2XeXiiiXA) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(CX1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)".

43 USC 1611 note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611 note.

(5) Section 12(b)(8) of such Act is amended to read as follows:

"12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(3)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Alaska, p. 2564.

Alaska, p. 2568.

Alaska, p. 2556.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph 1(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph 1(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph 1(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of [illegible], 1980 (Public Law 96-311; 94 Stat. 947).

Report to Congress.

"(E) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.".

43 USC 1611 note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph 1(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

Ante, p. 2561.

48 USC note prec. 21.
43 USC 1635.
43 USC 1611, 1615, 1621.
43 USC 1611 note.
94 Stat. 2499, 2501-2515, 2518-2544, 2546.
43 USC 1611 note.

"12(b)(10). For the purpose of its incorporation into this section, paragraph 1(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph 1(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339): 43 USC 1635. 43 USC note prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).".

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 804(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license. 43 USC 1203.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability 45 USC 1211. 5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 504(dX3X2) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 508. (aX1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available. 45 USC 1207.

(2) The transfer to the State authorized by section 504 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209–236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(5XA) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 503(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

Sec. 610. (a) If, within ten years after the date of transfer to the State authorized by section 504 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad. 43 USC 1609

(b) If, after the date of transfer pursuant to section 504 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs. Publication in Federal Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

Sec. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title. 43 USC 1212. 5 USC 500 et seq.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1975 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

Sec. 614. The provisions of this title shall govern if there is any conflict between this title and any other law. 43 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

Sec. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.). 16 USC 353a.

45 USC 801a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation "(b)".

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking "and the Alaska Railroad".

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(a)(1) of the Public Health Service Act (42 U.S.C. 251(a)(1)) is amended by striking "employees of the Alaska Railroad and".

(5) Section 202(3)(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3)(a)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

ALASKA RAILROAD TRANSFER LEGISLATION
SECTION-BY-SECTION ANALYSIS

SECTION 1--TITLE

This section provides that the legislation may be cited as "Alaska Railroad Transfer Act of 1982."

SECTION 2--FINDINGS

This section states the reasons that the Alaska Railroad should be transferred to the State of Alaska. While the railroad has served the interest of the Federal Government in the past, today it primarily serves residents and businesses of the State. Further, the transfer is consistent with the Federal Governments efforts today to transfer programs to the States whenever appropriate. Finally the transfer is necessary in order to insure that in the future the railroad will be rated and it's services expanded to meet the needs of the State and the railroad users.

SECTION 3--DEFINITIONS

This section defines the major terms used in the legislation. Among those described is "rail properties of the Alaska Railroad." This definition is important because it describes the rail properties to be transferred. As defined in the legislation, rail properties means all right, title, and interest to real and personal properties held by or for the Alaska Railroad as of the date of enactment with limited exceptions, as follows: (1) The unexercised reservation to the United States in all patents to lands as provided for the construction of future rights-of-way; (2) the right of the Secretary of Transportation to exercise the power of eminent domain; (3) any money in the Alaska Railroad Revolving Fund that the Secretary and the State agree is needed to pay certain Federal obligations arising from operation of the railroad, which are not assumed by the State; (4) certain properties that the Secretary determines, with the consent of the State, to be necessary to carry out Federal functions after the transfer; and (5) certain properties in Denali National Park and Preserve.

This section defines "exclusive-use easement" as a surface easement for transportation, communication, and transmission purposes and support functions together with the right to use the subsurface if necessary for such purposes. The definition further guarantees subjacent and lateral support and entitles the easement holder to fence, afix, track fixtures and structures to and exclude persons from the land subject to the easement.

This section also defines the terms "State" and "State-owned Railroad". The definitions are broadly worded to give the State maximum flexibility in designating an appropriate organization for state ownership, operation, and management of the railroad after the transfer.

SECTION 4--TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska railroad to the State without direct monetary consideration as soon as possible after four specified certifications are made.

Subsection (b) requires the Secretary of Transportation after consultation with the Secretary of the Interior to simultaneously deliver to the State the following documents on the date of transfer; (1) a bill of sale conveying title to all personal rail properties of the Alaska Railroad; (2) an interim conveyance of the real properties of the Alaska Railroad which are not subject to unresolved claims of valid existing rights; (3) an exclusive license to use rail properties not conveyed above pending resolution of claims of valid existing rights in accordance with the review, settlement, and final adjudication procedures established in section 6 (b); (4) an exclusive-use easement for railroad purposes and other existing uses to right-of-way lands located with the Denali National Park and Preserve and title to the improvements within that right-of-way. All other rail properties located in the park are transferred to the Department of the Interior for administration as part of the park.

Lands subject to an interim conveyance (including lands to be conveyed following the review, settlement and adjudication process discussed above), must be surveyed by the Department of the Interior within five years after the date of enactment pursuant to section 606 (b) (2)of the interim conveyance. Following completion of the survey, the Secretary is required to issue a patent to the State.

Subsection (c) provides that interim conveyances and patents issued to the State must transfer all U.S. reservations for the Alaska Railroad except unexercised reservations for future rights-of-way under the 1914 Alaska Railroad Act. In addition, there shall be reserved to the Secretaries of Interior, Defense and Agriculture as appropriate existing easements for administration identified in the closing report. The appropriate secretary may also obtain future easements with State consent. Existing and future easements may not interfere with operations and support functions of the Alaska Railroad.

The Park Service will continue to use and occupy through the Secretary of the Interior a small tract at Talkeetna, Alaska currently used for certain park activities. Son long as this use or occupation does not interfere with railroad operations.

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the railroad as a carrier in intrastate and interstate commerce. In addition,

the Secretary is to certify that the State will assume the rights, liabilities and obligations of the Railroad. However, the State will not be responsible for claims or causes accruing on or before the date of transfer, or judgements rendered before the transfer, except those tort actions which result in claims in less than $2,500.

The Secretary must also find the State has established specified employee protection arrangements to apply during the two year period after the date of transfer. For those employees who are not officers and who choose to transfer to the State-owned railroad, the state must ensure that they are retained in their same positions, and unless otherwise agreed to, at least at the same level of compensation in effect at the time of transfer. These provisions are not to apply to those employees who are reassigned, retired, or separated for cause or lack of work.

Under this subsection, the State is to continue existing collective bargaining agreements during this two year period unless otherwise agreed to. This subsection further provides that these agreements are to be renegotiated during this period unless otherwise agreed to, and that they are to expire at the end of the two year period.

Finally, with respect to these employees, the State is to ensure that certain Federal benefits are retained. These include accrued leave, insurance, seniority rights, and cost of living increases. Also those employees who are transferred to the State-owned railroad but terminated or laid off, during the transition period, shall be entitled to priority of reemployment in the railroad and prior Federal service is to be counted in determining seniority for such purposes.

For officers of the railroad including the General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and Chief Consul, the Secretary must also certify that the State has agreed to retain those officers for at least one year from the date of transfer (except where separated for cause, resignation, retirement, or lack of work), at or above their base salary in effect on the date of transfer in such positions as the State may determine. As an alternative, the State may remove these employees upon payment of lump sum severance pay equal to their base salary for one year diminished pro-rata for employment by the state owned railroad within one year of the date of transfer prior to separation. Benefit guarantees discussed above for officers are in effect for one year only.

The fourth certification requirement insures that the State will allow the Secretary of Transportation access to records of the railroad and employees as needed to carry out the remaining Federal responsibilities connected with the transfer.

SECTION 5—TRANSITION PERIOD

This section sets for the the activities which are to occur, or are not the occur, during the period of enactment of the Legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six

months after enactment, of a report that describes in detail the rail properties of the railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out it's remaining responsibilities.

Under Subsection (b), the State shall have access to properties of, and records pertaining to the railroad in order to evaluate and prepare for the transfer. Also the Secretary is directed not to take certain actions such as transfer, sale, or lease of the railroad properties or the obligation of railroad monies, without the consent of the State.

Finally, subsection (c) directs the Secretary prior to transfer to ensure that the railroad's accounting practices and systems conform to reporting standards set by the ICC. This action will facilitate the transition of the railroad to it's status as a regulated carrier in intrastate and interstate commerce.

SECTION 6—LANDS TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of claims of valid existing rights to those properties. Subsection (a) specifies that the property to be transferred is excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Region, Inc., the Chugach Natives, Inc. and certain future Eklutna Village Corporation selections provided for in ANILCA.

Subsection (b) reinforces the Department of the Interiors existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within two years of the enactment of this legislation. Prior to initiating these adjudications, a 10-month period is provided whereby all affected parties are directed to make a good faith effort to review and settle as many of these claims as possible. This subsection specifies that until settlement or final adjudication, interim management of the railroad lands subject to claims of valid existing rights shall be in accordance with standards agreed to in the Memorandum of Understanding between the FRA, the State, Cook Inlet Region, Inc. and Village Corporations. In recognition of the importance of maintaining exclusive control over right-of-way lands to ensure sufficient protection for safe and economic operation of the railroad, the final part of this subsection provides a process whereby Village Corporations are allowed to relinquish any claims to railroad lands within the right-of-way for subsequent transfer to the State. This provision further provides that failure to make such a relinquishment shall result in the conveyance to the State of all right, title and interest of the United States in the right-of-way free and clear of such claims.

Under subsection (c), any decision by the Secretary of the Interior pursuant to this section is open to review only by an action brought in the Federal District Court of Alaska and is to be expedited. The State is

allowed to participate in such an appeal as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the railroad or impede its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C.§1611 and sections 1425 and 1430 of P.L. 96-487 (ANILCA). Since the passage of P.L. 94-204 (ANCSA) in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of the Interior and the State of Alaska have been attempting to ensure the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the State, environmental concerns, and concerns of other public and private entities.

In one of the integral parts of the exchange agreement, the "in-region pool" provision, the Secretary of the Interior, in conjunction with the General Services Administrator, was charged with promptly identifying and creating a selection pool of federal lands within the Cook Inlet Region. The transfer of the Alaska Railroad through this legislation would exclude rail properties from possible placement in the "in region" selection pool, unless the State or Secretary of Transportation consent to its inclusion.

ANILCA amended ANCSA to allow for "in-region pool" selections to occur out of state. Since the existing exchange agreement allows the Secretary of the Interior discretion to enlarge the "in region pool" using out of region entitlement, the objective of this section is to reaffirm this secretarial discretion and to make clear that out-of-state properties can be placed into the "in region pool". This subsection also allows CIRI to negotiate with local governments to obtain the properties being selected.

Utilization of CIRI's current statutory rights to obtain Federal surplus property wherever located will be essential for fulfillment of its entitlement. Therefore, a more detailed provision is needed to insure the properties will be made available. This section adjusts CIRI's current statutory right by specifically requiring that both the Secretary of the Interior and CIRI obtain early notice of potentially available properties. The amendments also clarify the Secretary of the Interior's authority to offer properties under his jurisdiction to CIRI as partial fulfillment of CIRI's entitlements.

In addition, to increase to properties within Alaska that can be placed into the "in region pool", section 6 extends CIRI's "in-region" priority statewide.

The amount of property within the "in-region pool" has been for various reasons less than the minimum amount required. On three separate occasions the original deadline on January 15, 1978 has had to be extended to recognize this fact. To ensure fulfillment, section 6 lifts the deadline until the pool is complete but in no event later than July 15, 1987.

Subsection (e) expressly provides that the State shall be liable to a party receiving a conveyance of land among the rail properties for damage

resulting in use by the State in a manner not authorized under the license provided in section 4.

SECTION 7—EMPLOYEES OF THE ALASKA RAILROAD

Subsection (a) of this section provides that those employees who transfer to the State-owned railroad and who presently participate in the Federal Civil Service System, may continue to participate in this system for as long as they continue to work for the State-owned railroad. However as an alternative, the State-owned railroad may provide such employees either in of substantially equivalent to those benefits the State provides it's employees under the State Retirement System. This section provides an exemption to the state alternative program for those transferred employees who are entitled to retire under the federal retirement system within five years of the date of transfer. These employees may elect to remain participants in the Federal system even if the State chooses to provide other benefits.

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned railroad at the time the railroad is transferred to the State shall be entitled to all normal rights and benefits under federal law for discontinued employees.

Subsection (c) provides for similar protections for transferred employees whose employment with the State-owned railroad is involuntarily terminated during the two year period following the transfer.

SECTION 8—STATE OPERATION

Subsection (a) of this section provides that after the transfer, the State-owned railroad shall be subject to the same Federal laws, with some limited sections, as are other railroads, including the Interstate Commerce Act, the Federal antitrust laws (unless the State acts otherwise to invoke an exemption), and the railroad safety laws. The limited exemptions are the Railroad Retirement Act, the Railway Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act. All FRA memoranda which sanction noncompliance with Federal railroad safety regulations in effect on the date of transfer shall continue in effect according to their terms as "waivers of compliance".

In addition, subsection (a) exempts the State-owned railroad from any state or local statute specifying a minimum number of crew members that must be employed in connection with the operation of it's trains.

Subsection (a) specifies that the State-owned railroad shall retain and manage it's own revenues. The purpose of this provision is to avoid the need for annual appropriations by the State for the railroad.

Subsection (b) of this section requires the ICC to promulgate an expedited, modified procedure for providing the State-owned railroad a certificate of public need and necessity.

This subsection also exempts ICC actions under this subsection from the National Environmental Policy Act and the Energy Policy and Conservation Act in order to ensure an expeditious process.

Subsection (c) of this subsection provides that the State-owned railroad shall be eligible to participate in Federal assistance programs on the same basis as other railroads, including that provided for by the Railroad Revitalization and Regulatory Reform Act.

Subsection (d) of this section provides that the railroad properties within the Denali National Park and Preserve and Chugach National Forest shall be subject to applicable Federal Laws and regulations established for the protection of forest and park values. In making this determination, the appropriate secretary is to consult with the Governor of Alaska. Moreover, any determination by the Secretaries must be designed to avoid unreasonable interference with railroad operations. This subsection also requires that any decision to fence the right-of-way within Denali shall be subject to the concurrence of the Secretary of the Interior.

SECTION 9--FUTURE RIGHTS-OF-WAY

This section contemplates future rights-of-way for expansion of the railroad. Subsection (a) provides that the State or State-owned railroad may request the Secretary of the Interior, or the Secretary of Agriculture as appropriate, in consultation with the Secretary of Transportation to approve expeditiously pursuant to existing law, a right-of-way over Federal lands and applications for terminal and station grounds and material sites.

Subsection (b) specifies that any rights-of-ways and grounds and sites granted under this section must conform to the extent possible to the standards established in the Alaska Railroad Act of 1914.

Subsection (c) provides that a right-of-way granted under this section is subject to reversion in accordance with section 10 below.

SECTION 10--REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad if within [redacted] years of the transfer such properties are converted to a use that would prevent the State-owned railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State at its option, may pay the United States an amount determined to be the value of the properties at the time they were converted to a use preventing the railroad from operating.

Subsection (b) specifically provides that if the State discontinues use of any land within the right-of-way for a continuous period of 18 years, or upon a formal notification of discontinuance from the State, the State's interest in these lands will revert to the United States.

Subsection (c) further states that upon such reversion, these lands will be conveyed by patent to abutting land owners, except as specified in subsection (d). This latter subsection provides that the portion of the right-of-way within the Denali National Park and Preserve and the Chugach National Forest will revert to the Department of the Interior and the Department of Agriculture, as appropriate, for administration as part of these units.

Subsection (e) provides that if the State sells or transfers the railroad within five years after the date of transfer, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvements and any liabilities incurred by the State shall be paid to the United States.

SECTION 11—OTHER DISPOSITION

To ensure that the railroad is transferred from Federal ownership, this section authorizes the Secretary of Transportation to otherwise dispose of the railroad if satisfaction by the State of the four conditions under section 4 cannot be certified within a year of the delivery of the report mandated under section 5. Consistent with the concern for continued rail service, this section directs the Secretary to give preference to a prospective owner who will continue to operate rail service.

SECTION 12—DENALI NATIONAL PARK AND PRESERVE

All rail properties within the Denali National Park and Preserve are transferred to the Department of Interior for administration as part of the park subject to the exclusive-use easement discussed above.

SECTION 13—APPLICABILITY OF OTHER LAWS

This section exempts actions taken under the legislation from the requirements of a number of Federal statutes, including the National Environmental Policy Act and those provisions of the Administrative Procedures Act not pertaining to judicial review. The reasons for these exemptions is to ensure that the transfer process is not delayed.

This section also clarifies that actions taken under this legislation do not constitute a disposal of surplus Federal property or a revocation of withdrawals made from or confirmed for the Alaska Railroad under a number of specifically named and generally referenced land laws, including the Federal Land Policy and Management Act. These clarifications are necessary in order to ensure that the rail properties do not become available for entry or selection by third parties as a result of actions taken under the legislation.

SECTION 14—CONFLICT WITH OTHER LAWS

This section provides that this legislation shall govern in the event in any conflict between this legislation and any other law.

SECTION 15--REPEAL AND AMENDMENT OF EXISTING LAWS

This section repeals the Alaska Railroad enabling act and to other related laws, and makes conforming changes to other Federal laws that mention the Alaska Railroad. These changes would become effective at the times of transfer or other disposition or at the time of any other disposition of the railroad pursuant to Section 11 of this legislation.

SECTION 16--SEPARABILITY

This section provides that if any section is held invalid, other sections shall not be affected.

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad Transfer Act of 1982

TITLE VI--ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201 note

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

45 USC 1201

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

Definitions.

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 504(b)(1) of this title;

(5) "employees" means all permanent personnel employed by the Alaska Railroad on the date of transfer, including the officers of the Alaska Railroad, unless otherwise indicated in this title;

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, good-will, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1208.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than $2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

"Accrue."

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code.

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (2) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transfered employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (2) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 *et seq*

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to Congress and State legislature. 45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 504(bX1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 504(bX1XC) of this title; and (3) the easements to be reserved pursuant to section 304(cX2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 506(bX3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of $300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(dX1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982.".

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

Post, p. 2568.

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Ahtna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghotthele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section [illegible](b)(1)(B) or (2) of this title shall grant not less than an exclusive easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

43 USC 1611 note

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

40 USC 1511 note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"Real property"

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(CX2Xe) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(CX2Xg) of that document has been fulfilled, the acre-equivalents under subparagraph I(CX2XeXiiiXA) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.".

40 USC 1511 note.

(3) Section 12(bX7Xiv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "I(CX2Xe)" and inserting in lieu thereof "I(CX2XeXiiiXA)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(CX2XeXiiiXA) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(CX1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(5)" and inserting in lieu thereof "section 12(b) (5) and (6)".

43 USC 1611 note.

(4) Section 12(b)(7)(v) of such Act, as redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611 note.

(5) Section 12(b)(8) of such Act is amended to read as follows:

"12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs 1(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b) (5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph 1(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph 1(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs 1(C)(2)(b) and 1(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph 1(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph 1(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs 1(C)(2)(a)(vi) and 1(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs 1(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(3)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Ante, p. 2564.

Ante, p. 2568.

Ante, p. 2556

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph 3(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph 3(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph 3(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.".

43 USC 1611 note

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph 1(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1925), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

Ante, p. 2568

48 USC note prec. 21
43 USC 1635
43 USC 1611, 1615, 1621
43 USC 1611 note
94 Stat. 2499, 2501-2515, 2518-2544, 2546
43 USC 1611 note

"12(b)(10). For the purpose of its incorporation into this section, paragraph 1(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph 1(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1635.
43 USC note prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).".

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

45 USC 1205.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

45 USC 1206.
5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

(B) all of the accrued employee and employer contributions and accrued interest on such contributions made by and on behalf of the transferred employees during their prior Federal service (other than amounts for employees who will meet the age and service requirements for retirement under section 8336 (a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program) shall be withdrawn from the Federal Civil Service Retirement and Disability Fund and shall be paid into the retirement fund utilized by the State-owned railroad for the transferred employees, in accordance with the provisions of paragraph (2) of this subsection. Upon such payment, credit for prior Federal service under the Federal civil service retirement system shall be forever barred, notwithstanding the provisions of section 8334 of title 5, United States Code.

(b) Employees of the Alaska Railroad who do not transfer to the State-owned railroad shall be entitled to all of the rights and benefits available to them under Federal law for discontinued employees.

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available. 45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 503(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 504 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad. 43 USC 1309

(b) If, after the date of transfer pursuant to section 504 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto, or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs. Publication in Federal Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title. 43 USC 1612. 5 USC 500 et seq.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1975 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law. 43 USC 1613.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.). 16 USC 533a.

48 USC 301a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

(3) The Act of July 19, 1932, concerning mining of coal adjacent to the Alaska Railroad (30 U.S.C. 208a).

(4) Section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (ii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(aX1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(aX1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation "(b)".

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking "and the Alaska Railroad".

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1XB);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

(4) Section 324(aX1) of the Public Health Service Act (42 U.S.C. 251(aX1)) is amended by striking "employees of the Alaska Railroad and".

(5) Section 202(3Xa) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1(3Xa)) is amended by striking the third sentence.

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

AK. RAILROAD

Proposals

- Correspond-ence

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ALASKA RAILROAD PURCHASE

By Representative Milo H. Fritz

The possible purchase of the Alaska Railroad from the Federal Government by the State of Alaska represents the most important and expensive piece of legislation that the second session of the 13th State Legislature will undertake. There is some question as to whether or not the state should purchase the railroad and in this article I intend making observations on the basis of conversations with certain individuals who have been successful in running railroads.

One consideration is the reason for the Federal Government wanting to sell an operation if it is a profitable one. If it is not profitable I see no reason for the state to undertake its purchase. It also is a consideration that the Federal Government spends hundreds of millions of dollars in foreign aid, has spent 30 billion dollars in loans to Poland which may never repay the money and contributes hundreds of millions of dollars to the International Monetary Fund which makes loans to Third World countries many of which have little possibility of ever repaying the loans. Under these circumstances it seems to me that the purchase price offered to Alaska of 22 million dollars is unrealistic and that a realistic purchase price would be a token value of one dollar in making the transfer.

Early in November it occurred to me that it would be a good idea if such a railroad existed, that I should try to make contact with someone who ran an intra-state railroad at a profit and who had had long experience in managing such an enterprise. Then on December 6 as though in answer to a prayer, I received the 28 November number of Barron's Financial weekly. In it there was the biography of Mr. Win Thornton, President of the Florida East Coast Railway, which was run at a profit, but which went through many very difficult periods owing to early bankruptcy and later labor difficulties involving strikes. The Barron's article explained how the railroad was run at a profit. Its right of way is between Jacksonville and Miami approximately the same distance between Seward and Fairbanks. The difference between the railroads, apart from climatic considerations, lies in the profitability of FEC and the Alaska

Railroad which excepting for five years since it began operations in the early 1920's, has run at a loss. It ran at a profit two years during pipeline construction and the past 3 years.

I went to St. Augustine, Florida, spent two days with Mr. Thornton and other officials of the FEC. I was given a very thorough briefing in its operations and past history which I believe should be of great value to the Alaska State House of Representatives in making its mind up to whether or not to vote in favor of purchasing the ARR from the Federal Government.

The people at FEC noted that the present labor contracts between the five labor unions involved in running the ARR, will be kept inviolate and intact for the first two years following the projected purchase. The FEC people said that the State of Alaska will lose all bargaining power unless contracts between the labor unions, who will be operating the railroad after the purchase, and the ARR are not brought to fruition before conveyance. They say that if the contracts are negotiated after the purchase all leverage for the State of Alaska will be lost and that if the state does not agree to what the labor unions want prolonged and expensive strikes will inevitably result.

They also recommended that the Board of Directors of the ARR after purchase and the manager of the railroad must be kept independent of any political pressure and that determinations regarding extension of the railroad through the North Slope, the Nome area, the Beluga coal fields and to the Canadian boarder must be dictated not on the basis of politics but on the basis of actual or potential profitability.

If the manager of the railroad is subject to political pressures and has not got his union contracts firmly in place before conveyance he might be unable to undertake such labor saving devices and operating procedures that would increase the efficiency of the railroad. The size of train crews should be determined on the basis of what is minimum for safety, for instance, and there must be permission granted for workers to cross craft lines according to the pressure of work. Such technical improvements as concrete cross ties, the electric sensor determination of individual journal temperatures, the shifting of loads, and the dragging of equipment are transmitted electronically. The dispatching office in the FEC is in contact with the two man crew that runs the trains between Miami and Jacksonville by means of a radio. The hot box, load shifting and dragging information is displayed in the dispatch office on rotating graphic drums that are similar to those familiar in electrocardographic, electroencephalographic, and seismic determinations.

The manager of the ARR whose labor relations will clearly delineated by pre-purchase agreements, will also be able to develop other research and development considerations that may come up from time to time. The decreasing use of box cars and the increase in the use of piggybacking operations, seem to be the trends at the FEC and other railroads in the south 48.

Mr. Thornton and the other officials also thought that the uncertain status of certain portions of the ARR rights of way, the Alaska Native land claims considerations, and certain vague agreements about the leasing and use of non-right-of-way properties also cast a cloud over the desirability of purchase. In answer to the direct question whether they would with the knowledge that they obtained about the ARR from the four documents that I had forwarded to them before my visit purchase the ARR the answer was no.

While I was in Florida I had the opportunity of watching the piggy back operation, the changing of wooden railroad ties to the concrete ties, the manufacture of concrete ties, the shifting of personnel from concrete work which was held in abeyance because of technical difficulties to other jobs, speaking to the men, watching the operation in the locomotive shop, and observing how the dispatching office worked while the trains were in motion. I have no doubt that the observation of certain ARR workers whom I have since met, is absolutely true; that the FEC is the state-of-the-art railroad far ahead of any other railroad of similar size any where in the south 48.

Next I went to Philadelphia and met Mr. Richard Hasselman, Executive Vice President of Conrail. I also had the opportunity in speaking to many of his officials. They also had studied the following documents before I got there: the Alaska Railroad Transfer Act, the Alaska Railroad Transfer legislation section by section analysis, the Alaska Railroad Transfer Report and the United States Railway Association Evaluation of The Alaska Railroad. The officials of Conrail who also ran their railroad at a profit, immediately noted the lack of contracts with the railroad unions that would be running the ARR after the purchase. A post conveyance set of agreements would be negotiated at great disadvantage to the State of Alaska. Again, in direct answer to the question regarding whether they would purchase the ARR under the present circumstances the answer was a unanimous no. They were familiar with the FEC operation and described it as the most enlightened and most brilliantly run railroad in the entire nation.

Mr. Hasselman asked whether I had been in contact with any lawyer who specialized in railroad labor relations. I replied that I never knew there was such a legal subspecialty. Accordingly Mr. Hasselman called up Mr. Henry H. Perritt, Jr. who is Professor of Law at Villanova University just outside of Philadelphia and who is a triple threat man in that he has a degree in Economics, one in Aeronautical Engineering, and one in Law. He had spent a good many years as counsel for Conrail in their negotiations between Conrail management and the labor unions. The Conrail people also pointed out that the five unions involved in running the ARR under the Federal Government, might not be the same ones who would be running the railroad under state auspices. They also pointed out the difficulties caused by clouding of the title of right-of-way lands and the difficulties that would ensue regarding the leasing or renting of non-right-of-way ARR properties. They suggested that passenger operations have been given up by almost all the privately owned railroads in the United States and that Amtrak was a federally funded means by which passenger traffic, even though it was run at a loss, was undertaken by the Federal Government.

After almost a day in conference with the officials of Conrail I took the train out to Villanova and had over an hours conference with Mr. Perritt, who had not had the advantage of reading the documents listed above. He subjected me to searching questions suggesting that the legislature should have a lawyer skilled in railroad labor negotiations to investigate the present and possible future relations between ARR management and railroad unions before the purchase and therefore be able to advise the legislature as to the type of legislation it should pass in either accepting or rejecting, modifying or amending pending legislation.

Before leaving on this trip it was my good fortune to have a forty minute conversation by long distance phone with Mr. D. W. Brosnan who is the recently retired Chief Executive officer of the Southern Railway which also runs at a profit. His conclusions were very little different from what the officials at Conrail, and FEC had arrived at. He had been sent copies of the above documents so that he had a chance to look over the situation before I phoned him. Since returning from Florida I have at hand a letter that he was kind enough to forward here presenting his attitude toward the possible purchase of the ARR from the Federal Government.

Upon returning to Juneau, and again quite by accident, as though some outside influence were guiding the destinies of the state, I received a call from Anchorage from Mr. Bradford W. Coupe who is a friend of Mr. Perritt and a member of the prestigious law firm of Morgan, Lewis & Bockius of Philadelphia which specializes in the type of law that has been discussed. At no expense to the State

he was willing to come down here and talk with me, the President of the Senate and the Speaker of the House, regarding the importance of investigation of present and possible future contracts with railroad unions in order to protect the state as well as the workers and the people of the state in the purchase of a railroad that would be run, if not at a profit, at least at the smallest possible loss.

Mr. Coupe came to Juneau and had an extensive conference with Speaker Hayes and a brief one with President Kerttula of the Senate. It was my recommendation and Mr. Coupe's that he with ten years experience in Alaska pipeline legislation be retained in order to permit the legislature to proceed on this important project with the greatest possible knowledge at hand for the consummation or rejection of the purchase before the deadline which appears in the ARR transfer legislation.

At the present time there seems to be some reluctance on the part of the Senate to join in an investigation at this time or retaining a specially skilled lawyer to protect the legislature's interest. However, Speaker Hayes is still interested and it is my hope that if the Senate does not care to become a party to this investigation, that the House undertake the investigation on its own.

I have no axe to grind. I very strongly feel that the legislature cannot intelligently make up its mind about this most important legislation unless it gets guidance from people who are experts in the complicated field of railroad labor legislation and in the running of a railroad, similar in size and scope to the one we consider purchasing. I think great consideration should be given to the unanimous opinion expressed by people who have the right to have one, that the purchase of the ARR has contemplated at this time is not in the interests in the State of Alaska or its people. I hope that the matters brought up in this paper will be made available to the people of Alaska through the medium of the newspapers.

4/26/84

Amendments to CSHB 512 (Finance)
Second Bill

Page 1, line 6, Use Senate Title to the Bill

Use Findings from House Bill.

Page 3, line 15-16, Insert a new paragraph (g) to read "(G) preserve the integrity of the railroad corridor for transportation, transmission, and communication purposes"

Page 3, line 9, delete "Transportation and Public Facilities" and insert "Commerce and Economic Development".

Page 3, line 13, delete (b) in its entirety.

Page 3, line 27, insert "Except for the member appointed under (3) of this section, " and continue with the rest of the sentence.

Page 5, line 24. after "MANAGEMENT BY THE BOARD. delete "Subject to AS. 42.40.280, "

Page 6, line 22, insert a new (9) to read "(9) apply to the legislature for an appropriation to be used to provide a service that is not otherwise self-sustaining if a subsidy is required to maintain that service."

Page 7, line 23, after "(2) insert "mortgaging or " pledging assets.
Page 8, line 23, period (.) after "meeting" and delete rest of sentence.
Page 9, line 4, after "determined", insert "in accordance with AS. 42.40.160" and delete the rest of the sentence.

Page 11, line 7, Change the cite from "AS 42.40.180" to "AS 42.40.175"

Page 14, line 10, after "donate", ~~insert "delay"~~ delete "convey"
Page 15, line 19 after "railroad" Insert Consistent with 45 USC 1201-1211 (CARTA 82)
Page 16, line 1-2, after "pledge", insert "mortgage"
after "property", delete the rest of the sentence.

Page 17, line 20 Use House Transportation "STATE OVERSIGHT REPORTS" language

Page 20, line 19, after "AS 42.40.400", delete "or pledge the land as security"

Page 20, line 28 after "AS 42.40.400" delete "or pledge the land as security".

Page 22, line 11, delete "physical" and insert "emergency".
Page 23, line 11, after "of", insert "an interest"

Page 23, line 16, delete "RIGHTS-OF-WAY" and insert "USE OF RAILROAD LAND".

Page 28, line 22, delete "(b)" in its entirety.

Page 29, line 15, insert a new section and renumber accordingly "PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the corporation by this chapter to fulfill the terms of a contract made by the corporation with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the corporation, in a contract with the holders and insofar as it relates to a federal agency, in a contract with the federal agency." (This is found in AS 44.88.130)

Page 38, line 4, After "Award" Insert "He/she deems"

Page 38, line 5, insert a new (d) to read "(d) Notwithstanding the provisions of (a)-(c) of this section, the parties to a dispute may mutually agree to submit the dispute to binding arbitration at any time."

Page 39, line 16 insert a new section "Sec 42.40.885

PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly:

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity, or to investigate other activities directly related to official railroad business.

Page 40, line 28, insert a new section to read

"42.40.905 Legal Action. (a) The corporation shall notify the Department of Law 15 days prior to initiating legal action except when special circumstances exist which require immediate action to protect the corporation assets or to continue existing service.

(b) If notice of legal action is not given under (a) of this section within 7 days of taking action the board shall notify the Department of Law of the action taken and of the special circumstances which exempted the action from the requirements of (a) of this section."

Insert new sections as appropriate for Constitutional Amendment and effective dates.

* Sec. 6 AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 7. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and eight [SEVEN] members appointed by the governor. At least six [FIVE] of the eight [SEVEN] appointed members must be registered voters in the state. No more than two appointed members may be from

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of

any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

* Sec. 8. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

* Sec. 9. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 10. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) any conduct that was intended to harm the corporation, even if it does not constitute a crime.

* Sec. 11. AS 42.40.040(a) is amended to read:

(a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND THE] chief executive officer, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

* Sec. 12. ~~[Sections 6 - 11 of]~~ this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

page 20, line 28 - Insert a new (d) as follows: "Leases to a party other then the State will be made at fair market value as determined either by appraisal or by competitive bid."

page 43, line 4 - Insert a new definition "Rule" as used in this chapter means every standard of general application or the amendment supplement or revision of a standard adopted by the corportation to implement, interpret, or make specific the law enforced or administered by it, to govern its procedure except one which:(1)relates only to the internal management of the corporation, (2) relates to specific rates, tariffs, divisions, and contract rate agreements; (3) relates to service schedules of the railroad (4) is directed to a specifically named person or to a group of persons and does not apply to the general public; or (5) relates to the use of public works under the jurisdiction of the corporation if the effect of the order is indicated to the public by means of signs or signals.

Alaska State Legislature

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

POUCH V
JUNEAU, ALASKA 99811

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

APR 1 0 1984

April 9, 1984

Rep. Betty Cato
Capitol, Room 128

Dear Rep. Cato:

Attached is a private sector approach that would make it possible for private enterprise to eventually own and operate the Alaska Railroad. The attached amendment is one that I offered to the Alaska Railroad operation bill, CS HB 512 (trans), this morning in House Finance Subcommittee.

The House Finance Subcommittee began work on the railroad bill this morning. We will meet every Monday, Wednesday and Friday at 8 a.m. until we have completely gone through CSHB 512.

Now. Back to my amendment. At first glance, many people like the idea of the railroad operating in the private arena, but they don't think it is possible. Too many people seem comfortable in letting the State take over ownership and management with a hope and a prayer that the system won't become entrenched as another State bureaucracy that needs yearly injections of operating dollars.

There has been a lot of lip service about putting the railroad into a private enterprise scheme, but nobody is coming up with anything concrete.

I believe my amendment, which allows private (individual) Alaskans to invest in the railroad and to eventually own it, is absolutely workable, sensible, and economic.

Sincerely,

Bob B

Rep. Bob Bettisworth
RHB/kmd

A M E N D M E N T

Offered in the HOUSE By Bettisworth

TO: CSHB 512(Trsp)

Page 41, lines 6 - 11:

Delete all material and renumber following sections accordingly.

Page 42, after line 11, insert new bill sections to read:

"* Sec. 11. ALASKA RAILROAD PURCHASE FUND. (a) The Department of Revenue shall establish a trust fund to be known as the Alaska Railroad purchase fund. Each permanent fund dividend designated for payment to the Alaska Railroad purchase fund under sec. 15 of this Act shall be deposited in the trust fund for the credit of the individual for whom the dividend was paid. Interest earned from the dividend shall also be credited to the individual.

(b) At any time before the board of directors of the Alaska Railroad Corporation forms a successor private corporation under sec. 12 of this Act, an individual may elect to withdraw a dividend deposited in the Alaska Railroad purchase fund together with interest earned on it by applying to the Department of Revenue in writing.

* Sec. 12. FORMATION OF SUCCESSOR CORPORATION. (a) When the Department of Revenue determines that the Alaska Railroad purchase fund contains $75,000,000, it shall notify the board of directors of the Alaska Railroad Corporation. The board shall determine the net book value of the corporation and direct the department to transfer that amount from the Alaska

Railroad purchase fund into the general fund in payment for the Alaska Railroad Corporation. The balance of the fund shall be transferred to the corporation by the department. For purposes of this subsection "net book value" means the amount paid by the state to the federal government for the Alaska Railroad, plus the amount of state money and value of state property transferred to the Alaska Railroad Corporation after the date of transfer of the railroad to the state, minus the amount of operating losses suffered or plus the amount of operating gains realized by the corporation from the date of transfer of the railroad to the date of the most recent audit conducted under AS 42.40.270.

(b) Within 120 days after all money is transferred from the Alaska Railroad purchase fund, the board of directors of the Alaska Railroad Corporation shall reincorporate the corporation under AS 10.05. The board shall enter into an agreement with the state on behalf of the successor private corporation not to convert, for 10 years after the date of transfer of the railroad to the state, all or part of the real property transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), except that portion of property that lies within the Denali National Park and Preserve, to a use that would prevent the railroad from continuing to operate. Upon entering into this agreement, the state shall designate the private successor corporation as the entity to own, operate, and manage the Alaska Railroad and all assets and liabilities of the Alaska Railroad Corporation shall be transferred to the successor private corporation.

(c) Violation of the agreement entered into under (b) of this section shall result in the reversion to the state of all assets transferred by the state to the private successor corporation.

* Sec. 13. ISSUANCE OF STOCK. The board of directors shall issue stock in the successor private corporation formed under sec. 12 of this Act to each individual who elected under sec. 15 of this Act to deposit a permanent fund dividend into the Alaska Railroad purchase fund. Stock issued under this section shall represent the entire value of the corporation, and the amount of stock issued to each individual shall be based upon the amount credited to that individual in the Alaska Railroad purchase fund.

* Sec. 14. STOCKHOLDERS' MEETING. (a) At the time of issuing stock under sec. 13 of this Act, the board of directors shall notify each stockholder of the time and place of the first stockholders' meeting. The meeting shall be held within 90 days after the stock is issued.

(b) At the stockholders' meeting the board of directors shall resign and the stockholders shall elect nine individuals to serve as the new board of directors of the successor private corporation.

* Sec. 15. PERMANENT FUND DIVIDENDS. Beginning in 1984 and until the board of directors of the Alaska Railroad Corporation forms a successor private corporation under sec. 12 of this Act, the permanent fund dividend application form shall be prepared to allow an applicant to indicate whether the dividend payment should be paid to the applicant or to the Alaska Railroad purchase fund. The Department of Revenue shall pay the dividend as directed on the form. If an applicant does not indicate a preference for the payment of the permanent fund dividend on the application form, the dividend shall be paid to the applicant.

* Sec. 16. AS 42.40 is repealed."

Renumber following sections accordingly.

Page 42, after line 14, insert a new bill section to read:

"* Sec. 18. Section 16 of this Act takes effect on the date the Alaska Railroad Corporation is reincorporated under sec. 12 of this Act."

Renumber following section accordingly.

Page 42, line 15:

Delete "9 - 11" and insert "9 - 15"

SUMMARY: Proposed Amendment to CSHB 512(Trans) by Bettisworth:

Intent: The Alaska Railroad Corporation established in CSHB 512(Trans) remains in effect until the accrual of $75 million in the ARR Purchase Fund. The State is paid the NET BOOK VALUE of the Railroad with the remaining balance in the fund transferred to the Alaska Railroad Corporation. The Corporation reincorporates as a private corporation. Upon reincorporation of the ARR Corporation, the entire Chapter 42.40 created in CSHB 512(Trans) is repealed. The private Corporation is then fully responsible for the ownership and operation of the Alaska Railroad.

I. Section 11. Alaska Railroad Purchase Fund

a). Dept. of Rev. to establish trust fund
  1). Optional PF Dividends depostited to individual credit
  2). Interest earned on deposits credited to individuals
  3). Individual may elect to withdraw dividend + earnings upon written request

II. Section 12. Formation of Successor Corporation

a). Dept. of Rev. notification of accrual of $75 million in fund to ARR Corp. Board and determine Net Book Value of ARR Corp.
  1). Transfer Net Book Value to general fund as payment of ARR Corp. with balance of fund transferred to Private Successor Corp.
  2). Net Book Value defined: (audit per 42.40.270)
    $_____ Amount paid by State to Federal Gov't
  + $_____ Approp. or transfer of property to Railroad
  - $_____ Operating losses or
  + $_____ Operating gains
  = $_____ NET BOOK VALUE

b). ARR Corp. to reincorporate under AS 10.05(Ak. Business Corp. Act) within 120 days after money transfer.
  1). Agreement between ARRC Board (on behalf of private successor corp) and State:
    a). Uphold 10 year Federal reversionary clause to prevent loss of real property to Federal Gov't.
    b). State designation of private successor corporation as entity to own, operate, and manage ARR.
    c). ARR Corp. assets and liabilities transferred to private corp.
  2). Violation of Agreement transfers assets back to state.

III. Section 13. Issuance of Stock

a). ARR Corp. Board will issue stock to each individual who elected to deposit their permanent fund dividend into the Purchase Fund.
  1). Individual's stock will be based on amount credited in Fund.

IV. Section 14. Stockholders Meeting

a). 90 days after issuance of stock
b). ARR Corp. Board Resigns
c). Stockholder Election: 9 individuals to serve as new board of private corp.

V. Section 15. Permanent Fund Dividend Application

a). 1984 addendum to Applications to provide option of payment to individual or ARR Purchase Fund.

VI. Section 16 & 18. Effective Date

a). Effective on the date the Alaska Railroad Corporation is reincorporated under Section 12 of this amendment.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M April 7, 1984

SUBJECT: Alaska Railroad (amendment to CSHB 512(Trsp)

TO: Representative Robert Bettisworth

FROM: Tamara Brandt Cook
Deputy Director TBC

You have asked for an explanation of the provisions dealing with reversion of Alaska Railroad property from the state to the federal government contained in the Alaska Railroad Transfer Act. 45. U.S.C. 1209 contains several provisions on reversion of property in certain situations.

Under (a) if, within ten years after the date of acquisition of the railroad by the state, all or part of the real property transferred by the federal government is converted to a use that would prevent the state-owned railroad from continuing to operate, that property shall revert to the federal government or the state may pay the market value of the property to the federal government. This does not apply to property within the Denali National Park and Preserve. State-owned railroad is defined under 45 U.S.C. 1202(14) to mean:

> . . .the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad . . .

Section 12(b) of this amendment requires the board of directors of the newly formed private corporation that is the successor to the Alaska Railroad Corporation to enter into an agreement with the state not to convert, for 10 years after the railroad is acquired by the state, all or part of the real property transferred by the federal government to a use that would prevent the railroad from continuing to operate. The state will designate the successor corporation as the entity to own, operate and manage the Alaska Railroad, in conformity with the requirement of federal law. If the

agreement is violated, all assets transferred ~~by~~ to the state to the successor corporation revert back to the state, so that the state will have an opportunity to correct the situation and avoid the reversion of property to the federal government.

Under (b) of the federal provision if the state discontinues use of land within the railroad right-of-way, the state's interest in the land reverts to the federal government. The provision goes on to describe ways in which it can be determined that the state has discontinued use of a right-of-way. This amendment does not address this provision, so discontinuing the use of a right-of-way by either the public or private successor corporation will result in the reversion. The federal government will not, however, retain an interest acquired through reversion of a right-of-way. Instead, the federal government will convey the interest to the abutting landowners under (c) of the federal provision.

Under (d) if use is discontinued of property transferred to the state that is within the Denali National Park and Preserve or the Chugach National Forest, the property will revert to the federal government. Upon reversion, the land will become part of the nation park or forest. This amendment does not address this provision, so discontinuing the use of land in the national park or forest by either the public or private successor corporation will result in the reversion.

Under (e) if, within five years after the state acquires the railroad, the state in turn transfers all or substantially all of the state-owned railroad to an entity other than an instrumentality of the state, the proceeds from the transfer that exceed the cost of improvements made by the state for the railroad and any net liabilities incurred by the state for the railroad shall be paid to the federal government. Since the language used in the federal law is not limited to outstanding liabilities of the state on the date of transfer but rather, seems to include all liabilities incurred by the state, even those incurred in the past and paid off, it appears that under this provision the state would have to turn over any profit it made in transferring the railroad after deducting money it had invested in the railroad and expenses it had incurred through the operation of the railroad. This amendment does not directly address this provision. However, under section 12(a) the state is to receive for the railroad only the amount paid by the state to the federal government.

The Alaska Railroad: A Resporse to "Obstacles" Preventing Private Ownership

By
Representative Robert Bettisworth

Private ownership of the Alaska Railroad has been down-played. The private ownership concept has not been thoroughly examined. It is necessary to respond to some of the statements by those who say too many obstcles stand in the way.

The approach taken in both the House and Senate bills is to establish a state owned "instrumentality" or corporation to operate the Alaska Railroad. The apparent assumption is that independence from state government can be acheived with this kind of operational vehicle.

An attempt at independence is indeed a laudable goal. However, neither CSHB 512 or CSSB 352 will accomplish this goal.

As a state owned corporation the railroad would be subject to undue political influence regardless of the attempt at separation. Under a plan for state ownership the Railroad would become a costly drain on the state's treasury if operating subsidies are necessary and investment decisions are made on a political rather than strictly economic basis.

The ammendment offered by Rep. Bettisworth would allow all Alaskans to participate in the ownership and control of the Alaska Railroad as private stockholders. As a private corporation it would have the managerial flexibility necessary to operate in an efficient manner. More importantly the railroad would have an incentive, namely the profit motive, to operate in an efficient manner while providing the level of service that the users of the Alaska Railroad are willing to pay for.

Following below are the obstacles most often raised by opponents of privatization of the railroad and responses to those arguments.

1. Tax exempt financing would not be possible if the railroad was privatly owned. This statment is false. Tax exempt industrial revenue bonding is available to private corporations through the Alaska Industrial Development Authority, and would also be available through the Regional Resource Development Authorities authorized by the Alaska Legislature in 1983. It should also be noted that in addition to the initial capitalization of $75 million additional equity capital could be attracted to the corporation. That equity capital would have to come from State appropriations if the State owned the railroad.

(over)

2. Exemption from municipal taxes would be lost requiring higher freight rates. This statement implies that local taxes are not levied on Railroad lands. Taxes are in fact currently paid on the value of the leasehold interest and on the leasehold improvements of parcels leased to private concerns. It is true that some of the value is presently exempted however a basic theorem of the amendment is that private sector opperating efficiencies will translate into lower freight rates even with any added burden of local property taxes. Further research is being done to quantify the increase in local property taxes which the private railroad would face.

3. Exemption from Federal income taxes would be lost. This is true. All private corporations which make a profit are expected to pay Federal taxes. This is simply a cost of doing business to a profitable corporation. It should be noted that if no profits are made, no corporate income taxes will be due.

4. Exemption from The Railroad Retirement act of 1974, the Railroad Retirement Tax act, the Federal Employers Liability Act, the Railway Labor Act, and the Railroad Unemployment Insurance Act would be lost under private ownership. If these are such expensive laws to comply with, why is the Alaska Railroad labor cost per employee nearly 150% of the national average for railroad employees? It would appear that private railroads experience much lower labor costs and that by"going private" labor costs would likely go down, not up as suggested by opponents of the ammendment.Furthermore, the appraisal of the Railroad by the United States Railway Association, which is the official document establishing the price, states that "there would be no significant changes in cash flow if the labor related statutes were applied".

5. Concern has been expressed over the fact that the Railroad would not be able to use the power of eminent domain for future expansion. This concern is not valid because the power of eminent domain is available to private corporations for the purposes of transportation and communication.

6. There has also been concern expressed that the Alaska Railroad Transfer Act (ARTA) would not allow transfer to a private corporation. This is simply not the case. Nothing in ARTA prevents transfer to a private corporation. Furthermore, all reversionary clauses in ARTA have been considered in drafting the proposed amendment, and they have been addressed by the drafter of CSHB 512, Tamara Brandt Cook, in the attached memo from her to Rep. Bettisworth dated April 7, 1984.

plus the amount of state assets transferred to the railroad after it is acquired, minus the amount of operating losses suffered or plus the amount of operating gains realized by the railroad after the date it is acquired by the state. Under this formula, it appears that only the amount of operating gains realized by the state, if any, would go to the federal government should the state transfer the railroad to the private successor corporation during the five year period. Since the railroad has not had a history of operating at a gain, the money that would go to the federal government might be insignificant.

TBC:csh
C2/142

PRESS RELEASE
April 9, 1984

Rep. Bob Bettisworth
House of Representatives
Juneau, Alaska
465-4984, 465-4967

The Alaska Railroad could be transformed into a private corporation wholly owned by Alaskans in a matter of two or three years under a stock purchase plan devised by Rep. Bob Bettisworth, a Republican legislator from Fairbanks.

Bettisworth introduced an amendment to CS, House Bill 512 (trans), the bill that sets up the operating corporation created when the State of Alaska takes over the Alaska Railroad from the federal government. That legislation is presently in House Fianance Committee for review before it goes to the full body for action.

The amendment offered by Bettisworth would allow Alaskans to invest their Permanent Fund Dividends - on a wholly voluntary basis - in a stock ownership plan which would pay interest while that money was invested in a trust account.

"The idea is to eventually transform the Alaska Railroad, a government owned operation, into a private corporation owned by its stockholders who would be Alaskan residents," Bettisworth said.

"They would be allowed to invest their Permanent Fund Dividends in a trust fund for eventual conversion into stock in the New Alaska Railroad Corporation."

He added, "It's my assumption that most Alaskans will want to receive their checks and spend them or invest them as they individually chose, but there will be some who will want to invest in the railroad."

Last year's individual checks of approximately $385 went to every Alaskan woman, man and child who was a resident of the state for a year or more.

(more)

"If only 15% or 20% of Alaskans chose to put their dividends into the railroad corporation investment, that would raise close to $25 million in one year. At that rate, " he continued, "it would take two or three years to raise the $75 million that my amendment calls for as the purchase price for the New Alaska Railroad Corporation."

The "new" coorporation, under Bettisworth's suggested plan, would be directed by its own board of directors who would be elected by the stockholders. Only those Alaskans who want to invest would be obliged to do so. Each Alaskan would be allowed this option on an annual basis through the dividend distribution period. After the new corporation was formed, stock then could be transferred or sold.

If an investor wanted to withdraw his dividends from the trust, he would be allowed to do so - with interest - up until the time the new corporation is formed.

Bettisworth's amendment to the railroad transfer bill will not alter the bill's current thrust, that is, to take over State ownership and operation of the Alaska Railroad from the federal govenment.

"I want to see Alaskans own the railroad without the state government or any state bureaucracy running its day-to-day business. If the bureaucrats in Alaska get their hands on it on a long term basis, that will guarantee that it will not be economically independent and economically healthy," Bettisworth said.

"Private enterprise is the route to take with an investment of such significance to our state," he added.

LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

AVRUM M. GROSS
SUSAN A. BURKE

(907) 586-2777

February 22, 1984

MEMORANDUM

TO: Senate Transportation Committee

FROM: Gross & Burke AMG SAB

RE: Organization of Public Corporation to Operate the Alaska Railroad

At your request, we have reviewed the drafts of SB 10 and SB 352, with a view toward determining the extent to which those bills create a valid legal structure to operate the Alaska Railroad after its proposed purchase. Initially, we were asked whether the legislature had the power to require that gubernatorial appointments to the governing authority[1/] of the railroad be confirmed by the legislature. Both SB 352 and SB 10 presently require confirmation of executive appointments. At a second committee hearing we were requested to advise you of the minimum number of executive branch controls which must be placed on any entity created by law to operate the railroad to insure that the entity would be a part of the executive branch and, therefore, constitutionally sound. We shall answer the question in the order posed.

SB 10 and SB 352 both provide that appointments made by the Governor be confirmed by the legislature in joint session.

1/ SB 10 speaks of an "Authority" while SB 352 creates a similar organization but describes it as the "Railroad Corporation." Purely for the purposes of simplicity, we will refer to the basic organizational structure at issue here as an "Authority."

We assume that if a similar section remains in a bill, which passes the legislature, the Governcr will probably choose to submit the names of his appointees for confirmation just as he submits his appointees to a host of other boards and commissions in state government. It is our opinion, however, that should an occasion arise when the Governor decides not to submit a name or names for confirmation, the legislature would have no legal right to insist he do so.

Our conclusion is based both on the words of the Alaska Constitution and a decision of the Alaska Supreme Court. The constitution provides in Art. III, sec. 25 that:

> The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the Governor, subject to confirmation by a majority of the members of the legislature in joint session . . .

Sec. 26 of the same article states that:

> When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the Governor subject to confirmation by a majority of the members of the legislature in joint session . . .

The wording of the constitution is clear on its face. The legislature may confirm the heads of all departments, whether they are single executive officers or a board. The legislature may also confirm boards or commissions which are "regulatory or quasi-judicial" agencies. A regulatory authority is, as it implies, one whose basic function is to regulate a particular public activity. The Fish and Game Board is a classic example of such a regulatory board. A quasi-judicial

agency is one in which individual rights are adjudicated. An example of such a board would be the Public Utilities Commission, where contested proceedings determine rates.

The Railroad Authority as established in SB 352 or SB 10 fits under none of these definitions. It is not at the head of a department[2/] nor is it a quasi-judicial or regulatory agency. Under the constitution, then, the legislature has no power to confirm executive appointments to the Authority, unless the legislature can add to the powers of confirmation which are granted in the constitution.

The legislature attempted to do just that in 1975 when it passed a statute authorizing confirmation of a whole list of lesser executive branch officials, including deputy commissioners and certain division directors. The Alaska Supreme Court held that the statute granting the legislature the additional confirmation power was unconstitutional. Bradner v. Hammond, 553 P.2d 1 (Ak. 1976) In the Supreme Court's view, the power to appoint to positions in the executive branch is a power reserved to the Governor under the doctrine of separation of power, except as the constitution permits the legislature to participate in the process through confirmation. If the constitution does not specifically

2/ We recognize that SB 352 provides, "The corporation shall be considered a principal department only for the purposes of Art. III, sec. 26, Constitution of the State of Alaska." (emphasis added) In our view, however, the courts would almost certainly view this purely nominal designation as one purely of form, since the bill does not actually establish a new department with the kinds of gubernatorial controls normally associated with a principal department of state government. This issue of gubernatorial controls is addressed in detail later in this memorandum.

authorize confirmation, there is no legal power to do so and the Governor's power of appointment can not be subjected to confirmation by the legislature. Put another way, the Bradner case holds that the constitution states the outer limits of legislative powers of confirmation; the legislature may not expand that power by statute. While neither SB 10 or SB 352, as presently structured, would withstand constitutional challenge on the issue of confirmation, there are options available to the legislature which would provide a valid legal basis for the confirmation of appointments. We will set these options out briefly for your consideration.

The first and most obvious manner for the legislature to obtain confirmation power is to pass a joint resolution placing before the voters a constitutional amendment that would specifically authorize the legislature to confirm appointments to the Railroad Authority. This amendment could be placed before the voters during this year's election. If the amendment passed, the first appointees of the Governor to the authority or commission would be constitutionally subject to confirmation; if it did not pass, the situation would remain as it is today -- confirmation if and when the Governor chooses to submit the names. We should note that following the Bradner case a constitutional amendment granting broad additional confirmation powers to the legislature was put before the voters and failed, but whether that would be the fate of a more narrowly drawn provision would be difficult to predict.

The second option to insure confirmation would be to create an entirely new department of state government, which would be headed by the Railroad Authority. The sole purpose that new department would be to the railroad. In such an instance, the Authority would be at the head of a department and under Art. III, sec. 26 of the Alaska Constitution, the members of the Authority, would be subject to confirmation. There are, however, certain serious problems which might result from this approach. One of the basic purposes of the present bills creating an independent public corporation or authority (located nominally within a department) is to permit the Railroad Authority to raise money for operations without involving the general credit of the state. If, however, the authority which manages the railroad is a full department of state government there is some real question about its ability to successfully perform this fundraising activity without the involvement of state credit. Art. IX, sec. 8 of the constitution provides that no state debt may be incurred unless (1) it is authorized by law; (2) is for capital improvements; and (3) is ratified by the voters. Sec. XI of the same article provides that the restrictions of sec. 8 do not apply to debts incurred through revenue bonds issued by public corporations or public enterprises of the state when the only security is the revenue of the enterprise or the corporation. Whether or not an entire department of state government can be made a "public corporation" or whether

or not the entire activity of a department of state government would qualify as a "public enterprise" are questions that have never been decided in this state by any court. While the committee can certainly receive advice from legal counsel as to the possible or probable outcome of litigation on these subjects, it would at best be an educated guess. The result might well be that in order to obtain confirmation powers the committee would create a department which, in the end, might be subject to the same bonding restrictions applicable to all other departments of state government. I gather there is no disagreement within the committee that such a result would be highly undesirable. We cannot recommend this method of insuring confirmation powers because the risks are simply to great -- the legislature would be in totally unchartered waters and the magnitude of the questions involved is simply to great to accept that degree of risk.

Having discussed the issue of confirmation, we now move to the second issue posed by the committee. Specifically, that question involves the extent to which a public corporation may be established independently of the authority of executive branch and yet be a part of that branch of government. Art. III, sec. 22 of our constitution requires that all agencies of state government and their respective functions shall be allocated within no more than 20 principal departments.

The only exceptions provided are for "regulatory, quasi-judicial, and temporary agencies." As we view the functions of the operation of the Railroad -- whatever form of entity is chosen -- those functions are not primarily "regulatory" or " quasi-judicial." Further, the railroad operation would not necessarily be "temporary." Although conceivably the railroad could be sold or leased at some point in the future to a private corporation, the existence of the operating entity could well be permanent.

We think it is clear that the Alaska Supreme Court would view the Railroad Authority as performing operational or executive functions and would, therefore, require that the Authority be either a separate principal department or located within one of the already established principal departments. We have already reviewed the problems that would be created if the Railroad Authority would be made the head of an entirely separate principal department. Therefore, we are left with the conclusion that the only other constitutionally sound option is to place the governing board or authority within an existing department of state government.

Simply stated, then, the legal issue you have asked reduces itself to this. On the one hand, the legislature seeks to create an "independent" authority -- one which has financial and political autonomy and is not subject to direct gubernatorial control. On the other hand, the constitution

requires that all executive or managerial functions be a part of the executive branch, which, in turn, is under the supervision and control of the Governor. What then are the limits -- how much gubernatorial control is required to make the "independent" authority a constitutionally valid part of state government?

The cases that the Alaska Supreme Court has reviewed concerning the requirements of Art. III, sec. 22 make it clear that more than mere nominal placement of an independent corporate entity within a department in the executive branch is required. For example, in De Armond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962), it was claimed that the legislation creating the Alaska State Development Corporation was unconstitutional because it sought to create an independent agency that was nominally within the Department of Commerce, but which the challengers claimed was not in actuality within that department. The Alaska Supreme Court rejected this contention and upheld the constitutionality of the Development Corporation. In doing so, the court enumerated a number of features contained in the enabling legislation for the corporation, which demonstrated sufficient ties with the Department of Commerce to justify the conclusion that the corporation was (at least for constitutional purposes) truly within the Department of Commerce.

The factors that the court cited were as follows:

(1) the Commissioner of Commerce had a permanent seat on the board of directors and thus had "considerable influence" on the board;

(2) the other six members of the board were appointed by the Governor, and served at his pleasure;

(3) the board was required to submit comprehensive annual reports to the Governor and legislature;

(4) the financial records were to be audited annually by the legislative auditor; and

(5) the state's bank examiner was required to examine the corporation's records each year.

Additionally, although the court did not make clear what significance this fact had, it noted that the corporation was "temporary" and could be dissolved by a majority vote of the board subject to legislative approval.

Four years later, the court reviewed a similar challenge to the constitutionality of the Alaska State Mortgage Association; i.e. that it was only a nominal rather than a legitimate part of the department of state government in which it had been placed. Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966). The court, however, noted that the mortgage association legislation contained most of the same features which it had cited in De Armond to support its conclusion that the development corporation was properly established within a department of state government. Like

the development corporation in De Armond, the mortgage association members were appointed by the Governor and served at his pleasure. The commissioner of Commerce had a permanent seat on the board of the association. Additionally, the court noted that as further evidence of gubernatorial control, the mortgage association was required to submit detailed annual reports to the Governor and legislature, the financial records were subject to an annual legislative audit, and certified copies of the minutes of every meeting of the association were required to be sent to the Governor.

Neither of these decisions, unfortunately, provide any guidance on the question of the minimum number of factors that will be required in order to meet the constitutional requirements of executive supervision or control. In both cases, however, the court seemed to emphasize two factors over and above all the others. The first was that board members served at the pleasure of the Governor. The second was that the Commissioner of the department within which these independent entities were located served on the board and was a full voting member. These two features were emphasized by the court to demonstrate that the Governor exercised at least partial control over the activities of the board. The court, for instance, noted that while the commissioner was only a single member of a multi-member board his position as a cabinet member would give him

substantial influence. The court further emphasized that the Governor was in a position to exercise influence on an otherwise independent board through the fact if there were a real disagreement in policy, he could exert control over the board members through his ultimate power to reove them. The court, in Walker, cited with approval language from the Superior Court decision in the case to this effect:

> If the Governor is dissatisfied with the executive director in either his capacity as a member of the Alaska State Housing Authority or the Alaska State Mortgage Association, he can assert his authority over the board members to effect the director's removal, and should they disregard his wishes, his alternative is to appoint members to the board who will appoint an executive director satisfactory to the Governor.

Walker, at 250 n.19.

At the same time, the court recognized that there may be important and legitimate reasons for the legislature to insulate a board or authority from direct gubernatorial influence over particular decisions. In the courts words:

> It is true that the Commissioner of Commerc can not dictate the decisions of the Board. Nor can any other state official . . . . It is quite apparent that the legislature intended the board to be free from outside control in making decisions on particular loans.

De Armond, at 724 (emphasis added).

Nonetheless, it is clear from the decisions that there are limits to the degree of insulation that the court will

tolerate and still uphold the constitutionality of the placement of the independent corporation nominally within a department of state government.

Accordingly, it is our view that to insure constitutionality of this bill the legislature should, at an absolute minimum:

1. create an independent authority which is part of an enumerated department of state government;

2. provide that the board for the public corporation or authority be comprised of persons appointed by the Governor and who serve at his pleasure;[3/] and

3. that the commissioner of the department in which the authority is placed serve as a voting member of the board.

3/ There is a secondary, but perhaps no less important, reason why the appointees to the governing body of the railroad should serve at the Governor's pleasure. As a constitutional matter, there is a serious question as to whether any appointee of the executive branch with the exception of those who serve in regulatory or quasi-judicial positions can be subject to any other restrictions but that they serve at the Governor's pleasure. The U.S. Supreme Court has interpreted that under the federal constitution, if an office is "executive" in nature, legislative efforts to restrict the president's power to remove an official are invalid. Myers v. United States, 272 U.S. 178. That opinion has been modified slightly in Humphries Executor v. United States, 295 U.S. 602, as the court held that a member of the Federal Trade Commission could have his term set by Congress and be insulated from removal by the president, but the court was clear to limit its opinion to quasi-legislative or judicial agencies, i.e. those that were actually passing regulations or resolving legal disputes as their prime function. The Railroad Authority would fall in neither of these categories, but would be within a traditional executive agency structure.

We raise this issue because we can be reasonably sure that the content of this bill will be litigated in the courts, if there is any reasonable basis to do so. The appointment of commissioners to the Railroad Authority who serve at the Governor's pleasure would reduce the possibility of legal attack on yet another basis.

It would be advisable, as well, to include at least some of the kinds of provisions (such as the annual reports to the Governor and legislative audits) which the court in De Armond cited as significant, although these may not be essential. Beyond that, the legislature may, in our view, limit the application of acts such as the Executive Budget Act, Administrative Procedures Act and others which impact most executive branch agencies, but are not, in our view, critical to upholding the constitutionality of this public corporation structure.

AMG/SAB/yw

GROSS-BURKE OPINION KEY POINTS

1. SB 10 and SB 352 both provide that appointments made by Governor and confirmed by legislature in joint session. Should an occaison arise when the Governor decides not to submit a name or names for confirmation, the legislature would have no legal right to insist he do so.

2. The Railroad Authority established under SB 10 and SB 352 does not fit the defintions for the head of a department nor quasi-judicial or regulatory agency. Under the constitution, the legislature has no power to confirm executive appointments to the Authority unless the legislature can add to the powers of confirmation which are granted in the constitution. In Supreme Court's view, the power to appoint positions in the executive branch is a power reserved for the Governor, except as the Constitution permits the Legislature to participate in the process through confirmation.

Therefore, the first and most obvious manner the legislature can obtain confirmation power is to pass a constitutional amendment to specifically authorize the legislature to confirm appointments to the Railroad Authority.

The second option would be to create an entirely new department of state government, headed by Railroad Authority. Constitutional problems with that if Railroad is to raise money for operations without involving general credit of state.

3. Question of extent to which a public corporation may be established independently of the authority of the executive branch and yet be a part of that branch of government. Alaska Constitution requires all agencies of state government allocated within no more that 20 principal departments. Only exceptions are for regulatory, quasi-judicial and temporary agencies-which the Railroad Authority does not fit into.

Believe the Alaska Supreme Court would view the Railroad Authority as performing operational or executive functions. Other than placing Authority in separate department, the only other option is to place governing body or authority within an existing department of state government.

Summarization: The major question presented is, What are the limits-how much gubernatorial control is required to make an independent authority a constitutionally valid part of state government?

In reviewing other cases decided by the Alaska Supreme Court, the Court cited the following factors to insure the constitutionality of the placement of an independent corporate entity within a department in the executive branch:

(1) Commissioner has a permanent seat on the Board of Directors
(2) Board members appointed by Governor and serve at his pleasure
(3) Board required to submit annual reports to Governor and Legislature
(4) Financial records audited annually by legislative auditor
(5) State's bank examiner required to examine Corporation's records each year

The Gross-Burke opinion's for insuring the constitutionality of the bill is that the legislature should:

(1) Create an independent authority which is part of a department in state government
(2) Board appointed by Governor who serve at his pleasure
(3) Commissioner of department where authority placed serves as voting member of board.

January 26, 1984

Alaska Railroad Operating Entity
Sheffield Administration - Policy Statement

The Alaska Railroad is a fundamental link in Alaska's overall transportation system. Ensuring the continuation and development of this rail system as Alaska's transportation needs grow should be a major public policy objective in the years ahead.

Along with most Alaskans, I share this objective. I hope to see the Alaska Railroad provide the maximum benefit to our residents with minimum involvement by State government for regulatory oversight and public funding.

I support the development of the Alaska Railroad from its present status of a federally owned and operated agency to one which is funded and operated to the maximum extent possible by the private sector through a private company management contract or similar form of lease arrangement. I believe it will take a period of time to reach this goal. Consequently, it is important that any legislation provide adequate and specific provisions mandating that these alternatives be addressed.

It is important to keep in mind one essential fact: as long as the Alaska Railroad receives public funding, there must be comparable public oversight and accountability for its operation and management. If we accept anything less, we will be shirking our responsibility to all Alaskans to prudently and properly manage public funds.

I commend the members of our Legislature for the extensive interest they have demonstrated in the Alaska Railroad transfer issue. I know that many legislators have worked hard to develop acceptable transfer legislation which addresses a wide range of State policy concerns and interests over the past several years. Rather than introduce legislation of my own, I look forward to working with the legislation already in preparation provided that it is consistent with my following basic policy considerations:

(1) Railroad operations should be insulated from political interference but remain responsive to the public interest. The public entity selected should be one best able to accomplish this goal.

(2) The railroad entity should be constituted so that it has broad latitude in its operation and financing subject to public interest safeguards in existing state law, including the Executive Budget Act, Fiscal Procedures Act, and Administrative Procedures Act. I realize that certain sections of these laws may not be entirely applicable, and therefore limited exemptions may be necessary.

(3) All revenues generated by the railroad should only be expended for railroad and related purposes.

(4) The railroad should be able to incur bonded indebtedness to an extent consistent with its ability to repay the indebtedness from its own revenues.

(5) The railroad should hold title to the surface estate of all lands received in the purchase and enjoy access to subsurface material necessary for actual rail operations. Specific arrangements should be included to ensure consistency with general state land policies, and to provide that sale of real property cannot occur without the approval of the Department of Natural Resources.

(6) To minimize the State's exposure to railroad liabilities and to lower administrative costs, the railroad should take advantage of the economies of scale afforded by participation in the State's insurance and risk management plans. The Department of Administration should have primary responsibility for the negotiation of collective bargaining agreements with railroad employees.

(7) The railroad should prepare and implement operating and capital plans, and explore long-range expansion needs. No later than three years after acquisition, the railroad must prepare a report for the Governor and the Legislature recommending a method for obtaining private sector participation in railroad operations.

COMMONWEALTH NORTH RECOMMENDATIONS

Richard F. Barnes

RECOMMENDATIONS FOR THE ALASKA RAILROAD CORPORATION

1. The corporation should have full control over the surface and subsurface railroad lands.

   The purchase of the Alaska Railroad is often referred to as "a real estate deal" because of the value of land included in the transfer package.

   Some private leaseholders and municipal governments with railroad-owned waterfronts or city centers would like to see the land transferred to themselves. The corporation, as a matter of policy, should not sell revenue producing property because it is in the interest of the entire state that the railroad hold these properties for its own needs.

2. The corporation and its union employees should cooperate in modernizing existing labor agreements during the two-year transitional period mandated in the federal transfer legislation.

   Particular attention should be given to any archaic work rules that inhibit efficiency. The goal should be to increase productivity rather than diminish compensation to employees.

   Efficient utilization of railroad employees is essential for a self-sufficient operation.

3. The corporation should not be mandated to propose or conduct feasibility studies for cross-country track extensions or sale of the railroad.

   Major rail extensions and sale issues are not operating issues. The mission of the railroad corporation should be closely focused on matters that affect economics and service to shippers and passengers on existing routes. Feasibility studies are expensive, require extensive staff time, and could drain the limited funds of the railroad.

   Extensions and sale proposals have broad policy implications that can best be considered by the executive and legislative branches of state government or private entities.

4. Passenger operations should be modified to take advantage of revenue opportunities and re-evaluate uneconomic services; a system should be devised to accurately identify passenger service costs.

   Just as land leasing by the railroad is projected to be profitable, passenger service will likely remain a loss operation if all related expenses and capital costs are considered. To control these costs, however, it is important to account for them accurately.

   Reliable cost information is crucial in considering service levels, pricing issues, and capital expenditure decisions.

5. The Board of Directors of the Alaska Railroad Corporation should consist of five to seven voting members representing the interest of the entire public; no board member should be appointed to represent a special interest.

   Directors should be chosen for their professional judgment rather than their representations of special interests or home town. Similarly, non-voting membership is inappropriate.

   Board members should be limited to two five-year terms of service and with staggered terms to mix continuity of experience with new ideas.

Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE

MAR 1 9 1984

JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

MEMORANDUM

DATE: March 9, 1984

TO: All Members
Senate Transportation Committee
House Transportation Committee

FROM: Senator Jan Faiks

SUBJECT: How other State owned railroads are operated

NOTE: The following notes were gathered by my staff about how railroads in other states are run. I thought it might be interesting to you.

SOUTH DAKOTA

There are 433 miles of core track in SD that are in operation. The state owns more mileage that is not in use. There are also 316 miles of main line track that is part of the line running to the west coast. The state owns the track and contracts out the operation. There is no annual appropriation or subsidy from the Legislature. There is no report required to the Legislature. The operator(Burlington Northern RR) is responsible for all facets of running the railroad. The State purchased the track for $18 million with money raised by a special dedicated sales tax. The state provided the money for the original rehabilitation from a federal program for the rehabilitation of railroads. Burlington Northern runs the railroad as part of their own system and is run on a schedule that traffic demands. The state gets no percentage of the profits and is not liable for any of the debt of the RR. Their only interest is in having the railroad operated to provide the service needed by the shippers.

Information provided by Chris Randall Deputy Secretary of the Department of Transportation 605-773-3265.

VERMONT

In Vermont the state owns the track and the ROW. They lease it to an operator and the state receives a percentage of the gross profits based on a complicated formula. The state owns 4 rail

lines. Only one is operated at a deficit. The state will subsidize it only if it can be shown that it is in the best interests of the public to do so. Last year the subsidies amounted to $200,000. There are about 300 miles of track and the money was raised to purchase the railroad with a special bond issue. The operator has basically paid the state back for the purchase price through lease payments. There is an annual report required to be submitted to the Dept. and is available to the Legislature upon request.

NEW YORK

The state bought the Long Island Railroad in the 1960s and put it under the jurisdiction of the Metropolitan Transportation Authority. The state also owns a 100 mile branch line that it operates from Utica to Lake Placid. The revenues do not finance the service and money is appropriated each year form the Legislature. The railroad workers are employees of the Long Island Railroad.

Information obtained from John Connor 518-457-2320.

GEORGIA

Georgia owns 150 miles of mainline track. The track was built 125 years ago by the state. The oversight is by the State Properties Commission-they also oversee other state properties. Georgia leases the operation of the railroad to the CSX Corporation. They are required to submit an annual report to the Legislature. The state gets a percentage of the gross profits of the railroad. Last year this amounted to $3½ million dollars. The railroad has an obligation to maintain the railroad to the standards required of a class IV railroad. The contract was negotiated in the 1960s and will be renegotiated in 1992. The railroad workers are employees of Seaboard Railroad.

Information provided by Jim Statton.

WISCONSIN

The state purchased the branch lines from other major railroads. The state retains ownership of the line and provides to the operator 80% of the value of the track. Twenty percent comes from other sources. The railroad is on its own financially and nothing comes back to the state. The railroad pays very little in taxes and the state does not subsidize the railroad or cover any deficits. The Legislature felt that subsidies would not solve any problems, but only perpetuate the current problems. The Wisconsin Constitution prohibits the state from running a railroad. There are 500 miles of track. The oversight issue is very sensitive politically right now. There is a dispute now about how much access the state should have to the records of the railroad. When the state bought the

railroad, they purchased the land and the track but not the labor agreement.

Information provided by Keith Plasterer at 608-267-7347. Suggested we talk to the City of Belfast Maine 207-338-2330 and the City of Pineville, Oregon 503-447-6251.

Also suggested we read Small Railroads put out by the Association of American Railroads 1220 L street N.W. Washington D.C. 20036. 202-835-9100. $20.00
and Starting a Shortline by the American Association of Shortline Railroads 2000 Massachusetts Ave. N.W. 20036 202 785-2250.

and British Columbia-a Railroad Derailed by the University of B.C. Press

WEST VIRGINIA

The state owns and operates 51 miles of shortline. The state owns the ROW, track, and rolling stock. In 1978 when the railroad was abandoned, the state looked at three options for running the railroad and decided that running it themselves would be the most cost effective way. The state secured locomotives and engines from government surplus. The employees of the state and are non-union because state employees are not organized under state law. They are now in the process of putting the employees under state civil service system. The railroad is a state agency and is subject to state law. They must go through the Department of Finance and Administration for all purchasing and payment of bills. Every purchase over $200,000 goes through a bidding procedure. Every item less than $200,000 must be purchased from a list of approved vendors. This causes a lot of paperwork and delay. The railroad is forced to anticipate the time lag. Their budget must be approved by the Legislature. For FY 85 they requested $812,379 from the Legislature and anticipate revenues of $315,000. The W. Virginia Maintenance Authority keeps all revenues(that is they are not returned to the general fund). The railroad has 30 employees. The railroad has the authority to issue their own bonds but they have never done so. The former executive director, John Killoran, is now the Director of Strategic Planning for the Alaska Railroad. The people who were involved with the railroad in 1978 now regret their decision to have the railroad run by the state. They feel the railroad is force to compete with other railroads yet is hamstrung because they are forced to comply with state laws. The budget is overinflated and there are too many employees. There are trying to reduce the number by attrition.

Information provided by Donald J. Baker, Jr. Executive Director of the West Virginia Maintenance Authority at 304-538-2305.

MICHIGAN

Currently, the state owns the right of way for 879 miles of track however, only 670 miles are currently being used. The state holds title to the land but leases out the operation of the railroad to the private sector, therefore, none of the workers are considered employees of the state. All the systems serve mainly rural areas and were taken over by the state because each was in imminent danger of bankruptcy. They are managed by the Michigan Dept. of Transportation, Rail Freight Division. They were purchased by the sale of bonds that were financed from dedicated funds. In Michigan, there is a 13¢ per gallon gas tax levied and mass transit/railroads receive a portion of that income. The first rail system was purchased in 1976 for $11.9 million and at the time, the Legislature considered setting up a separate agency that would own and operate the railroad. This was opposed by the Chamber of Commerce because they felt it was akin to nationalization of the rails. After a long battle, the Legislature opted to put the system under their DOT and lease out the operation. The state has been subsidizing each of the systems but that financial assistance is being reduced every year and will be completely eliminated by September of 85.

This information was obtained from Don Riel (517) 373-6494.

ALABAMA

There are 75 miles of track in and around the Mobile area which serve the port. The railroad was built in 1929 by the Army Corps of Engineers and taken over by the state shortly thereafter. It has only 2 employees who work for the State of Alabama. The system is ran by the Port Authority, Docks Dept. and according to the director, "it's not a very big deal. Usually only runs once a day, carrying some cargo from the port into town." It pays for its own way, ie. their is no state subsidy.

NEW HAMPSHIRE

The state owns the right of way for 2 systems, one which is 72 miles long and the other which is 23 miles long. The larger one serves a sawmill and the other a furniture factory. Both were going bankrupt but the state stepped in and purchased both to ensure that the sawmill and furniture factory would remain open. The state owns the locomotives but none of the other rolling stock. They also lease out the operation to the private sector so the employees do not work for the state. Originally, the state created a separate agency to administer the railroad but they encountered many problems ie. no control so both systems are now administered by the Highway Department.

Bette:
Here are questions regarding the Cook Inlet Amendments. Please call when you have had a chance to look them over in relation to the copy of the actual amendments. I can give you some of the answers. I have used page numbers for easier understanding. Some general comments should be made at the beginning of the call:

o The amendments, if they are clarifying language, sure sure confusing! From one version to the next, citations do not matchup and I am concerned that a section means two different things in different areas. (there are several sections to get into later)

o I am concerned that this language is expanding and making substantive changes to either the lands bill and/or to the Cook Inlet Agreement. I realize that some of these are outside our focus on the railroad issue, but as a state representative, and as they appear on the railroad transfer bill, I feel responsible to understand their content. (are there substantive changes?)

o It has been the states position, as I understand it to allow technical amendments that do not make substantive changes but this latest set appears to go far beyond that. (any comments?)

Questions

1. What has been the Departments involvement in these amendments?

2. What is the Departments current responsibility in them?

3. What are the general effects of these amendments to the Railroad Transfer? (we will go into more detail later with specifics)

4. Do these amendments alter or expand either state or federal obligations to Cook Inlet Native Corporation. (could they set a precedent for other regional corporations) Is there any effect to Village Corporations

5. Comment: I see part of the problem in Washington D.C. is these amendments open up the lands bill,(ANILCA) or ANSCA. Isn't this a real danger to the transfer question with congress. Wouldn't it be easier for Sen. Stevens to deal with this elsewhere. I think the state should strongly urge him to not cloud the transfer with this.

6. Are these amendments, dated August 17, 1982, the final offering? Are they complete? and by that I mean if these go in to S. 1500 will the existing language come out?

7. In your opinion, what will Stevens do if the state issues a statement of strong opposition to these amendments" (with the timeline for the bill to come before the Senate, we had better make our determination very soon!!!)

8. What process, if any, are altered from existing lands legislation, or the Cook Inlet Agreement such as in or out of region selection abilities or increased entitlement?

9. Isn't the state giving up partial veto power on page 9 (c)? It seems as though "unless the state expressly" says no within a certain time period, lands go into the selection pool.

10. How is the state of Alaska's veto over native selections altered by these amendments? (the words "public purpose" should come out here. If they do: "how is the state to prove that lands "in the smallest practicable tract are necessary for a public purpose"? ** these are words in the 3E determination process**

**Interior has said that the 3E determination should be sufficient. Isn't it? then why do we need these amendments?

11. Department of Interior seems to get a lot more duties and authority under these amendments. What is their position on this set of amendments?

12. On page 6 (3) (A,B,C,D,E,F,G,), What is the effect of these?

13. What is going on at page 10 (D) I thought C.I.N.A. waived the right to select Railroad Lands? If the Railroad does not transfer to the state, (or if the state does not accept the terms and conditions), and it stays in federal ownership, doesn't this effect the federal governments ability to continue to operate the railroad? This seems real awkward. Again the question arises of how the state or a municipality will prove "public purpose".

14. On page 13 (B) it talks about the "unfulfilled entitlement as valued in subsection 12 (b) (7) (iv). On page 6 this subsection is amended. Does this expand or change entitlement? This looks like the section 6 (d) (3) in the S. 1500 as reported by Sen. Packwood. What is the effect of this?

15. I get really suspicious of repealers like page 14 (e). Also isn't there a provision in the lands bill,ANCSA or the Cook Inlet Agreement that says the courts are to give Cook Inlet the "benefit of the doubt"

when disputes arise. How will this "play" if these amendments are adopted and eventually end up in court?

16. Page 16, 12 (b) (11) (i)and(ii) are any lands be ng contemplated at this time? In the near future? Can you speculate as to what are they after?

(Optional) 17. Can you give me a time line sequence on how the transfer with these amendment "triggers" will take place? Perhaps Mark Hickey can help on this.

** This should give you some insight as to what is occuring. You may want to call Katz personally after this is over and urge him to oppose these amendments on everything beyond:
(1) Extension of the deadline for the "in-region" selection
(2) Updating the list of properties excluded from the out of region selection pool.

Use 3E

Preamble

To: Steve Hillard From: Mark Wittow, 9/3

WHEREAS, the State of Alaska, the United States Government and Cook Inlet Region, Inc. entered into an Agreement entitled The Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area on December 10, 1975, as clarified on August 31, 1976 (hereinafter Terms and Conditions);

WHEREAS, the Terms and Conditions was ratified by the Alaska Legislature in Chapter 19, SLA 1976 and by the United States Congress in Public Law 94-204, Section 12, January 2, 1976, 81 Stat. 1150, as amended by Public Law 94-456, Section 3, October 4, 1976, 90 Stat. 1935; Public Law 95-178, Section 3(a), November 15, 1977, 91 Stat. 1369; Public Law 96-55. Section 2, August 14, 1979, 93 Stat. 386; Public Law 96-311, July 17, 1980, 94 Stat. 947; Public Law 96-487, Title XIV, Section 1435, December 2, 1980, 94 Stat. 2545;

WHEREAS, Congress is considering further amendment of the Terms and Conditions by the CIRI Alaska Railroad Waiver Amendments (copy attached);

WHEREAS, the purpose of the present Agreement is to implement the Terms and Conditions as amended by Congress, including the proposed CIRI Alaska Railroad Waiver Amendments.

B Miracle
8/31

(5) eg History - no preemption in favor of CIRI

in agreement preamble

AGREEMENT CONCERNING IMPLEMENTATION OF ALASKA RAILROAD WAIVER AMENDMENTS OF COOK INLET REGION, INCORPORATED

(1) Whereas (2) MOA limited (3) #4 (4) State, not APA

This Agreement is made this _____ day of _____, 1982, between Cook Inlet Region, Incorporated (hereinafter CIRI) and the State of Alaska (hereinafter State).

In consideration for the mutual terms, conditions and covenants contained in this Agreement, the parties agree as follows:

1. In the event that CIRI intends to negotiate a sale pursuant to subsections 12(b)(7)(ii) (A) or (B) of the CIRI Alaska Railroad Waiver Amendments (copy attached), CIRI shall notify the Commissioner of the Department of Natural Resources of the State with respect to real properties located within the State of which CIRI has received notice pursuant to the above subsections. The State shall immediately send a copy of the notice to any municipality in which all or part of said property is located. CIRI shall not accept title pursuant to a negotiated sale of such real property under the authority of the above subsections without the approval of the State. The State will make a good faith effort to provide a written response to CIRI within twenty-five (25) days of receipt of notice from CIRI. If, regarding improved properties, a written response is not received from the State within sixty (60) days of receipt of notice from CIRI, the approval of the State shall be deemed obtained. If, regarding unimproved properties, a written response is not received by CIRI within sixty (60) days of receipt of notice from CIRI, the approval of the State shall be deemed not obtained, subject to the possibility of subsequent approval by the State. The notice provided by CIRI to the Commissioner of the Department of Natural Resources shall designate the status of the property as improved or unimproved, shall specify whether all or part of the property is located within a municipality and shall recite the deadlines for a written response as defined by this paragraph.

2. The purpose of subsections 12(b)(7)(ii) (A) and (B) of the CIRI Alaska Railroad Waiver Amendments (copy attached), which allows CIRI the opportunity to obtain federal excess property as well as federal surplus property, is, among other things, to give CIRI additional notice that surplus property is available. CIRI has had difficulty obtaining information about available federal surplus property. The amendment allowing CIRI to obtain excess property does not broaden the kind of property CIRI could obtain under the surplus property procedures of 12(b)(7)(i). The phrase "excess property" in the amendments has the same definition as "excess property" at 40 U.S.C. § 472 (d) and (e) which state as follows:

> (d) The term "property" means any interest in property except (1) in the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government.
>
> (e) The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

3. If legal title is hereafter acquired by CIRI contrary to the provisions of this agreement, CIRI shall seek a recission of the conveyance from the United States. If the United States does not grant recission of the conveyance, CIRI shall forthwith convey title to the property to the State, but in no event later than one hundred and eighty (180) days of conveyance of title to CIRI from the United States.

4. The parties agree that "other federal lands", as described in Paragraph I.C.(2)(a)(vi) of the Terms and Conditions, unless otherwise agreed to by the State, does not include federal lands upon which there exists a valid State selection, provided however, that the State may not utilize the authority of Section 6 of the Statehood Act, as amended, to exclude or achieve a priority over a CIRI selection pursuant to Paragraph I.C.(2)(a)(vi) of the Terms and Conditions, of D-1 lands which were previously unperfected or abandoned public land entries, unless the State selection on lands within the exterior boundaries of CIRI was made before the effective date of the Terms and Conditions, or the State selection on lands from without the exterior boundaries of CIRI was made prior to the effective date of the CIRI Alaska Railroad Waiver Amendments.

5. The parties recognize that the CIRI Alaska Railroad Waiver Amendments do not alter the priorities established under the Terms and Conditions by paragraph I.C.(1) of the Terms and Conditions with respect to Statehood Act selections made subsequent to July 18, 1975.

6. CIRI shall enter into an agreement with the Secretary of the Interior, pursuant to subsection 12(b)(8)(ii) of the CIRI Alaska Railroad Waiver Amendments, to limit the I.C.(2)(a)(v) review process to the following properties:

(a) FAA
  (1) Homer VOR
  (2) Kenai VOR and airport (including PLO 2585 and ANS No. 11)
  (3) Talkeetna VOR, NDB and airport
  (4) Fire Island VOR
  (5) Skwentna NDB

(b) Coast Guard
  (1) Fire Island Race Pt.
  (2) Fire Island West Pt.
  (3) Kalgin Island
  (4) Two undeveloped lots on Government Hill, Anchorage

~~Unless the State~~

(d) FERC

(1) Power Project 395 (Chackachama), provided, however, that the review is to be limited to T. 12 and 13 N., R. 15 W., Seward Meridian, and that a two hundred foot (200') right of way corridor for transmission lines and road access may be reserved to the State at a location to be specified by the ~~Alaska Power Authority~~ State at a subsequent time not to exceed twenty years from receipt of conveyance by CIRI. CIRI will acknowledge this right of way covenant in a recordable instrument on the date of receipt of conveyance. Exercise of the reserved right of way by the ~~Alaska Power Authority~~ State will not result in liability for destruction of improvements. CIRI may negotiate a limitation upon this reserved right of way with the State ~~of its Alaska Power Authority~~ at any time.

(e) Alaska Railroad properties, in the event such properties become available for selection pursuant to subsection 12(b)(8)(i)(D).

The parties hereby agree that the identification of the above properties does not indicate a decision or view by the State regarding the facts to be determined in such a review. The parties further agree that designation of the above properties does not indicate agreement by the State, now or in the future, that any of the lands contained in these federal installations necessarily constitute public lands within the meaning of ANCSA Section 3(e) or Paragraph I.C.(2)(a)(v) of the Terms and Conditions, nor does it indicate a position by the State regarding a public purpose, if any, for which the property is used or might be contemplated for use in the future.

7. On or before September 27, 1982, CIRI shall provide to the Commissioner of the Department of Natural Resources a resolution from its Board of Directors authorizing this Agreement. This provision does not affect the validity of this Agreement.

Add : Neutrality

Dated: _____ Dated: _____

STATE OF ALASKA

COOK INLET REGION, INC.

_____
John W. Katz,
Commissioner of the
Department of Natural Resources

_____
Roy M. Huhndorf,
President

Approved as to form this _____ day of _____, 1982

_____
Barbara Miracle, Esq.
Assistant Attorney General
State of Alaska

STATE OF ALASKA)
_____ JUDICIAL DISTRICT) ss.
)

THIS IS TO CERTIFY that on the _____ day of _____, 198___, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Roy M. Huhndorf, President of Cook Inlet Region, Inc., a Native Corporation existing by virtue of the laws of the State of Alaska, known to me to be the person who executed the above instrument and who acknowledged that the said instrument was signed on behalf of said corporation by authority of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first hereinabove written.

_____
NOTARY PUBLIC in and for Alaska
My Commission Expires:_____

STATE OF ALASKA)
_____ JUDICIAL DISTRICT) ss.
)

THIS IS TO CERTIFY that on the _____ day of _____, 198___, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared John W. Katz, the Commissioner, Department of Natural Resources, State of Alaska, known to me to be the person who executed the above instrument and who acknowledged that the said instrument was signed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first hereinabove written.

_____
NOTARY PUBLIC in and for Alaska
My Commission Expires:_____

by CIRI 8/31

Key Elements of CIRI/State Agreement:

I. Values to the State:

A. Waiver by CIRI of claims under the Terms and Conditions to the Alaska Railroad upon transfer to the State.

B. Additional limitations and waivers of claims by CIRI to federal lands (including military lands) under the "excess public lands" provision [§I(C)(2)(a)(v)] of the Terms and Conditions.

C. Substantially enhanced ability of CIRI to fulfill its entitlement outside the State of Alaska.

D. Creation of a "Red Line Pool" for CIRI out-of-region selection rights, which will provide to the State the opportunity for orderly and unclouded selection, prioritization and conveyance of its remaining Statehood entitlement. The Red Line Pool is subject to the following conditions:

1. limitation of CIRI selection rights to 30 pre-screened and state approved townships.

2. limitation of time for CIRI selections from the above pool to July 1985.

3. a schedule for prioritization of lands within the above pool.

4. an agreement of exchange for five townships of state patented lands at Illinois Creek in return for recoupment of state selection rights and waiver of remaining CIRI selection rights in the TAPS pipeline corridor as made available by BLM.

   (a) the lands are subject to mining claims by Anaconda, which supports the exchange and with which CIRI has an existent relationship, and

   (b) if required by law, the exchange will be subject to legislative approval.

E. Creation of federal "recoupment" provision for state selection rights for state-TA'd or patented lands transferred to CIRI.

F. Clarification and uniformity of state vetoes on CIRI selections within the state.

waiver

OSKA

II. Values to CIRI:

A. In return for waiver by CIRI of claims to the Alaska Railroad and other claims, as noted above, CIRI receives an enhanced ability to acquire surplus federal properties outside Alaska in order to fulfill its entitlement.

1. In response to concerns raised by the Federal Property Review Board and GSA regarding the federal surplus property disposal program outside Alaska, CIRI has agreed to limit its ability to acquire surplus federal property outside Alaska in two respects:

(a) to limit the value of the CIRI surplus property account to ten townships less than the remaining entitlement (i.e. CIRI must take ten townships from the out-of-region pool).

(b) to defer use of certain portions of the CIRI surplus account until 1984 and 1985.

B. Revision of federal out-of-region selection pool to reflect post-ANILCA land status.

C. In addition to the above, the legislation embodies certain extensions to the present CIRI deadlines as previously and independently assured by Senator Stevens.

The above elements represent key components of a seamless web of positions, compromises and concessions woven by numerous parties regarding the Alaska Railroad during the past year. These include CIRI, other Native interests, the Property Review Board, GSA, the Department of the Interior, Senator Stevens and the State of Alaska (as represented by DNR, DOT and at least four assistant AG's).

CIRI
9/14

Outline of Portion of CIRI Amendments

1. Time line regarding authority/obligation

   (a) In-region

      1. the obligation of the Secretary expires at the time of fulfillment of the minimum 138,240 acres after July 15, 1984

      2. the discretionary authority of the Secretary begins at the time of fulfillment of the obligation and continues until fulfillment of the entire CIRI entitlement

      3. the residual unfulfilled obligation is approximately 96,000 acres

   (b) Out-of-region (surplus, etc. property)

      1. there is no obligation of the Secretary to place out-of-region surplus, etc. properties into the in-region pool

      2. the discretionary authority of the Secretary to place out-of-region surplus, etc. properties into the in-region pool expires as follows:

         a) on July 15, 1984, if the in-region obligation is fulfilled

         b) after July 15, 1984, upon fulfillment of the in-region obligation

         c) in any case, no later than July 15, 1987

2. Public purpose vetoes

   (a) immediately as to ARR properties and out-of-region surplus, etc. property

   (b) on July 15, 1984, as to military properties in region

   (c) on July 15, 1987, as to all categories (a full generic veto on CIRI rights)

3. Original T&C vetoes

   (a) in addition to the above, the original limited in-region veto powers of the State under the T&C remain intact until July 15, 1987

A M E N D M E N T

Offered in the HOUSE By Bettisworth

TO: CSHB 512(Trsp)

Page 41, lines 6 - 11:

Delete all material and renumber following sections accordingly.

Page 42, after line 11, insert new bill sections to read:

"* Sec. 11. PERMANENT FUND DIVIDENDS. Until the board of directors of the Alaska Railroad Corporation issues stock under sec. 13 of this Act, the permanent fund dividend application form shall be prepared to allow an applicant to indicate whether the dividend payment should be paid to the applicant or to the Alaska Railroad purchase fund. The Department of Revenue shall pay the dividend as directed on the form. If an applicant does not indicate a preference for the payment of the permanent fund dividend on the application form, the dividend shall be paid to the applicant.

* Sec. 12. ALASKA RAILROAD PURCHASE FUND. (a) The board of directors of the Alaska Railroad Corporation shall establish a trust fund to be known as the Alaska Railroad purchase fund. Each permanent fund dividend received from the Department of Revenue shall be deposited in the account for the credit of the individual for whom the dividend was paid. Interest earned from the dividend shall also be credited to the individual.

(b) At any time before the board of directors of the Alaska Railroad Corporation issues stock under sec. 13 of this Act, an individual may elect to withdraw a dividend deposited in the Alaska Railroad purchase fund

together with interest earned on it by applying to the board in writing.

* Sec. 13. ISSUANCE OF STOCK. (a) When the board of directors of the Alaska Railroad Corporation determines that the Alaska Railroad purchase fund contains $75,000,000, the board shall pay the net book value of the corporation into the general fund in payment for the Alaska Railroad Corporation. Within 120 days after making the payment, the board shall reincorporate the Alaska Railroad Corporation under AS 10.05. All assets and liabilities of the Alaska Railroad Corporation shall be transferred to the successor private corporation. The board shall issue stock in the new private corporation to each individual who elected to deposit a permanent fund dividend into the Alaska Railroad purchase fund. Stock issued under this section shall represent the entire value of the corporation, and the amount of stock issued to each individual shall be based upon the amount credited to that individual in the Alaska Railroad purchase fund.

(b) For purposes of this section "net book value" means the amount paid by the state to the federal government for the Alaska Railroad, plus the amount of state money and value of state property transferred to the Alaska Railroad Corporation after the date of transfer of the railroad to the state, minus the amount of operating losses suffered or plus the amount of operating gains realized by the corporation from the date of transfer of the railroad to the date of the most recent audit conducted under AS 42.-40.270.

* Sec. 14. STOCKHOLDERS' MEETING. (a) At the time of issuing stock under sec. 13 of this Act, the board of directors shall notify each stockholder of the time and place of the first stockholders' meeting. The meeting shall be held within 90 days after the stock is issued.

(b) At the stockholders' meeting the board of directors of the Alaska Railroad Corporation shall resign and the stockholders shall elect nine individuals to serve as the new board of directors.

* Sec. 15. AS 42.40 is repealed."

Renumber following sections accordingly.

Page 42, after line 14, insert a new bill section to read:

"* Sec. 17. Section 15 of this Act takes effect on the date the Alaska Railroad Corporation is reincorporated under sec. 13 of this Act."

Renumber following section accordingly.

Page 42, line 15:

Delete "9 - 11" and insert "9 - 14"

Alaska State Legislature

COMMITTEES
OIL & GAS—(CO-CHAIR)
STATE OF AFFAIRS—(VICE-CHAIR)
LABOR & COMMERCE
RESOURCES

House of Representatives

REPRESENTATIVE
JOHN J. COWDERY
DISTRICT EIGHT

ANCHORAGE
P.O. BOX 10-1623
ANCHORAGE, AK 99511
(907) 344-0950

JUNEAU
POUCH V
JUNEAU, AK 99811
(907) 465-4905
465-4906

To: Bette Cato, Representative, District 6
Fr: John Cowdery, Representative, District 8
Re: The Alaska Railroad March 14, 1984

I have been made aware of some problems with the Alaska Railroad passing by the downtown Anchorage area. Even though the Bootleggers Cove, Turnagin Arm and Oceanview areas are not in my district, I have lived in Anchorage for 30 years and have concerns other than those in district 8. Please take the time to read my letter to the Governor and the resolution from the South Addition Community Council.

If you have questions please contact me.

Thank you.

John

Alaska State Legislature

COMMITTEES
OIL & GAS--(CO CHAIR)
STATE OF AFFAIRS--(VICE CHAIR)
LABOR & COMMERCE
RESOURCES

House of Representatives

REPRESENTATIVE
JOHN J. COWDERY
DISTRICT EIGHT

ANCHORAGE
P.O. BOX 10-1625
ANCHORAGE, AK 99511
(907) 344-0950

JUNEAU
POUCH V
JUNEAU, AK 99811
(907) 465-4905
465-4906

March 12, 1984

Honorable Bill Sheffield
Governor
State of Alaska
Juneau, Alaska 99811

Dear Governor Sheffield:

The Legislature has been debating purchase and operation of the Alaska Railroad during this session and, I believe, will soon reach a resolution. However, many residents in Anchorage have expressed concern about a serious problem which has been occurring. Since you have been such a strong advocate of the railroad purchase, I am sure you have discussed the problem I am about to outline.

Many residents and businesses, particularly in the Bootlegger's Cove area of Anchorage, have become increasingly annoyed by the vibrations caused by train cars carrying heavy industrial products. In fact, these vibrations are becoming progressively worse and may cause structural damage as well if allowed to continue over a period of time. With coal exports planned for the future, and transportation to tidewater being a necessary step in that process, this problem will only escalate. Residents have expressed not only an annoyance with the cars, but a fear for health and safety concerns.

Governor, we both witnessed the devastation caused by the 1964 earthquake. We saw the clay formation just below the surface of the soil slide down the hill when it failed to withstand the geotechnic pressure placed on it. The hill below the Holiday Inn had to be reinforced to prevent further slides. Presently, the ARCO building is experiencing vibrations that have been traced to a water extractor at a nearby commercial laundry establishment. This further demonstrates the extreme sensitivity of the soils in the area.

For quite some time after the quake, the Army Corps of Engineers placed restrictions on building in certain areas of the downtown area. The Municipal Assembly is still sensitive to construction in some downtown areas and has, in fact, rejected proposed projects in recent years because of the concern of land stability. I understand the Municipality has restricted several downtown projects unless some type of ground stabilization is included in any project. Clearly, there is a continuing demonstration of concern about the stability of the downtown area.

I am concerned about the continued effect of heavy vibrations on structures present in the downtown area and in areas adjacent to the railway corridor. The potential for these heavy vibrations to further erode the stability of the land should be of extreme concern. I think several questions must be answered.

What does the state plan to do to lessen the effect of these vibrations?
Has there been any stabilization done to the area?
Are there plans to stabilize land and structures in the area to prevent potential damage? If so, what are the cost estimates for such stabilization?
Are you aware of any studies by the Corps of Engineers relating to what effect vibrations may have on buildings in the affected area or the effect of vibrations increasing the potential for soil sliding activity?
Have you given any consideration to an industrial bypass railroad route which would avoid travel through this sensitive area? If so, what cost might we anticipate for right of way acquisition, and what area might such a bypass impact?

I am sure these issues must be of concern to you as well, and I trust, in all the debate regarding state takeover and operation of the railroad, you have discussed these very issues with Mayor Tony Knowles. Certainly, it would be shortsighted if your administration, the Municipality or the Legislature ignored this serious concern in deliberations of the Alaska Railroad. Citizens in the South Addition area of Anchorage have signed a petition, which I have enclosed, urging state consideration of these concerns. To date, these citizens have apparently received little assistance from the Knowles administration towards solving this problem.

In summary, I am asking what your administration plans to do about this problem. Has consideration been given to rerouting the railroad to avoid the downtown areas?

Has consideration been given, for example, to a spur line through other areas where land is much more stable? And if such a spur line has been considered, do we need to progress at this time with railroad overpasses, which are estimated to cost millions of dollars, over major arterials? Perhaps, a spur line would not only eliminate the problems being caused by vibrations but would also eliminate the need to spend large sums simply to build massive train crossings. As I understand it, these intended crossing are being requested to accomodate increased heavy industrial commerce which will tend to interfere with commuter traffic. Yet a spur line might re-route such train traffic and make the need for these overpasses moot.

None of these questions should be considered as a stand against state takeover and operation of the Alaska Railroad. And, since state takeover and operation appears eventual, I think these are serious public concerns which should be addressed prior to state operation. They have potential for creating even greater life threatening and costly problems down the track, so to speak. I look forward to your reply knowing that you must share these concerns for the health and safety of Anchorage residents.

Sincerely,

John Cowdery

John Cowdery
Representative-Anchorage

RESOLUTION

A RESOLUTION OF THE SOUTH ADDITION COMMUNITY COUNCIL PLACING THE STATE OF ALASKA ON NOTICE THAT OPERATIONAL PROBLEMS CURRENTLY EXIST RELATING TO THE TRAIN OPERATIONS OF THE ALASKA RAILROAD. THESE PROBLEMS AND THE COST TO SOLVE THEM SHOULD BE CONSIDERED WHEN THE STATE LEGISLATURE ADDRESSES THE TRANSFER OF THE ALASKA RAILROAD FROM FEDERAL CONTROL TO STATE OWNERSHIP.

THE SOUTH ADDITION COMMUNITY COUNCIL RESOLVES:

WE, the members of the South Addition Community Council are hereby putting the State of Alaska on notice that there are a number of problems involving the Alaska Railroad which will require solutions in the future. At present, various train operations of the Alaska Railroad) for example, south-yard switching operations, gravel hauling, etc.) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life for the residents of the Bootleggers Cove and the South Addition. Additionally, these same problems are expected to increase with the beginning of the coal haul from Healy to Seward.

PASSED AND APPROVED by the steering committee of the South Addition Community Council; Anchorage, Alaska this 8th day of March, 1984.

Eugene C. Storm
PRESIDENT

ATTEST:

Lynn Bennett
COUNCIL SECRETARY OR
MEMBER AT LARGE

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3/5/84	938 P. St.	Reuben Dungan
3/5/84	905 "S" Street	Florence J. LaLande 279-0229
3/5/84	905 "S" STREET	Max N. LaLande
3-5/84	938 David Place	Lennia Plock
3/5/84	938 David Place	Ted Bradley
3/5/84	938 David Place	Tammy Bradley
3-5-84	943 S ST. 277	Ted W Rutz
3-5-84	943 S st. 2702	Marjorie Rutz
3/5/84	1010 "S" st	Kenneth McCarty
3/5/84	1010 "S" ST 99501	Jon McCarty
3/5/84	936 David Place 99501	R. E. Anglemyer 277-0928

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3/8/84	522 N Street	Martha Beckwith
3/8/84	500 N ✓	Ed McElligott
"	" "	Esther McElligott
3/8/84	629 O. St. #207	Charles A. Wohl
3/8/84	644 W. 13th, Anchorage	[illegible]
3/9/84	1433 W 9th Avenue	Mary Lou Ledletter

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3-5-84	936 David Place 99501	Joyce G. Anglemyer 277-0928
3-5-84	804 P St #9 99501	[illegible]
3-5-84	804 P St. #6 99501	Jean Smith 277-6013 · office
3-5-84	530 N ST. 99501	[illegible]
3/5/84	526 M St. 99501	[illegible]
3/6/84	433 M St.	Dorothy D. Wilcox
3-7-84	333 M St #209	Robert M Piazza
3/8/84	325 M Street	Bill Brickerd
3/8/84	520 N St	[illegible]
3/8/84	520 N St	[illegible]
3/8/84	520 N ST	[illegible] FERMIT E. BARKER

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
7 March 1984	804 P Street, #4	Robert M Walp
3-7-84	804 P. Street #4	Virginia M Walp
3-7-84	804 P STREET #11	[illegible]
3-7-84	804 P. St. #11	Nancy K Wilson
3/7/84	804 P ST, #10	Harry J. Porter
3-8-84	804 "P" ST #3	Charles H. Tripp
3/8/84	804 P. St. #3	Alice L. Tripp
3/8/84	538 M St.	Findlay Abbott
3/8/84	1224 U St.	Lynn Bannon

INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION

LOCAL 60 Seward, Alaska

PRESIDENT H.E.Rickard

SECRETARY R.E. Morgan

March, 12,1982

Frank L Jones General Manager
Alaska Railroad
Box 7-2111
Anchorage, Ak. 99510

Dear Sir:

The membership of our local has watched with interest the course, developments, & problems which have come to light on Seward being established as a coal port.

As you are aware we are vitally interested in any thing that delays, or obstructs the shipment of coal thru Seward. We do not understand the State of Alaskas reluctance to participate in using the dredge presently in Seward to assist you in a minor, job of deepening the Railroad Dock. The cost savings alone should be incentive enough for them. We do realize the City of Seward would much preferr forcing a marriage of SUN ELL and Pullman-Torkelson which would make a coal facility at the 4th of July industrial site much more viable This of course would assist them mightly in keeping the R.R.dock usage minimal. Then using the tack private enterprise is much better than Government competition of their docks.

We are further conserned also that the funds being used are State Funds to dredge 4th of July. We are also aware that legislation has been introduced to have the Alaska Railroad become an Alaska State identity. Therefore it would seem to us that it is in the BEST interests of all Alaskans that anything which could be done to increase or speed up the establishment of the Seward Port would be monies well spent.

We here in the I.L.W.U.-I.B.U. wish to extend to you an offer to assist you in your quest for help, and expediting the COAL.Grain, or whatever facilities of Sewards Railroad dock.

Please advise us of how, when or anyway we can be of help to you in your quest. We are presently poling our statewide membership to muster our political & Lobbying strenght on Sewards behalf.

Sincerely

H.E.Rickard

H.E.Rickard President

cc/rm/ file
ILWU, Intrnl

The Alaska Railroad
MAR 17 1982
OFFICE OF
GENERAL MANAGER

Railroad vibrations

VIBRATIONS that shake Anchorage neighborhoods along the line of the Alaska Railroad have become a subject of public concern now that the South Addition and Bootleggers Cove Community Council has taken formal action and Rep. John Cowdery has referred the matter to Gov. Bill Sheffield.

The vibrations occur with each gravel train en route from the Matanuska Valley to the gravel plant south of town. Some residents claim the shake is equivalent to an earthquake nearing 6 on the Richter scale. Last summer there were as many as eight trains each 24 hours.

The vibration problem stands to become more acute if and when trainloads of coal start moving from the Usibelli mine to Seward.

A SPOKESMAN for the railroad has brushed off the subject, suggesting that the vibrations may be caused by excavatinng and development work in the area. However, the spokesman also said the railroad is trying to reduce the vibrations by replacing short rail sections with long ones to reduce the number of joints.

There have been reports that the railroad has been concerned in the past year. Besides planning for the longer rails, the ballast beneath the tracks has been strengthened.

Residents have no doubt that the railroad is the cause because vibrations occur only when a train passes. They stop when gravel hauls end for the winter season.

When the gravel trains first went into operation, the trains held their speed through Anchorage down to 10 miles a hour. This was increased to 15 miles an hour as a safety measure after it was discovered that people were trying to hop the slow-moving trains. It was after the speed-up that the objectionable vibrations started.

REP. COWDERY said in a letter to the governor that the legislature is now considering appropriations of some $60 million to construct overhead crossings at the Northern Lights and Dimond Boulevard crossings.

He pointed out that an early solution is desirable before those appropriations are made. If, he said, it proves necessary to reroute the railroad line to avoid the sensitive soils along the inlet, the overhead crossings will not be needed.

A major portion of the west side of Anchorage is involved. The track runs from Ship Creek to Turnagain Heights and thence through Spenard to the Seward Highway area and southward through Ocean View.

It would be wise for the state to get a clear definition of the liability it might be inheriting when the railroad becomes state property.

TELEGRAM SENT 3/8/84 10:00 a.m.

TO: Elizabeth Dole
Secretary of Transportation
U.S. Dept. of Transportation
Washington D.C.

The economic recovery of the City of Seward depends in a great measure upon the concept of an open dock at the Alaska Railroad facilities in Seward.

We have just been informed that Alaska Railroad has reversed it's stated position of an "open dock" concept and intends to sole source the Seward dock without hearing or competive bid.

I strongly object to such unilateral decisions and respectfully request a meeting with you to fully discuss all aspects.

John F. Gillespie
Vice Mayor
City of Seward

cc: Alaska Delegation in Congress
Senator Ted Stevens
Senator Frank H. Murkowski
Representative Donald E. Young

Alaska State Legislature

COMMITTEES
OIL & GAS—(CO-CHAIR)
STATE OF AFFAIRS—(VICE-CHAIR)
LABOR & COMMERCE
RESOURCES

House of Representatives

REPRESENTATIVE
JOHN J. COWDERY
DISTRICT EIGHT

ANCHORAGE
P.O. BOX 10-1523
ANCHORAGE, AK 99511
(907) 344-0950

JUNEAU
POUCH V
JUNEAU, AK 99811
(907) 465-4905
465-4906

MAR 23 1984

To: Representative Bette Cato, Chairperson, House Transportation
Fr: Representative John Cowdery J.C.
Re: Alaska Railroad March 22, 1984

I thought you should be made aware of a problem in Anchorage concerning the Alaska Railroad. At the expense of repeating myself, I think you can deduce the problem I am speaking of by reading the letter to the Governor and the memo to the Attorney General. Neither the Governor Sheffield or Mr. Gorsuch has replied to me.

I am also enclosing copies of petitions, signed by residents of the Bootleggers Cove, Turnagin Arm and Oceanview areas of Anchorage, to give you an idea of how many people view this situation as a problem that should be resolved before the state decides to purchase the railroad.

Thank you for you consideration of this serious problem.

Alaska State Legislature

COMMITTEES
OIL & GAS—ICC CHAIR
STATE OF AFFAIRS—VICE CHAIR
LABOR & COMMERCE
RESOURCES

House of Representatives

REPRESENTATIVE
JOHN J. COWDERY
DISTRICT EIGHT

ANCHORAGE
P.O. BOX 10 1625
ANCHORAGE, AK 99511
(907) 344-0950

JUNEAU
POUCH V
JUNEAU, AK 99811
(907) 465-4905
465-4906

March 12, 1984

Honorable Bill Sheffield
Governor
State of Alaska
Juneau, Alaska 99811

Dear Governor Sheffield:

The Legislature has been debating purchase and operation of the Alaska Railroad during this session and, I believe, will soon reach a resolution. However, many residents in Anchorage have expressed concern about a serious problem which has been occurring. Since you have been such a strong advocate of the railroad purchase, I am sure you have discussed the problem I am about to outline.

Many residents and businesses, particularly in the Bootlegger's Cove area of Anchorage, have become increasingly annoyed by the vibrations caused by train cars carrying heavy industrial products. In fact, these vibrations are becoming progressively worse and may cause structural damage as well if allowed to continue over a period of time. With coal exports planned for the future, and transportation to tidewater being a necessary step in that process, this problem will only escalate. Residents have expressed not only an annoyance with the cars, but a fear for health and safety concerns.

Governor, we both witnessed the devastation caused by the 1964 earthquake. We saw the clay formation just below the surface of the soil slide down the hill when it failed to withstand the geotechnic pressure placed on it. The hill below the Holiday Inn had to be reinforced to prevent further slides. Presently, the ARCO building is experiencing vibrations that have been traced to a water extractor at a nearby commercial laundry establishment. This further demonstrates the extreme sensitivity of the soils in the area.

For quite some time after the quake, the Army Corps of Engineers placed restrictions on building in certain areas of the downtown area. The Municipal Assembly is still sensitive to construction in some downtown areas and has, in fact, rejected proposed projects in recent years because of the concern of land stability. I understand the Municipality has restricted several downtown projects unless some type of ground stabilization is included in any project. Clearly, there is a continuing demonstration of concern about the stability of the downtown area.

I am concerned about the continued effect of heavy vibrations on structures present in the downtown area and in areas adjacent to the railway corridor. The potential for these heavy vibrations to further erode the stability of the land should be of extreme concern. I think several questions must be answered.

What does the state plan to do to lessen the effect of these vibrations?
Has there been any stabilization done to the area?
Are there plans to stabilize land and structures in the area to prevent potential damage? If so, what are the cost estimates for such stabilization?
Are you aware of any studies by the Corps of Engineers relating to what effect vibrations may have on buildings in the affected area or the effect of vibrations increasing the potential for soil sliding activity?
Have you given any consideration to an industrial bypass railroad route which would avoid travel through this sensitive area? If so, what cost might we anticipate for right of way acquisition, and what area might such a bypass impact?

I am sure these issues must be of concern to you as well, and I trust, in all the debate regarding state takeover and operation of the railroad, you have discussed these very issues with Mayor Tony Knowles. Certainly, it would be shortsighted if your administration, the Municipality or the Legislature ignored this serious concern in deliberations of the Alaska Railroad. Citizens in the South Addition area of Anchorage have signed a petition, which I have enclosed, urging state consideration of these concerns. To date, these citizens have apparently received little assistance from the Knowles administration towards solving this problem.

In summary, I am asking what your administration plans to do about this problem. Has consideration been given to rerouting the railroad to avoid the downtown areas?

Has consideration been given, for example, to a spur line through other areas where land is much more stable? And if such a spur line has been considered, do we need to progress at this time with railroad overpasses, which are estimated to cost millions of dollars, over major arterials? Perhaps, a spur line would not only eliminate the problems being caused by vibrations but would also eliminate the need to spend large sums simply to build massive train crossings. As I understand it, these intended crossing are being requested to accomodate increased heavy industrial commerce which will tend to interfere with commuter traffic. Yet a spur line might re-route such train traffic and make the need for these overpasses moot.

None of these questions should be considered as a stand against state takeover and operation of the Alaska Railroad. And, since state takeover and operation appears eventual, I think these are serious public concerns which should be addressed prior to state operation. They have potential for creating even greater life threatening and costly problems down the track, so to speak. I look forward to your reply knowing that you must share these concerns for the health and safety of Anchorage residents.

Sincerely,

John Cowdery
Representative-Anchorage

Mrs. Edith R. Bullock
510 L Street # 1005
Anchorage. Alaska 99501
March 14, 1984

Representative John Cowdery
State Legislature
Juneau, Alaska 99801

Dear Representative Cowdery:

I read in the Times last night about your questions on excessive railway vibrations.

For your information, our building is also effected. My apartment, on the top floor, facing the city and mountains, has a definite tremor when trains are passing heavily loaded.

I am sure all residential areas close to the railroad tracks are effected in the same manner. Anything you can do to correct this serious problem will be greatly appreciated.

Sincerely,

Edith R. Bullock

Edith R. Bullock

RECEIVED MAR 16 1984

RESOLUTION

A RESOLUTION OF THE SOUTH ADDITION COMMUNITY COUNCIL PLACING THE STATE OF ALASKA ON NOTICE THAT OPERATIONAL PROBLEMS CURRENTLY EXIST RELATING TO THE TRAIN OPERATIONS OF THE ALASKA RAILROAD. THESE PROBLEMS AND THE COST TO SOLVE THEM SHOULD BE CONSIDERED WHEN THE STATE LEGISLATURE ADDRESSES THE TRANSFER OF THE ALASKA RAILROAD FROM FEDERAL CONTROL TO STATE OWNERSHIP.

THE SOUTH ADDITION COMMUNITY COUNCIL RESOLVES:

WE, the members of the South Addition Community Council are hereby putting the State of Alaska on notice that there are a number of problems involving the Alaska Railroad which will require solutions in the future. At present, various train operations of the Alaska Railroad) for example, south-yard switching operations, gravel hauling, etc.) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life for the residents of the Bootleggers Cove and the South Addition. Additionally, these same problems are expected to increase with the beginning of the coal haul from Healy to Seward.

PASSED AND APPROVED by the steering committee of the South Addition Community Council; Anchorage, Alaska this 8th day of March, 1984.

Eugene C. Storm
PRESIDENT

ATTEST:

Lynn Bannon
COUNCIL SECRETARY OR
MEMBER AT LARGE

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3/5/84	938 P. St.	Reuben Dunagan
3/5/84	905 "S" Street	Florence J. LaLande 279
3/5/84	905 "S" STREET	Max N. LaLande 022
3-5/84	938 David Place	[illegible] Plock
3/5/84	938 David Place	[illegible] Bradley
3/5/84	938 David Place	Tammy Bradley
3-5-84	943 S ST. 277	Ted W. Rutz
3-5-84	943 S st. 2702	Marjorie Rutz
3/5/84	1010 S ST	[illegible] McCarty
3/5/84	1010 S ST 99501	[illegible] McCarty
3/5/84	936 David Place 99501	R. P. Anglemyer 277-0928

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
7 March 1984	804 P Street, #4	Robert M Walp
3-7-84	804 P. Street #4	Virginia M Walp
3-7-84	804 P STREET #11	[illegible]
3-7-84	804 P. St. #11	Nancy K Wilson
3/7/84	804 P ST, #10	Harry J. Porter
3-8-84	804 "P" ST #3	Elizabeth Kipp
3/8/84	804 P St. #3	Alice L. Stiff
3/8/84	538 M St.	Findlay Dobott
3/8/84	1224 U St.	Lynn Bannon

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3-5-84	436 David Place 99501	Joyce G. Anglemyer 277-0928
3-5-84	804 P St #9 99501	[illegible]
3-5-84	804 P St. #6 99501	Jean Smith 277-6013 office
3-5-84	530 N St. 99501	[illegible]
3/5/84	526 M St. 99501	[illegible]
3/6/84	433 M St.	Dorothy D [illegible]
3-7-84	333 M St #209	Robert M Piazza
3/8/84	325 M Street	Bill Buckman
3/8/84	520 N St	[illegible]
3/8/84	520 N St	[illegible]
3/8/84	520 N ST	[illegible] KERMIT E. BARKER

Page____

PETITION

WE, the undersigned residents of Bootleggers Cove and the South Addition, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which will require solutions in the future. At present various operations of the ALASKA RAILROAD (for example, southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes.

signed:

Date	Address	Name
3/8/84	522 N Street	Martha Beckwith
3/8/84	500 N ✓	Ed McElligott
"	" "	Ernie McElligott
3/8/84	629 O. St. #202	Charles A. Wohl
3/8/84	644 W. 13th, Anchorage	[illegible]

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3-14-84	2515 Resolution Drive	Eunice D. Silberer
3-18-84	2515 Resolution Drive	Richard L. Silberer
3-18-84	2457 Resolution Dr	Tom C. Gillian
3-18-84	2457 Resolution DR.	Matthew R. Gillian
3-18-84	2457 Resolution Dr.	Anne C. Gillian
3-18-84	2456 Resolution DR.	George A. Elledge
3-18-84	2456 Resolution Dr.	Carolyn K. Elledge
3-18-84	2504 Resolution Dr	Roger R Hayley
3-18-84	2520 Resolution Drive	Dean W. Nelson
3-18-84	2520 Resolution Dr	Rhonda [illegible]
3-18-84	2516 Discovery Court	John W. Morgan
3-18-84	2516 Discovery Court	Mary H. Morgan
3-18-84	2549 Discovery CT	[illegible]
3-18-84	2549 DISCOVERY CT.	[illegible]
3-18-84	2517 Lausse Dr.	Joan C. Hastie

PETITION

16.

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
Mar. 16. 1984	2503 Resolution Drive	Betty A. Dufek
16 Mar 1984	2503 Resolution Drive	Elden Dufek
16 Mar 1984	5781 Lebicon Ct	Gloria Skinner
MAR 16 1984	2503 RESOLUTION DR	John Dufek
Mar 16 1984	920 Bench Ct	Lynn Burdick
Mar 16 '84	2304 McRae Anch. AK	Robert A. Meyer
3/18/84	2210 Interfort Avenue Anch.	Jill A. Henderson
Mar 18 1984	2635 DRAPER DR. ANCH. AK	[illegible]
3-18-84	2613 Draper Dr.	Lindley Mixon
3-18-84	2613 Draper dr.	Leslie Mixon
3/18/84	2600 Draper Drive	[illegible]
3/18/84	2601 W 27th	Charles R Ash
3/18/84	300 Danville Cir	[illegible]
3/18/84	4001 Coventry Dr	Sandra Wemmerus
3-18-84	300 Danville	Kelly [illegible]
3-18-84	201 E 16th	Benton A. Miller Jr

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment suoject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3/18/84	2504 Loussac Dr	Brady
3/18/84	2432 Loussac Dr	Lenora K Jewell
3/18/84	2432 Loussac Dr	Sandra D Jewell
3/18/84	2468 Loussac Dr.	Margaret A Burns
3/18/84	2466 LOUSSAC DR	[illegible]
3-18-84	2378 Loussac DR	[illegible]
3-18-84	2341 Loussac Dr.	[illegible]
3/18/84	[illegible]	[illegible]
3/18/84	[illegible]	[illegible]
3-18-84	2260 LOUSSAC	Bill Fotts
3-18-84	2260 Loussac Dr	Barbara Fotts
3/18/84	2371 Loussac Dr	[illegible]
3/18/84	2407 Loussac Dr	[illegible]
3/18/84	2431 Loussac Dr	[illegible]
3-18-84	2444 Loussac Dr.	[illegible]
3-18-84	2447 Loussac Dr.	[illegible]

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3/16/84	2531 La Honda Dr.	Paul M Richards
3/16/84	2531 La Honda Dr.	Bonnie E. Richards
3/16/84	2543 LA HONDA DRIVE	Mildred C. Padle
3/16/84	2553 La Honda	[illegible]
3/16/84	2553 LA HONDA	[illegible]
3-15-84	2511 LA HONDA	[illegible]
3/15/84	2543 La Honda Dr.	Linda E. Padlen
3/15/84	2601 La Honda Dr.	Charlene C. Fender
3/15/84	2603 La Honda Dr.	Patricia H. Victor
3/15/84	2603 LA HONDA DR	[illegible]
3/17/84	2531 La Honda Dr.	Sylvia Singleton

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3/19/84	2536 Forest PK Dr.	[illegible]
3/19/84	2530 Discovery Ct	[illegible]
3/19/84	2535 Discovery Ct	Kathy Pierce
3/19/84	2548 Discovery Ct	[illegible]
3-19	2437 Classic Dr	[illegible]

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3/17/84	3443 E. 20th Ave	Barbara Bash
3/17/84	P.O. Box 4-1619	Bitta Dorough
3-17-84	3443 E 20th Ave 99504	Roger Bash
3-18-84	9653 Copper Dr 99507	Judy Zumlak-Bash

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
15 MAR 84	804 P St Anc, AK 99509	Richard J. Miller
15 MAR 84	2461 CALHOUN DRIVE	[illegible]
15/3/84	2443 LAHOUNDA DRIVE	Unad Wilson
15/3/84	2443 LaHonda Drive	Carolyn Wilson
3/15/84	2434 LaHonda Dr.	Flor Brennan
"	"	Cheryl Brennan
3/15/84	2417 LA RONDA DR	[illegible]
3-15-84	2714 West 42nd Ave	[illegible] Brand
3-17-84	341 E. 11th #128	[illegible]

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3.15.84	2441 LaHonda	Richard Parrish
3.15.84	"	Page Goode
3-15-84	2443 LaHonda Dr	Bobby J Wilson
3-15-84	3921 Gardner #3 Anch 99508	Krysta Johnson
3/15/84	2401 LaHonda Dr	[illegible]
3/15/84	2401 LaHonda Dr	[illegible]
3/17/84	2463 La Honda Dr. 99503	[illegible]
3/18/84	148 W. [illegible] 99503	[illegible]
[illegible]	[illegible]	[illegible]
3/18/84	2450 [illegible]	[illegible]
3/[illegible]	1403 P	[illegible]
[illegible] 84	1403 P	[illegible]

PETITION

WE, the undersigned residents of the Anchorage Railroad Corridor, are hereby putting the State of Alaska on notice that there are a number of problems involving the ALASKA RAILROAD which require immediate solutions. At present various operations of the ALASKA RAILROAD (for example - southyard switching operation, gravel hauling) involve excessive noise and vibrations constituting a serious hazard to the health, welfare and quality of life of the residents of the community through which the railroad passes. In addition, the soil conditions of this area are rated as high hazard earthquake zone with the clay underlayment subject to shifting with the continuous vibration action which is hazardous to properties and life.

DATE	ADDRESS	NAME
3-18-84	1331 HILLCREST DR 99502	Sharon M. Adams
3 18 84	PO BOX 4-1675 99509	Helene Kennon
3-18-84	~~[illegible]~~ 574-54-8554	Bryan D. Lovely
3-18-84	9510 Canton Loop 99502	David C. Adams
3-18-84	3601 W 34th 99503	Maureen Ireland
3-19-84	947 W 73rd	[illegible]
[illegible]	[illegible]	[illegible]
3-19-84	4211 Spenard	K Snyder

BMSC
101 Benson Suite 303
Anchorage, Alaska 99503
907-561-5259
BUILDING MANAGEMENT SERVICES CORPORATION

March 20, 1984

Representative John Cowdery
State Capitol
Pouch V
Juneau, Alaska 99811
c/o Room 409

Dear Mr. Cowdery:

Our firm is the current property manager of 510 L Street, Anchorage, Alaska 99501. As you may know, there are eighteen (18) residential condominiums on the top three floors of the building. I feel impeded to inform you, that many of the owners of these units have expressed concern over the vibration they have experienced when the train is passing.

We appreciate your efforts on informing the Governor of the area, concerning the problem.

Sincerely,

Dennis R. Campbell
Building Manager

DRC/te

Alaska State Legislature

COMMITTEES
OIL & GAS – (CO-CHAIR)
STATE OF AFFAIRS – (VICE-CHAIR)
LABOR & COMMERCE
RESOURCES

House of Representatives

REPRESENTATIVE
JOHN J. COWDERY
DISTRICT EIGHT

ANCHORAGE
P.O. BOX 10-1623
ANCHORAGE, AK 99511
(907) 344-0950

JUNEAU
POUCH V
JUNEAU, AK 99811
(907) 465-4905
465-4906

March 21, 1984

Mr. Norm Gorsuch, Attorney General
Department of Law
Capital Room 412
Juneau, Alaska 99801

Dear Norm,

With increasing awareness about problems in Anchorage caused by vibrations from heavy trains, I have a legal question that I would like you to answer.

As you know, there are several residents in the Bootleggers Cove, Turnagin Arm, and Oceanview areas of Anchorage that are expressing their concern about vibrations caused by these heavy trains. Residents in the downtown area are especially worried since most of the building there has been on geotechnically weak clay soil.

Before the legislature decides whether or not to acquire the railroad I think it would be wise for us to have a clear definition of the state's liability in the event that these vibrations continue to cause damage to structures in the vicinity of the railroad corridor.

Because the legislature is dealing with the railroad issue at the present time I would appreciate your timely response to this inquiry.

Thank you,

John J. Cowdery

John J. Cowdery

Representative, District 8

Tues 3/5 meeting

House Transportation
Subcommittee
3/5/84

Railroad Work Session
HB 512

010 Miller-Chair
Meeting to order - Abood, Miller, Flood
+ Davis

Changes
- Pg 1 line 13 will to may
Pg 1 line 21 ~~necessary for transp infrastructure~~ ?
achievement of

446 - side 2 Tape 1

1 Commissioner + 6 voting members - fix later in Const amend?

{West Virginia's statute used in putting together SB 10 } - Hickey -
{So Dakota
Not many states that have own RR

Ded SB 10 - language pg 7 - language
886 - Pg 4 - subsection ~~do~~ - SB 10 pg 7 - Steve's work draft copy

894 Tape 2 side 1/3
~~[illegible]~~
1213 - put in some language from SB 10 &
happens only under Const Amend.
1236 add in language Pg 5 - work draft (line 7-10 area)
- check on daily rate of Perm fund board + use instead
of $250.00

Work Draft Copy Changes
Pg 5 line 28 - five not 4
Pg 6 line 1 - five not 4

Subcommittee - Work Session 3/6/84 8:40 am

Miller, Abbott, Flood, Davis, McBride

Steve, Mark, Clyde

Tape 1 - Side 1

pg 6 - Senate version } #3, #4 language

pg 6 - Work draft } use Senate 3 - + in #4 Work Draft

3,4,5,6

#4 Senate WD -- ~~notify a many apply to leg for subsidy~~

redundant

work on it

shall notify the leg of any pending applic

for state approp ~~of subsidy~~ for any service not self-sustaining?

Tape 1 - Side 2 #448

Exec Officer section.

~~6~~ 695 adjourned break till 3:15 pm

Subcommittee HB 512 3/6/84

Miller, Abood, Davis, Flood / Steve, Clyde, Mark, David

#001 ... pg 7 leave @ 180 days - 1st meeting

question on bonding pg 7 line 10 section (1) - latest WB copy 3/6/84

authorization vs concurrence pg 7 line 19 -

Specific Board approval ... pg 7 line 19 - 1 wording

42.40.700 - Art 7 Personnel

leave conflict of interest as is

664 Tape 2 Side 2/4

- The BA shall by rule provide for a public procedure for its meetings
- adopted Rules section from Inst pg 10
- pg 10 - line 15 - substitute senate language

330 - Tape 3 Side 1 /5

- annual Report add last sentence of senate version to 512 pg 10 line 22 to pg 11 line 8
-
- leave as is - annual audit

adjourn 5:00 - cut off Art 4

Thurs 8:30 am - Subcommittee

Target Date - Monday

Subcommittee 3/8/84 RR-512

Abood, Miller, Flood, Davis, Szymanski / Steve, Rogers

Art 4 Powers & Duties.

396 (rei 15) tie in w/14

400 Hickey - could, or - sen. thought about

488 ABOOD ANOTHER RR come in and compete w/ARR?

CLARIFICATION OF

16 Applied to approp. agencies

430 17 RATES TO BE CHARGED

- Corp. sets the rates
- Clause in SB ref. Fed. bill section ICC be consistent w/ICC regs...
- clarifies situation - doesn't hurt to add reference
- be consistent w/ Sen. language

pg 13 use Senate # 18 for 19?

obligations of 45 USC 1201-1214 - what are they pg 14 line 1 3/6 draft

↓ spell out in bill

Jerry Cotter?

650 Tape 1 - Side 2

Jerry -

840 - ~~line~~ pg 14 line 5-6 - (insert July 14 language...)

900 - end 1:30 sec 25 pg 14 3:30 today

Subcomm HB 512 - Afternoon - 3/8/84 Miller, Abood, Flood, Davis, Steve, Dave, Mark

pg 14 subsection 25 - starting point
(Work Draft 6 from Senate)
Abood - move + ask unanimous consent we adopt all changes made thus far
Flood - object to leave room for further change
Miller - OK -

303 - pg 15 line 10 interface to consult with affected state agencies

387 pg 15 line 22 - when reports due / consolidate w/annual report etc

419 cross reference (sub) section (b) on pg 19 for pg 16 line 3, too

508 Rail Properties -

659 - Tape 2 Side 2
Subsurface rts discussion

792 Working Draft 6

940 Replace line 5, 6, 7, 8 HB 512 w/SB 10 . . .
Rail Prop: after land - deleted all lang to corp (pg 16) + 15-21
+ inserted language from SB 10

1186 Adopt Senate language pg 19 (Draft 6) section (d).

1310 Add subsection d . . . - (end Tape 2 - Side 2)
Reconvene 8:30 Friday

RR Subcommittee HB 512 3/9/84 8:30 am Morning Session
Miller, Davis, Flood, Abood Mark, David.

026 pg 16 - 512 pg 19 - Senate - Sec 42.40.420
329 adopt language Senate draft 7 pg 19 Sec 42.40.420 Class, Acq; Use
of State land for RR purposes
- Such lands held.
- DNR - how they handle request/use of land;
- diff departmental order vs written finding
544 7. pg 17 - 512 - adopt: pg 20 Senate C to replace on C & E
1 pg 17/19 - checking on lateral support of surface/sub rts

662 Tape 1 Side 2
cut off eminent domain
720 2:30 here pg 20/pg 18

House Transportation - Subcommittee HB 512 - 311084

Flood, Miller, Abbot, Davis, Rogers, Hickey, Soenksen

Evan McKinney - DOA

Jack Burton } RR people
Jack Valinsky

- Power of Eminent Domain
- adding Municipal Rt-of-Ways section from Senate Bill

661 Tape 1 Side 2

760 - subsection C pg 34 - Senate draft adopted
Steve read it

pg 34 Agreement (a) - flagged
binding arbitration--

1033 Recess 11.15 am break

1380 Tape 2 Side 1

(560?) 12:35 Break

1:50 pm Returns

660? Tape 2 Side 2

1320 Tape 3 Side 1 1:40 pm

Miller - amendments by Miller adopted

363 8:30 Monday

HB 502 Subcommittee RC 3/12/04 Abood, Flood, Miller, Soenksen
Davis, Hickey, Rogers, Clyde

190 End--- next @ 3:15 pm

Wed 3:15 pm Subcommittee meeting

Subcommittee - RR 3/13/84 3:20 pm

Miller, Flood, Abood, Soenksen, Rogers, Hickey, Clyde
Jerry Valinsky, Karen Jose?

Art 7 - Personnel

CB agreements

Pg 29 Senate draft - CB rights

① - drop subsect. d on pg 33 House Bill
adopt 42.40.760 in lieu of that - pg 29 Senate Draft #8 - latest version

② - Hickey amendment for Sec 42.40.770 ~~[illegible]~~ for HB 512
↓ adopt (a) - Hickey's w/ changes - pick up Abood's amendment
↓ adopt (b) - Senate pg 29 under 42.40.770

③ - Sec 42.40.780 - adopt from Senate 29, 30 to House

④ - adopt pg 30 42.40.790 - (a) in all CB units (Senate for House 512)

664 - Side 2 Tape 1

Binding arbitration discussion - if needed,
Steve - existing law concerning strikes. - Steve

⑤ adopted 42.40.280 - Hickey's amendment

⑥ Sec 42.40.910 Senate bill pg 32 adopt for our bill

Areas to Cover:

- Financial section not covered -
- strikes / CB / Labor Relations
- 2 tier system in regard to RR pg 18 of our Draft-512 pg 18 line 24 - end of sec (d)
- 1281 adjourned -

Subcommittee - 3/15/84 - HB 512 + RR -

Miller, Abood, Soenksen, Rogers, Hickey, [redacted]

443 Side 2/Tape 1

1 more meeting 8:30 Monday Morning

Subcommittee HB 512 3/14/84

Miller, Abood, Davis Soencken, Rogers, Hickey, Clyde

NLRB influence/role with MCLR

advisory arbitration } definition
binding arbitration }
mediation }

- go to strike - no arbitration unless both parties agree to it - preserve & ~~[illegible]~~ mediation
2- advisory arbitration
3- strike or binding arbitration

660 Tape #1 Side 2

Adjourn 4:15 pm

3:15 tomorrow

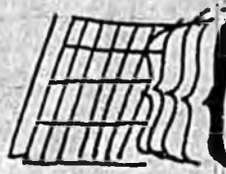


[illegible] 3/20/84 3:20 pm

Miller, Flood, Abood Soenksen, Hickey, Rogers, Alaine Andrews

put ee's in class 2 position + all that pertains

Mediated Arbitration: 23.40 class 2 - limited rt to strike
same person for ~~until withholding of svcs requires~~ [illegible]
mediation + arbitration for disputes
- corp can ask ct to ask 3rd party to enjoin strike
- both parties can submit to binding arb. as a right



FMCS - Fed Med + Conciliation Svc
FSIP - Fed Svcs Impasse Panel

CERTIFICATIONS REQUIRED IN 543 ARE CONTAINED IN RAILROAD TRANSFER ACT SEC 604

38,000 ARR ACRES
3800 CLAIMED ORIGINALLY
NOW 1600 - 1800 ACRES STILL CLAIMED
,ECLUTNA
CLAIMS ARE GOING WELL
TEST IS ACTUAL USE, IF THE RAILROAD CAN SHOW ACTUAL USE THE CLAIM WILL BE INVALID

CLAIMS WILL BE SETTLED BEFORE ARR IS TRANSFERED
ANSCA IS FEDERAL LEGISLATION DEALING WITH FEDERAL LANDS AND DOES NOT AFFECT AK STATE LANDS

ESTABLISED IN 1914
AUTHORIZED 1000 miles of RAILWAY RIGHT OF WAY
NO CONSIDERATION HAS BEEN GIVEN TO EXTENTION LANDS BECAUSE THOSE LANDS HAD NEVER BEEN DESIGNATED.

DEADLINE July 14, 1984

7 million FOR OSHA UPGRADE

Pension OPM
AT FIRST THEY showed THE UNFUNDED LIABILITY REQUIRED 28 - 40 % CONTRIBUTION (OF WAGES PAID)
NOW 7% PAYMENT IS REQUIRED THE REST WILL BE MADE UP BY THE FEDERAL GOVT.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation [except that the provisions of AS 39.50.010-39.50.200 shall apply to the members of the board and all appointed executive officers.]

Sec. 42.40.710. COLLECTIVE BARGAINING RIGHTS. The provisions of the Public Employee Relations Act (AS 23.40.070-23.40.260) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive officer and other executive officers appointed by the chief executive officer, may self organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.720. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency which consists of three members appointed by the governor. One member shall be a member of the state labor relations agency (AS23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 42.40.700-42.40.990 to carry out the provisions of this article.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.730. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by AS. 42.40.700-

42.40.990 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.740. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the

railroad labor relations agency or an election in a bargaining unit agreed upon by the parties. The railroad labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(3) No election may be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.750. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in AS 42.40.710;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.010-42.40.990;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this article prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.710 or

(B) the corporation in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation,

if it has been designated in accordance with the provision of AS 42.40.700-42.40.990 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.760. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.750 or a written accusation that a person subject to AS 42.40.700-42.40.990 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probably cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.770. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.700-42.40.990, or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec 42.40.780. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of AS 42.40.700-42.40.990. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor

relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.790. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon a showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.800. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings which the railroad labor relations agency considers necessary to carry out the provisions of AS 42.40.700-42.40.990, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.700-42.40.990, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring him to comply with the subpoena.

Sec. 42.40.810. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of AS 42.40.700-42.40.990.

Sec. 42.40.820. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by fine of not more than $500.

Sec. 42.40.830. MEDIATION. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between the corporation and an organization, the railroad labor relations agency shall appoint a competent, impartial, disinterested person to act as mediator in any dispute on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.840. STRIKES. Ninety days following the mediation process proscribed in Sec. 42.40.830 of this Act, employees of a collective bargaining unit may engage in a strike if a majority of the employees in that collective bargaining unit vote by secret ballot to do so.

Sec. 42.40.850. AGREEMENT. (a) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a term for which it will remain in effect, not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

(b) The Department of Administration ~~shall~~ participate in labor negotiations between the corporation and an employee organization. The corporation

~~shall~~ may seek advice of the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

Sec. 42.40.860. LABOR OR EMPLOYEE ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of a corporation employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.870. EXEMPTION FROM ARTICLE 7. Notwithstanding the provisions of AS 42.40.890, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.880 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the railroad labor relations agency.

Sec. 42.40.880. DEFINITIONS. In AS 42.40.700-AS 42.40.880,

(1) "railroad labor relations agency" means railroad employee labor relations agency with regard to the corporation and employees of the corporation.

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.700-42.40.990.

(3) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment.

(4) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiating in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(5) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of the corporation.

HB 512
ARTICLE 7

COMPARISON OF 3/15/84 WORK DRAFT WITH PROPOSED DRAFT

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Our draft is identical, except that we have made the "conflict of interest" provisions of AS 39 apply to the board and all appointed executive officers.

(b) The collective bargaining agreements in effect on the date of transfer between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

This language is not included in our draft because similiar language is already included in the "temporary law" section of the bill.

(c) Subject to the provisions of 45 U.S.C. 1206 (Alaska Railroad Transfer Act) within 180 days of the first meeting of the board, the board and representatives of employee bargaining units shall implement ground rules for the re-negotiation of collective bargaining agreements.

This language is not included in our draft, but could be included in the "temporary law" section of the bill.

Sec. 42.40.710 COLLECTIVE BARGAINING (a) The provisions of AS 23.40.010 - 23.40.080, AS 23.40.110, AS 23.40.200 - 23.40.260 (Public Employee Relations Act) do not apply to the corporation or to it's employees. However, employees that are not executive officers may

organize, and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

This language provides that selected sections of the Public Employees ~~Relations~~ Act (PERA) apply to the railroad corporation, and exempts them from other sections. The language in our draft exempts them from all of the provisions of PERA, and incorporates language from appropriate provisions of PERA as part of the railroad bill.

(b) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall seek advice of the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements shall be made by the board.

This language is not consistent with the position of the Administration. But, to be consistent with the Committee's draft we have included the same language in Sec. 42.40.850 (b) of our draft (except that we have changed may participate to shall participate).

(c) An agrement executed between the corporation and an employee organization shall provide for a greivance procedure in which the final step is binding arbitration. The agreement shall define "greivance" for purposes of this section.

Our draft includes comparable language in Sec. 42.40.850 (a).

Sec. 42.40.720 RAILROAD EMPLOYEES LABOR RELATIONS AGENCY (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure

of the governor.

Our draft includes similiar langauge in Sec. 42.40.720

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 - 23.40.100, and AS 23.40.120 - 23.40.190.

Our draft contains similiar language. But, some of the sections of AS 23.40 referenced in this language are incorporated into the language of our draft.

(c) Members of the railroad employees labor relations agency receive no compensation for their service but are entitled to per diem and travel expenses authorized the boards and commissions.

Our draft contains the same language.

Sec. 42.40.730 ADVISORY ARBITRATION (a) If efforts at mediation under AS 23.40.190 fail to resolve a dispute, the dispute shall be submitted to advisory arbitration. The corporation shall choose one of the arbitrators, and the railroad employees labor relations board shall choose one of the arbitrators.

(b) Arbitration of the dispute shall be conducted under AS 09.43.100 to the extent that the sections do not conflict with this section. A decision reached by the arbitrators shall not be binding upon the parties.

Our draft substitutes Sec. 42.40.830 (MEDIATION) for this section.

Sec. 42.40.740 STRIKES (a) After submitting a dispute to advisory arbitration, employees may engage in a strike of a majority of all employees in collective bargaining units vote by secret ballot to do so.

We include a strike section in Sec. 42.40.840 but have added a provision for a 90 day "cooling off" period, and have revised the language to assure equal representation for each employee.

(b) Not withstanding the provisions of (a) of this section, the employees of the corporation may agree in writing to submit a dispite arising from interpretation or application of a collective bargaining agreement to arbitration.

We have deleted this section because it is redundant. Sec. 23.40.710 (c) of the House draft and Sec. 42.40.650 (a) of our draft already provide for this.

Sec. 42.40.750 POLITICAL ACTIVITIES (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the State legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $ 5,000. An action to enforce this section may be brought by any person.

This section is not in our draft, but there is no objection to including it.

Sec. 42.40.760 PROHIBITED ACTS (a) The railroad chief executive officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corporation to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected wtih him

by blood or marriage,

(B) his/her religious beliefs or practices,

(C) sexual matters

(D) his/her political affiliation or philosophy

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not proport to speak or act in an official activity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations or corporation employees suspected of being involved in criminal activity.

This section is not included in our draft because we assume that these provisions would be included in the personnel rules of the corporation. There is no objection to including the language in the law.

Page 2 Line 20

(E) the corporation will provide necessary and desirable freight and passenger rail transportation services to residents, businesses, visitors, and military installations in the state;

(F) the corporation will provide safe, economical, and efficient transportation to residents, businesses, visitors, and military insdtallations in the state;

(G) the corporation will develop and implement plans for a transportation network.

Subsection (E) is deleted and subsections (F) and (G) are renumbered (H) and (I), respectively.

Page 3 Line 13

The board consists of (five) the commissioner of the Department of Transportation and Public Facilities and six voting members appointed by the governor. These (five) six members must be residents of and registered voters in the state except as provided in (b) of this section. No more than two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner of the Department of Transportation and Public Facilities, (A) a voting member may not be a state officer or employee.

(c) Unless prohibited by law, one voting member shall be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

Page 5 Line 20

member of the board is entitled to compensation at a rate of ($200) $250 for

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis;

(4) apply to the legislature for a subsidy if it is required to maintain a service which is not otherwise self-sustaining;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporations while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

Page 6 Line 15

(c) (General or particular) Specific board authorization or concurrence is required for the following:

Page 7 Line 7

(12) the exercise of the power of eminent domain; and

(13) collective bargaining agreements as provided by 42.40.700.

Page 7 Line 19 adopted

Sec 42.40.220. MINUTES AND NOTICES OF MEETINGS. The board shall keep minutes of each meeting. Reasonable notice of the meetings shall be provided to the public.

Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed ~~regulations~~ rules of the authority that, in the determination of the board, will have a substantial impact on the public or be used in the authority's dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

replace with Rules
strike out rules
section in 512

Page 9 Line 3

(2) adopt rules;

Page 11 Line 27

(29) do all things necessary, convenient or desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Page 13 Line 18

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be (classified) reserved as railroad land or (utility) railroad corridors;

further work on lands

delete exclusive / subservience

90/180 days

Page 16 Delete Sec. 42.40.530 and replace with

Sec. 42.40.530. INSURANCE. (a) The corporation shall protect its assets, services, and personnel by partially self-insuring its risks, and by maintaining Excess Casualty, Property, Business Interruption, Marine, Boiler and Machinery, Pollution Liability, and Miscellaneous Insurances in amounts reasonably calculated to cover potential claims for bodily injury, death or disability, consequential and property damage that may arise or be related to its operations and activities, naming the State as an additional insured.

(b) The Corporation may contract with the Department of Administration, Division of Risk Management for the provision of all or part of the requirements in subsection (a).

Page 17 Delete subsection (b) in its entirety.

Page 25 Line 28 Delete subsections (b) and (c) and replace with

Sec. 42.40.710. COLLECTIVE BARGAINING RIGHTS. (a) The provisions of the Public Employee Relations Act (AS 23.40) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive official and other executive officials appointed by the chief executive official, may self organize and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.720. AGREEMENT. (a) The Department of Administration shall participate in the negotiations between the corporation and an employee organization. The corporation may not enter into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment unless the proposed contract terms are approved by the Department of Administration.

(b) An agreement executed between the corporation and an employee organization shall define "grievances." The agreement shall provide for a grievance procedure in which the final step in the procedure is binding arbitration.

continued

Sec. 42.40.730. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY.

(a) There is established a railroad employees labor relations agency which consists of three members appointed by the governor. One member shall be a member of the labor relations agency (AS 23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 -- 23.40.190 to carry out the provisions of the article.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. STRIKES. (a) Employees of the corporation may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of subsection (a), the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

AMENDMENT

Offered in the HOUSE By Clocksin

TO: HB 512

Page 16, after line 10, insert a new section to read:

"Sec. 42.40.460. MUNICIPAL RIGHT-OF-WAYS. Upon request of a municipality the corporation shall grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board may require the municipality to agree to hold the corporation harmless for any use made of the right-of-way and to execute the agreement in a form approved by the board."

1/19/84

Sec. 42.40.230. Rules. (a) The board shall establish in its bylaws a procedure for adopting rules to carry out its functions and the purposes of this chapter.

(1) The corporation shall make available to members of the public copies of the rules adopted under this section.

(2) Within 45 days after adoption, the chairman of th board shall submit a rule adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

(b) Except as provided in (c) of this section, at least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposes rules with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule and must include and informative summary of the proposed subject of the rule. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative , or both, the opportunity to present statements, arguments or contentions in writing, and shall give members of the public an opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a rule which is adopted, or its amendment or repeal, may vary in content from the informative summary

specified in this subsection if the subject matter of the rule, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(c) The board shall in its bylaws establish a procedure for adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or programs. The requirements of (b) of this section do not apply to the initial adoption of an emergency regulation; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (b) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (b) of this section during the 120-day period.

(d) A rule adopted under this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by order of the adoption.

(9) generally applicable, comprehensive increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission for application to rail carriers generally;

(10) diversification and major expansion or reduction of services beyond those provided on the date of transfer or as provided under this chapter;

(11) the exercise of the power of eminent domain;

(12) expansion of main or branch lines, other than routine track realignment as necessary to maintain service levels in effect on the date of transfer; and

(13) selection of independent auditors and accountants.

ARTICLE 2. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the authority may not participate in a decision of the authority in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that person's immediate family has only a remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the

interested member or employee. As used in this subsection, "remote interest" means

(1) that of a nonsalaried officer of a nonprofit corporation;

(2) that of an employee or agent of a contracting party when the compensation of the employee or agent consists entirely of fixed wages or salary and the contract is awarded by bid or by other competitive process;

(3) that of a landlord or tenant of a contracting party, except when the property subject to the lease or sublease is owned or managed by the authority;

(4) that of a holder of less than one percent of the shares of the corporation or cooperative that is the contracting party;

(5) that of an owner of a savings and loan account or bank savings or share account or credit union deposit account if the interest represented by the account is less than two percent of the total deposits held by the institution; or

(6) other interests that in good faith are defined as remote by rules or regulations adopted by the authority.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) An action, including the award of a contract, in which a board member or employee participates in violation of this section or AS 39.50.090 is void if the board member's vote or employee's participation was necessary to the decision. If a board member votes or an employee participates in a decision in violation of this section or AS 39.50.090 and that vote or participation is not necessary to the

decision, the board may ratify the action after disclosure of the violation in a public meeting of the board and without participation by the interested member or employee in the decision to ratify. A board member or employee who violates a prohibition contained in this section or in AS 39.50 forfeits office upon a determination by the board in a public meeting that the violation was intentional.

(e) The executive officials and board members of the authority are subject to AS 39.50.

(f) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules and regulations implementing this section, providing additional conflict of interest and ethical rules and regulations as it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section or in AS 39.50.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public, with the exception of executive sessions permitted by AS 44.62.310 and (b) of this section.

(b) In addition to those subjects which may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the authority's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of the information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes

employee of the authority is not subject to personal liability or accountability for executing bonds or notes or because of their issuance.

Sec. 42.40.550. REVENUES. Revenues generated by the authority do not become part of the general fund of the state but are kept and managed by the authority for purposes authorized by this chapter.

Sec. 42.40.555. INSURANCE. The authority shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability, and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.560. SAFEGUARDING OF MONEY. The authority shall maximize revenues from and deposit all money in depositories acceptable to the governor and otherwise safeguard the money under instructions as the governor may from time to time issue.

Sec. 42.40.565. FIDELITY BOND. The authority shall obtain a fidelity bond in an amount determined by the board for its members and any official responsible for accounts and finances. A bond must be in effect for the tenure in office of the bonded person.

Sec. 42.40.570. REVERSION OF ASSETS. If the authority ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 6. STATE OVERSIGHT.

Sec. 42.40.600. STATE REVIEW. (a) The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts for other borrowings with a term in excess of one year and in an amount exceeding $5,000,000.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the authority;

(2) its impact on the level and nature of services provided by the authority;

(3) why the project is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking will be self-sustaining financially.

(c) The notice required by (a) of this section shall be published and given in the same manner as notice required under AS 42.40.060.

(d) Within 45 days after receipt of the notice required by (a) of this section, the governor may

(1) disapprove the proposed undertaking;

(2) suspend the proposed undertaking and direct that it not be implemented until the legislature has reviewed it under (f) of this section; or

(3) approve the proposed undertaking, in which case the authority may proceed with the undertaking.

(e) A decision by the governor disapproving the proposed undertaking under (d) of this section is binding on the authority, unless the authority is directed by the legislature under AS 42.40.610 to

proceed with the proposed undertaking. If the governor suspends the proposed undertaking under (d) of this section, the governor shall promptly transmit a decision to the board and the leadership of the legislature in the form of a recommendation that the legislature acquiesce in the proposed undertaking or that the legislature reject the proposed undertaking. The authority's proposed undertaking is considered approved if the governor fails to act under (d) of this section within the prescribed time.

(f) During a legislative session, within 60 days after receipt of the governor's recommendation the legislature may, by law, reject the proposed undertaking. The legislation is binding on the authority. The proposed undertaking is considered approved if the legislature fails to pass legislation rejecting it within the prescribed time.

(g) Notwithstanding the provisions of (a) - (f) of this section, a proposed extension of main or branch lines by more than 50 percent of the railroad's total track mileage and requiring the issuance of securities, notes, bonds, or contracts for other borrowings of an amount in excess of $50,000,000 or provision for the management and operation of the railroad by a third-party contractor must be specifically authorized by law.

(h) An undertaking described in (a) or (g) of this section is considered approved or rejected for purposes of this section if

(1) the authority has been directed to act or refrain from acting in accordance with AS 42.40.610; or

(2) the legislature by law has specifically approved the undertaking by authorizing, appropriating financing for, or guaranteeing the authority's borrowing for the proposed undertaking.

Sec. 42.40.610. ACTION-FORCING MECHANISM. (a) The governor or

the legislature, by resolution, may request that the authority exercise or refrain from exercising its powers and authorities. Notice of a request shall be given to the legislature by the governor and to the governor by the legislature.

(b) To the greatest extent practicable within 30 days after receipt of a request the board shall respond to both the governor and the leadership of the legislature in writing specifying

(1) the manner in which it proposes to take the requested action or any modification to the requested action sought by the authority; or

(2) the specific reasons, financial, legal or otherwise, why the board declines to take the requested action.

(c) At the request of the governor or on its own initiative, the legislature by law may then direct the authority to take the requested action or the legislature may act to cure the problem precluding the authority from taking the requested action. If the authority is unable to take the requested action for financial reasons, it is obligated to do so, even if directed, only upon provision by the legislature of sufficient money to plan and implement the action.

Sec. 42.40.615. INTERVENTION. (a) When authorized by law, the governor as provided in the legislation shall intervene and exercise such control over the authority as is necessary and appropriate to correct a deficiency or to assure that the purposes of this chapter may be reasonably accomplished, including directing affirmative action when

(1) the board has requested intervention by resolution;

(2) the authority has represented to the public or to creditors that recourse may be had to the assets, property, or credit of the state on account of acts or omissions of the authority, unless

the secondary or direct liability has been expressly assumed by the state;

(3) the authority has failed to file an annual report as required by AS 42.40.310 within 120 days after receipt of formal notice of the omission or has filed an annual report that is false or misleading on a material matter;

(4) a deadlock has occurred in the board, or the membership of the board is insufficient to constitute a quorum for conduct of affairs so that the authority is unable to conduct its operations or perform its activities; or

(5) the assets of the authority have been or are committed to be misapplied or wasted or illegally expended, or the authority has committed or is about to commit a material violation of this chapter.

(b) The governor may take actions necessary to achieve the object of the intervention stated in the legislation and make ancillary corrections, and shall accomplish the purposes of the intervention as expeditiously as reasonable. Board members and employees may not be displaced nor the conduct of their duties impaired more than necessary to accomplish the purposes of the intervention and the intervention must cease as soon as the objective stated in the legislation and ancillary corrections have been accomplished.

Sec. 42.40.620. TRUSTEESHIP. (a) When authorized by law, the governor may petition the superior court of the State of Alaska for the Third Judicial District at Anchorage to impose a trusteeship over the authority and appoint the trustees if

(1) the board has requested imposition of the trusteeship by resolution;

(2) the authority has become insolvent or otherwise unable to carry out its contractual obligations to creditors and other

persons;

(3) the authority has filed an annual report that is false or deceptively misleading on a material matter;

(4) the authority has become incompetent or ineligible to carry out the public purposes for which it was established;

(5) the authority has misused, abused, or continuously exceeded the power or authority conferred by this chapter or committed repeated violations of this chapter;

(6) the assets of the authority have been or are committed to be misapplied or wasted, or illegally expended, or a material violation of this chapter has been committed or is about to be committed and the governor has determined that intervention as provided in AS 42.40.615 would not be feasible under the circumstances; or

(7) the credit-worthiness of the state has been directly or indirectly substantially impaired by actions of the authority.

(b) The trustees appointed by the superior court shall take reasonable actions necessary during the trusteeship to achieve its object. The trustees have the power and authority to reorganize the authority and amend its rules and regulations; suspend or remove board members and executive officials; manage the assets and affairs of the authority; and exercise all powers necessary or appropriate to fulfill outstanding agreements, to restore the capability of the authority to perform the functions and activities for which it was established, to reinstate its credit or credibility with its creditors or obligees or the credit of the state or its credibility with its creditors or obligees to the extent impaired by authority actions.

ARTICLE 7. MISCELLANEOUS PROVISIONS.

Sec. 42.40.700. PERSONNEL. (a) All personnel employed by the Alaska Railroad are personnel of the authority, and not of the state.

QUESTIONS/CONCERNS OF COMMITTEE

Railroad Land

- Surface and subsurface rights -- gravel deposits
- Classification of lands by DNR -- who has power of eminent domain?
- Legal requirements/restraints for land disposal by Railroad
- Revenues from managing subsurface resource development
- Open dock facility in Seward

Constitutional Questions

- Dedication of funds
- Is is constitutional to set-up separate department or corporation-independent Railroad authority or state-owned
- Governor appointed Board of Directors with legislative confirmation-constitutional amendment
- Oversite for Railroad-Executive Budget Act, Admin Procedures Act, Fiscal Procedures Act--and, who administers

Miscellaneous

- Value of non-operating properties
- Ultimate liability for Railroad
- Bond rating-default by Railroad, Borrowing level from State-bond selling power-state's credit rating
- Do we want labor contracts as part of transfer bill-who is responsible for negotiation of collective bargaining agreements-state or corporation?
- Consistency in bill wording-as long as Railroad gets public money must get public oversite
- OSHA and FRA requirements-how do we want to handle them-waivers of compliance for the state
- ICC exemption for state
- Number of states that own Railroad and the type of authorities set-up



united transportation union

ARTICLE 7. PERSONNEL AND LABOR RELATIONS

1. Sec. 42.40.840. STRIKES

1. Delete and Replace with the Following:

Sec. 42.40.840. BINDING ARBITRATION. 30 days after mediation if the dispute is not resolved, then the issue or issues shall be submitted to binding arbitration using the Federal Mediation Concilliation Service (F.M.C.S.) list of arbitrators.

2. Adopt Sec. 23.40.200. Classes of public employees; arbitration

(a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time.

2. Sec. 42.40.850. AGREEMENT. Delete (a) Not to exceed three years.and adopt the concept of the Railway Labor Act, Part 2, Sec. 6.

(b) The Department of Administration may participate in the negotiations between the corporation and an employee organization.

Delete the following: The corporation may not enter into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment unless the proposed contract terms are approved by the Department of Administration.

Gerald D. Valinske
Legislative Representative
Local 1626
Anchorage, Alaska



united transportation union

STRIKES: (a) Employees may engage in a strike if a majority of the employees in all collective bargaining units vote by secret ballot to do so.

(b) Employees may engage in a strike after mediation, arbitration subject to the voting requirements of (a) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The Alaska Railroad Corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public, but also the extent to which employee organization and The Alaska Railroad Corporation have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration.

(c) Notwithstanding the provisions of (a) and (b) of this section the employees with the concurrence of the employer may agree in writing to submit a dispute of a collective bargaining agreement to arbitration.

Gerald D. Valinske
Legislative Representative
Local 1626
Anchorage, Alaska

Karen Hutton
Vice President
A.F.G.E., Local 183
Anchorage, Alaska

American Federation of Government Employees
LOCAL 183
AFFILIATED WITH THE AFL-CIO WASHINGTON, D.C.

LOCAL 183
POST OFFICE BOX 35
ANCHORAGE, ALASKA 99510

TELEPHONE 272-8316

REFER TO FILE:

February 2, 1984

Following is a list of changes and additions we would like made to Senate Bill Number 352:

1. Page 3, line 26, change to read as follows: an employee of the corporation represented the bargaining units, appointed by the governor to represent the employees.

2. Page 26, line 11 through 14: delete

3. Page 26, line 9, insert the following:

d. Employees who are not part of an employees organization bargaining unit on the day before transfer, are not executive officials on the day after transfer, and are protected under the Federal Transfer Law for the two-year period shall become a subdivision of the existing white collar bargaining unit representing The Alaska Railroad Corporation for the purpose of collective bargaining.

e. Employees who are not protected under the transfer act for two years and are classified as temporary at the time of transfer will be protected based on their seniority date.

4. Page 27, line 22, insert the following:

(8) Executive officers are the empioyees occupying the following positions at The Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration, and Chief Counsel.

(9) Collective bargaining is defined as negotiating with an employees organization, representing the employees of The Alaska Railroad Corporation on any matters pertaining to conditions of employment.

5. Alaska Statute Section 39.26.010, Prohibited Acts be adopted with the following modifications:

(a) The word "State" be replaced with "Alaska Railroad Corporation."

(b) Paragraph 5b. The heads of the administrative departments of the State may adopt internal management regulations for their respective departments, specifying exception to (a)(5) of this section. These regulations shall be submitted for approval to the personnel board provided for in AS 39.25.060. Replace as follows:

"The executive officials of The Alaska Railroad Corporation may adopt internal management regulations for their respective departments. These regulations shall be submitted for approval to the Board of Directors of The Alaska Railroad Corporation."

6. The State of Alaska's primary concern over including the current Alaska Railroad employees under PERS is over back year unfunded years. Why not modify the State statute for those employees of The Alaska Railroad who remain under the Civil Service Retirement to be eligible for coverage under the supplemental benefits system?

Your consideration of the above request will be greatly appreciated. Also, we would appreciate receiving copies of any amendments that are issued to this bill. If you have any questions, please do not hesitate to contact us.

Sincerely yours,

Jack F. Burton
President

Karen Hutton
Vice President

Cook✓

AMENDMENT

Offered in the HOUSE By Miller

TO: HB 512

Page 16, after line 10, insert a new section to read:

"Sec. 42.40.460. MUNICIPAL RIGHT-OF-WAYS. Upon request of a municipality the corporation shall grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board may require the municipality to agree to hold the corporation harmless for any use made of the right-of-way and to execute the agreement in a form approved by the board."

1/19/84

Sec 42.40.220. MINUTES AND NOTICES OF MEETINGS. The board shall keep minutes of each meeting. Reasonable notice of the meetings shall be provided to the public.

Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed ~~regulations~~ rules of the authority that, in the determination of the board, will have a substantial impact on the public or be used in the authority's dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

adopted 3/16/84

replace with rules

strike out rules

section in 5/2

3/16/84
Senate change today

Sec. 42.40.230. Rules. (a) The board shall establish in its bylaws a procedure for adopting rules to carry out its functions and the purposes of this chapter.

(1) The corporation shall make available to members of the public copies of the rules adopted under this section.

(2) Within 45 days after adoption, the chairman of th board shall submit a rule adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

(b) Except as provided in (c) of this section, at least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposes rules with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule and must include and informative summary of the proposed subject of the rule. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative , or both, the opportunity to present statements, arguments or contentions in writing, and shall give members of the public an opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a rule which is adopted, or its amendment or repeal, may vary in content from the informative summary

specified in this subsection if the subject matter of the rule, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(c) The board shall in its bylaws establish a procedure for adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or programs. The requirements of (b) of this section do not apply to the initial adoption of an emergency regulation; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (b) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (b) of this section during the 120-day period.

(d) A rule adopted under this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by order of the adoption.

MAR 2 0 1984

Anchorage

CHAMBER of COMMERCE

Crossroads of | *the Air World*

Representative Bette Cato
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Cato,

For several years the Anchorage Chamber of Commerce has been closely following the transfer and operation issue of the Alaska Railroad. The Anchorage Chamber has expressed its support of a strong independent railroad which operates as a business entity.

We feel our objectives, and the citizens of the state, are best achieved through passage of HB 512. The major elements in this legislation which we support are as follows:

1. Specific reference under the legislative purpose of the eventual transfer of the railroad to the private sector.

2. The independent status of the Corporation as an entity of the State.

3. The strength of the Corporation Board of Directors identified by its powers and duties.

4. The establishment of the Executive Officers of the railroad to manage the day-to-day activities of the railroad.

5. We strongly support the Railroad Corporation right to hold and manage its lands including the right of eminent domain, and the right to request additional lands for railroad purposes.

6. We support the inclusion of the strong bonding authority of the Alaska Railroad Corporation.

7. We support the railroad generated revenues staying within the Corporation for future railroad purposes.

8. And finally, we support the Alaska Railroad employees being employees of the Corporation.

We would like to propose one addition to Article 4, Section 42.40.300 General Powers. We recommend that the Corporation be permitted to lease a portion or all of the operation of the railroad to a private entity. We feel this addition should be granted to the Corporation as an option to their management prerogatives and is within the overall intent of the proposed legislation.

We recommend your support of this legislation.

Sincerely,

Al Fleetwood, President
Anchorage Chamber of Commerce

FEB 27 1984

Sea-Land Service, Inc.

100 WEST HARRISON STREET, SUITE 522
SEATTLE, WASHINGTON 98119

February 22, 1984

H. L. SCHUYLER
Director Public Affairs
Alaska Division

TELEPHONE:
(206) 938-6349

Honorable Bette Cato
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Cato:

Attached to this letter are a few suggested amendments which we believe to be in the best interest of the State, the citizens, and various modes of the transportation industry in the State of Alaska.

We do not feel that our suggestions are so restrictive that the Alaska Railroad will not be able to carry on with an economical/operational program and keep the Alaska Railroad a viable institution. The Authority, composed of astute businessmen and a General Manager who knows how to operate and market his railroad as a free enterprise business, will succeed. After all, we are all working for our share of the Alaska freight "pie." The only difference is that the private sector pays taxes to City, State, and Federal Governments, and pays the commercial interest rate for his capital.

Trust these suggestions are accepted and reviewed in an unbiased manner.

Thank you for your consideration and taking the time to review. All we, in the private sector, are asking for is to be able to compete on an equal basis.

Sincerely,

Hal Schuyler

HLS:kt
Attachment

SENATE BILL NO. 352

Suggested amendments that should make for a better bill:

1. Page 2, Section 1, Line 17. Add: "and to apply for any Federal monies to which the State would be entitled, or may be available;" §605 of ARTA.

2. Page 2, Section 1, Line 21. Add the word "rail" between "economical" and "transportation" in the middle of the sentence.

3. Page 2, Section 1, Line 28. Add: Paragraph "(H) The Corporation will not use State investments, subsidy money, non-taxable property and chattles in considering the pricing of the property services of the railroad."

4. Page 7, Article 1, Section 42.40.110, Delegation, Line 7. Add: "(12) Applying for subsidies, grants and endowments available from Federal, State or Private entities."

5. Page 8, Article 3, Administrative Provisions, Line 19. Add: "This shall be a public document."

6. Article 8, General Provisions, Page 27, Line 26. Prior to "Where possible," add: "The Corporation shall comply with and be subject to, all provisions of the Antitrust Laws." If this sentence cannot be added, strike out "Where possible."

adopted for HB512 3/13/84 HB512 additions

Sec. 42.40.280 PERFORMANCE AUDIT. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this Act.

FH House Bill - 512 3/13/84

Sec. 42.40.~~4~~70. AGREEMENT (a) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation ~~shall consult~~ shall notify with the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment. The Department of Administration ~~shall~~ will notify the Governor and the Legislature if any proposed contract provisions conflict with State labor management policy.

The Bd shall notify DOA of time & place of labor neg & DOA shall be able to attend those neg and DOA may ~~attend~~ participate @ request of Bd.

Sec. 42.40.280 PERFORMANCE AUDIT. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this Act.

Sec. 42.40.470. AGREEMENT (a) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall consult with the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment. The Department of Administration shall notify the Governor and the Legislature if any proposed contract provisions conflict with State labor management policy.

January 26, 1984

Alaska Railroad Operating Entity
Sheffield Administration - Policy Statement

The Alaska Railroad is a fundamental link in Alaska's overall transportation system. Ensuring the continuation and development of this rail system as Alaska's transportation needs grow should be a major public policy objective in the years ahead.

Along with most Alaskans, I share this objective. I hope to see the Alaska Railroad provide the maximum benefit to our residents with minimum involvement by State government for regulatory oversight and public funding.

I support the development of the Alaska Railroad from its present status of a federally owned and operated agency to one which is funded and operated to the maximum extent possible by the private sector through a private company management contract or similar form of lease arrangement. I believe it will take a period of time to reach this goal. Consequently, it is important that any legislation provide adequate and specific provisions mandating that these alternatives be addressed.

It is important to keep in mind one essential fact: as long as the Alaska Railroad receives public funding, there must be comparable public oversight and accountability for its operation and management. If we accept anything less, we will be shirking our responsibility to all Alaskans to prudently and properly manage public funds.

I commend the members of our Legislature for the extensive interest they have demonstrated in the Alaska Railroad transfer issue. I know that many legislators have worked hard to develop acceptable transfer legislation which addresses a wide range of State policy concerns and interests over the past several years. Rather than introduce legislation of my own, I look forward to working with the legislation already in preparation provided that it is consistent with my following basic policy considerations:

(1) Railroad operations should be insulated from political interference but remain responsive to the public interest. The public entity selected should be one best able to accomplish this goal.

(2) The railroad entity should be constituted so that it has broad latitude in its operation and financing subject to public interest safeguards in existing state law, including the Executive Budget Act, Fiscal Procedures Act, and Administrative Procedures Act. I realize that certain sections of these laws may not be entirely applicable, and therefore limited exemptions may be necessary.

(3) All revenues generated by the railroad should only be expended for railroad and related purposes.

(4) The railroad should be able to incur bonded indebtedness to an extent consistent with its ability to repay the indebtedness from its own revenues.

(5) The railroad should hold title to the surface estate of all lands received in the purchase and enjoy access to subsurface material necessary for actual rail operations. Specific arrangements should be included to ensure consistency with general state land policies, and to provide that sale of real property cannot occur without the approval of the Department of Natural Resources.

(6) To minimize the State's exposure to railroad liabilities and to lower administrative costs, the railroad should take advantage of the economies of scale afforded by participation in the State's insurance and risk management plans. The Department of Administration should have primary responsibility for the negotiation of collective bargaining agreements with railroad employees.

(7) The railroad should prepare and implement operating and capital plans, and explore long-range expansion needs. No later than three years after acquisition, the railroad must prepare a report for the Governor and the Legislature recommending a method for obtaining private sector participation in railroad operations.

SUGGESTED AMENDMENT TO HB 512

Page 19, lines 5 -- 29; page 20; and page 21, lines 1 -- 21

Delete all material and insert the following new material:

(f) In the discretion of the board, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the corporation may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the ~~authority~~ CORPORATION or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use of the Alaska Railroad by passengers and other users FOR SERVICE AND FREIGHT;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

FEB 27 1984

Sea-Land Service, Inc.

100 WEST HARRISON STREET, SUITE 522
SEATTLE, WASHINGTON 98119

February 22, 1984

H. L. SCHUYLER
Director Public Affairs
Alaska Division

TELEPHONE:
(206) 938-6349

Honorable Bette Cato
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

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INTERSTATE COMMERCE COMMISSION

Memorandum

TO : Louis E. Gitomer **DATE:** February 27, 1984

FROM : [redacted]

SUBJECT :

Commission Jurisdiction over
the Alaska Railroad

~~Currently,~~ At the time the Interstate Commerce Commission ~~holds~~ lost no statutory authority over the Alaska Railroad (ARR). Exclusive authority over the operations of the railroad was granted to the President under the Alaska Railroad Act of 1914, and ~~This authority was~~ delegated to the Secretary of the Interior in 1915, and then ~~subsequently transferred to~~ the Secretary of Transportation in 1966.

~~While the Commission holds no statutory authority to regulate ARR,~~ in 1963 the Commission was delegated certain rate review authority by the President, ~~by~~ [Executive Order No. 11107 (codified at 49 U.S.C. 240)]. ~~This~~ and that executive order was recently superceded by [Executive Order No. 12434] an order issued by President Reagan in August 1983. [(Copies of 49 C.F.R. 240 and Executive Order No. 12434 are attached).] The new executive order clarified ~~the fact that the~~ Commission's ~~has final~~ ratemaking authority over ARR. (rather than merely offering advisory opinions to the DOT). See the attached case Sealand Service, Inc. v. I.C.C., 697 F.2d 1166 (1983). It also expressly incorporated certain revisions to the rates provisions

made to the Interstate Commerce Act since the first executive order was issued in 1963.[1]

Thus, Executive Order No. 12434 subjects ARR to the major rate provisions of the Interstate Commerce Act including the changes made by the Staggers Act of 1980.

In general, the Staggers Act, which was a major deregulatory step, assures railroads substantially more rate freedom than was afforded under prior law. It continues the policy started under the Railroad Revitalization and Regulation Reform Act of 1976 by substantially eliminating rate regulation of railroads where there is effective competition. Specifically, the Staggers Act:

1. Establishes a specific 14-point rail transportation policy to guide the Commission in its regulation of the railroad industry.

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[1] Executive Order No. 12434 provides that with respect to rates filed by the Secretary, the Commission may act in the same manner as though the ARR were subject to the following Sections of Title 49 of the U.S. Code: §10101a (Rail Transporation Policy); subchapter I of Chapter 105 (Rail, Rail Water Express and Pipeline Carrier Transporation Jurisdiction); Chapter 107 (Rates, Tariffs and Valuations) with modifications to the contract rates provisions and except subchapter V (governing valuations of property), §10723 (charitable purposes), §10724 (emergency rates), §10746 (commodities manufactured or produced by a rail carrier), and §10751 (business entertainment expenses); Chapter 111 (Operations of Carriers) except subchapter III and IV (Railroad Cost Accounting; and Chapter 117 (Enforcement, Investigations, Rights and Remedies) except §11703 (enforcement by the Attorney General) and §11704 (actions by a private individual to enjoin abandonments).

2. Provides the Commission with jurisdiction to determine rate reasonableness only when a rail carrier is serving a captive shipper. ~~has~~ market dominance and the rate exceeds the applicable revenue to variable cost percentage threshold. ~~When determining reasonableness, the Commission is directed to consider the policy that carriers earn adequate revenues.~~

3. Provides that a rate may not be set below a reasonable minimum, that is predatory pricing - pricing below directly variable costs is prohibited. ~~for inflationary losses~~

~~4. Provides a formula which allows carriers to increase any rate to reflect increases in the Index of Railroad Costs and limits Commission jurisdiction over rate increases that are within the zone.~~

5. Permits the Commission, ~~on a quarterly basis, the~~ to prescribe a percentage rate increase or rate index for rail carriers ~~in order~~ to compensate for inflationary cost increases.

6. Requires the Commission to use its ~~suspension~~ powers To suspend a proposed rate only upon protest, ~~under limited circumstances~~ and requires the Commission to complete a proceeding within 5 months of the suspension (unless extended). If there is no timely decision the rate will go into effect.

Expand

A - Rate change filed - before rate effective
- Protested
- ICC decides to I C S or I
- If no S then rate goes into effect

B. After rate effective
- file complaint alleging unreasonableness
- ICC hearing
- Decision by ALJ
- Appeal to employee board
- Discretionary appeal to EC
- Court appeal

7. Authorizes one or more rail carriers to enter into contract rates with one or more shippers.2/

8. Provides standards and procedures for surcharging an existing joint rate or for canceling the application of a joint rate for a particular route.

9. Requires carriers to reduce and maintain rates on non-ferrous recyclables at specified levels.

10. Provides shippers and railroads greater service options by permitting the establishment of lesser liability requirements.

11. Exempts certain services from the rate discrimination provisions of current law.

12. Eliminates demand sensitive rates.

13. Phases out capital incentive rates.

14. Repeals incentive per diem provisions.

15. Encourages more efficient car utilization by permitting carriers to charge for special services or special levels of service not otherwise included in any tariff applicable to the movement.

16. Encourages competitive pricing by modifying the activity that a rate bureau may permit its members to engage in if it is

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2/ The executive order modifies the contract rates provisions of the Staggers Act. ~~by (1) allowing carriers to participate in ARB's contract rate agreements and (2) by making any contract available to any other shipper for rates and service for transportation of the same type of commodity under similar conditions to the contract on file if the shipper is able to enter the contract at a time essentially contemporaneous to the contract period.~~ See page 6

to be approved by the Commission and immune from the antitrust laws. Only allow direct connectors to discuss rates.

~~17. Eliminates §10726(e) of the act which dealt with situations where a rail carrier reduces rates due to competition with a water carrier.~~

18. Permits tariffs be effective with a shorter notice period.

19. Permits the Commission to exempt a person, class of persons, or transaction or service from regulation under specified circumstances.3/

After the date of transfer of the ARR, Section 608 of the Alaska ~~Railroad Transit~~ Railroad Transfer Act of 1982 (ART) provides AAR "shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under Chapter 105 of subtitle IV of title 49, United States Code and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States..."4/

Thus following the transfer, in my opinion the AAR will be subject to the whole gambit of Commission regulation. As far as rate matters are concerned, the change from regulation under delegated authority to statutory authority will have limited impact except in ~~one major area~~ the area of contracts.

3/ The Staggers Act also clarifies the application of the Elkins Act to business expenses by rail carriers. ~~[illegible] included in the executive order.~~ See 49 USC 1075 The executive order, however, did not make AAR subject to our jurisdiction under this provis.

4/ ~~This does not include~~ AAR however is not subject to certain designated acts affecting employee interests.

Encourages creation of short line railroads by private enterprise or state governments where class I railroads have or are seeking to withdraw from the market.

As noted in ~~footnote 2, the~~ executive order modified the contract rate provisions of 49 U.S.C. 10713 in ~~tow~~ two ways: First, it stated that any contract filed with the Commission shall be available to any other shipper for rates and service for transportation of the same type of commodity under similar conditions to the contract on file, if the other shipper is able to enter into such contract at a time essentially contemporaneous with the period during which the contract in file is offered. Second, it provides that connecting water carriers may participate in ARR contract rate agreements. While ~~the~~ water carriers' ability to participate in contract rate agreements is specifically maintained in section 608(a)(2), neither the ART nor the Interstate Commerce Act give a shipper the right to force a carrier to enter into a contract merely because contract with similar terms is on file with another shipper.5/

There will be several additional minor changes to rate regulation of ARR after transfer. Executive Order No. 12434 does not permit the Commission to act as if ARR were subject to the following provisions of Chapter 107: follows immediately

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5/ If the Commission, however, determines that grounds for a complaint have been established under 49 U.S.C. 10713(d)(2)(B)(i) [governing allegations that a rail carrier who has entered a contract for the transportation of certain agricultural commodities has unreasonably discriminated by refusing to enter into a similar agreement with a similarly situated shipper], the Commission can order the carrier to provide rates and services substantially similar to the contract at issue.

§10723 (permitting free transportation for charitable purposes); §10724 (permitting free or reduced rate transportation in emergencies); §10746 (prohibiting the carrier from transporting commodities manufactured or produced by the carrier); §10751 (concerning the propriety of business entertainment expenses) and subchapter V (requiring Commission inventory, valuation and classification of rail property). Following transfer, ARR will be subject to all of these provisions. (However, no inventory, valuation, or classification of property owned or used by the state-owned railroad will be required under subchapter 107 during the two years after the transfer. See §608(b) of ART.

In addition to these rate matters, ARR will also become subject to a number of additional provisions of the Interstate Commerce Act. These include (1) Chapter 109 licensing procedures governing the acquisition, construction and operations of rail lines,[6] the abandonment and ~~discontinuance~~ discontinuance of operations over rail lines, the financial assistance procedures and the feeder line development program; (2) Chapter 111 provisions governing carrier obligations, car service, rail cost accounting principles, and reporting and records requirements; (3) Chapter 113 governing finance procedures including the issuance of carriers' securities, equipment trust

[6] Pursuant to §608(b) of ART, the Commission has issued a certificate and decision ~~[illegible]~~ which finds that the present and future public convenience and necessity require the acquisition and operation of the Alaska Railroad by the Alaska State-owned railroad. The certificate and decision will be effective on the date of transfer. Alaska Railroad

and other securities interests, limitations on ownership, restrictions on officers and directors, limitations on pooling and division of earnings, the consolidation, mergers and acquisition of control of carriers; and changes in financial structure; (4) Chapter 115 provisions governing Federal-State relations including Commission Authority over intrastate transportation;[1] (5) Chapter 117 to the extent that enforcement remedies were excluded by Executive Order 12434; and (6) Chapter 119 governing civil and criminal penalties.

[1] ~~In States~~ Alaska has not been authorized to exercise rate-related jurisdiction over intrastate transportation provided by the ARR, under 49 U.S.C. 11501. See State Intrastate Rail Rate Authority, 564 I.C.C. 881 (1981)

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of _____. [THE CORPORATION SHALL BE CONSIDERED A PRINCIPAL DEPARTMENT ONLY FOR THE PURPOSES OF ART. III, SEC. 26, CONSTITUTION OF THE STATE OF ALASKA.] The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of _____ and four [FIVE] voting members appointed by the governor. These four [FIVE] members must be residents of and registered voters in the state except as provided in (b) of this section. No more than two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner of _____, a voting member may not be a state officer or employee.

(b) One person who is not a resident of or registered voter in this state may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(e) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(f) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(g) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

[(h) THE GOVERNOR MAY, BY WRITTEN NOTICE TO THE MEMBER, REMOVE A MEMBER FROM THE BOARD FOR

(1) INCAPACITATION CAUSED BY INJURY OR SICKNESS THAT LEAVES THE MEMBER UNABLE TO PERFORM DUTIES UNDER THIS CHAPTER;

(2) CONTINUED REFUSAL OR INABILITY TO ATTEND MEETINGS OF THE BOARD;

(3) CONVICTION OF A FELONY; OR

(4) CONVICTION OF A MISDEMEANOR INVOLVING MORAL TURPITUDE.]

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. Except for the commissioner of _____, the voting members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms.

QUESTIONS/CONCERNS OF COMMITTEE

Railroad Land

- Surface and subsurface rights -- gravel deposits
- Classification of lands by DNR -- who has power of eminent domain?
- Legal requirements/restraints for land disposal by Railroad
- Revenues from managing subsurface resource development
- Open dock facility in Seward

Constitutional Questions

- Dedication of funds
- Is is constitutional to set-up separate department or corporation-independent Railroad authority or state-owned
- Governor appointed Board of Directors with legislative confirmation-constitutional amendment
- Oversite for Railroad-Executive Budget Act, Admin Procedures Act, Fiscal Procedures Act--and, who administers

Miscellaneous

- Value of non-operating properties
- Ultimate liability for Railroad
- Bond rating-default by Railroad, Borrowing level from State-bond selling power-state's credit rating
- Do we want labor contracts as part of transfer bill-who is responsible for negotiation of collective bargaining agreements-state or corporation?
- Consistency in bill wording-as long as Railroad gets public money must get public oversite
- OSHA and FRA requirements-how do we want to handle them-waivers of compliance for the state
- ICC exemption for state
- Number of states that own Railroad and the type of authorities set-up

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(dX3XE) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (aX1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(c))).

(4) The operation of trains by the State-owned railroad shall not be subject to the requirement of any State or local law which specifies the minimum number of crew members which must be employed in connection with the operation of such trains.

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6XA) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

45 USC 1207.

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

What does this mean regards to the Railroad's Rate Policy?

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

What sort of Assistance is available.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

Very Important

Other

(2) We hear water carriers concerned about subsidy and the State competing with private carriers. In as much as the Railroad is an ICC carrier and the water carriers are FMC. Is there competition here?

(3) Do FMC Rates compare with ICC Rates?

were you involved in the Section 609 study required in the Staggers Act? What were the Findings.

FUTURE RIGHTS-OF-WAY

45 USC 1209.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

(4) The important public purposes to be served by the railroad authority require the authority to have all of the powers and duties granted to it by this chapter; the Legislature intends that the authority exercise such powers and duties as a public service on behalf of the State of Alaska and recognizes that the exercise of the powers and duties granted by this chapter will require the authority to engage in a wide variety of different kinds of conduct; the Legislature further intends that in engaging in types of conduct related to the exercise of its powers and performance of its duties under this chapter, the authority shall not be subject to either the federal or state antitrust laws nor any other limitation that could hinder the effective exercise of the powers and duties granted by this chapter to the Authority.

ARTICLE ~~1~~. 2. CREATION AND ORGANIZATION

Sec. 42.40~~.010~~.200. ESTABLISHMENT OF AUTHORITY. ~~The Alaska Railroad Authority is established as a public corporation of the~~

deemed by the ~~Board~~ Council to be necessary for the operation of a railroad."

~~Section~~ 3. 42.40.710. Except as may be specifically provided otherwise, the provisions of this Act take effect upon enactment.

ARTICLE 8 APPLICATION OF OTHER LAWS

Sec. 42.40.800. CONFLICTING LAWS INAPPLICABLE. Insofar as the provisions of this Act are in conflict with the provisions of any other law, or parts thereof, the provisions of this Act shall prevail. Specifically, and without otherwise limiting the generality of the foregoing, it is intended by this Act that the federal and state antitrust laws shall not be applicable to any action of the Alaska Railroad Authority taken pursuant to the provisions of this Act. The Legislature of the State of Alaska by this Act expressly authorizes the Authority to engage in all types of conduct related to pursuit of the purposes, exercise of the powers, and performance of the duties granted to the Authority by this Act and expressly intends to displace the antitrust laws from applying to

all such conduct and activities of the authority. It is similarly intended that the antitrust laws shall not be applicable to any action or conduct engaged in by the Alaska Railroad Authority Council and its individual members pursuant to the provisions of this Act.

Sec. 42.40.810. REPEAL AND AMENDMENT OF EXISTING STATUTES.

(1) A.S. Title 19 shall not apply to the operations of the Alaska Railroad. [Title 19 sets forth the responsibilities of and restrictions on the Department of Transportation and Public Facilities in the construction and operations of highways. Some of its provisions regarding construction, public bids, etc. arguably apply to other activities of Public Facilities, to which the railroad will be nominally assigned.]

(2) A.S. 23.10.420 shall not apply to the operations of the Alaska Railroad. [Full-crew law]

(3) A.S. 30.15 shall not apply to the operations of the Alaska Railroad. [Procedures for state grants for construction of local port facilities.]

A M E N D M E N T

Offered in the SENATE By V.Fischer

TO: SB 352

Page 16, after line 10, insert a new section to read:

"Sec. 42.40.460. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation shall grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board may require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless for any use made of the right-of-way; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities."

DRAFT

GUIDELINES FOR STATE OVERSIGHT OF RAILROAD FISCAL PROCEDURES

Because the railroad will be a public entity there must be public oversight and accountability. The entity statute should assure that this oversight be provided in a manner that:

-- gives railroad management the flexibility needed to operate in the competitive business environment, and

-- facilitates the transfer of the railroad to a private sector operator.

These goals can be achieved with oversight based on the following principles:

1. The responsibility for establishing and maintaining the railroad's accounting and procurement systems will be delegated from the Commissioner of Administration to the Board of Directors of the Alaska Railroad Corporation.
2. Delegation will be made after the Commissioner of Administration and the Legislative Auditor have assured that the railroad's accounting and procurement systems comply with accepted standards.
3. This delegation may be revoked if the railroad does not annually receive acceptable financial and performance audit reports.

D R A F T

Suggested language for Article 7 (Collective Bargaining)

You have requested that we draft preliminary language which establishes a mechanism for collective bargaining for employees of the Alaska Railroad. In accordance with your request, our preliminary proposal is intended to establish procedures which are substantially identical to the procedures established under the Public Employee Relations Act (PERA) (AS 23.40). To assure the independence of the corporation for purposes of collective bargaining, however, the corporation is specifically exempted from PERA.

Sec. _____. COLLECTIVE BARGAINING RIGHTS. The provisions of the Public Employee Relations Act (AS 23.40) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive official and other executive officials appointed by the chief executive official, may self-organize and form, join or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

Sec. _____. AGREEMENT. (a) The corporation may request The Department of Administration shall participate in the negotiations between the corporation and an employee organization. The corporation may

not enter into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment unless the proposed contract terms are approved by the Department of Administration.

(b) An agreement executed between the corporation and an employee organization shall define "grievances." The agreement shall provide for a grievance procedure in which the final step in the procedure is binding arbitration.

Sec. _____. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a railroad employees labor relations agency which consists of three members appointed by the governor. One member shall be a member of the labor relations agency (AS 23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 -- 23.40.190 to carry out the provisions of the article.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. _____. STRIKES. (a) Employees of the corporation

may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of subsection (a), the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Introduced: 1/13/84
Referred: Transportation and Finance

BY HAYES, RINGSTAD, SHULTZ, ABOOD, FRITZ, FURNACE, CATO, FULLER, UEHLING, BETTISWORTH AND TISCHER

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) The Alaska Railroad is an essential part of the state transportation network that without state action will cease to be a transportation option available within Alaska. The federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence. It is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(2) There is vast potential in Alaska's natural resource areas and that extension of the Alaska Railroad into natural resource areas is necessary for the achievement of the goals of lower freight cost and long-term economic growth.

(b) It is the purpose of this Act to create an entity and to provide that entity with the powers and duties necessary to operate and manage the Alaska Railroad as a viable independent entity pending the eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

(c) The legislature declares that

(1) the exercise of the powers of the state in the interest of the people of the state is necessary to accomplish the policy set out in (a) of this section by authorizing the creation of a public corporation with the powers, duties, and functions as provided in this Act to operate the Alaska Railroad and to manage its rail, industrial, port and other properties;

(2) it is in the best interests of the people of the state for the public corporation that will operate and manage the Alaska Railroad to be created in such a way that

(A) the corporation will be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) the corporation, and not the state, will constitute a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission;

(C) the corporation will have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) the corporation may carry out its responsibilities on a self-sustaining basis;

(E) the best possible combination of types and levels of safe, efficient, and economical transportation can be provided that is necessary to meet the overall needs of the state, supported when necessary by state investment;

(F) the railroad may be operated prudently and according to sound business management practices; and

(G) borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation for the purposes of art. III, sec. 22, Constitution of the State of Alaska. The corporation shall be considered a principal department only for the purposes of art. III, sec. 26, Constitution of the State of Alaska. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of five voting members appointed by the governor. These five members must be residents of and registered voters in the state except as provided in (b) of this section. No more than two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. A voting member may not be a state officer or employee.

(b) One person who is not a resident of or registered voter in the state may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a

majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(e) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(f) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(g) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

(h) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) conviction of a misdemeanor involving moral turpitude.

Sec. 42.40.030. TERM OF OFFICE. The appointed members of the board serve for staggered terms of five years each.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed. Nomore than 2 terms.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the

board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $200 for each day the member is engaged in the actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Three voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. The board shall provide by rule for the manner of voting and representation of persons absent from meetings. The rules may provide for voting and conferring by means of telecommunication devices or by mail or for voting as directed in a written proxy taking a position on a particular issue.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint and fix compensation for the chief executive officer of the corporation. The chief executive officer serves at the pleasure of the board.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of

the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 60 days of its establishment, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) General or particular board authorization or concurrence is required for the following:

(1) transferring the corporation's entire interest in real property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging authority assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantee;

(6) adopting a long-range expansion and capital improvement plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) expanding or reducing services in a major way as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

Bd counsel

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public ~~with the exception of~~ except that the board may conduct an executive session ~~conducted~~ for the purposes listed under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session ~~under AS 44.62.310,~~ the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting.

Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. The rules shall include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open

to public inspection at reasonable times.

(b) Except as provided in AS 42.40.270, the corporation may by rule designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission, and information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.250. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of

- Corp. sets policy for R&R
- Directors are held accountable

other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax,

financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(13) maintain offices and facilities at places it designates;

(14) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(15) prescribe rates to be charged for services provided by the Alaska Railroad on a competitive basis;

(16) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(17) enter into contracts and leases with connecting carriers and shippers, that contain provisions to preserve and expand the railroad's traffic base;

(18) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(19) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(20) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

→ Estate Collective Bargaining *

(21) assume and satisfy liabilities of the United States or its agencies as provided by the federal transfer legislation and the closing report or its substantive equivalent as accepted by the legislature;

(22) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(23) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(24) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(28) cancel bonds purchased under (21) of this section.

Sec. 42.40.310. LONG-RANGE EXPANSION AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range expansion plan and a capital improvement plan. The long-

range expansion plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans required under (a) of this section. The board may not contract for the preparation or revision of either the long-range expansion plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may

(1) defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf

NOT Assets

of the corporation and within the scope of official duties or powers; and

(2) purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. As to all land that is transferred or acquired

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be classified as railroad utility corridors;

(2) future railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of other width as designated by the corporation, and may be surveyed by the metes and bounds method; and

(3) the corporation may lease or rent portions of the utility corridor for other transportation services.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or subject to selection by the

state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, future or intended railroad purposes. The request must include a statement of and justification for the present, future or intended railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily classify and reserve the land identified in the request for railroad purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) classify that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to classify the land for railroad purposes.

(c) A conveyance under (b)(1) of this section vests in the corporation the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials on the lands conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) The corporation's ownership of state land entitles it to

exclusive use and control of the surface, subsurface, complete subjacent and lateral support of the surface, subsurface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law

that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS. Look at this

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Subject to Fiscal Procedures

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by

resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner,

on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed

or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds

or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose

signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation

required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted

in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and

personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect until they expire by their

terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may ~~not~~ communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD

CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99508
SENATE DISTRICT F, SEAT A

Alaska State Legislature

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

M E M O R A N D U M

March 1, 1984

TO: All Members of the Legislature

FROM: Senator Arliss Sturgulewski
Senate District F, Seat A

RE: The Experiences of the Alaska Renewable Resources Corporation
(Or the Rise and Fall of ARC)

Dean F. Olson, Adjunct Associate Professor, School of Business & Public Affairs, University of Alaska-Anchorage, a former trustee of the Alaska Renewable Resources Corporation, has written an excellent analysis of the Alaska Renewable Resources Corporation which was created by the legislature in 1978. After numerous legislative changes, the now-named Alaska Resources Corporation will be dissolved on July 1, 1989 if HB 685 introduced by the Sheffield administration becomes law.

Dean Olson has described what happened to an organization created with interest and enthusiasm to broaden economic opportunities in renewable resources. He makes specific recommendations as to why it is important to create political independence for a public corporate structure and yet retain certain legislative and executive prerogatives. His analysis can be of value while considering various proposed structures currently before the legislature.

Enclosure

Venture Capital for Development:

The Experiences of the

Alaska Renewable Resources Corporation

January 1984
Dean F. Olson
Adjunct Associate Professor
School of Business &
Public Affairs
University of Alaska-Anchorage
(Former Trustee - The Alaska
Renewable Resource Corporation

I. Introduction

This paper describes the experiences of the Alaska Renewable Resources Corporation (ARRC) during the period from 1979 to 1982. The paper begins with a brief description of the founding legislation and the policy making environment which existed at the time the ARRC was established. The paper then traces the operating experiences of the agency over the three years period ending in June 1982. Finally, certain conclusions are drawn from the ARRC experience in the hope that other governments contemplating similar organizations can avoid making the same public policy errors.

The use of federal funds to broaden and strengthen the private sector through equity investment into privately owned businesses has been accepted public policy for nearly thirty years. Since the mid 1950's federal programs have supported privately owned venture investment firms known as Small Business Investment Corporations (SBIC's) and Minority Small Business Investment Corporations (MESBICS). In the 1960's a number of Community Development Organization (CDC's) were established to further assist the business development efforts of selected target groups.

State support of equity investment into private business is a more recent development. Since the early 1970's State support for venture investment into private enterprises has lead to the initiation of development institutions in Massachussetts, Connecticut, Maine and Kentucky. While these organizations differ considerably they share the broad goal of enhancing private business development through the placement of various types of risk capital.

In Alaska, the State Legislature established (in 1978) and funded (in 1979) the Alaska Renewable Resources Corporation. The Alaska Renewable Resources Corporation (ARRC) was to be funded in yearly intervals at 2.5% of the State's oil and gas royalty receipts. ARRC's goal in general terms was to create a broadened economy based more upon renewable resource businesses. The ARRC was to accomplish this goal through venture capital placement into private businesses owned in the majority by Alaskan residents.

Managed initially by a board of three full time trustees appointed by the Governor, the ARRC could make equity investments for up to 49% of an investee's outstanding common stock and could make loans on any terms which accommodated the needs of the new or expanding business. Any single investment was limited to $1.5 million unless 'follow-up' investment was regarded as necessary to preserve the initial placement.

In 1982, after three years of operation, discontent with the ARRC resulted in legislation which made significant changes in the scope of the agency's investment policies; the size of investments it could make, and how the agency was funded and organized. Further legislation is being planned in 1984 to terminate the agency.

II. Founding Legislation and Public Policy Issues

By any objective measure the legislation establishing the ARRC was creative public policy. Prompted by the realization that oil and gas royalty income to the State would begin 'playing out' in the early 1990's, certain legislators and Alaska's Governor (Jay Hammond) promoted the

creation of several institutions. The Alaska Industrial Development Authority (AIDA) was created to 'package' small business loans into larger tax exempt bond issues for public sale. The Alaska Commercial Fish and Agricultural Bank (CFAB) was created as a cooperative lending institution to make loans to farmers, fishermen, fish processors and timber producers. The Alaska Permanent Fund (APF) was created to serve as a savings account into which a proportion of royalty receipts was to be placed as a hedge against the future downturn in revenues. Additional institutions were created to enhance hydroelectric power generation (the Alaska Power Authority) and to support the residential construction market (the Alaska Housing Finance Corporation).

The ARRC was intended to 'balance out' the above rainbow of development institutions by providing a source of equity financing to new and expanding businesses engaged in the production of renewable resources (Fishing and fish processing, Agriculture, Forest products, and Alternative energy). The agency was empowered to own up to 49% of the outstanding common stock of target enterprises. Further, the ARRC could make loans at any interest rate for a term of less than 30 years. The ARRC also had granting powers which it could employ to stimulate inquiry into new technology which might enhance renewable resources. Finally, the ARRC could provide technical assistance funds for business development. Totals loans and investment into a single business was limited to $1.5 million.

The initial legislation provided that the ARRC was to receive 2.5% of State lease bonuses, rentals and royalty income. In practice, the agency

approached the legislature each year for operating and investment capital budgets. Over the three year period ending in June, 1982, the ARRC received below 1% of State receipts.

The ARRC was governed by a full time board of three trustee appointed by the Governor for four year terms. The trustees (and all other ARRC employees) were employees of the State of Alaska. There were no professional qualifications for trustees provided for in the legislation. The three trustees were to have equal authority and responsibility for agency decisions.

The ARRC was designed to work in concert with private businesses to:

> (1) rehabilitate, enhance and develop renewable resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and
>
> (2) further the development of renewable resources that would contribute to a stable self sustaining state economy, employment and life style alternations for citizens (AS 37.12.010).

The legislature agreed, when passing the ARRC legislation, that achievement of the above public policy objectives was being retarded by a cyclical, narrowly based economy. The ARRC was directed to remove barriers to achieving a broadened economy by assisting in research and development and by providing venture capital to renewable resource businesses owned by Alaskan citizens.

The enabling legi lation permitted considerable financing flexibility by the ARRC. No income or minimum yield requirements were placed upon the

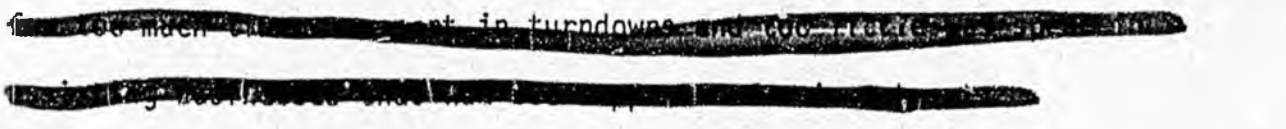
agency. Grants could not exceed 10% of ARRC capital, but this was never a serious constraint. Because operating funds were appropriated each year, the agency did not have to live within budgets bounded by its investment income.

In sum, the ARRC was created as a part of an array, a 'rainbow', of institutions designed to increase economic opportunities for Alaskans. The ARRC's role was to provide high risk capital to start-up and expanding businesses in renewable resource industries. An agency of State government, the ARRC was managed by a tripartite board of trustees of equal authority and was given substantial flexibility in the selection of alternative investment structure to employ in placing its investments.

III. Operating Experiences 1979-82

The ARRC attracted immediate interest from Alaskans with business ideas. Within six months from its beginning the agency had received several hundred proposals. Many proposals were not well developed, while others were complete business plans. Over the three year period the ARRC received an average of 400 proposals per year.

The ARRC loaned or made investments into about 3% of the proposals reviewed. An immense amount of staff energy was devoted to screening proposals and investigating business plans nearing completion. In retrospect



Due to its political origins and the widespread perception that the ARRC was a "State loan program" (a source of soft money) it was difficult to make turndowns stick. Applicants whose proposals had been turned down would often protest to legislators and succeed in getting their proposal reviewed a second time. While their tactic did not result in an investment it did consume and inordinate amount of energy. Turndowns were particularly difficult to enforce when the proposing business was a major factor in the economy of a small Alaskan community. In these instances local and State politicians would join forces in seeking a favorable review.

By early 1980 the ARRC had acquired the reputation for being slow to reach decisions and for being harsh in its evaluation of proposals. Legislators assailed the agency for 'not getting the money on the street' fast enough. Review of business plans did require three to four months. Investigation and 'due diligence' on the plan and the background of management personnel often requires this length of time; a fact little appreciated by most applicants and legislators accustomed to dealing with collateral lenders.

In May 1980, one year from the operational beginnings of the ARRC, the legislature directed the agency to help seafood processors prepare for a salmon harvest of historically large proportions. Prompted by concerns that domestic processing capacity would fall short of the harvest the legislature appropriated $15 million for the ARRC and directed the agency to suspend normal business planning and investment criterion, as well as the $1.5 million investment limit, and move to aid the industry in its

attempts to finance the expansion necessary to process the 1980 salmon harvest.

In addition, in May 1980, the legislature directed ARRC to move to assist timber processors in Southeast Alaska build wood-fired electrical generation plants so as to conform to EPA pollution standards. Again, the emergency legislation suspended the ARRC's normal screening criteria and the $1.5 million investment limit. Some $5.2 million was allocated to this special purpose.

The effect of the emergency legislation for fish and timber processors was to redirect the ARRC's strategic focus away from new business development and toward the 'fast tract' restructuring and refinancing of existing businesses. The table below shows the magnitude of this type of activity in relation to the total portfolio on June 30, 1981 and 1982. Refinancing activity accounted for about three quarters of the portfolio in each year and about one quarter of the number of transactions.

Table I

Alaska Renewable Resources Corporation

Portfolio by Type

of Transaction

June 30

($'000)

	$		#	
	1981	1982	1981	1982
Refinancing	$17,212	$21,448	6	7
Expansions	1,425	1,711	5	6
Start-ups	3,699	4,762	9	11
R & D and Demonstration	1,088	646	7	5
Totals	$23,424	$28,567	27	29

The strategic redirection of the ARRC, from business developer to business savior, is in retrospect the single most important factor in understanding the agency's short and confusing history. The emergency redirection of effort served to cloud the strategic role intended for the ARRC. The ARRC never recovered from the confusion.

Another element of importance in understanding the ARRC's experience is the organizational structure created in the initial legislation. The tripartite board of full time trustees of equal responsibility and authority produced incredible confusion in the internal operation of the

ARRC and in the external environment of the agency. The concept simply could not be made to work. It is hard to imagine any combination of executive personalities which could function effectively in this context.

The dependency of the ARRC upon annual legislative appropriations for operating and investment budgets produced several operational impediments. First, ARRC personnel could never be sure that the agency could participate in second or third round financings of start-up companies. Follow-up financing of this type is common in more than one-half of all new businesses. The initial venture investor is usually a player in these subsequent 'trips to the well' by the venture. The ARRC could provide no assurance to prospective co-investors that it would be in existence to help with any future financings. Second, the ARRC emerged as a political football each year. Legislative supporters of the ARRC and the public policy issues underlying its creation found it increasingly difficult to convince legislators with disappointed constituents. Furthermore, as more legislators became aware that the ARRC could and did take equity positions in private businesses, philosophical concerns about the basic public policy issues became more pronounced. Philosophical support for the agency was never strong and began to erode fairly quickly with a few well publicized turndowns and an equally well publicized bankruptcy in which the ARRC took control of the enterprise.

The ARRC invested in over 30 businesses over the three year period under review. Table II shows that from its beginning in 1979 to June 30, 1982, the agency placed $23.3 million in loans and $7.2 million in equity

investments. The preponderant role played by the two 'assistance funds' is again quite evident.

Table II

Alaska Renewable Resources Corporation

Total Loans & Equity Investments

Fiscal Year Ending

June 30,

($'000)

Loans	1980	1981	1982	1983
Agriculture	$37.6	$273.9	$790.1	$261.9
Fisheries	2,310.2	5,965.0	7,557.3	4,129.2
Fisheries Assistance Fund[1]	5,023.6	10,748.8	11,129.0	8,398.4
Forest Products	201.0	531.7	2,228.5	351.4
Forest Assistance Fund[2]		164.3	1,600.0	3,470.2
Manufacturing[3]				370.0
sub-total	$7,572.4	$17,683.7	$23,304.9	$16,981.1
Equity Investments				
Agriculture		$50.0	$50.0	
Fisheries	$375.1	735.5	871.5	$666.5
Fisheries Assistance Fund[1]	500.0	4,513.6	4,091.1	3,741.3
Forest Products	150.0	350.0	433.1	433.1
Forest Assistance Fund[2]			1,800.0	1,800.0
Manufacturing				
sub-total	$1,025.1	$5,679.1	$7,245.7	$6,640.9
Total	$8,597.5	$23,362.8	$30,550.6	$23,622.0

[1]Special legislation passed in May 1980 directed the agency to provide emergency refinancing to fish processors.

[2]Special legislation passed in May 1980 directed the agency to provide emergencing financing to forest product producers.

[3]Legislation passed in May 1982 permitted the agency to invest in manufacturing and mining.

While the volume of transaction activity grew quickly, the full time staff remained small. The first professional employee was hired in March 1980. By the end of that year four investment officers had been retained. As Table III reveals, operating expenses were relatively low in relation to the volume of funds invested and the volume of proposals reviewed. Operating expenses were about 8% of portfolio volume in 1980 and declined to 3.6% in 1982. Operating costs include expert help retained to review specific proposals as well as all full time staff expenses. Table III also reveals that the technical assistance and granting powers that the agency enjoyed were never a major dimension of the ARRC's activities. Finally, provisions for the 'write down' of loans and investments are depicted. Some 20.9% of the portfolio was reserved for loss in 1982. The actual write down of portfolio assets amounted to 22.7% over the fiscal year ending June 30, 1983.

Table III

Alaska Renewable Resources Corporation

Provisions for Losses,

Operating Expenses, Technical

Assistance and Development Grants

Fiscal Year Ending

June 30,

($'000)

	1980	1981	1982	1983	Totals
Technical Assistance	$295.3	$94.6	$66.6	-	$456.5
Development Grants	51.1	167.4	5.0	-	223.5
Provision for:					
Loan Losses	-	261.1	4,712.9	3,420.1	8,394.1
Equity Losses	-	-	1,671.6	259.9	1,931.5
Operating Expenses	687.5	1,111.0	1,096.7	627.4	3,522.6

Each portfolio company is unique. The investment structure employed by the ARRC in each transaction was tailored to investor requirements. The following descriptive examples of the types of transactions the ARRC completed illustrate the diversity of the investment structures employed by the agency.

Portfolio Company A A major fish processing company operating in several fishing communities through out Alaska had grown rapidly since its inception in the mid 1960's.

The company's commercial bankers were requiring a major refinancing which would improve working capital balances and bring better balance to the company's debt to equity ratio. The company was closely held by Alaskan fishermen. The refinancing could not be accomplished within the resources of the existing owners. Financial performance of the company, the condition of the new issues market, and uncertain industry forecasts combined to render a public offering of equity unattractive. The ARRC and another venture capital investor invested a total of $6.5 million. Certain assets were purchased by the investors and leased back to the company under a lease purchase agreement. The ARRC also acquired a minority equity position in the company through a purchase of common stock and a convertible debenture. A stock repurchase formula was negotiated which would enable the company to purchase the ARRC's stock position over several years. The

company later exercised its option to repurchase the property and has begun to purchase ARRC held stock.

Portfolio Company B A large Pacific Coast firm had gone bankrupt and the trustee was liquidating assets, some of which were in Alaska. A group of Alaskan entrepreneurs and the ARRC acquired a fish processing plant from the bankruptcy court with the intention of converting the plant to process 'bottom fish', an underutilized resource. The plant was purchased with a $3.5 million loan and investment by the ARRC. The structure consisted of a $2 million note secured by plant and equipment; a $1 million subordinated convertible note, and a $.5 million purchase of 47% of the new company's outstanding common stock. The ARRC later provided substantial additional funds to finance conversion and provide working capital. The new company went bankrupt in 1982. The ARRC owns the facility.

Portfolio Company C A group of Alaskan entrepreneurs had acquired the west coast license for a patented enzyme for conversion of fish waste into a high protein concentrate. The new company needed funds to build a prototype processing plant in hopes of confirming the feasibility of the enzyme when employed under actual production conditions. The ARRC provided $535,000 in initial financing through a $335,000 subordinated note with deferred payments of interest and principle and a $200,000 purchase of 30% of outstanding common stock in the new company.

Portfolio Company D A group of 30 Eskimo fishermen in western Alaska desired to enter a commercial herring fishery which had begun the year before along the coast near their villages. The fishermen needed materials and technical assistance in building the herring skiffs, purchase of the outboard motors and other gear, and to organize a producers cooperative. The ARRC provided loan funds direct to each fishermen to build his own boat and buy the gear. The ARRC also paid for technical assistance to get the project underway.

Portfolio Company E A successful commercial crab and halibut fisherman needed financial help to convert his vessel to a 'long liner' for the harvest of bottom fish. As a demonstration project, the ARRC financed the conversion costs and, through the purchase of common stock in a newly formed company, provided start-up working capital. The initial investment consisted of $175,000 in a subordinated deferred payment loan and $175,000 in equity.

Portfolio Company F A successful ship repair facility needed funds to expand docking and plant facilities and to purchase a major item of equipment. The owners could not finance the equity portion of expansion costs and bank lending was not suitable for the young firm in terms of interest rates or repayment schedule. The ARRC provided $350,000 in subordinated deferred payment debt and $150,000 in equity in exchange for 22% of outstanding common stock.

The common elements in each of these examples is the assumption of high risk by the ARRC and other investors. Conventional lending sources

were either not available or inappropriate for the situation. The equity capital requirements were well beyond the capacity of the existing owners. Consequently, the ARRC's investment structure employed a combination of loan and equity capital. Restructuring of the investment a year or two later was required in many cases.

In May 1982, in response to encouragement from the Board of Trustees and testimony from others, legislation was passed which dramatically changed the ARRC. The tripartite board was replace by a part time board of five persons. The maximum investment per transaction was reduced to $500,000. Manufacturing and mining were included among eligible industries.

Importantly, the newly named agency 'the Alaska Resources Corporation' (ARC), was endowed with the portfolio then in existence and about $12 million in uncommited investment capital it held at that point in time. This reduced the political sensitive of the agency but did not remove it from political supervision in that the Governor retained appointive powers.

Since May 1982, the ARC has been essentially inactive as regards new investments. The present governor is reportedly drafting legislation which would terminate the agency in 1984, thus bringing to a close a noble attempt to implement creative public policy.

IV. Conclusions from the ARRC Experience

Certain conclusions can be drawn from the three year period the ARRC existed. While the Alaskan experience need not be a forecast of outcomes

from similar programs to harness venture capital to public policy, the ARRC experience does suggest that any such attempt be attentive to the following factors.

(1) Discussion of proposed legislation establishing a State financed venture capital investment organization should be open and well publicized. Many Alaskan legislators and the public in general had a very poor understanding of venture (equity) investment and little appreciation of the public policy issues raised by government ownership of private companies;

(2) Do not depart from fully tested organizational structures in use by successful businesses. Full-time boards are not an effective organization for this purpose.

(3) Establish the organization with a definitive endowment of paid in capital. Earnings should be retained by the organization.

(4) Require the organization to attain self-supporting operations within a specified period of years; provide for the organization to issue its own securities without the guarantee of the State.

(5) Establish a certain minimum experiential and professional qualification for appointments to the board of directors.

(6) Provide for separation of employees from State employment. Permit salary and compensation structures analagous to those in private industry; and,

(7) Provide clear strategic focus to the organization in the enabling legislation.

These conclusions underscore the importance of providing for the political independence of the organization except for the ultimate power of the legislature to terminate and the power of the executive to appoint. The Alaskan experience suggests that measures which fall short of providing for such independence are too prone to political abuse to become effective agents of economic change.

3/8/84, SHIRLEE ANC LIO, 22466

THE FOLLOWING MESSAGE WAS RECEIVED IN THE U. S. MAIL BY THE ANCHORAGE LEGISLATIVE INFORMATION OFFICE.

TO: ALL MEMBERS
ALASKA LEGISLATURE

FROM: JEFFREY N. JOHNS
1102 WILD ROSE COURT
ANCHORAGE, AK 99502

SUBJ: SB 346 "(INCREASING THE POWERS OF PSYCHIATRISTS)"

IT IS VERY DANGEROUS TO GIVE PSYCHIATRISTS POLICE POWERS. PSYCHIATRISTS HAVE A SUICIDE RATE 7 TIMES HIGHER THAN THE GENERAL POPULATION (FREEMAN, AMERICAN JOURNAL OF PSYCHIATRY). ELECTRIC SHOCK, PSYCHOSURGERY AND DRUGS CAUSE MEMORY LOSS, KILL BRAIN CELLS AND OTHER WISE HARM INDIVIDUALS. THESE FACTS ARE WELL DOCUMENTED. PLEASE OPPOSE THIS LEGISLATION.

/S/ JEFFREY N. [illegible]

****

3/8/84, SHIRLEE ANC LIO, 22466

THE FOLLOWING MESSAGE WAS RECEIVED IN THE U. S. MAIL BY THE ANCHORAGE LEGISLATIVE INFORMATION OFFICE.

TO: [redacted]

FROM: SHERWIN A. START
320 MCCARREY STREET, 'C'
ANCHORAGE, AK 99504
(H) 337-8988

SUBJ: [redacted]

"BEING AN RAILROAD TRANSPORTATION PLANNER, THE LEGISLATURE IS DOING A MONUMENTAL DISSERVICE TO BOTH THE LEGISLATURE AND THE FUTURE GENERATIONS OF RESIDENTS OF THIS STATE BY PURCHASING THE ALASKA RAILROAD AS IT WILL NEVER OPERATE IN THE BLACK!!! THE FEDS HAVE WITHHELD OR ALTERED THE INFORMATION AS TO COST OF TAKEOVER BY SUBSTANTIAL AMOUNTS (UNDERESTIMATED-ESTIMATED). I FURTHER BELIEVE THAT THE VOTERS OF THE STATE SHOULD HAVE A CHANCE TO VOTE WHETHER WE SHOULD BUY IT OR NOT!!!

/S/ SHERWIN A START

****

RR plan receives support

By TOM KIZZIA
Daily News reporter

A new survey of Wasilla and Palmer commuters shows that most would consider taking the train to Anchorage each day — provided there is reasonably frequent service and buses to carry them to work from the Alaska Railroad station downtown.

The survey was taken for a task force of municipal, state and railroad officials now looking into creation of a test commuter train. The task force is expected to make recommendations in the next few weeks based on the new marketing survey.

Planning for a commuter train to the Matanuska-Susitna Valley ground to a halt in 1979 after a consultant's study concluded traffic wouldn't justify the cost of additional rail investment. The 1979 study recommended increased bus service.

But unexpected population growth in the valley and increasing congestion on the Glenn Highway have encouraged officials to take another look at rail.

"We're really asking the question, whither the Glenn Highway corridor?" said Tom Brigham, transit director for the municipality of Anchorage. "The rail costs may be high, but they're not prohibitive compared to what they sink into roads."

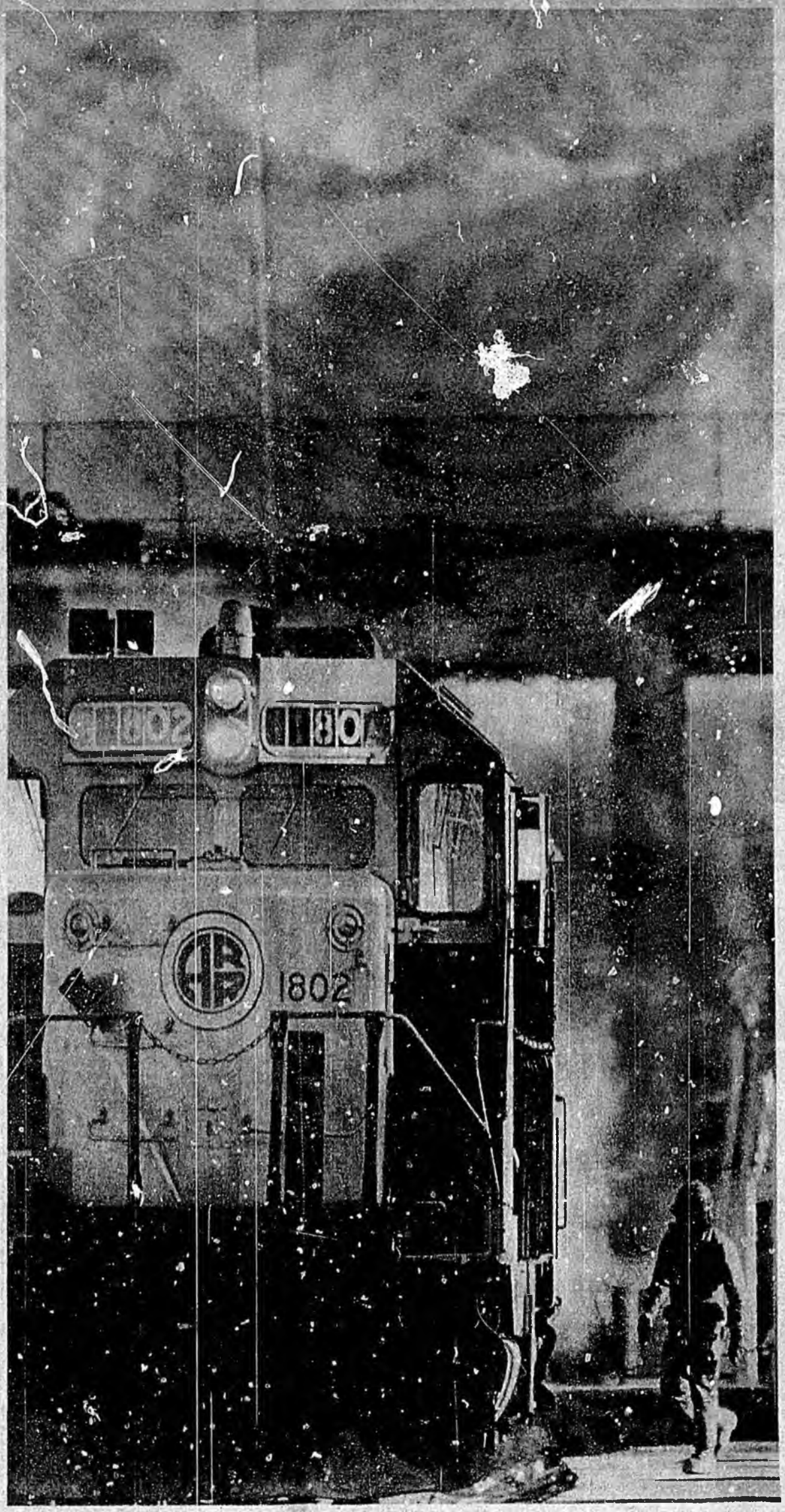
Brigham said rail service to downtown Anchorage could strengthen the downtown area and help reduce automobile congestion citywide.

The commuter rail possibility was revived last summer in a meeting between Mayor Tony Knowles, Alaska Railroad general manager Frank Jones and U.S. Secretary of Transportation Elizabeth Dole, Brigham said.

The study group includes representatives of the Matanuska-Susitna Borough, the state Department of Transportation and Public Facilities, the municipality and the railroad.

A key question before the task force is whether a

See Page B-2, RAILROAD



Anchorage Daily News/Jim Lavrakas

Alaska Railroad may make commuter runs to the Mat-Su Valley in the future.

Railroad plan gains support

Continued from Page B-1

single commuter test train would draw enough ridership to prove that more extensive service could be cost-effective.

"We don't want to try it and fall flat," said Bill Coghill, director of planning for the Alaska Railroad. "If that happens then the whole idea is gone for three or four years."

The new marketing survey, completed in January by Transcom Inc. of Seattle, found that 85 percent of the 200 commuters interviewed said they would consider taking the train in winter.

But they rated downtown distribution and flexibility of schedule as very important — and officials say these may be hard to satisfy, especially in a test.

"There isn't going to be a train coming along every 10 or 15 minutes," said Coghill.

"We support the concept, but the borough is not pushing to do it until it can be done right," said Matanuska-Susitna Borough planning director Robert Stickles.

Rated only slightly less important in the survey were ticket cost and travel time.

Officials said the train trip from a possible park-and-ride station at the Glenn and Parks Highway junction would be about one hour, roughly comparable with driving time. Investments of some $25 million to straighten track between Eagle River and Anchorage could cut 15 minutes off the journey, they said.

Respondents to the survey said they would be willing to pay $5 to $6 for a round trip ticket. Officials said operating costs for the trip would be about twice as much per seat.

Capital costs would push the overal subsidy higher, particularly if commuter service is run in summer, when all existing passenger cars are in use by the railroad.

"The subsidy is going to have to come from the state Department of Transportation," Stickles said.

Detailed cost studies of commuter service have not yet been done, the officials stressed.

The state does not have money in next year's budget to subsidize a test of commuter service, said Roger Maggard, who represents the Department of Transportation and Public Facilities on the committee.

Brigham said the availability of federal funds, which tends to favor highway projects, could affect the long-range decision regarding the Glenn Highway corridor.

TO: REPS DAVIS, BETTISWORTH, KOPONEN, RINGSTAD, M.W. MILLER
SENS BENNETT, FAHRENKAMP, MOSS-
HOUSE TRANSPORTATION -- REPS CATO, ABOOD, FLOOD, HERRMANN,
SYZNANSKI, MCBRIDE, BETTISWORTH,

FROM: ROBERT GROVE
BOX 81550
FAIRBANKS, AK, 99708
479-6691-H & W

RE: HB 512, ESTABLISH AK RAILROAD

MSG: I ENCOURAGE PASSAGE OF THIS BILL, BUT CAUTION THE CORP. FROM MAKING THE SAME ERRORS AS THE AK RAILROAD UNDER FEDERAL CONTROL. IE. REMEMBER THE LOCAL PASSENGER NEEDS (THE FOLKS 'THAT LIVE NORTH OF TALKEETNA & SOUTH OF HURRICANE) WITH NO ROADS. THESE PEOPLE ARE DEPENDENT ON THE RAILROAD AND WERE DISCOURAGED FROM USING THE TRAIN IN THE PAST. IE HIGH FARES FOR SHORT DISTANCES.

----------EOM

MAR 2 0 1984

Anchorage
CHAMBER of COMMERCE

Crossroads of | the Air World

Representative Bette Cato
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Cato,

For several years the Anchorage Chamber of Commerce has been closely following the transfer and operation issue of the Alaska Railroad. The Anchorage Chamber has expressed its support of a strong independent railroad which operates as a business entity.

We feel our objectives, and the citizens of the state, are best achieved through passage of HB 512. The major elements in this legislation which we support are as follows:

1. Specific reference under the legislative purpose of the eventual transfer of the railroad to the private sector.

2. The independent status of the Corporation as an entity of the State.

3. The strength of the Corporation Board of Directors identified by its powers and duties.

4. The establishment of the Executive Officers of the railroad to manage the day-to-day activities of the railroad.

5. We strongly support the Railroad Corporation right to hold and manage its lands including the right of eminent domain, and the right to request additional lands for railroad purposes.

6. We support the inclusion of the strong bonding authority of the Alaska Railroad Corporation.

7. We support the railroad generated revenues staying within the Corporation for future railroad purposes.

8. And finally, we support the Alaska Railroad employees being employees of the Corporation.

We would like to propose one addition to Article 4, Section 42.40.300 General Powers. We recommend that the Corporation be permitted to lease a portion or all of the operation of the railroad to a private entity. We feel this addition should be granted to the Corporation as an option to their management prerogatives and is within the overall intent of the proposed legislation.

We recommend your support of this legislation.

Sincerely,

Al Fleetwood, President
Anchorage Chamber of Commerce

MAR 2 0 1984

Anchorage
CHAMBER of COMMERCE

Crossroads of | *the Air World*

Representative Bette Cato
State Capitol
Pouch V
Juneau, Alaska 99811

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We recommend your support of this legislation.

Sincerely,

Al Fleetwood, President
Anchorage Chamber of Commerce

Greater Fairbanks Chamber of Commerce

First National Center
100 Cushman Street
(907) 452-1105
P.O. Box 74446
Fairbanks, Alaska 99707

February 24, 1984

Representative Bette M. Cato
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

The Alaska Railroad is an important asset to the state and vital to the economy of Fairbanks. For this reason, the Greater Fairbanks Chamber of Commerce and particularly its Transportation Committee has devoted a great deal of attention to the details of the pending acquisition and proposed plans for operation. This has been reflected in our annual Interior Transportation Needs Report published for the past three years and substantial input provided at various public and private meetings.

We have carefully reviewed legislation pending for railroad management and operation. It is apparent that the authors of HB 512 and SB 352 wished to establish a state owned entity to manage the railroad that was as close to a private sector entity as possible given the transfer constraints. We highly support this philosophy and offer the following comments and suggestions to further strengthen this concept.

* We noted that the preamble of HB 512 and SB 352 contains the basic intent and powers of the legislation, but the intent and powers are not repeated in the body of proposed AS 42, Chapter 40. Would it not strengthen this intent by setting it in State Statute also?

* SB 352 and HB 512 offer the most attractive organization to operate the railroad within the state government. We believe it is preferable to have the railroad as an operating entity separate from the Department of Transportation and Public Facilities (DOTPF) or any other state department provided that DOTPF is substantially involved in railroad expansion efforts.

* All legislation is similar in that the governor appoints a board of directors to provide overall railroad direction; however, SB 10 establishes a stronger criteria for membership selection. The composition of the board will determine if the railroad is to be

operated successfully as a prudent state investment. For this reason, we believe it important to consider that the appointed board members will have a vastly different responsibility than most other state boards, commissions and advisory groups.

The board of directors for the railroad will direct a megacorporation which will be dependent upon the expertise of the directors for profit and growth. The talents and expertise of the board members will be utilized for profit and their obligations are similar to those of directors of corporations in the private sector. For these reasons, we believe their selection and remuneration should be similar. While SB 10 provides better criteria for board membership selection, neither bill addresses the question of remuneration adequately. We suggest that perhaps renumeration should be similar to that of a legislator. This could ensure the incentive necessary for full commitment by the board members.

* Neither bill ensures that Interior Alaska (or any other area) is represented on the board. This is of utmost importance to the position of the Chamber of Commerce. We are not prepared to endorse any legislation unless we are assured that Interior Alaska has proper representation on the board of directors.

* It is our interpretation that HB 512 (SB 352), as they are now written, would not allow railroad expansion into other modes of transportation other than contractual arrangements. We concur with this wording as long as the railroad remains in controlling state owneship.

* The most significant difference between SB 10 and HB 512 (SB 352) lies in state overview of railroad operations. This is an extremely sensitive issue. SB 10 provides a close overview by the administration and the legislature; while HB 512 reflects almost no overview. This lack of overview extends to other state assets made available to the railroad. It appears that the authors of SB 512 tried to incorporate mechanisms to insure prompt and economically sensitive attention from other state agencies based upon frustrations experienced in the past when dealing with these agencies. While we are sympathetic to these frustrations, we do not believe it wise to attempt to cure ills of other state agencies through the "Department of Railroads." They should be addressed in a more direct manner. In our opinion departments within the state should not have their primary responsibility compromised by overriding authority from another department.

State land and funds used for railroad operation demand some overview, yet the railroad should not be subject to constant review and approval by the administration and/or legislature. We offer the following suggestions to deal with this sensitive issue:

1. A distinction be made between railroad operation and railroad expansion. Railroad operation would be defined as operating the railroad as received from the federal government, the initial operating budget as set by the legislature and future subsidies as requested by the governor and/or provided by the legislature. The board of directors would have complete authority over railroad operation. Subsequent subsidies would have automatic state overview since they would be at the discretion of the legislature. Land ownership, as received from the federal government, should be transferred to the railroad corporation in fee simple (both surface and subsurface rights). Bonding for the railroad operation (new equipment, upgrading track, etc.) would be limited to railroad revenue bonds and would not obligate any other state asset. Since these bonds would reflect only the railroad's financial strength, the board of directors should have complete authority to obtain such bonding.

2. Expansion or certain railroad services (such as passenger service) may be desirable for reasons other than profit motive, and the state may wish to provide services or extensions to guide and promote the state's development. State land, funding and/or bonding based upon other state assets will be necessary. A board with a profit mandate would be reluctant to embrace these measures if they would adversely affect the profitability of the railroad, and the state government should share in this responsibility and authority. Therefore, it is suggested that action requiring state assets (land, funding or bonding) receive close overview. State land used for railroad purposes should be surface rights only (excluding gravel and possibly coal extraction). Future rights-of-way should be by permit within a state-owned transportation corridor established for all modes and utilities.

The above described concept provides for complete board authority and responsibility for current railroad operation and profitability and limits liability to railroad assets. State overview would be assured when assets other than the railroad's were pledged and when expansion or services were deemed in the state's best overall interest even though adversely affecting the railroad's economy.

* Neither bill adequately addresses private ownership. One method which might be considered is that the railroad corporation create stock and schedule its sale to private investors at market value. Such a schedule must reflect the state's best interest and as a minimum include 51 percent ownership for ten years and perhaps longer to meet the federal criteria for continued operation. A sunset requirement for a percentage of state ownership might be

the best vehicle to use. If the legislature did not extend the minimum percent of state ownership at the end of any time increment, then an increased share of ownership would be made available to private investors.

We appreciate the opportunity to provide our thoughts and wish to continue our involvement in developing this legislation.

Sincerely,

Buki Wright
President

CITY OF SEWARD
POSITION PAPER ON STATE ACQUISITION AND MANAGEMENT
OF THE ALASKA RAILROAD

As the community from which Alaska Railroad had its beginning, Seward has been closely tied to the rail for its lifeblood, for all of it's 80 year history. The acquisition and management of the railroad by the State of Alaska is of vital concern to the citizens of this community.

The present Alaska Railroad operation, despite some physical plant problems, is basically a sound operation. Clearly there is a need for plant improvements and it needs the ability to extend rail to the resource rich areas of our state. Any new proposal for management must seek to maintain those parts of the railroad that are operating effectively, and to cure, when possible, the liabilities of the present system. The City of Seward is concerned that without this analysis, the railroad could become less of a rail service. We should improve its physical plant, allow it to function under professional management. If this becomes the case, the City of Seward would fully support the railroad transfer even if a price has to be paid. We would not, however, support such a transfer if the rail system is not improved, and acquiring the Railroad requires a cash outlay by the State.

MANAGEMENT:

As an integral part of the State's long term economic development policy, the Alaska Railroad must be managed in such a way as to minimize the influences of political cycles resulting from our election process. It must be operated with the fiscal strength necessary to overcome the short term changes in government, inflation rates, commodity prices and operating cost.

It is our desire that any Authority created to manage the Alaska Railroad be as professional, efficient and aggressive as possible. We feel that the Authority should operate as similar as possible to private enterprise and if possible, should have the option of contracting for the operation of the railroad with a private company.

To achieve these goals, the Railroad Authority should not be a Department of the State government, but a separate entity. The Board should represent professionals in the business and service areas allied to railroad operations. The Board should be appointed by the governor, and serve terms of six years. The board members should delegate a significant percentage of the management of the railroad to the railroad's chief executive. The chief executive must be the best person available and possess railroad operating experience, and be compensated accordingly.

The Railroad Authority should have the ability to bond or otherwise obtain funds for upgrading and expansion. The railroad will initially require an investment underwritten by the State.

It is important that the revenues generated by the Alaska Railroad do not become part of the General Fund of the State of Alaska, but be put back into the Railroad's General Fund for operation of the railroad. Equally important is the need for all of the assets, including land to be in the control of the Railroad Authority, not under the Department of Natural Resources. As part of the

transfer agreement, the Federal Government must allow the State clear title to all Alaska Railroad lands. The Alaska Railroad Authority should also possess the right of eminent domain.

DEVELOPMENT OF ALASKA RESOURCES:

Because of Alaska's size of land area, small population centers, and frontier transportation infrastructure, Alaskans are particularly dependent upon the Alaska Railroad for the growth and development of interior resources.

The City of Seward feels the railroad should be expanded and utilized as the primary tool in developing the resources within the State of Alaska. Careful expansion of the railroad will improve the overall business climate in Alaska. We feel it is a legitimate use of State funds for for the State to use its railroad to assist in opening up the undeveloped areas of the state.

PORTS:

Most Alaskan ports are operated by local governments. Recognizing that, it is probable that with transfer of the railroad and its associated ports, the State will find itself competing with local ports. Every effort should be made, if possible to transfer railroad port operations to willing local governments.

IN SUMMARY, we stress that:

The Alaska Railroad be used to promote development and that the transfer and enabling legislation promote that philosophy.

In conjunction with railroad expansion, the impact of a long lead time necessary for railroad extension be recognized and shortened where possible.

Any State acquisition of the railroad be predicated upon the State's commitment to provide funding to upgrade the capital and rolling stock facilities of the existing system.

If the State acquires the Alaska Railroad, it should explore the option of contracting the railroad's operation to a qualified private contractor rather than running it as a State enterprise.

If a State Constitution change is necessary to accomplish the creation of an independent authority, we would support legislation to place the issue on the ballot.

FEB 27 1984

City of Soldotna
BOX 409 PHONE 262-9107
SOLDOTNA, ALASKA 99669



CITY OF OPPORTUNITY

February 21, 1984

The Honorable Bette M. Cato
Chairman
House Transportation Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

As a follow-up to the public hearing held by the Transportation Committee on Saturday, February 18, 1984 at the Borough Building, Soldotna, Alaska, please enter the following comments concerning House Bill No. 512, "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date".

I, personally, am in favor of the transfer of the Alaska Railroad from the Federal Government to the State of Alaska for 23 million dollars. The plan to establish the Alaska Railroad Corporation to manage and operate the railroad is a good one, and similar plans have been used successfully many times.

The assets of the railroad in the Anchorage area alone far outweigh the purchase price.

Were the State of Alaska to consider continued economic activity and growth in minerals and agriculture, respectively, the acquisition of the railroad becomes a critical and essential first move. The mining and exportation of coal, and the production and transportation of barley may determine the economic health of at least three large regions of Alaska. One has to visualize the movement of gravel from areas of abundance to urban sections to appreciate the ability of a railroad to move freight cheaply and safely.

The acquisition of the railroad presents problems as well as benefits. The problems are not beyond resolution.

Mr. Tatsuya Ishikara, Managing Director, Market Survey, Japan Railway Technical Service Association, Tokyo, gave a fine report on the benefits of a railroad system at the International Conference on Alaska's Resources that was sponsored by the Resource Development Council for Alaska, Inc. and the State of Alaska. The conference was held February 15 -16, 1984.

This is not a burning issue on the west side of the Kenai Peninsula, but one feels that with not too much effort, a great amount of support for the railroad purchase could be located.

Sincerely,

Justin G. Maile

Justin G. Maile
Mayor

Cook✓

A M E N D M E N T

Offered in the HOUSE By Miller

TO: HB 512

Page 16, after line 10, insert a new section to read:

"Sec. 42.40.460. MUNICIPAL RIGHT-OF-WAYS. Upon request of a municipality the corporation shall grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board may require the municipality to agree to hold the corporation harmless for any use made of the right-of-way and to execute the agreement in a form approved by the board."

AK. RAILROAD

FISCAL NOTE

CSHB 512

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER
Alaska Railroad Transfer Team

March 23, 1984

The Honorable Bette Cato
Chairman, House Transportation Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Enclosed per your request is a fiscal note on the committee substitute for HB 512, an Act establishing the Alaska Railroad Corporation. Also enclosed is a detailed analysis with supporting documentation to explain its contents.

The estimates in this fiscal note are based on the results of the Alaska Railroad Transfer Team's Alaska Railroad Acquisition Assessment, released in December 1983. Although our "worst case" scenario has been used for these calculations, current indicators regarding uncertainty over potential traffic increases suggest this analysis for FY 85 is a more realistic forecast for determining actual fiscal impact.

Based on a request from the Senate Transportation Committee, the Transfer Team is re-assessing these estimates to develop a "best case" alternative for legislative consideration. This analysis will factor in the full impact of increased revenues from the export coal movement, SeaWay Express' entry into Seward, and additional special trains to meet the summer cruise ships at Whittier. This information will be provided to your committee as soon as it becomes available.

All estimates are presented in constant 1985 dollars and have been inflated from our original 1983 constant dollar estimates using an annual 6% inflation factor. The "general fund" line under the "funding component" is the projected annual shortfall to the State resulting from acquisition of the railroad. In FY 85, an overall appropriation of $15.8 million will be needed to cover the expected shortfall.

The figures in this note are basically the same as those presented to the Senate Transportation Committee for the CS for SB 352. Another $50,000 per year has been added to this note in response to the higher compensation levels for board members in Sec. 42.40.050, and the additional notice requirements in Sec. 42.40.090.

25A-T1LH

The FY 85 estimate is based on an assumption that actual transfer will occur somewhere between November and January of that fiscal year. Accordingly, most of the figures (e.g., revenues) are merely prorated for a seven month fiscal year ending in July 1985.

In addition, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which causes the sizeable shortfall during FY 85. Included in this area are such items as $4.9 million for replacement of the railroad's working capital fund, $4.5 million for initiation of compliance with OSHA requirements and state and local building codes, and $2 million for specific transition expenses to be incurred by the new corporation in taking over the railroad.

Another $1.75 million of the 300 level contractual category is for the Alaska Railroad Transfer Team to perform its duties during FY 85. These funds are to support several one-time transition activities, most of which are already underway in this fiscal year. All other FY 85 fiscal impact to state agencies as result of enacting this legislation has also been included in this submittal.

I trust this information helps to explain the highlights of the enclosed fiscal note. If you would like any additional assistance, please do not hesitate to contact me at 465-3900.

Sincerely,

Mark S. Hickey
State Railroad Coordinator

Enclosure

cc: Ray Gillespie, Legislative Liaison,
Office of the Governor
Ben Harding, Special Staff Assistant,
Office of the Governor
R. J. Knapp, Commissioner,
Department of Transportation &
Public Facilities
House Transportation Committee Members

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No. CSHB 512(Trsp)
Title: Alaska Railroad Corporation Act of 1984
Sponsor: Hayes, et. al.
Requestor: Representative Cato
Date of Request: 3/22/84

FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Alaska Railroad

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		24,350				
200 TRAVEL		300				
300 CONTRACTUAL		4,800				
400 SUPPLIES		5,200				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING	-0-	37,350	57,800	58,050	57,350	57,950
CAPITAL	-0-	15,800	20,450	20,450	20,450	20,450
REVENUE	-0-	37,350	67,200	70,200	73,300	76,350

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,800	11,050	8,300	4,500	2,050
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	37,350	67,200	70,200	73,300	76,350
TOTAL	-0-	53,150	78,250	78,500	77,800	78,400

POSITIONS:

FULL-TIME	-0-	478	478			
PART-TIME	-0-	38	38			
TEMPORARY	-0-	64/300	64/300			

SOURCE OF FUNDS TO OFFSET FI. ... IMPACT OF BILL:

General Fund (Although the legislation does not speak to this point, every indication suggests use of a general fund appropriation to offset fiscal impact.)

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coord. MSH Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 3/22/84

Approved by Commissioner: R. J. Knapp Date: 3/22/84
Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Bill/Resolution No.: HB 512
Title: Alaska Railroad Corporation Act of 1984

BILL ANALYSIS

Overview:

This fiscal note is based upon the results of the Alaska Railroad Team's Alaska Railroad Acquisition Assessment, released in December 1983. That document provides a comprehensive analysis of the major issues concerning acquisition of the Alaska Railroad (ARR). It includes a thorough assessment of the financial exposure to the State from ensuring continued rail operations in accordance with the requirements of the Alaska Railroad Transfer Act of 1982 (ARTA).

The estimates presented in this fiscal note are derived from the "worst case" scenario of future railroad activity. Current indicators such as the continued uncertainty over the export coal contracts suggest use of this analysis as the most realistic forecast for determining actual fiscal impact. Please note that the acquisition cost of $22.3 million for railroad purchase has been addressed in a separate fiscal note attached to the acquisition legislation.

While the data and forecasts used in both the Acquisition Assessment and this fiscal note reflect the input and work of the railroad and the United States Railway Association (USRA), the final estimates are based on independent analysis and downward adjustment by the Transfer Team. Our work includes such factors as removal of uncertain revenue increases, increased costs for compliance with state and local building codes, and additional adjustments for necessary capital rehabilitation.

This bill analysis is limited to providing explanations of the fiscal impact resulting from the proposed legislation. It should be noted that there exist policy conflicts between provisions of this legislation and the Sheffield Administration's Policy Statement of January 26, 1984.

Assumptions:

The FY 85 figures are based upon an assumption that actual railroad transfer will occur somewhere between November and January of that fiscal year. As a result, most of the estimates are merely prorated for a partial fiscal year ending in July 1985. However, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which cause the sizeable shortfall during what is only a partial fiscal year.

Although a breakout of specific operating expenditures has been provided for FY 85 in order to provide the railroad operating entity a functioning program during its first year of operations, an actual budget structure has not been included to avoid prejudicing the new operating entity's prerogatives to formulate its own budget structure and subsequent submissions. Please note that the FY 85 submittal also contains the request for all funds needed by the Transfer Team and other state agencies to perform the duties resulting from passage of this legislation and acquisition of the railroad.

Although the current legislation places the Alaska Railroad within the Department of Commerce and Economic Development for purposes of the constitution, other sections of this bill anticipate removing it if a proposed constitutional amendment passes next November. Accordingly, this note does not address a specific "agency affected" to avoid a future conflict in this area.

Since the constitutional amendment cannot become effective until November if it passes, this note is predicated on an assumption that all funds for the corporation will be passed through by the respective line agency under which the corporation is located. Funds for all other state agencies will be passed on to the Transfer Team for further processing as appropriate.

Administrative costs incurred by the line agency under which the corporation is located should be minimal and will be covered as part of the corporation's overhead. Please note that all fiscal impact to state agencies resulting from this legislation have been coordinated by the Transfer Team and are reflected in this note.

All estimates are presented in constant 1985 dollars. An annual inflation factor of 6% has been used to convert the original 1983 constant dollar estimates in the Acquisition Assessment.

Operating Expenditures:

This estimate includes both general operating expenses and new expenditures resulting from the railroad transfer (i.e., additional costs due to potential loss of railroad gravel reserves under third-party claims). Included in the former category are costs for maintenance-of-way, maintenance of power and equipment, transportation services, communications, administration and overhead, marketing and real estate management. The latter category includes increased legal and overhead expenses, additional insurance and risk management contributions, fiscal impact to the Transfer Team and other state agencies because of railroad acquisition, and one-time, start-up costs for items such as the printing of new letterhead and the marking of personal property.

Although revenue is projected to increase during FY 87-89, costs during that period are not significantly larger than the first two years of operations due to the sizeable, one-time transfer related expenses immediately following transfer. These estimates are based on historical data provided by current railroad personnel and reflect anticipated operating expenditures needed to comply with the terms of ARTA.

Attachment A provides more details on the FY 85 submittal by object of expenditure. Some $4 million of this estimate is to cover immediate expenditures resulting from actual transfer of the railroad. This includes the following:

(1) $1.750 million for the Alaska Railroad Transfer Team to perform its duties as outlined in Attachment B;

(2) $2 million for specific one-time, start-up costs to be incurred by the new entity for items such as the marking and inventorying of personal property, the printing of new stationery and payment warrants, additional legal costs, and certain corporation expenditures for the new Board of Directors;

(3) $200,000 in funds to conduct a final pre-transfer audit to establish the accuracy of balance sheets and the identification of accounting problem areas; and

(4) $80,000 in additional fiscal impact to the Department of Administration to ensure preservation of railroad archival records and additional labor relations work not budgeted for in the Transfer Team's FY 85 budget memo.

Another component of the FY 85 submittal includes $270,000 in funds in direct response to the following requirements of the legislation:

(1) $200,000 to initiate the Special Report required in Section 9 on the feasibility of attracting private sector involvement in the railroad's operations;

(2) $35,000 to the Department of Natural Resources to respond to any state land request by the corporation under Section 42.40.360; and

(3) $35,000 to fund costs for the new railroad employees labor relations agency as provided in Section 42.40.780.

The remaining estimates in this area reflect the normal operating expenses by category for the part of FY 85 involving state operation of the railroad. These specific estimates have been prepared with the close cooperation of railroad administration and budgeting personnel. All expenditures for per diem and compensation of the Board of Directors have been included in the general estimates for the 100 and 200 categories.

Capital Expenditures:

The capital component of this fiscal note represents a combination of increaed capital costs resulting from transfer and prorated expenditures for ongoing railroad operations. The analysis contained in Chapters 4 and 5 of the Acquisition Assessment serve as the basis for both of these estimates.

In addition, the results from the State's independent engineering condition assessment have been used to project an increased level of expenditure minimally acceptable to begin reversing deterioration of the railroad's physical plant, including the initiation of a systematic plan for replacing aged rolling stock. It is important to understand that engineering condition alone cannot be the basis for a projected level of sustained capital expenditure, but must be tempered by national trade-offs between long-term plant condition and available revenues.

The capital estimate of $15.8 million includes a one-time expenditure of $4.9 million to replace the railroad's working capital fund. ARTA establishes a process where little, if any, money will be transferred from the ARR's Revolving Fund because of pre-transfer federal claims and contingent liabilities that must be paid by the fund. As a result, an amount equal to about one month's worth of operating expenses (which is similar

to working capital requirements for other railroads) is needed to fund and maintain adequate working capital for the railroad after transfer.

Another capital expenditure resulting from railroad transfer is the initiation of compliance with Occupational Safety and Health Act (OSHA) requirements and state and local building codes. Approximately $4.5 million per year has been set aside during the forecasted period to move toward compliance in these areas. Chapter 5.3 of the Acquisition Assessment provides more details regarding this requirement.

The remaining $6.4 million of this estimate covers general railroad capital needs, prorated for the period of state ownership during FY 85. An additional $7.85 million is projected for expenditure by the railroad for this program. Attachment C provides additional information regarding the capital improvement program to be performed during FY 85.

It should also be noted that based on a recent audit review of the ARR's financial statements, about $4 million per year of capital expenditures could just as easily be categorized as operating costs (primarily maintenance-of-way expenditures) if generally accepted accounting principles are applied to the railroad. However, no adjustments have been made with our estimates to avoid creating greater confusion by conflicting with existing railroad procedures prior to a general system overhaul by the corporation upon transfer.

Revenue:

This estimate on a prorated basis represents projected FY 85 revenues from its freight, passenger and real property rental activities. The FY 85 revenue figure is based on a projected commodity mix fairly similar to the last two years of railroad operations. Attachment D contains some additional information from the ARR's 1983 Draft Annual Report regarding FY 82 and FY 83 operations.

These projections are based on information from the railroad and USRA, which were then adjusted downward by the Transfer Team to remove 50% of the net cash from anticipated revenue increases in export coal, interline and pipe traffic. If either of these movements were in fact to materialize in a significant way, it could sizeably reduce the need for general fund assistance during FY 87-89. Likewise, any major downswing from our projections would probably result in the need for even larger general fund assistance during those years.

Funding Source:

The "Other Funds" appearing on the fiscal note are railroad revenues.

Positions:

ARTA basically mandates a two-year period of full protection of current salaries and benefits for all employees who choose to transfer. What happens following that period becomes a matter for contractual negotiation between management and employees.

The figures presented in this part of the fiscal note are the actual number of employees in each category as of March 1, 1984. No estimate can be made of the actual number of those choosing to transfer, although it is anticipated that most employees will do so. In the case of temporary employees, the first number on this line is the actual number today, while the second estimate reflects the average number of temporary hires used in the summer for major maintenance work.

Summary:

The estimates provided in the attached fiscal note are primarily based on the Transfer Team's assessment of the likely fiscal impacts from state acquisition of the Alaska Railroad. It is important to reiterate that the acquisition cost of $22.3 million has been addressed in a separate fiscal note attached to the acquisition legislation.

It is our view that the corporation's overall organization as currently envisioned in the proposed legislation will not have any appreciable impact immediately on the railroad's general financial condition. Beyond the increased cost for modifying the existing administrative and management systems during the first two or three years following state takeover, it is difficult to predict whether the proposed organizational arrangements in this legislation will generate cost efficiencies not enjoyed during federal ownership.

The philosophy in the current legislation is, to the extent possible, to foster a self-sustaining business orientation for railroad operations. This is consistent with the Transfer Team's analysis of the types of steps necessary to achieve a break-even position at some point during the first decade of state operations.

There is no specific mandate in this legislation for new extensions or any more services than those currently in existence. This should allow the railroad adequate time to reorganize and streamline its existing operations. In addition, although several specified planning responsibilities have been added to the railroad's duties, the long-term savings from performing these kinds of systematic assessments should more than compensate for any short-term costs resulting from performance of these efforts.

Attachment E is a ten year summary (FY 73-82) of the railroad financial operations during federal ownership. It should be noted that an additional $66.2 million dollars in congressional appropriations was provided during this period to cover passenger expenses and certain capital needs.

ATTACHMENT A

Operating Budget - FY85

In Thousands (000) of Dollars

This operating budget is prorated for FY 85 except for the impacts to state agencies depicted in the 300 level. All amounts shown are in 1985 dollars. These estimates represent the total prorated FY 85 operating budget for the railroad following state acquisition Projected revenues from the railroad's operations will serve as the main source of funds for these expenditures, with limited assistance from general fund appropriations.

Category	Amount	Explanation
100 Personal Services	$24,350.0	This funding level is based upon current work force of 478 permanent full-time, 38 part-time and 64 temporary positions. Of this amount salary comprises $19,980 and benefits comprise $4,370. Also included in this estimate are the Board of Directors' compensation expenses.
200 Travel	300.0	This funding level is the estimate of travel funding needs, including the Board of Directors' travel expenses.
300 Contractual	4,800.0	This funding level includes coverage of the following areas: continuation of Transfer Team activities for FY 85 - $1,750.0 (see Attachment B); Transfer Financial Audit - $200.0; $200.0 for initiation of the Special Report required in Section 9 of the bill; Department of Administration - $80.0 for archives preservation and labor relations coordination; costs for the labor relations agency under Article 8 of the bill - $35.0; Department of Natural Resources - $35.0 for land designation activities under Article 5 of the bill. The remainder of these funds are for the railroad's general contractual needs resulting from capital improvement, operations and financial planning activities.

400 Supplies	5,200.0	This funding level is required for the day-to-day operations of the railroad, supporting all facets of operations from administration to maintenance of way.
500 Equipment	1,200.0	This item is the complement of the supply item also supporting day-to-day railroad operations.
700 Grants & Claims	1,500.0	This item provides for funds for the railroad's risk management expenses, payment of damage claims, workmen's compensation expenses and other money claims against the railroad. No grants are anticipated.
TOTAL:	37,350.0	

Attachment B
3/14/84

ALASKA RAILROAD TRANSFER PROJECT

FY 85 PROJECT BUDGET

The goal of the Alaska Railroad Transfer Team is to provide an orderly and informed decision-making process for possible transfer of the Alaska Railroad from federal ownership, thus ensuring continuation of essential rail services in Alaska. If a decision is reached to pursue state take-over of the railroad, then it is also the goal of the Alaska Railroad Transfer Team to organize and oversee a systematic transition from federal ownership.

This document discusses the major work components of the FY 85 budget submittal. The need to pursue some of these efforts is entirely contingent on a decision to acquire, while other work efforts are separate from that decision. Attachment A provides the FY 85 budget submittal as introduced by the Governor. Attachment B is the project budget for FY 84 and provides considerable detail regarding several work tasks, many of which are ongoing in 1985.

The following breakdown is structured or a component or agency basis, versus reiterating specific details regarding ongoing work tasks. As a result, some of this explanation should be read in conjunction with Attachment B in order to fully understand all of the scheduled work efforts.

Work Component #1 - Alaska Railroad Transfer Team Staff

As indicated in Attachment A, funding is needed to support four positions in the Office of the Commissioner, Department of Transportation and Public Facilities. These positions are as follows: a State Railroad Coordinator (Special Assistant II); a Planner IV; a Planner III; and a Correspondence Secretary III. These four individuals comprise the Transfer Team Staff with direct responsibility for performance and coordination of all team activities. This group reports directly to the Commissioner of DOT&PF in the performance of their duties. The following breakdown represents expenditures directly related to this area by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DOT&PF	$195,100
Travel	4 Positions - DOT&PF	66,000
Contractual	Printing/limited Professsional Services	35,000
Supplies	Miscellaneous	8,000
	Total	$304,100

Work Component #2 - Department of Natural Resources Assistance

An existing Reimbursable Services Agreement with the Department of Natural Resources will be continued during FY 85. Work efforts covered by this assistance include ongoing support activity by the Division of Technical Services for conveyance documents and related title review work. Additional support by DNR will be provided for coordination with the Bureau of Land Management's cadastral survey work and assistance from the Division of Land and Water Management to implement the railroad transfer. The following breakdown by object of expenditure presents the needed funding for these services.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DNR	$191,900
Travel	4 Positions - DNR	20,000
Contractual	Miscellaneous Professional Services	30,000
Supplies	Miscellaneous	8,100
	Total	$250,000

Work Component #3 - Department of Labor Assistance

Specific assistance is still needed by the Department of Labor to perform an extensive survey of the railroad's physical facilities in relation to federal and state occupational safety and health laws, regulations and standards. Although this was scheduled for performance during FY 84, insufficient funding required postponement of this work effort until FY 85. Scheduled funds during FY 84 for this effort were diverted to cover additional labor relations work by the Department of Administration and the use of an Engineer-in-Training position to assist with the engineering condition assessment. The following breakdown provides an estimate for this activity by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	2 Full-time - DOL 2 part-time	$142,700
Travel	2 Full-time - DOL	7,300
Training	2 Full-time	5,200
Contractual	Miscellaneous Professional Services	39,800
Supplies	Miscellaneous	6,500
Equipment	Health Sampling Equipment/ Memory Typewriter	12,000
	Total	$213,500

Work Component #4 - Department of Administration Assistance

Activity in the area will consist of continuing work efforts initiated during FY 84 explained under task #6 of Attachment B. Particular attention must be paid to the analysis of the five collective bargaining agreements, which will support the full scale initiation of the two-year renegotiation process in conjunction with the new entity established to operate the railroad. Another important work effort will be to conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met by the new organization established to operate the railroad. Other efforts include assistance with insurance and risk management needs. The following breakdown by object of expenditure presents the necessary funding for this area.

Object of Expenditure	Description	Amount
Personal Services	1 Full-time Position	$105,000
	2 Part-time Positions	45,000
Travel	1 Full-time, 2 Part-time	[illegible]
Contractual	Liaison Assistance/ Miscellaneous Professional Services	105,000
Supplies	Miscellaneous	2,400
	Total	$257,400

Work Component #5 - Department of Law Assistance

Assistance from the Department of Law is needed for several tasks to be performed by existing AG staff and retained special counsel. Included are the following work efforts: (1) legal work pertaining to the 3(e) (ANCSA) claims against railroad property by native village corporations, including ongoing negotiation and staff work to support the State's position during the adjudication process; (2) legal assistance for the preparation of transfer documents and attention to related land conveyance problems; (3) resulting from the response to various court actions by third parties because the railroad transfer; (4) ongoing legal assistance with issues involving regulation by the Interstate Commerce Commission (ICC); and (5) support of efforts relating to personnel/ labor relation matters. The following breakdown by object of expenditure presents the needed funding for this area.

Object of Expenditure	Description	Amount
Personal Services	Staff Attorneys	$180,000
Travel	Staff Attorneys	20,000
Contractual	Wickwire Lewis	150,000
	David Walsh	75,000
	David Rogers	75,000
	Total	$500,000

Work Component #6 - ICC Rate Valuation/Capital Plan Activity

Work efforts under this component will consist of the following: (1) initiation of planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification; and (2) performance of ongoing capital planning analysis. This second task will be a continuation of efforts performed under task #5 in Attachment B. It will be coordinated with the initiation of the ICC valuation studies to maximize generation of a data base useful to both efforts. Funding in this area is needed for contractual assistance, which will be directly managed by the Transfer Team Staff.

Object of Expenditure	Description	Amount
Contractual	Consulting Assistance	$225,000
	Total	$225,000

ALASKA RAILROAD TRANSFER PROJECT BUDGET

PROJECT BUDGET

The following depicts the project budget by work component and amount:

		Amount
(1)	Alaska Railroad Transfer Team Staff	$ 304,100
(2)	Department of Natural Resources Assistance	250,000
(3)	Department of Labor Assistance	213,500
(4)	Department of Administration Assistance	257,400
(5)	Department of Law Assistance	500,000
(6)	ICC Rate Valuation/Capital Plan Activity	225,000
	Project Total	$1,750,000

ATTACHMENT C

Capital Improvement Program - FY85

In Thousands (000) of Dollars

This CIP is prorated for FY 85. All amounts shown in 1985 dollars. These estimates represent costs to the State and are only part of the ARR's total capital budget. Revenues from the ARR for capital improvements will be added to State funding.

Item	Amount	
Working Capital Fund	$ 4,900	As with all businesses, the ARR will need working capital. It is estimated that one month's worth of operating expenses will be adequate working capital for the ARR.
OSHA/Code Compliance	$ 4,500	As a federal agency, the ARR has not been subject to many health, safety, and building code standards that would otherwise apply. These codes will apply upon transfer, and initial surveys conducted by the State have been used to determine necessary compliance levels. See Appendix C of the Alaska Railroad Acquisition Assessment for more details.
Other Capital Improvements	$ 6,400	These expenses represent the minimal expenditure necessary for the ARR to maintain current levels of service, while initiating efforts to reverse deterioration of physical plant condition. Component priorities have been selected using the findings of the State's independent condition assessment. As indicated in the attached supplement, most capital improvements are for track and roadbed, upgrade of certain cargo handling facilities, and motive power and equipment purchases.
TOTAL	$15,800	

Supplement to Item #3, Attachment C

Track & Roadbed - $6,185,000

Ties - Install 50,000 @ $42.00 ea.	= $2,100,000
Rail - Install 6 miles @ $350,000 ea.	= $2,100,000
Ballast - Install 85,000 yd^3 @ $14 yd^3	= $1,190,000
Other - (Turnouts, sledding, culverts, ditching)	= $ 795,000

Bridges - $883,000
- Replace stringers, bents, and spans
- Reset bearings, piles, and abuttments

Tunnels - $1,060,200
- Line with multi-plate
- Excavate rock fall areas

Docks - $706,800
- Preliminary work to rebuild barge slip #1 at Whittier

Communications - $570,000
- Complete microwave system
- Remove pole lines
- Acquire equipment

Motive Power & Equipment - $4,845,000

Locomotives	= $2,250,000
Upgrade Facilities	= $1,845,000
Equipment	= $ 750,000

Note: This totals $14.25 million and is the ARR's overall FY 85 capital budget, of which $6.4 million is covered under this fiscal note.

FINANCIAL

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The following four financial statements (Tables VIII through XI) describe the financial situation (Note 1) of The Alaska Railroad.

TABLE VIII: STATEMENT OF INCOME
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
REVENUES (Note 2):		
Operating Revenues:		
Freight	$43,787	$47,877
Passenger	3,305	2,627
Other (Note 15)	5,305	4,941
Total Operating Revenues	52,397	55,445
Non-Operating Revenues (Note 16)	3,697	3,352
Total Revenues	$56,094	$58,797
EXPENSES (Note 3):		
Operating Expenses:		
Maintenance of Way & Structures (Note 4)	$9,859(1)	$8,554
Maintenance of Equipment	12,326	11,702
Transportation	19,551	18,685
Traffic Management	865	757
Incidental	4,525	4,152
General and Administration (Note 5)	5,863	5,128
Total Operating Expenses	52,993	48,978
Non-Operating Expense (Note 17)	277	258
Total Expenses	$53,270	$49,236
NET PROFIT (Surplus)	$2,824	$9,561
Add Depreciation included in Expenses	4,404	3,712
CASH FLOW (Gain)	$7,228	$13,273

Notes follow Table XI

(1) Includes $1.7 million which was part of Congressional Appropriation major maintenance and not included in FY 1982 expense.

Expense/Revenue Ratio	94.97%	83.74%

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TABLE IX: BALANCE SHEET
SEPTEMBER 1982-83
(Thousand dollars)

CATEGORY	1983	1982
ASSETS:		
Current Assets:		
Cash (Note 8)	$9,646	$14,966
Trust and Deposit Funds (Note 9)	32	7
Accounts Receivable	14,195	13,105
Materials and Supplies (Note 10)	10,143	7,040
Prepaid Expenses	20	0
	34,036	35,118
Properties:		
Land (Note 11)	265	265
Buildings	12,943	12,921
Roadway Structures & Facilities	127,215	125,000
Equipment	57,895	49,864
Non-Operating Property	1,947	1,877
Total Properties	200,265	189,927
Less Accumulated Depreciation:	60,516	57,678
Properties - Net	139,749	132,249
Additions & Betterments in Progress (Note 12)	11,599	12,059
	151,348	144,308
Other Assets and Deferred Charges	2,524	3,029
Total Assets	$187,910	$182,455
LIABILITIES & PROPRIETARY INTEREST OF THE U.S. GOVERNMENT:		
Current Liabilities:		
Accounts Payable	$4,721	$3,416
Accrued Payrolls Payable	1,320	1,056
Trust and Deposit Funds (Note 9)	32	7
	6,073	4,479
Other Liabilities and Unadjusted Credits	2,209	3,152
Total Liabilities	$8,282	$7,631
Proprietary Interest (Note 13):		
Net Investment	200,621	192,995
Retained Earnings from July 1, 1954	(18,171)	(23,578)
Current Year Operating Results	2,824	9,561
Extraordinary Items (Note 6)	(5,646)	(4,154)
Total Proprietary Interest (Note 13)	179,628	174,824
Total Liabilities & Proprietary Interest	$187,910	$182,455

Notes follow Table XI

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TABLE X: STATEMENT OF CHANGES IN FINANCIAL POSITION
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
Funds were provided by:		
Revenues and Other Receipts	$56,438	$58,699
Appropriations from Congress (No' 14)	7,600	6,160
Total Funds Provided	64,038	64,859
Funds were used for:		
Labor	35,579	33,221
Other	14,044	17,839
Capital Improvements & Replacements	16,348	11,821
Total Funds Used	65,971	62,881
Increase (Decrease) in Government Equity	(1,933)	1,978
Other Increases (Decreases):		
Undelivered Orders	(2,924)	3,983
Supplies and Materials	3,103	1,119
Properties	7,040	3,964
Other	(482)	513
Total, Other	6,737	9,579
Total Increase (Decrease) in Government Equity	$4,804	$11,557
Proprietary Interest:		
Beginning Balance	$174,824	$163,267
Increase (Decrease)	4,804	11,557
Ending Balance (Not. 13)	$179,628	$174,824

Notes follow Table XI

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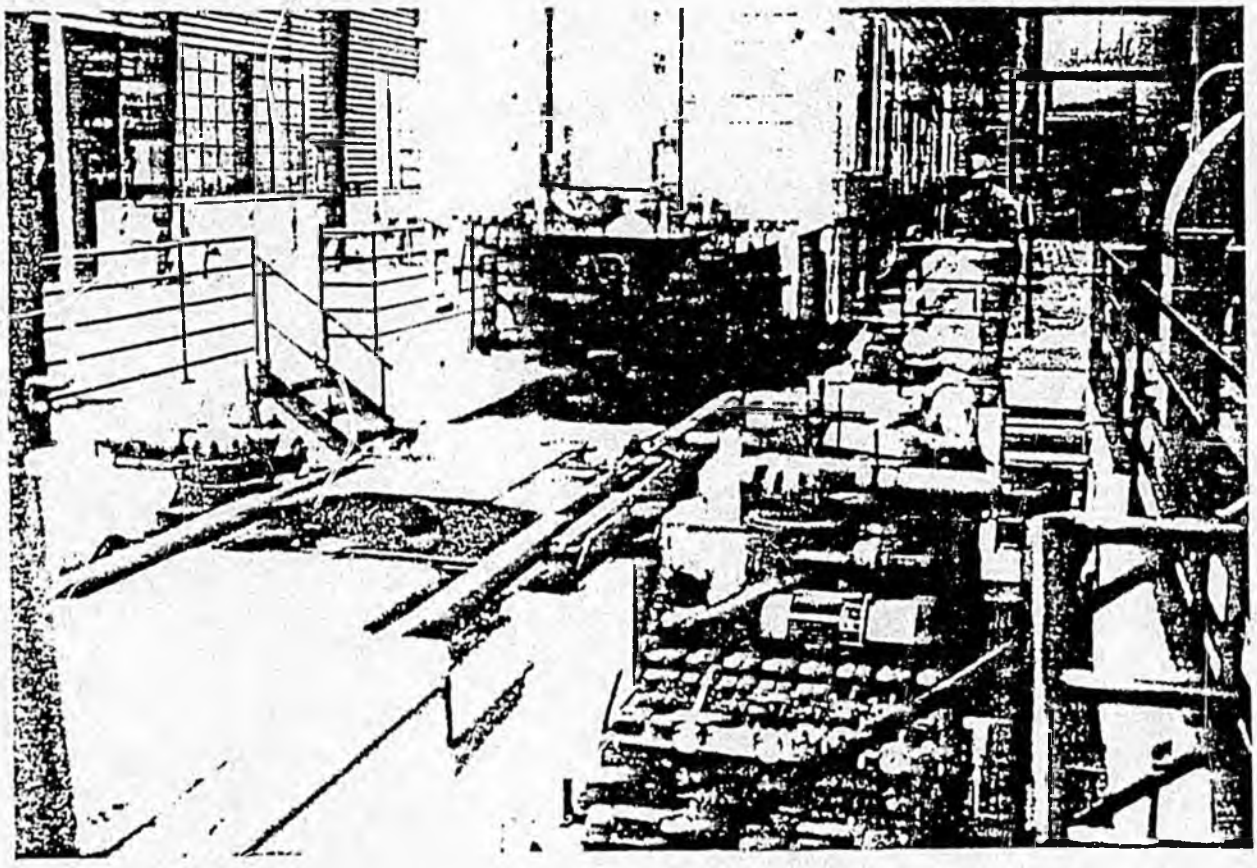
TABLE XI: FIVE-YEAR CONDENSED SUMMARY OF OPERATIONS
FISCAL YEARS 1979-83
(Thousand dollars)

CATEGORY	1983	1982	1981	1980	1979
REVENUES:					
Operating	$52,397	$55,445	$40,782	$26,737	$23,200
Non-Operating (Note 16)	3,697	3,352	3,159	2,155	2,081
Total Revenues	$56,094	$58,797	$43,941	$28,892	$25,181
EXPENSES:					
Operating	$52,993	$48,978	$40,358	$34,380	$31,285
Non-Operating (Note 17)	277	258	273	344	204
Total Expenses	$53,270	$49,236	$40,631	$34,724	$31,489
NET PROFIT (LOSS)	$2,824	$9,561	$3,310	($5,832)	($6,308)
Less Extraordinary Items (Note 6)	($5,646)	($4,154)	($204)	($692)	($319)
Annual Retained Earnings	($2,822)	$5,407	$3,106	($6,524)	($6,627)
Expense/Revenue Ratio	94.97%	83.74%	92.47%	120.19%	125.05%

Notes follow Table XI



A modern wheel truing machine was installed in a newly constructed shop building in 1983.

NOTES TO FINANCIAL STATEMENTS

1. SUMMARY OF ACCOUNTING POLICIES

The Alaska Railroad uses the generally accepted principles, standards, and related requirements of governmental accounting as approved by the Comptroller General of the United States. Operations are conducted in a manner consistent with related commercial enterprises and, at the same time, in conformance with the requirements incumbent upon a Government agency.

As is the customary practice of the industry, the Railroad uses betterment and retirement accounting instead of depreciation accounting for roadbed and track. Under this method, prescribed by the Interstate Commerce Commission, the cost of replacing tracks and structures--less salvage recovered--is charged to the appropriate operating expense account and only the cost of betterments is capitalized. These capitalized items are not depreciated, but upon retirement of the tracks and structures, the entire capitalized amounts--less salvage recovered--are charged to expense.

The accounting system and related procedures disclose financial condition and operating results to provide full accountability of the Government's investment in the Railroad and to afford management the necessary data to carry out its responsibility in the most efficient and economical manner.

The Railroad is financed from a revolving fund.

2. REVENUES

Revenues from rail operations are included in income on an accrual basis upon the completion of service.

3. EXPENSES

Expenses are accrued or applied or both on a basis consistent with generally accepted accounting principles.

4. MAINTENANCE OF WAY AND STRUCTURES

Maintenance of way and structures include expenses incurred by engineering ($9,207,000) and communications ($652,000).

5. GENERAL AND ADMINISTRATION

General and administration accounts include expenses for headquarters and staff ($1,378,000) and the administration department ($4,485,000).

6. EXTRAORDINARY ITEMS

Extraordinary items include the loss on excess current inventories ($23,000), deferred outlays ($3,760,000), prior-year adjustments ($697,000), and costs associated with the transfer evaluation ($1,166,000).

7. DEPRECIATION

Depreciation is computed using the straightline method and is based on estimated service lives of depreciable properties, except for the railway track and structures, which are computed using the industry betterment method. Depreciation charges are determined by using the composite or group rates applicable to various classes of property.

The following is a list of depreciation charges in FY 1983:

	(Thousand dollars)
Mechanical - equipment	$2,807
Engineering - buildings and structures	892
Transportation - docks	438
Communications	170
Non-operating	66
Other	31
Total	$4,404

8. CASH

Cash refers to the fund balance with the U.S. Treasury, which is the net amount of cash receipts, e.g., revenues, proceeds from sales, and amounts of congressional appropriations, less disbursements.

9. TRUST AND DEPOSIT FUNDS

Trust and deposit funds include special deposits and other collections not covered by the revolving fund and cleared by disbursement or transfer, as appropriate. A contra account to this asset account is reflected in the liability section.

10. MATERIALS AND SUPPLIES

Inventories, consisting of replacement or repair parts for equipment and road property, construction materials, and fuel, are valued at average cost, including freight.

11. LAND

Land includes only property purchased by the Railroad from private owners and carried at acquisition cost. The Railroad owns over 38,000 acres withdrawn from the public domain at no cost; this land is not included in the financial records.

12. ADDITIONS AND BETTERMENTS IN PROGRESS

This is a control account for authorized capital projects during the period of construction or procurement. Upon completion of the capital project, the related costs are transferred into the appropriate fixed asset property account.

13. PROPRIETARY INTEREST OF THE U.S. GOVERNMENT

The proprietary interest shows the Federal Government's net interest in The Alaska Railroad. At the end of FY 1983, it is summarized as follows:

	(Thousand dollars)
Appropriation by Congress	$259,496
Allotments from other agencies, sales of lots, etc.	1,724
Property transferred or donated (not public domain)	19,903
Earthquake losses	(16,738)
Deficits from operations and capital losses to 6/30/54	(63,764)
Retained earnings (7/1/54 to 9/30/82)	(18,171)
FY 1983 operating results	2,624
Extraordinary Items (Note 6)	(5,646)
Total proprietary interest of the U.S. Government	$179,628

14. CONGRESSIONAL APPROPRIATIONS

Funds appropriated by Congress were obligated within the fiscal year, as shown below:

	(Million dollars)	
	FY 83	FY 82
Congressional appropriations received	$7.60	$6.16
Obligated during fiscal year	$7.60	$6.16
Amount unobligated at end of fiscal year	$0.00	$0.00

15. OTHER OPERATING REVENUES

Other operating revenues include those revenues that were neither freight nor passenger. Individual accounts exceeding $90,000 in FY 1983 were:

	(Thousand dollars)
Reimbursable services	$2,036
Sale of non-invested property	1,301
Reimbursements - real estate, utilities, and equipment	541
Whittier shuttle - vehicles	533
Wharfage and handling	148
Mail	145
Switching	116
Equipment rentals	90
All other	395
Total	$5,305

16. NON-OPERATING REVENUES

Non-operating revenues in FY 1983 were:

	(Thousand dollars)
Miscellaneous rentals	$3,466
Interest earned	144
All other	87
Total	$3,697

17. NON-OPERATING EXPENSES

Non-operating expenses in FY 1983 were:

	(Thousand dollars)
Buildings	$199
Depreciation	60
Equipment	10
All Other	2
Total	$277



At a re-enactment of the original golden spike ceremony Governor Sheffield wields the same maul used by President Harding in 1923.

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FREIGHT

Table II shows freight revenue tons and freight revenue dollars by major classification of commodities for fiscal years 1983 and 1982. Total tonnage for fiscal year 1983 exceeded fiscal year 1982 by 34 percent. For the third consecutive year sand and gravel led all other commodities in percentage gains. The primary cause of the 60-percent escallation was a vigorous private and business construction year plus increases in public works projects in Anchorage. The drop in movements of iron and steel products from Seward to Fairbanks destined for the North Slope from its peak in 1982 accounted for the return of manufacturers and miscellaneous products to a lower level, but still above FY 1981.

TABLE II: FREIGHT TRAFFIC BY COMMODITY

COMMODITY	1983 FY	1982 FY	% CHANGE
REVENUE TONS CARRIED (000's)			
Sand and Gravel	4,397.7	2,753.8	+ 59.7
Coal	625.8	653.6	- 4.2
Petroleum, Oil, Lubricants	462.2	439.4	+ 5.2
Manufacturers and Misc.	323.1	449.9	- 28.2
TOFC/COFC (Piggyback)	98.0	122.4	- 19.9
Products of Forests	105.1	77.0	+ 36.5
Products of Agriculture	6.1	6.8	- 10.3
Total Tonnage	6,018.0	4,502.9	+ 33.7
REVENUE DOLLARS (000's)			
Sand & Gravel	6,647	4,556	+ 45.9
Coal	5,007	5,072	- 1.3
Petroleum, Oil, Lubricants	9,723	8,376	+ 16.1
Manufacturers and Misc.	15,704	22,512	- 30.2
TOFC/COFC (Piggyback)	3,625	4,915	- 26.2
Products of Forests	2,955	2,301	+ 28.4
Products of Agriculture	126	145	- 13.1
Total Revenue	43,787	47,877	- 8.5

PASSENGER

Aggressive and expanded advertising and marketing resulted in an overall increase of 21 percent in passenger ridership as shown in Table II. The marketing efforts included active promotion of tour packages which attracted, for the first time, nine cruise ships to stop at the Railroad's Port of Whittier, and provided over 14,000 of the special train riders.

TABLE III: PASSENGERS HANDLED

SERVICE	1983 FY	1982 FY	% CHANGE
Anchorage-Denali-Fairbanks	61,887	60,810	+ 1.8
Anchorage-Portage-Whittier (Shuttle)	117,740	95,449	+ 23.4
Specials	31,732	18,857	+ 68.3
Total Passengers Handled	211,359	175,116	+ 20.7

The number of vehicles carried on the Anchorage-Portage-Whittier (shuttle) service was 19,516, up 10 percent over FY 1982.

TARRIFS

The major rate adjustments made in FY 1983 are reflected in Table IV:

TABLE IV: FY 1983 TARIFF CHANGES

TYPE	DATE	% INCREASE
Interline	1-17-83	5
Intrastate:		
General Commodities	2-12-82	5
Gravel	4-19-83	3
Passenger:		
Anchorage - Fairbanks	1-01-83	10
Whittier Shuttle	7-01-83	10

Attachment E
3/14/84

ALASKA RAILROAD OPERATIONS SUMMARY
(Dollar Amounts in Thousands)
Fiscal Years 1973-1982*

	FY 1973	FY 1974	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982
Operating Revenue	$16,996	$20,783	$41,416	$52,517	$33,376	$27,440	$23,100	$26,737	$40,782	$55,445
Non-Operating Revenue	681	703	871	1,161	1,646	1,651	2,081	2,155	3,159	3,352
Total Revenues	17,677	21,486	42,287	53,678	35,022	29,091	25,181	28,892	43,941	58,797
Operating Expenses	$20,057	$22,389	$35,883	$49,387	$35,703	$33,301	$31,285	$34,380	$40,358	$48,978
Non-Operating Expenses	153	158	272	191	255	213	204	344	273	258
Total Expenses	20,210	22,547	36,155	49,578	35,958	33,514	31,489	34,724	40,631	49,236
Gain (Loss)										
Before depreciation - cash flow	($ 7)	$ 1,300	$ 8,513	$ 6,628	$ 2,186	($ 1,227)	($ 3,089)	($ 2,306)	$ 6,567	$13,274
After depreciation	($ 2,533)	($ 1,061)	$ 6,132	$ 4,100	($ 936)	($ 4,423)	($ 6,308)	($ 5,832)	$ 3,310	$ 9,561
Capital Expenditures	$ 1,260	$ 313	$ 2,772	$ 8,602	$ 8,316	$ 5,823	$ 8,181	$ 6,893	$11,409	$11,821
Revenue Tons of Major Commodities (in thousands of tons)										
Sand and Gravel	2	1	1	104	700	727	637	396	1,797	2,754
Bulk Petroleum	363	414	557	624	532	374	220	252	379	439
Coal	565	563	584	607	550	593	524	590	653	654
Iron & Steel Pipe & Fittings	11	15	107	174	16	28	33	37	83	165
Piggyback	48	57	95	114	100	100	99	92	113	122
Forest Products	49	56	120	124	82	68	55	109	101	77
Manufactured Iron & Steel	18	37	60	89	19	12	12	10	8	19
Cement	15	14	25	32	42	33	33	32	43	51
Machinery and Machines	12	21	60	31	47	47	24	16	28	24
Mfrs. & Misc. NOS	32	34	44	29	17	13	25	26	11	**
Other	216	165	209	260	200	183	156	181	146	198
TOTAL	1,331	1,337	1,862	2,188	2,305	2,178	1,808	1,741	3,362	4,503
Passengers	74,000	84,000	81,000	84,500	103,632	126,277	151,045	150,678	161,068	175,116

* The Federal Government changed its fiscal year from July 1-June 30 to October 1-September 30 beginning in FY 1977, resulting in a transition quarter in 1976. To avoid a 15-month fiscal year for comparisons, these statistics use July 1, 1975 through June 30, 1976 as FY 1976, and October 1, 1976 through September 30, 1977 as FY 1977, dropping the transition quarter.

**Mfrs. & Misc. NOS. (not otherwise specified) discontinued, now included in specific categories.

10/82/WFC

AK. RAILROAD

Fiscal

Note

SB 352

STATE OF ALASKA 1984 LEGISLATIVE SESSI
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 352
Title: Alaska Railroad Corporation Act of 1984
Sponsor: Kerttula, Faiks, & Halford
Requestor: Senator Moss
Date of Request: 3/8/84

FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Alaska Railroad

EXPENDITURE/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING	-0-	37,300	57,750	58,000	57,300	57,900
100 PERSONAL SERVICES		24,300				
200 TRAVEL		300				
300 CONTRACTUAL		4,800				
400 SUPPLIES		5,200				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING	-0-	37,300	57,750	58,000	57,300	57,900
CAPITAL	-0-	15,800	20,450	20,450	20,450	20,450
REVENUE	-0-	37,350	67,200	70,200	73,300	76,350

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,750	11,000	8,250	4,450	2,000
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	37,350	67,200	70,200	73,300	76,350
TOTAL	-0-	53,100	78,200	78,450	77,750	78,350

POSITIONS:

FULL-TIME	-0-	478	478			
PART-TIME	-0-	38	38			
TEMPORARY	-0-	64/300	64/300			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund (Although the legislation does not speak to this point, every indication suggests use of a general fund appropriation to offset fiscal impact.)

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coord. Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 3/15/84

Approved by Commissioner: R. J. Knapp Date: 3/15/84
Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Bill/Resolution No.: SB 352
Title: Alaska Railroad Corporation Act of 1984

BILL ANALYSIS

Overview:

This fiscal note is based upon the results of the Alaska Railroad Team's Alaska Railroad Acquisition Assessment, released in December 1983. That document provides a comprehensive analysis of the major issues concerning acquisition of the Alaska Railroad (ARR). It includes a thorough assessment of the financial exposure to the State from ensuring continued rail operations in accordance with the requirements of the Alaska Railroad Transfer Act of 1982 (ARTA).

The estimates presented in this fiscal note are derived from the "worst case" scenario of future railroad activity. Current indicators such as the continued uncertainty over the export coal contracts suggest use of this analysis as the most realistic forecast for determining actual fiscal impact. Please note that the acquisition cost of $22.3 million for railroad purchase has been addressed in a separate fiscal note attached to the acquisition legislation.

While the data and forecasts used in both the Acquisition Assessment and this fiscal note reflect the input and work of the railroad and the United States Railway Association (USRA), the final estimates are based on independent analysis and downward adjustment by the Transfer Team. Our work includes such factors as removal of uncertain revenue increases, increased costs for compliance with state and local building codes, and additional adjustments for necessary capital rehabilitation.

This bill analysis is limited to providing explanations of the fiscal impact resulting from the proposed legislation. It should be noted that there exist policy conflicts between provisions of this legislation and the Sheffield Administration's Policy Statement of January 26, 1984.

Assumptions:

The FY 85 figures are based upon an assumption that actual railroad transfer will occur somewhere between November and January of that fiscal year. As a result, most of the estimates are merely prorated for a partial fiscal year ending in July 1985. However, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which cause the sizeable shortfall during what is only a partial fiscal year.

Although a breakout of specific operating expenditures has been provided for FY 85 in order to provide the railroad operating entity a functioning program during its first year of operations, an actual budget structure has not been included to avoid prejudicing the new operating entity's prerogatives to formulate its own budget structure and subsequent submissions. Please note that the FY 85 submittal also contains the request for all funds needed by the Transfer Team and other state agencies to perform the duties resulting from passage of this legislation and acquisition of the railroad.

Although the current legislation places the Alaska Railroad within the Department of Commerce and Economic Development for purposes of the constitution, other sections of this bill anticipate removing it if a proposed constitutional amendment passes next November. Accordingly, this note does not address a specific "agency affected" to avoid a future conflict in this area.

Since the constitutional amendment cannot become effective until November if it passes, this note is predicated on an assumption that all funds for the corporation will be passed through by the respective line agency under which the corporation is located. Funds for all other state agencies will be passed on to the Transfer Team for further processing as appropriate.

Administrative costs incurred by the line agency under which the corporation is located should be minimal and will be covered as part of the corporation's overhead. Please note that all fiscal impact to state agencies resulting from this legislation have been coordinated by the Transfer Team and are reflected in this note.

All estimates are presented in constant 1985 dollars. An annual inflation factor of 6% has been used to convert the original 1983 constant dollar estimates in the Acquisition Assessment.

Operating Expenditures:

This estimate includes both general operating expenses and new expenditures resulting from the railroad transfer (i.e., additional costs due to potential loss of railroad gravel reserves under third-party claims). Included in the former category are costs for maintenance-of-way, maintenance of power and equipment, transportation services, communications, administration and overhead, marketing and real estate management. The latter category includes increased legal and overhead expenses, additional insurance and risk management contributions, fiscal impact to the Transfer Team and other state agencies because of railroad acquisition, and one-time, start-up costs for items such as the printing of new letterhead and the marking of personal property.

Although revenue is projected to increase during FY 87-89, costs during that period are not significantly larger than the first two years of operations due to the sizeable, one-time transfer related expenses immediately following transfer. These estimates are based on historical data provided by current railroad personnel and reflect anticipated operating expenditures needed to comply with the terms of ARTA.

Attachment A provides more details on the FY 85 submittal by object of expenditure. Some $4 million of this estimate is to cover immediate expenditures resulting from actual transfer of the railroad. This includes the following:

(1) $1.750 million for the Alaska Railroad Transfer Team to perform its duties as outlined in Attachment B;

(2) $2 million for specific one-time, start-up costs to be incurred by the new entity for items such as the marking and inventorying of personal property, the printing of new stationery and payment warrants, additional legal costs, and certain corporation expenditures for the new Board of Directors;

(3) $200,000 in funds to conduct a final pre-transfer audit to establish the accuracy of balance sheets and the identification of accounting problem areas; and

(4) $80,000 in additional fiscal impact to the Department of Administration to ensure preservation of railroad archival records and additional labor relations work not budgeted for in the Transfer Team's FY 85 budget memo.

Another component of the FY 85 submittal includes $270,000 in funds in direct response to the following requirements of the legislation:

(1) $200,000 to initiate the Special Report required in Section 9 on the feasibility of attracting private sector involvement in the railroad's operations;

(2) $35,000 to the Department of Natural Resources to respond to any state land request by the corporation under Section 42.40.360; and

(3) $35,000 to fund costs for the new railroad employees labor relations agency as provided in Section 42.40.780.

The remaining estimates in this area reflect the normal operating expenses by category for the part of FY 85 involving state operation of the railroad. These specific estimates have been prepared with the close cooperation of railroad administration and budgeting personnel. All expenditures for per diem and compensation of the Board of Directors have been included in the general estimates for the 100 and 200 categories.

Capital Expenditures:

The capital component of this fiscal note represents a combination of increased capital costs resulting from transfer and prorated expenditures for ongoing railroad operations. The analysis contained in Chapters 4 and 5 of the Acquisition Assessment serve as the basis for both of these estimates.

In addition, the results from the State's independent engineering condition assessment have been used to project an increased level of expenditure minimally acceptable to begin reversing deterioration of the railroad's physical plant, including the initiation of a systematic plan for replacing aged rolling stock. It is important to understand that engineering condition alone cannot be the basis for a projected level of sustained capital expenditure, but must be tempered by national trade-offs between long-term plant condition and available revenues.

The capital estimate of $15.8 million includes a one-time expenditure of $4.9 million to replace the railroad's working capital fund. ARTA establishes a process where little, if any, money will be transferred from the ARR's Revolving Fund because of pre-transfer federal claims and contingent liabilities that must be paid by the fund. As a result, an amount equal to about one month's worth of operating expenses (which is similar

to working capital requirements for other railroads) is needed to fund and maintain adequate working capital for the railroad after transfer.

Another capital expenditure resulting from railroad transfer is the initiation of compliance with Occupational Safety and Health Act (OSHA) requirements and state and local building codes. Approximately $4.5 million per year has been set aside during the forecasted period to move toward compliance in these areas. Chapter 5.3 of the Acquisition Assessment provides more details regarding this requirement.

The remaining $6.4 million of this estimate covers general railroad capital needs, prorated for the period of state ownership during FY 85. An additional $7.85 million is projected for expenditure by the railroad for this program. Attachment C provides additional information regarding the capital improvement program to be performed during FY 85.

It should also be noted that based on a recent audit review of the ARR's financial statements, about $4 million per year of capital expenditures could just as easily be categorized as operating costs (primarily maintenance-of-way expenditures) if generally accepted accounting principles are applied to the railroad. However, no adjustments have been made with our estimates to avoid creating greater confusion by conflicting with existing railroad procedures prior to a general system overhaul by the corporation upon transfer.

Revenue:

This estimate on a prorated basis represents projected FY 85 revenues from its freight, passenger and real property rental activities. The FY 85 revenue figure is based on a projected commodity mix fairly similar to the last two years of railroad operations. Attachment D contains some additional information from the ARR's 1983 Draft Annual Report regarding FY 82 and FY 83 operations.

These projections are based on information from the railroad and USRA, which were then adjusted downward by the Transfer Team to remove 50% of the net cash from anticipated revenue increases in export coal, interline and pipe traffic. If either of these movements were in fact to materialize in a significant way, it could sizeably reduce the need for general fund assistance during FY 87-89. Likewise, any major downswing from our projections would probably result in the need for even larger general fund assistance during those years.

Funding Source:

The "Other Funds" appearing on the fiscal note are railroad revenues.

Positions:

ARTA basically mandates a two-year period of full protection of current salaries and benefits for all employees who choose to transfer. What happens following that period becomes a matter for contractual negotiation between management and employees.

The figures presented in this part of the fiscal note are the actual number of employees in each category as of March 1, 1984. No estimate can be made of the actual number of those choosing to transfer, although it is anticipated that most employees will do so. In the case of temporary employees, the first number on this line is the actual number today, while the second estimate reflects the average number of temporary hires used in the summer for major maintenance work.

Summary:

The estimates provided in the attached fiscal note are primarily based on the Transfer Team's assessment of the likely fiscal impacts from state acquisition of the Alaska Railroad. It is important to reiterate that the acquisition cost of $22.3 million has been addressed in a separate fiscal note attached to the acquisition legislation.

It is our view that the corporation's overall organization as currently envisioned in the proposed legislation will not have any appreciable impact immediately on the railroad's general financial condition. Beyond the increased cost for modifying the existing administrative and management systems during the first two or three years following state takeover, it is difficult to predict whether the proposed organizational arrangements in this legislation will generate cost efficiencies not enjoyed during federal ownership.

The philosophy in the current legislation is, to the extent possible, to foster a self-sustaining business orientation for railroad operations. This is consistent with the Transfer Team's analysis of the types of steps necessary to achieve a break-even position at some point during the first decade of state operations.

There is no specific mandate in this legislation for new extensions or any more services than those currently in existence. This should allow the railroad adequate time to reorganize and streamline its existing operations. In addition, although several specified planning responsibilities have been added to the railroad's duties, the long-term savings from performing these kinds of systematic assessments should more than compensate for any short-term costs resulting from performance of these efforts.

Attachment E is a ten year summary (FY 73-82) of the railroad financial operations during federal ownership. It should be noted that an additional $66.2 million dollars in congressional appropriations was provided during this period to cover passenger expenses and certain capital needs.

ATTACHMENT A

Operating Budget - FY85

In Thousands (000) of Dollars

This operating budget is prorated for FY 85 except for the impacts to state agencies depicted in the 300 level. All amounts shown are in 1985 dollars. These estimates represent the total prorated FY 85 operating budget for the railroad following state acquisitic Projected revenues from the railroad's operations will serve as the main source of funds for these expenditures, with limited assistance from general fund appropriations.

Category	Amount	Explanation
100 Personal Services	$24,300.0	This funding level is based upon current work force of 478 permanent full-time, 38 part-time and 64 temporary positions. Of this amount salary comprises $19,950 and benefits comprise $4,350. Also included in this estimate are the Board of Directors' compensation expenses.
200 Travel	300.0	This funding level is the estimate of travel funding needs, including the Board of Directors' travel expenses.
300 Contractual	4,800.0	This funding level includes coverage of the following areas: continuation of Transfer Team activities for FY 85 - $1,750.0 (see Attachment B); Transfer Financial Audit - $200.0; $200.0 for initiation of the Special Report required in Section 9 of the bill; Department of Administration - $80.0 for archives preservation and labor relations coordination; costs for the labor relations agency under Article 8 of the bill - $35.0; Department of Natural Resources - $35.0 for land designation activities under Article 5 of the bill. The remainder of these funds are for the railroad's general contractual needs resulting from capital improvement, operations and financial planning activities.

400 Supplies	5,200.0	This funding level is required for the day-to-day operations of the railroad, supporting all facets of operations from administration to maintenance of way.
500 Equipment	1,200.0	This item is the complement of the supply item also supporting day-to-day railroad operations.
700 Grants & Claims	1,500.0	This item provides for funds for the railroad's risk management expenses, payment of damage claims, workmen's compensation expenses and other money claims against the railroad. No grants are anticipated.
TOTAL:	37,300.0	

Attachment B
3/14/84

ALASKA RAILROAD TRANSFER PROJECT

FY 85 PROJECT BUDGET

The goal of the Alaska Railroad Transfer Team is to provide an orderly and informed decision-making process for possible transfer of the Alaska Railroad from federal ownership, thus ensuring continuation of essential rail services in Alaska. If a decision is reached to pursue state take-over of the railroad, then it is also the goal of the Alaska Railroad Transfer Team to organize and oversee a systematic transition from federal ownership.

This document discusses the major work components of the FY 85 budget submittal. The need to pursue some of these efforts is entirely contingent on a decision to acquire, while other work efforts are separate from that decision. Attachment A provides the FY 85 budget submittal as introduced by the Governor. Attachment B is the project budget for FY 84 and provides considerable detail regarding several work tasks, many of which are ongoing in 1985.

The following breakdown is structured on a component or agency basis, versus reiterating specific details regarding ongoing work tasks. As a result, some of this explanation should be read in conjunction with Attachment B in order to fully understand all of the scheduled work efforts.

Work Component #1 - Alaska Railroad Transfer Team Staff

As indicated in Attachment A, funding is needed to support four positions in the Office of the Commissioner, Department of Transportation and Public Facilities. These positions are as follows: a State Railroad Coordinator (Special Assistant II); a Planner IV; a Planner III; and a Correspondence Secretary III. These four individuals comprise the Transfer Team Staff with direct responsibility for performance and coordination of all team activities. This group reports directly to the Commissioner of DOT&PF in the performance of their duties. The following breakdown represents expenditures directly related to this area by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DOT&PF	$195,100
Travel	4 Positions - DOT&PF	66,000
Contractual	Printing/limited Professsional Services	35,000
Supplies	Miscellaneous	8,000
	Total	$304,100

Work Component #2 - Department of Natural Resources Assistance

An existing Reimbursable Services Agreement with the Department of Natural Resources will be continued during FY 85. Work efforts covered by this assistance include ongoing support activity by the Division of Technical Services for conveyance documents and related title review work. Additional support by DNR will be provided for coordination with the Bureau of Land Management's cadastral survey work and assistance from the Division of Land and Water Management to implement the railroad transfer. The following breakdown by object of expenditure presents the needed funding for these services.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DNR	$191,900
Travel	4 Positions - DNR	20,000
Contractual	Miscellaneous Professional Services	30,000
Supplies	Miscellaneous	8,100
	Total	$250,000

Work Component #3 - Department of Labor Assistance

Specific assistance is still needed by the Department of Labor to perform an extensive survey of the railroad's physical facilities in relation to federal and state occupational safety and health laws, regulations and standards. Although this was scheduled for performance during FY 84, insufficient funding required postponement of this work effort until FY 85. Scheduled funds during FY 84 for this effort were diverted to cover additional labor relations work by the Department of Administration and the use of an Engineer-in-Training position to assist with the engineering condition assessment. The following breakdown provides an estimate for this activity by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	2 Full-time - DOL 2 part-time	$142,700
Travel	2 Full-time - DOL	7,300
Training	2 Full-time	5,200
Contractual	Miscellaneous Professional Services	39,800
Supplies	Miscellaneous	6,500
Equipment	Health Sampling Equipment/ Memory Typewriter	12,000
	Total	$213,500

Work Component #4 - Department of Administration Assistance

Activity in the area will consist of continuing work efforts initiated during FY 84 explained under task #6 of Attachment B. Particular attention must be paid to the analysis of the five collective bargaining agreements, which will support the full scale initiation of the two-year renegotiation process in conjunction with the new entity established to operate the railroad. Another important work effort will be to conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met by the new organization established to operate the railroad. Other efforts include assistance with insurance and risk management needs. The following breakdown by object of expenditure presents the necessary funding for this area.

Object of Expenditure	Description	Amount
Personal Services	1 Full-time Position	$105,000
	2 Part-time Positions	45,000
Travel	1 Full-time, 2 Part-time	105,000
Contractual	Liaison Assistance/ Miscellaneous Professional Services	
Supplies	Miscellaneous	2,400
	Total	$257,400

Work Component #5 - Department of Law Assistance

Assistance from the Department of Law is needed for several tasks to be performed by existing AG staff and retained special counsel. Included are the following work efforts: (1) legal work pertaining to the 3(e) (ANCSA) claims against railroad property by native village corporations, including ongoing negotiation and staff work to support the State's position during the adjudication process; (2) legal assistance for the preparation of transfer documents and attention to related land conveyance problems; (3) resulting from the response to various court actions by third parties because the railroad transfer; (4) ongoing legal assistance with issues involving regulation by the Interstate Commerce Commission (ICC); and (5) support of efforts relating to personnel/ labor relation matters. The following breakdown by object of expenditure presents the needed funding for this area.

Object of Expenditure	Description	Amount
Personal Services	Staff Attorneys	$180,000
Travel	Staff Attorneys	20,000
Contractual	Wickwire Lewis	150,000
	David Walsh	75,000
	David Rogers	75,000
	Total	$500,000

Work Component #6 - ICC Rate Valuation/Capital Plan Activity

Work efforts under this component will consist of the following: (1) initiation of planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification; and (2) performance of ongoing capital planning analysis. This second task will be a continuation of efforts performed under task #5 in Attachment B. It will be coordinated with the initiation of the ICC valuation studies to maximize generation of a data base useful to both efforts. Funding in this area is needed for contractual assistance, which will be directly managed by the Transfer Team Staff.

Object of Expenditure	Description	Amount
Contractual	Consulting Assistance	$225,000
	Total	$225,000

ALASKA RAILROAD TRANSFER PROJECT BUDGET

PROJECT BUDGET

The following depicts the project budget by work component and amount:

		Amount
(1)	Alaska Railroad Transfer Team Staff	$ 304,100
(2)	Department of Natural Resources Assistance	250,000
(3)	Department of Labor Assistance	213,500
(4)	Department of Administration Assistance	257,400
(5)	Department of Law Assistance	500,000
(6)	ICC Rate Valuation/Capital Plan Activity	225,000
	Project Total	$1,750,000

ATTACHMENT C

Capital Improvement Program - FY85

In Thousands (000) of Dollars

This CIP is prorated for FY 85. All amounts shown are in 1985 dollars. These estimates represent costs to the State, and are only part of the ARR's total capital budget. Revenues from the ARR for capital improvements will be added to State funding.

Item	Amount	
Working Capital Fund	$ 4,900	As with all businesses, the ARR will need working capital. It is estimated that one month's worth of operating expenses will be adequate working capital for the ARR.
OSHA/Code Compliance	$ 4,500	As a federal agency, the ARR has not been subject to many health, safety, and building code standards that would otherwise apply. These codes will apply upon transfer, and initial surveys conducted by the State have been used to determine necessary compliance levels. See Appendix C of the Alaska Railroad Acquisition Assessment for more details.
Other Capital Improvements	$ 6,400	These expenses represent the minimal expenditure necessary for the ARR to maintain current levels of service, while initiating efforts to reverse deterioration of physical plant condition. Component priorities have been selected using the findings of the State's independent condition assessment. As indicated in the attached supplement, most capital improvements are for track and roadbed, upgrade of certain cargo handling facilities, and motive power and equipment purchases.
TOTAL	$15,800	

Supplement to Item #3, Attachment C

Track & Roadbed - $6,185,000

Ties - Install 50,000 @ $42.00 ea.	= $2,100,000
Rail - Install 6 miles @ $350,000 ea.	= $2,100,000
Ballast - Install 85,000 yd^3 @ $14 yd^3	= $1,190,000
Other - (Turnouts, sledding, culverts, ditching)	= $ 795,000

Bridges - $883,000
- Replace stringers, bents, and spans
- Reset bearings, piles, and abuttments

Tunnels - $1,060,200
- Line with multi-plate
- Excavate rock fall areas

Docks - $706,800
- Preliminary work to rebuild barge slip #1 at Whittier

Communications - $570,000
- Complete microwave system
- Remove pole lines
- Acquire equipment

Motive Power & Equipment - $4,845,000

Locomotives	= $2,250,000
Upgrade Facilities	= $1,845,000
Equipment	= $ 750,000

Note: This totals $14.25 million and is the ARR's overall FY 85 capital budget, of which $6.4 million is covered under this fiscal note.

FINANCIAL

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The following four financial statements (Tables VIII through XI) describe the financial situation (Note 1) of The Alaska Railroad.

TABLE VIII: STATEMENT OF INCOME
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
REVENUES (Note 2):		
Operating Revenues:		
Freight	$43,787	$47,877
Passenger	3,305	2,627
Other (Note 15)	5,305	4,941
Total Operating Revenues	52,397	55,445
Non-Operating Revenues (Note 16)	3,697	3,352
Total Revenues	$56,094	$58,797
EXPENSES (Note 3):		
Operating Expenses:		
Maintenance of Way & Structures (Note 4)	$9,859(1)	$8,554
Maintenance of Equipment	12,326	11,702
Transportation	19,551	18,685
Traffic Management	865	757
Incidental	4,529	4,152
General and Administration (Note 5)	5,863	5,128
Total Operating Expenses	52,993	48,978
Non-Operating Expense (Note 17)	277	258
Total Expenses	$53,270	$49,236
NET PROFIT (Surplus)	$2,824	$9,561
Add Depreciation included in Expenses	4,404	3,712
CASH FLOW (Gain)	$7,228	$13,273

Notes follow Table XI

(1) Includes $1.7 million which was part of Congressional Appropriation major maintenance and not included in FY 1982 expense.

Expense/Revenue Ratio	94.97%	83.74%

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TABLE IX: BALANCE SHEET
SEPTEMBER 1982-83
(Thousand dollars)

CATEGORY	1983	1982
ASSETS:		
Current Assets:		
Cash (Note 8)	$9,646	$14,966
Trust and Deposit Funds (Note 9)	32	7
Accounts Receivable	14,195	13,105
Materials and Supplies (Note 10)	10,143	7,040
Prepaid Expenses	20	0
	34,036	35,118
Properties:		
Land (Note 11)	265	265
Buildings	12,943	12,921
Roadway Structures & Facilities	127,215	125,000
Equipment	57,895	49,864
Non-Operating Property	1,947	1,877
Total Properties	200,265	189,927
Less Accumulated Depreciation:	60,516	57,678
Properties - Net	139,749	132,249
Additions & Betterments in Progress (Note 12)	11,599	12,059
	151,348	144,308
Other Assets and Deferred Charges	2,526	3,029
Total Assets	$187,910	$182,455
LIABILITIES & PROPRIETARY INTEREST OF THE U.S. GOVERNMENT:		
Current Liabilities:		
Accounts Payable	$4,721	$3,416
Accrued Payrolls Payable	1,320	1,056
Trust and Deposit Funds (Note 9)	32	7
	6,073	4,479
Other Liabilities and Unadjusted Credits	2,209	3,152
Total Liabilities	$8,282	$7,631
Proprietary Interest (Note 13):		
Net Investment	200,621	192,995
Retained Earnings from July 1, 1954	(19,171)	(23,[illegible])
Current Year Operating Results	2,824	9,[illegible]
Extraordinary Items (Note 6)	(5,646)	(4,154)
Total Proprietary Interest (Note 13)	179,628	174,824
Total Liabilities & Proprietary Interest	$187,910	$182,455

Notes follow Table XI

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TABLE X: STATEMENT OF CHANGES IN FINANCIAL POSITION
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
Funds were provided by:		
Revenues and Other Receipts	$56,438	$58,699
Appropriations from Congress (Note 14)	7,600	6,160
Total Funds Provided	64,038	64,859
Funds were used for:		
Labor	35,579	33,221
Other	14,044	17,839
Capital Improvements & Replacements	16,348	11,821
Total Funds Used	65,971	62,881
Increase (Decrease) in Government Equity	(1,933)	1,978
Other Increases (Decreases):		
Undelivered Orders	(2,924)	3,983
Supplies and Materials	3,103	1,119
Properties	7,040	3,964
Other	(482)	513
Total, Other	6,737	9,579
Total Increase (Decrease) in Government Equity	$4,804	$11,557
Proprietary Interest:		
Beginning Balance	$174,824	$163,267
Increase (Decrease)	4,804	11,557
Ending Balance (Note 13)	$179,628	$174,824

Notes follow Table XI

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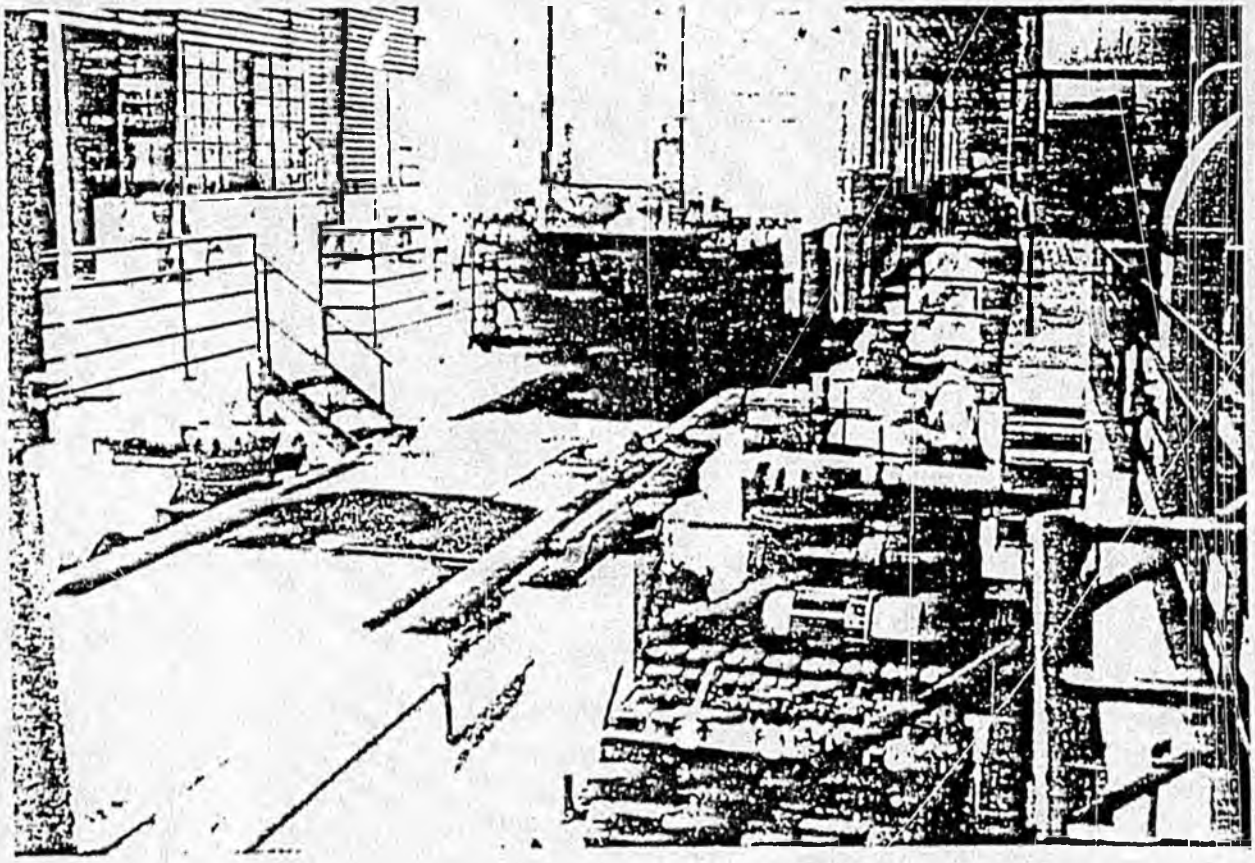
TABLE XI: FIVE-YEAR CONDENSED SUMMARY OF OPERATIONS
FISCAL YEARS 1979-83
(Thousand dollars)

CATEGORY	1983	1982	1981	1980	1979
REVENUES:					
Operating	$52,397	$55,445	$40,782	$26,737	$23,200
Non-Operating (Note 16)	3,697	3,352	3,159	2,155	2,081
Total Revenues	$56,094	$58,797	$43,941	$28,892	$25,181
EXPENSES:					
Operating	$52,993	$48,978	$40,358	$34,380	$31,285
Non-Operating (Note 17)	277	258	273	344	204
Total Expenses	$53,270	$49,236	$40,631	$34,724	$31,489
NET PROFIT (LOSS)	$2,824	$9,561	$3,310	($5,832)	($6,308)
Less Extraordinary Items (Note 6)	($5,646)	($4,154)	($204)	($692)	($319)
Annual Retained Earnings	($2,822)	$5,407	$3,106	($6,524)	($6,627)
Expense/Revenue Ratio	94.97%	83.74%	92.47%	120.19%	125.05%

Notes follow Table XI



A modern wheel truing machine was installed in a newly constructed shop building in 1983.

NOTES TO FINANCIAL STATEMENTS

1. SUMMARY OF ACCOUNTING POLICIES

The Alaska Railroad uses the generally accepted principles, standards, and related requirements of governmental accounting as approved by the Comptroller General of the United States. Operations are conducted in a manner consistent with related commercial enterprises and, at the same time, in conformance with the requirements incumbent upon a Government agency.

As is the customary practice of the industry, the Railroad uses betterment and retirement accounting instead of depreciation accounting for roadbed and track. Under this method, prescribed by the Interstate Commerce Commission, the cost of replacing tracks and structures--less salvage recovered--is charged to the appropriate operating expense account and only the cost of betterments is capitalized. These capitalized items are not depreciated, but upon retirement of the tracks and structures, the entire capitalized amounts--less salvage recovered--are charged to expense.

The accounting system and related procedures disclose financial condition and operating results to provide full accountability of the Government's investment in the Railroad and to provide management the necessary data to carry out its responsibility in the most efficient and economical manner.

The Railroad is financed from a revolving fund.

2. REVENUES

Revenues from rail operations are included in income on an accrual basis upon the completion of service.

3. EXPENSES

Expenses are accrued or applied or both on a basis consistent with generally accepted accounting principles.

4. MAINTENANCE OF WAY AND STRUCTURES

Maintenance of way and structures include expenses incurred by engineering ($9,207,000) and communications ($652,000).

5. GENERAL AND ADMINISTRATION

General and administration accounts include expenses for headquarters and staff ($1,3[illegible]0) and the administration department ($4,485,000).

6. EXTRAORDINARY ITEMS

Extraordinary items include the loss on excess current inventories ($23,000), deferred outlays ($3,760,000), prior-year adjustments ($697,000), and costs associated with the transfer evaluation ($1,166,000).

7. DEPRECIATION

Depreciation is computed using the straightline method and is based on estimated service lives of depreciable properties, except for the railway track and structures, which are computed using the industry betterment method. Depreciation charges are determined by using the composite or group rates applicable to various classes of property.

The following is a list of depreciation charges in FY 1983:

	(Thousand dollars)
Mechanical - equipment	$2,807
Engineering - buildings and structures	892
Transportation - docks	438
Communications	170
Non-operating	66
Other	31
Total	$4,404

8. CASH

Cash refers to the fund balance with the U.S. Treasury, which is the net amount of cash receipts, e.g., revenues, proceeds from sales, and amounts of congressional appropriations, less disbursements.

9. TRUST AND DEPOSIT FUNDS

Trust and deposit funds include special deposits and other collections not covered by the revolving fund and cleared by disbursement or transfer, as appropriate. A contra account to this asset account is reflected in the liability section.

10. MATERIALS AND SUPPLIES

Inventories, consisting of replacement or repair parts for equipment and road property, construction materials, and fuel, are valued at average cost, including freight.

11. LAND

Land includes only property purchased by the Railroad from private owners and carried at acquisition cost. The Railroad owns over 38,000 acres withdrawn from the public domain at no cost; this land is not included in the financial records.

12. ADDITIONS AND BETTERMENTS IN PROGRESS

This is a control account for authorized capital projects during the period of construction or procurement. Upon completion of the capital project, the related costs are transferred into the appropriate fixed asset property account.

13. PROPRIETARY INTEREST OF THE U.S. GOVERNMENT

The proprietary interest shows the Federal Government's net interest in The Alaska Railroad. At the end of FY 1983, it is summarized as follows:

	(Thousand dollars)
Appropriation by Congress	$259,496
Allotments from other agencies, sales of lots, etc.	1,724
Property transferred or donated (not public domain)	19,903
Earthquake losses	(16,738)
Deficits from operations and capital losses to 6/30/54	(63,764)
Retained earnings (7/1/54 to 9/30/82)	(18,171)
FY 1983 operating results	2,824
Extraordinary Items (Note 6)	(5,646)
Total proprietary interest of the U.S. Government	$179,628

14. CONGRESSIONAL APPROPRIATIONS

Funds appropriated by Congress were obligated within the fiscal year, as shown below:

	(Million dollars)	
	FY 83	FY 82
Congressional appropriations received	$7.60	$6.16
Obligated during fiscal year	$7.60	$6.16
Amount unobligated at end of fiscal year	$0.00	$0.00

15. OTHER OPERATING REVENUES

Other operating revenues include those revenues that were neither freight nor passenger. Individual accounts exceeding $90,000 in FY 1983 were:

	(Thousand dollars)
Reimbursable services	$2,036
Sale of non-invested property	1,301
Reimbursements - real estate, utilities, and equipment	541
Whittier shuttle - vehicles	533
Wharfage and handling	148
Mail	145
Switching	116
Equipment rentals	90
All other	395
Total	$5,305

16. NON-OPERATING REVENUES

Non-operating revenues in FY 1983 were:

	(Thousand dollars)
Miscellaneous rentals	$3,466
Interest earned	144
All other	87
Total	$3,697

17. NON-OPERATING EXPENSES

Non-operating expenses in FY 1983 were:

	(Thousand dollars)
Buildings	$199
Depreciation	60
Equipment	10
All Other	2
Total	$277



At a re-enactment of the original golden spike ceremony Governor Sheffield wields the same maul used by President Harding in 1923.

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FREIGHT

Table II shows freight revenue tons and freight revenue dollars by major classification of commodities for fiscal years 1983 and 1982. Total tonnage for fiscal year 1983 exceeded fiscal year 1982 by 34 percent. For the third consecutive year sand and gravel led all other commodities in percentage gains. The primary cause of the 50-percent escallation was a vigorous private and business construction year plus increases in public works projects in Anchorage. The drop in movements of iron and steel products from Seward to Fairbanks destined for the North Slope from its peak in 1982 accounted for the return of manufacturers and miscellaneous products to a lower level, but still above FY 1981.

TABLE II: FREIGHT TRAFFIC BY COMMODITY

COMMODITY	1983 FY	1982 FY	% CHANGE
REVENUE TONS CARRIED (000's)			
Sand and Gravel	4,397.7	2,753.8	+ 59.7
Coal	625.8	653.6	- 4.2
Petroleum, Oil, Lubricants	462.2	439.4	+ 5.2
Manufacturers and Misc.	323.1	449.9	- 28.2
TOFC/COFC (Piggyback)	98.0	122.4	- 19.9
Products of Forests	105.1	77.0	+ 36.5
Products of Agriculture	6.1	6.8	- 10.3
Total Tonnage	6,018.0	4,502.9	+ 33.7
REVENUE DOLLARS (000's)			
Sand & Gravel	6,647	4,556	+ 45.9
Coal	5,007	5,072	- 1.3
Petroleum, Oil, Lubricants	9,723	8,376	+ 16.1
Manufacturers and Misc.	15,704	22,512	- 30.2
TOFC/COFC (Piggyback)	3,625	4,915	- 26.2
Products of Forests	2,955	2,301	+ 28.4
Products of Agriculture	126	145	- 13.1
Total Revenue	43,787	47,871	- 8.5

PASSENGER

Aggressive and expanded advertising and marketing resulted in an overall increase of 21 percent in passenger ridership as shown in Table II. The marketing efforts included active promotion of tour packages which attracted, for the first time, nine cruise ships to stop at the Railroad's Port of Whittier, and provided over 14,000 of the special train riders.

TABLE III: PASSENGERS HANDLED

SERVICE	1983 FY	1982 FY	% CHANGE
Anchorage-Denali-Fairbanks	61,887	60,810	+ 1.8
Anchorage-Portage-Whittier (Shuttle)	117,740	95,449	+ 23.4
Specials	31,732	18,857	+ 68.3
Total Passengers Handled	211,359	175,116	+ 20.7

The number of vehicles carried on the Anchorage-Portage-Whittier (shuttle) service was 19,516, up 10 percent over FY 1982.

TARRIFS

The major rate adjustments made in FY 1983 are reflected in Table IV:

TABLE IV: FY 1983 TARIFF CHANGES

TYPE	DATE	% INCREASE
Interline	1-17-83	5
Intrastate:		
General Commodities	2-12-82	5
Gravel	4-19-83	3
Passenger:		
Anchorage - Fairbanks	1-01-83	10
Whittier Shuttle	7-01-83	10

Attachment E
3/14/84

ALASKA RAILROAD OPERATIONS SUMMARY
(Dollar Amounts in Thousands)
Fiscal Years 1973-1982*

	FY 1973	FY 1974	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982
Operating Revenue	$16,996	$20,783	$41,416	$52,517	$33,376	$27,440	$23,100	$26,737	$40,782	$55,445
Non-Operating Revenue	681	703	871	1,161	1,646	1,651	2,081	2,155	3,159	3,352
Total Revenues	17,677	21,486	42,287	53,678	35,022	29,091	25,181	28,892	43,941	58,797
Operating Expenses	$20,057	$22,389	$35,883	$49,387	$35,703	$33,301	$31,285	$34,380	$40,358	$48,978
Non-Operating Expenses	153	158	272	191	255	213	204	344	273	258
Total Expenses	20,210	22,547	36,155	49,578	35,958	33,514	31,489	34,724	40,631	49,236
Gain (Loss)										
Before depreciation - cash flow	($ 7)	$ 1,300	$ 8,513	$ 6,628	$ 2,186	($ 1,227)	($ 3,089)	($ 2,306)	$ 6,567	$13,274
After depreciation	($ 2,533)	($ 1,061)	$ 6,132	$ 4,100	($ 936)	($ 4,423)	($ 6,308)	($ 5,832)	$ 3,310	$ 9,561
Capital Expenditures	$ 1,260	$ 313	$ 2,772	$ 8,602	$ 8,316	$ 5,823	$ 8,181	$ 6,895	$11,409	$11,821
Revenue Tons of Major Commodities (in thousands of tons)										
Sand and Gravel	2	1	1	104	700	727	637	396	1,797	2,754
Bulk Petroleum	363	414	557	624	532	374	220	252	379	439
Coal	565	563	584	607	550	593	524	590	653	654
Iron & Steel Pipe & Fittings	11	15	107	174	16	28	33	37	83	165
Piggyback	48	57	95	114	100	100	89	92	113	122
Forest Products	49	56	120	124	82	68	55	109	101	77
Manufactured Iron & Steel	18	37	60	89	19	12	12	10	8	19
Cement	15	14	25	32	42	33	33	32	43	51
Machinery and Machines	12	21	60	31	47	47	24	16	28	24
Mfrs. & Misc. NOS	32	34	44	29	17	13	25	26	11	**
Other	216	165	209	260	200	183	156	181	146	198
TOTAL	1,331	1,337	1,862	2,188	2,305	2,178	1,808	1,741	3,362	4,503
Passengers	74,000	84,000	81,000	84,500	103,632	126,277	151,045	150,678	161,068	175,116

* The Federal Government changed its fiscal year from July 1-June 30 to October 1-September 30 beginning in FY 1977, resulting in a transition quarter in 1976. To avoid a 15-month fiscal year for comparisons, these statistics use July 1, 1975 through June 30, 1976 as FY 1976, and October 1, 1976 through September 30, 1977 as FY 1977, dropping the transition quarter.

**Mfrs. & Misc. NOS. (not otherwise specified) discontinued, now included in specific categories.

10/82/WFC

IN THE SENATE

SENATE TRANSPORTATION COMMITTEE SUBSTITUTE

SENATE BILL NO. 352

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government;

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section.

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes.

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of Commerce and Economic Development and six voting members appointed by the Governor. These six members

must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of thes members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner of Commerce and Economic Development, a voting member may not be a state officer or employee.

(b) One person may be appointed by the governor to be a votin member of the board, if, at the time of appointment, the person has a least 10 years of experience in manag ent of railroads.

(c) Unless prohibited by law, one voting member shall be or hav been an executive official of an American railroad that is not now o was never a connecting carrier* of the Alaska railroad.

*(d) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(e) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has bee rejected by the legislature.

(f) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

*Problem - future anal is

(g) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(h) The chairperson shall call meetings of the board at leas once every three months. The chairperson may call other meetings o the board as the chairperson considers necessary. The chairperso shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. Except for th commissioner of Commerce and Economic Development, the voting membe of the board serve for staggered terms of five years each, and serv at the pleasure of the governor during their terms.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board i filled by appointment by the governor, and the appointment must b confirmed by the legislature in joint session. A member selected t fill a vacancy holds office for the balance of the term for which th member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of quorum of members to exercise the powers and perform the duties of th board.

(c) A member whose term has expired shall serve until a succes sor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointe member of the board is entitled to compensation at a rate of $250 fo each day the member is engaged in the actual performance of duties a a member of the board. The board may provide by rule for compensatio for partial days during which a member is engaged in the actua performance of duties.

(b) In addition to compensation under (a) of this section, an

appointed member of the board is entitled to per diem and trave expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. Four voting members of the boar constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. Four affirmative votes are required fo board action. The board shall provide by rule for the manner o voting, except that the board may not provide for voting by proxy The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis;

(4) apply to the legislature for a subsidy if it is required to maintain a service which is not otherwise self-sustaining;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporations while insuring that borrowing by the corporation does no

directly or indirectly endanger the state's own borrowing capacity.

(7) The board shall review all public and private land disposals proposals in planning for future development or expansion.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation subject to the approval by the Governor. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 60 days of its establishment, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) Specific board authorization or concurrence is required f the following:

(1) transferring the corporation's entire interest in rea property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to th corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range expansion and capital improvemen plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decrease in rates other than those periodically approved by the United State Interstate Commerce Commission;

(9) expanding or reducing services in a maior way

(10) expanding the main or branch lines, other than perform ing routine track alignment as necessary to maintain service levels a effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) the exercise of the power of eminent domain;

(13) collective bargaining agreements as provided by 42.40.700.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of th board are public except executive sessions. The question of holding

an executive session to discuss matters that come within the exceptions contained in (b) and (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(b) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the Alaska Railroad;

(2) subjects that tend to prejudice the the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(c) The board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting. Reasonable notice of the meetings shall be provided to the public.

**Sec. 42.40.230. RULES. The board shall establish a procedu for adopting rules to carry out its functions and the purposes of th chapter. The rules shall include a procedure for the adoption c emergency rules when the adoption of an emergency rule is essential t continue or to reinstate the orderly operation of the corporation' facilities or program.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Excep as provided by rule of the corporation under (b) of this section information in the possession of the corporation is public and is ope to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold publi disclosure of matters of a nonpublic, privileged, or proprietar nature. Those matters include personnel records, communications wit and work product of counsel consistent with the standards an practices of the United States Interstate Commerce Commission, an information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

**To be revised to include notice of adoption of rules as required by Alaska Housing Finance or Permanent Fund Corporation.

Sec. 42.40.230. Rules. (a) The board shall establish in its bylaws a procedure for adopting rules to carry out its functions and the purposes of this chapter.

(1) The corporation shall make available to members of the public copies of the rules adopted under this section.

(2) Within 45 days after adoption, the chairman of th board shall submit a rule adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

(b) Except as provided in (c) of this section, at least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposes rules with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule and must include and informative summary of the proposed subject of the rule. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative , or both, the opportunity to present statements, arguments or contentions in writing, and shall give members of the public an opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a rule which is adopted, or its amendment or repeal, may vary in content from the informative summary

specified in this subsection if the subject matter of the rule, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(c) The board shall in its bylaws establish a procedure for adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or programs. The requirements of (b) of this section do not apply to the initial adoption of an emergency regulation; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (b) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (b) of this section during the 120-day period.

(d) A rule adopted under this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by order of the adoption.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

Sec. 42.40.280. PERFORMANCE AUDIT. On a yearly basis the board shall have a performance audit conducted by a recognized railroad management expert on all aspects of the Alaska Railroad operations.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules;

(3) adopt bylaws governing the business of the corporation;

(4) sue and be sued;

(5) appoint trustees and agents of the corporation and prescribe their powers and duties;

(6) hire legal counsel to represent the corporation;

(7) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(8) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying

under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(9) acquire property by eminent domain in accordance with AS 42.40.430;

(10) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer any real or personal property including facilities and equipment in accordance with the provisions of this Act.

(11) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(12) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(13) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(14) maintain offices and facilities at places it designates;

(15) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(16) prescribe rates to be charged for services provided t the Alaska Railroad consistent with 45 U.S.C. 1201-1214 (Alask Railroad Transfer Act of 1982);

(17) determine the routes, schedules, and types of servic to be provided by the Alaska Railroad;

(18) enter into contracts, leases, and other agreements wit connecting carriers, shippers, and other persons concerning th services, activities, operations, properties and facilities of th railroad, including contracts, leases and other agreements tha contain provisions intended to preserve and expand the railroad' traffic base;

(19) plan for and undertake expansion of the railroad an railroad activities, including extension of the Alaska Railroad's rai system, and contract with other modes of transportation service con necting to the railroad's rail services;

(20) adopt rules that are designed to safeguard propert owned, managed, or transported by the corporation and to protec employees and persons using the corporation's property or services;

(21) hire and discharge railroad personnel and determin benefits and other terms and conditions of employment established i accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alask Railroad Transfer Act of 1982);

(22) assume and satisfy liabilities of the United States o its agencies as provided by the federal transfer legislation and th closing report or its substantive equivalent as accepted by the legis- lature;

(23) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(24) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(25) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(26) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(27) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(28) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(29) cancel bonds purchased under (28) of this section.

(30) do all things necessary, convenient or desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

**Sec. 42.40.310. LONG-RANGE EXPANSION AND CAPITAL IMPROVEM PLANS. (a) The corporation shall prepare and the board shall adop long-range expansion plan and a capital improvement plan. The lo: range expansion plan shall delineate the manner in which the corpo tion intends to accomplish the purposes of this chapter during each the five years after the plan is adopted. The capital improveme plan shall present and explain the corporation's anticipated capit improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans r quired under (a) of this section. The board may not contract for t preparation or revision of either the long-range expansion plan or t capital improvement plan, but shall require their preparation or revision by employees of the corporation.

(c) The board shall provide copies of its updated plans to th governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporatio shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corpo- ration may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorize by law by persons having the possession or control of it is prohibi- ted.

(b) Notwithstanding the provisions of this section, the corpo- ration may

staff language for a two year program plan.

(1) defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers; and

(2) purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. (a) All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired shall be designated as follows

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired are railroad utility corridors;

(2) All other real property transferred under the Transfer Act, or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of the railroad utility corridor but only for transportation, communication, and transmission purposes and for support functions associated with such purposes.

(d) The corporation may lease, grant easements or permits, or otherwise authorize use of portions of rail lands for other services including but not limited to transportation, communication, and transmission purposes and for support function associated with such purposes.

Sec. 42.40.410. NOMINATION OF LAND. The board may by rule identify and request federal land to be nominated for state selection for Railroad purposes.

Sec. 42.40.420. IDENTIFICATION,CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or tentatively approved for transfer to the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future railroad purposes. The request must include a statement of and justification for the present, or future railroad use. Upon submission of a request for classification and conveyance

to the commissioner of natural resources, the commissioner shall temporarily designate and reserve the land identified in the request for railroad purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary designation and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) designate that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate the land for railroad purposes.

(3) approve in part and deny in part the request for designation under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use for its purposes, timber and other constructed material, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate or otherwise use the surface or subsurface for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporacion may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

*Sec. 42.40.425. LAND USE REGULATION. The board may adopt exclusive regulations governing land use by private parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and, to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions with private parties.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand,

*Problem - future analysis

timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought against the railroad as a result of such use,

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. (a) The corporation shall protect its assets, services, and personnel by insurance, including certain self-insured retentions.

(b) The corporation shall also maintain Casualty, Property, Business Interruption, Marine, Boiler and Machinery, Pollution Liability, and Miscellaneous Insurances in amounts reasonably calculated to cover potential claims for bodily injury, death or disability, consequential and property damage that may arise or be related to its operations and activities, including the liabilities of the State.

(c) The Corporation may contract with the Department of Administration, Division of Risk Management for the provision of all or part of the requirements in subsections (a) and (b).

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In any claim or other legal action against the corporation, including actions involving the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, whether or not the action is considered to be a public interest case, it is not an abuse of discretion for a court to award full costs and attorney fees and for the losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

*Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

*Problem - future analysis

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) Bond or bond anticipation note proceeds may not be dedicated to activities other than those the board reasonably determines to be specifically related to the purposes for which the instruments are issued.

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes,

or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corpo-

ration, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts

or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation for the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds

or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the

state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. *(a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

*Problem - future analysis

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.710. COLLECTIVE BARGAINING RIGHTS. (a) The provisions of the Public Employee Relations Act (AS 23.40) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive official and other executive officials appointed by the chief executive official, may self organize and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.720. AGREEMENT. (a) The Department of Administration shall participate in the negotiations between the corporation and an employee organization. The corporation may not enter into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment unless the proposed contract terms are approved by the Department of Administration.

(b) An agreement executed between the corporation and an employee organization shall define "grievances." The agreement shall provide for a grievance procedure in which the final step in the procedure is binding arbitration.

Sec. 42.40.730. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY.

(a) There is established a railroad employees labor relations

agency which consists of three members appointed by the governor. One member shall be a member of the labor relations agency (AS 23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 -- 23.40.190 to carry out the provisions of the article.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. STRIKES. (a) Employees of the corporation may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of subsection (a), the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Sec. 42.40.750. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may upon request communicate with and appear berore committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

*(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska

*Problem - future analysis

Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

*(4) AS 37.05;

*(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

*(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40.010 - 42.40.990 conflict with the provisions of other law, the provisions of AS 42.40.010 - 42.40.990 prevail. Provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1202 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

*Problem - future analysis

*(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interests in real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation as provided in 45 USC 1202(10).

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act of 1984.

* Sec. 3. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 4. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

* Sec. 5. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The

*Problem - future analysis

board shall fix compensation for the chief executive officer.

* Sec. 6. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

* Sec. 7. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.030 enacted in Sec. 2 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 8. PRE-EXISTING RULES, REGULATIONS AND ORDERS OF THE ALASKA RAILROAD. The Board of Commissioners of the Alaska Railroad Corporation, by resolution, may continue in force for a period of not more than two years after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. All authorities continued in force under this section shall expire on the second anniversary of the date of transfer. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

* Sec. 9. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. As soon as practicable after transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 10. Sections 3 - 5 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 11. Sections 1, 2, 6, 7, 8 and 9 of this Act take effect immediately in accordance with AS 01.10.070.(c).

*Problem - future analysis

AK. RAILROAD

Bill Drafts

#1

3/22/84 Draft

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) It is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the Railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) Generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the

overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and seven voting members appointed by the governor. Of the seven voting members, at least five must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to transportation, business, and finance.

Except for the commissioner of commerce and economic development, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was ne er a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolvee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. Except for the commissioner of commerce and economic development, the appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of [$250] $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. [Four] Five voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. [Four] Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.080. MANAGEMENT BY THE BOARD. The board is responsible

for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis

(4) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(5) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(6) review state and other land disposals in planning for future development or expansion.

(7) insure that accepted railroad industry standards are used for the corporation's accounting and procurement systems.

Sec. 42.40.090. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is

greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

(4) any possible application for state appropriation for any service which is not self-sustaining.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) why the action is necessary or desirable to achieve the purposes of this chapter and;

(4) whether and when the undertaking will be self-sustaining financially.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. [subject to the approval by the Governor.] The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(5) establish and maintain the Railroad's procurement and accounting systems.

(c) Specific board approval [authorization or concurrence] is required for the following:

(1) transferring the corporation's entire interest in real property; other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective bar ng agreements with railroad employees as provided by AS. 42.4 .700;

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year;

(14) the exercise of the power of eminent domain;

(15) adopting annual budgets.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the corporation [authority] may not participate in a decision of the corporation [authority] in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that persons immediate family has only a

remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature. The board shall provide by rule for advance public notice for its meetings.

***** Sec. 42.40.230. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that in the determination of the board, will have a substantial impact on the public or be used in the corporations dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

(c) The Board of Directors of the Alaska Railroad Corporation, by resolution, may continue in force after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section,

information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the corporation or relating to operation of facilities of the corporation. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

Sec. 42.40.280. PERFORMANCE AUDIT. The board shall have a performance audit conducted by a qualified professional preformance auditing firm to assure thst the railroad is bei[illegible] managed and

operated effectively and efficiently in accordance with the requirements of this Chapter.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its

political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter .

(13) maintain offices and facilities at places it desig-nates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad in accordance with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts, leases or other agreements with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982;

(24) maintain or provide for a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (29) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall consult [interface] with affected [other related] state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish

the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railway and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the plans required under (a) of this section. [The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.]

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense,

settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired are designated as follows

(1) railroad rights-of-way or easements transferred under the Transfer Act or otherwise acquired shall be classified as railroad utility corridors;

(2) all other real property transferred under the Transfer Act or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad corridor. [However], Except as provided in AS 42.40.460, the corporation may lease, grant easements or permits or otherwise authorize use of portions of the utility corridor but only for transportation, transmission, or communication purposes and for support functions associated with such purposes, so long as parallel uses of the railroad corridor are

not restricted.

(d) The corporation may convey, lease, grant easements or permits or otherwise authorize use of portions of rail lands for other

services including but not limited to transportation, transmission, and communication purposes and for support functions associated with such purposes. Final sale of land must be approved by the legislature.

(e) Vegetation control involving the use of pesticided and herbacides on lands owned or managed by the Corporation shall be conducted in compliance with state requirements otherwise applicable with state requirements otherwise applicable to state pesticide and herbacide projects.

Sec. 42.40.410 NOMINATION OF LAND The board may nominate federal land for state selection through the Department of Natural Resources for railroad purposes.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board [by rule] may identify and request conveyance of land owned by or tentatively approved for transfer to [subject to selection by] the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future [or intended] railroad purposes. The request must include a statement of and justification for the present or future [or intended] railroad use. Upon submission of a request for [classification and] conveyance to the commissioner of natural resources, the commissioner shall temporarily [classify and] reserve the land identified in the request for railroad purposes and shall temporarily [vacate a classification allowing] hold in abayance any disposal or lease of that land other than to the corporation under laws or programs of the state. [A temporary classification and vacation] such lands held by the department of natural resources under this section is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by written decision shall;

(1) designate [classify] that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate [classify] the land for railroad purposes.

(3) approve in part and deny in part the request for designation [classification] under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials and the right to tunnel, ditch, recontour, excavate or otherwise use the sub-surface for railroad, transportation, transmission, or communication and related services without regard to the classification of the resources as part of the surface or sub-surface estate.

(d) The corporation may reconvey to the state land received under this section or under 45.U.S.C. 1201-1214 (the Alaska Railroad Transfer Act of 1982) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines

that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue state rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for railroad [lawful] purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the [state's lawful] purposes of this chapter [in condemning property].

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS -OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought against the railroad as a result of such use.

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or

revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(e) The corporation may defend and indemnify a current or former

employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter [AS 42.40.300 and 42.40.310].

ARTICLE 7 BONDS AND NOTES

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and [bond anticipation] notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal, state, or local government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(d) Bonds and notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds and notes may be sold in the manner, on the terms, and at the price the board determines. [Bond anticipation] notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) In the discretion of the board, an issue of bonds may be secured by a trust indenture (which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds which the corporation may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are

negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

***(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.[, except that the provisions of AS 39.50.010-39.50.200 shall apply to the members of the board and all appointed executive officers.]

Sec. 42.40.710 COLLECTIVE BARGAINING RIGHTS. The provisions of the Public Employee Relations Act (AS 23.40.070-23.40.260) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive officer and other executive officers appointed by the chief executive officer, may self organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.720 RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency which consists of three members appointed by the governor. One member shall be a member of the state labor relations agency (AS23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 42.40.700-42.40.990 to carry out the provisions of this article.

(c) Members of the railroad labor relations agency receive no compensation for their service, but are entitled to per diem and travel expenses authorized for board and commissions.

Sec. 42.40.730. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by AS.42.40.700-42.40.990 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours

and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.740. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) by the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties. The railroad labor relations

agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(3) No election may be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.750. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in AS 42.40.710;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.010-42.40.990;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this article prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.710 or

(B) the corporation in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with the provision of AS 42.40.700-42.40.990 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.760. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.750 or a written accusation that a person subject to AS 42.40.700-42.40.990 has engaged in a prohibited practice, is

filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after th preliminary investigation that probably cause exists in support of the complaint or accusation, is shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.770 COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.700-42.40.990, or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedures Act (AS 44.62).

Sec. 42.40.780 ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of AS 42.40.700-42.40.990. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.790 ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that

the person has engaged or is about to engage in the practice, an injunction restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.800 POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings which the railroad labor relations agency considers necessary to carry out the provisions of AS 42.40.700-42.40.990, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.700-42.40.990, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring him to comply with the subpoena.

Sec. 42.40.810 REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of AS 42.40.700-42.40.990.

Sec. 42.40.820. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by fine of not more than $500.

Sec. 42.40.830. MEDIATION. If after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse exists between the corporation and an organization, the railroad labor relations agency shall appoint a person, mutually agreeable to the parties

from a list of qualified mediator/arbitrators knowlegable in railway labor agreements to act as mediator in the dispute.

(b) Prior to a determination of an impasse under this section, the parties may also select a mediator by agreement or mutual consent.

(c) It shall be the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.840. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by the interest of the health, safety or wrlfare of the public. The corporation may apply to the superior court in the judicial district in which the strike is occuring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun or is about to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the stike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which an employee organizstion and the corporation have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under Sec. 42.40.830 and shall fasion the award as he/she deems equitable.

(b) Notwithstanding the provisions of (a) of this section, the parties to the dispute may mutually agree to submit the dispute to binding arbitration.

Sec. 42.40.850. AGREEMENT. (a) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

(b) The parties to an agreement under this section may agree to terms which specify an expiration date for the agreement. If a specfic term is set for which an agreement will remain in effect, provisions shall be included prohibiting any strikes or lockouts during the term of the agreement during and establishing a process for minor amendments to the agreement during the term of the agreement, which shall have binding arbitration as its final step.

(c) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall seek advice of the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

Sec. 42.40.860. LABOR OR EMPLOYEE ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of a corporation employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.870. EXEMPTION FROM ARTICLE 7. Notwithstanding the provisions of AS 42.40.860, a collective bargaining settlement reached, or

agreement entered into, under AS 42.40.850 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the railroad labor relations agency.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the [deed of conveyance] transfer documents for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interest in real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager,

Assistant to the General Manager, Chief of Administration and General Counsel.

(9) "railroad labor relations agency" means railroad employee labor relations agency with regard to the corporation and employees of the corporation.

(10) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.700-42.40.990

(11) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment.

(12) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiating in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(13) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of the corporation.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as

the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010 ESTABLISHMENT OF THE CORPORATION

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and, is an instrumentality of the state [within the Department of Commerce and Economic Development], but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

* Sec. 4 AS 42.40.020 (a) is amended to read:

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of [the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and eight [seven] voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to transportation, business, and finance. Except for [the commissioner of commerce and economic development], the chief executive officer, and the member appointed under (d) of this section, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) Except for [the commissioner of commerce and economic development and] the chief executive officer of the corporation, the voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

* Sec. 5. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 6. AS.42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

(4) any conduct that was intended to harm the corporation whether or not it constitutes a crime

* Sec. 7. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

* Sec. 8. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other state law, the provisions of this Act prevail. [Where possible], Provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 9. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 10. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. (a) As soon as practicable after establishment of the corporation and prior to transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt

collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

(b) The board shall by rule on or before the date of transfer under the authority granted in Sec. 42.40.230(c) adopt personnel rules and other rules and regulations as necessary to prevent an interruption of services.

(c) The board shall renegotiate all collective bargaining agreements during the two-years period following transfer in accordance with 45 U.S.C. 1202-1214, unless the parties agree to the contrary.

(d) Subject to the provisions of 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982) within 180 days of the first meeting of the board, the board and representatives of employee bargaining units shall implement ground rules for the renegotiation of collective bargaining agreements.

* Sec 11. Sections 3 - 7 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 12. Sections 1,2,8-11 of this Act take effect immediately in accordance with AS 01.10.070.(c).

* Sec. 13. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

3/15/84 Draft

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) It is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and seven voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter,

including, but not limited to transportation, business, and finance. Except for the commissioner of commerce and economic development, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. Except for the commissioner of commerce and economic development, the appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of [$250] $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. [Four] Five voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. [Four] Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.080. MANAGEMENT BY THE BOARD. The board is responsible

for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(7) review all public and private land disposals in planning for future development or expansion.

(8) insure that accepted railroad industry standards are used for the corporation's accounting and procurement systems.

Sec. 42.40.090. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is

greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

(4) any possible application for state appropriation for any service which is not self-sustaining.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) why the project is necessary or desirable to achieve the purposes of this chapter and;

(4) whether and when the undertaking will be self-sustaining financially.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. [subject to the approval by the Governor.] The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(5) establish and maintain the Railroad's procurement and accounting systems.

(c) Specific board approval [authorization or concurrence] is required for the following:

(1) transferring the corporation's entire interest in real property; other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees <u>as provided by AS. 42.40.700</u>;

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year;

<u>(14) the excercise of the power of eminent domain.</u>

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the <u>corporation</u> [authority] may not participate in a decision of the <u>corporation</u> [authority] in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that persons immediate family has only a remote interest and if the fact and extent of the interest is

disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature. The board shall provide by rule for advance public notice for its meetings.

***** Sec. 42.40.230. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that in the determination of the board, will have a substantial impact on the public or be used in the corporations dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

(c) The Board of Directors of the Alaska Railroad Corporation, by resolution, may continue in force after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section,

information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the corporation or relating to operation of facilities of the corporation. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

Sec. 42.40.280. PERFORMANCE AUDIT. The board shall have a performance audit conducted by a qualified professional preformance auditing firm to assure thst the railroad is being managed and

operated in accordance with the requirements of this Act.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad <u>in accordance with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982)</u>;

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts, leases or other agreements with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 *****and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (29) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall consult [interface] with affected [other related] state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish

the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railway and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the plans required under (a) of this section. [The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.]

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense,

settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired shall be designated as follows

(1) railroad rights-of-way or easements transferred under the Transfer Act or otherwise acquired shall be classified as railroad utility corridors;

(2) all other real property transferred under the Transfer Act or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad corridor. [However], Except as provided in AS 42.40.460, the corporation may lease, grant easements or permits or otherwise authorize use of portions of the utility corridor but only for transportation, transmission, or communication purposes and for support functions associated with such purposes, so long as parallel uses of the railroad corridor are

not restricted.

(d) The corporation may sell, lease, grant easements or permits or otherwise authorize use of portions of rail lands for other

services including but not limited to transportation, transmission, and communication purposes and for support functions associated with such purposes. Final sale [or disposal] of land must be approved by the legislature.

(e) Vegetation control involving the use of pesticided and herbacides on lands owned or managed by the Corporation shall be conducted in compliance with state requirements otherwise applicable with state requirements otherwise applicable to state pesticide and herbacide projects.

Sec. 42.40.410 NOMINATION OF LAND The board may [by rule] identify and request through the Department of Natural Resources federal land to be nominated for state selection for railroad purposes.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board [by rule] may identify and request conveyance of land owned by or tentatively approved for transfer to [subject to selection by] the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future [or intended] railroad purposes. The request must include a statement of and justification for the present or future [or intended] railroad use. Upon submission of a request for [classification and] conveyance to the commissioner of natural resources, the commissioner shall temporarily [classify and] reserve the land identified in the request for railroad purposes and shall temporarily [vacate a classification allowing] hold in abayance any disposal or lease of that land other than to the corporation under laws or programs of the state. [A temporary classification and vacation] such lands held by the department of

natural resources under this section is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) designate [classify] that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate [classify] the land for railroad purposes.

(3) approve in part and deny in part the request for designation [classification] under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials and the right to tunnel, ditch, recontour, excavate or otherwise use the sub-surface for railroad, transportation, transmission, or communication and related services without regard to the classification of the resources as part of the surface or sub-surface estate.

(d) The corporation may reconvey to the state land received under this section or under 45.U.S.C. 1201-1214 (the Alaska Railroad Transfer Act of 1982) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location

and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is nec ry to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for railroad [lawful] purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the [state's lawful] purposes of this chapter [in condemning property].

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law

that will enhance the operations of the corporation and may receive conveyance of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS -OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought against the railroad as a result of such use.

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the

presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action..

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter [AS 42.40.300 and 42.40.310].

ARTICLE 7 BONDS AND NOTES

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and [bond anticipation] notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal, state, or local government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

[***(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.]

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or [bond anticipation] notes may be sold in the manner, on the terms, and at the price the board determines. [Bond anticipation] notes shall mature at the time or times determined by

the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) In the discretion of the board, an issue of bonds may be secured by a trust indenture (which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds which the corporation may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the

corporation;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest or it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

***(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the

corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements in effect on the date of transfer between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) Subject to the provisions of 45 USC 1206 (Alaska Railroad Transfer Act of 1982) Within 180 days of the first meeting of the Board, the Board and representatives of employee bargaining units shall implement ground rules for the re-negotiation of collective bargaining agreements.

NOTE: Sec. 42.40.710 COLLECTIVE BARGAINING (a) The provisions of AS. 23.40.010- 23.40.080, AS. 23.40.110, AS. 23.40.200-23.40.260. (Public Employee Relations Act) do not apply to the corporation or to it's employees. However, employees that are not executive officers

may organize, and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

(b) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall seek advice of the Department of Administration proir to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(c) An agreement executed between the corporation and an employee organization shall provide for a grievance procedure in which the final step in the procedure is binding arbitration. The agreement shall define "grievance" for purposes of this section.

Sec. 42.40.720 RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a rail oad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS. 23.40.090 - 23.40.100, and AS. 23.40.120-23.40.190 .

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized the boards and commissions.

Sec. 42.40.730 ADVISORY ARBITRATION (a) If efforts at mediation under AS 23.40.190 fail to resolve a dispute, the dispute shall be submitted to advisory arbitration. The corporation shall choose one of the arbitrators, the railroad labor relations agency shall choose

one of the arbitrators, and the Railroad Employees Labor Relations board shall choose one of the arbitrators.

(b) Arbitration of the dispute shall be conducted under AS. 09.43.100 to the extent that the sections do not conflict with this section. A decision reached by the arbitrators shall not be binding upon the parties.

Sec. 42.40.740 STRIKES (a) After submitting a dispute to advisory arbitration, employees may engage in a strike if a majority of all employees in collective bargaining units vote by secret ballot to do so.

(b) Not withstanding the provisions of (a) of this section, the employees with the concurrance of the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to binding arbitration.

Sec. 42.40.750. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.760. PROHIBITED ACTS. (a) The railroad Chief Executive Officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to participate in any way in any activity or undertaking unless the

activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corporation to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected with him by blood or marriage,

(B) his/her religious beliefs or practices,

(C) sexual matters

(D) his/her political affiliation or philosophy

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of corporation employees suspected of being involved in criminal activity.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the [deed of conveyance] transfer documents for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interest in real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

(9) "collective bargaining" is defined as negotiating with an employees organization, representing employees of The Alaska Railroad Corporation on matters pertaining to conditions of employment.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010 ESTABLISHMENT OF THE CORPORATION

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state [within the Department of Commerce and Economic Development], but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers

provided in this chapter is considered an essential governmental function of the state.

* Sec. 4 AS 42.40.020 (a) is amended to read:

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of [the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and eight [seven] voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to transportation, business, and finance. Except for [the commissioner of commerce and economic development], the chief executive officer, and the member appointed under (d) of this section, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) Except for [the commissioner of commerce and economic development and] the chief executive officer of the corporation, the

voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

* Sec. 5. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 6. AS.42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

(4) any conduct that was intended to harm the corporation whether or not it constitutes a crime

* Sec. 7. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

* Sec. 8. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other state law, the provisions of this Act prevail. [Where possible], Provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 9. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 10. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. As soon as practicable after establishment of the corporation and prior to transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

* Sec 11. Sections 3 - 7 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 12. Sections 1,2,8-11 of this Act take effect immediately in accordance with AS 01.10.070.(c).

* Sec. 13. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

3/14/84 Draft

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) It is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs or the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and seven voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter,

including, but not limited to transportation, business, and finance. Except for the commissioner of commerce and economic development, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. Except for the commissioner of commerce and economic development, the appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of [$250] $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. [Four] Five voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. [Four] Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.080. MANAGEMENT BY THE BOARD. The board is responsible

for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(7) review all public and private land disposals in planning for future development or expansion.

(8) insure that accepted railroad industry standards are used for the corporation's accounting and procurement systems.

Sec. 42.40.090. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is

greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

(4) any possible application for state appropriation for any service which is not self-sustaining.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) why the project is necessary or desirable to achieve the purposes of this chapter and;

(4) whether and when the undertaking will be self-sustaining financially.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. [subject to the approval by the Governor.] The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(5) establish and maintain the Railroad's procurement and accounting systems.

(c) Specific board approval [authorization or concurrence] is required for the following:

(1) transferring the corporation's entire interest in real property; other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees as provided by AS. 42.40.700;

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year;

(14) the excercise of the power of eminent domain.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the corporation [authority] may not participate in a decision of the corporation [authority] in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that persons immediate family has only a remote interest and if the fact and extent of the interest is

disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested member or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature. The board shall provide by rule for advance public notice for its meetings.

***** Sec. 42.40.230. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that in the determination of the board, will have a substantial impact on the public or be used in the corporations dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

(c) The Board of Directors of the Alaska Railroad Corporation, by resolution, may continue in force after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section,

information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the corporation or relating to operation of facilities of the corporation. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

Sec. 42.40.280. PERFORMANCE AUDIT. The board shall have a performance audit conducted by a qualified professional preformance auditing firm to assure thst the railroad is being managed and

operated in accordance with the requirements of this Act.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad <u>in accordance with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982)</u>;

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts, leases or other agreements with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 *****and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (29) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall consult [interface] with affected [other related] state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish

the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railway and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the plans required under (a) of this section. [The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.]

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense,

settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired shall be designated as follows

(1) railroad rights-of-way or easements transferred under the Transfer Act or otherwise acquired shall be classified as railroad utility corridors;

(2) all other real property transferred under the Transfer Act or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad corridor. [However], Except as provided in AS 42.40.460, the corporation may lease, grant easements or permits or otherwise authorize use of portions of the utility corridor but only for transportation, transmission, or communication purposes and for support functions associated with such purposes, so long as parallel uses of the railroad corridor are

not restricted.

(d) The corporation may sell, lease, grant easements or permits or otherwise authorize use of portions of rail lands for other

services including but not limited to transportation, transmission, and communication purposes and for support functions associated with such purposes. Final sale or disposal of land must be approved by the legislature.

(e) Vegetation control involving the use of pesticided and herbacides on lands owned or managed by the Corporation shall be conducted in compliance with state requirements otherwise applicable with state requirements otherwise applicable to state pesticide and herbacide projects.

Sec. 42.40.410 NOMINATION OF LAND The board may [by rule] identify and request through the Department of Natural Resources federal land to be nominated for state selection for railroad purposes.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board [by rule] may identify and request conveyance of land owned by or tentatively approved for transfer to [subject to selection by] the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future [or intended] railroad purposes. The request must include a statement of and justification for the present or future [or intended] railroad use. Upon submission of a request for [classification and] conveyance to the commissioner of natural resources, the commissioner shall temporarily [classify and] reserve the land identified in the request for railroad purposes and shall temporarily [vacate a classification allowing] hold in abayance any disposal or lease of that land other than to the corporation under laws or programs of the state. [A temporary classification and vacation] such lands held by the department of

natural resources under this section is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) designate [classify] that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate [classify] the land for railroad purposes.

(3) approve in part and deny in part the request for designation [classification] under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials and the right to tunnel, ditch, recontour, excavate or otherwise use the sub-surface for railroad, transportation, transmission, or communication and related services without regard to the classification of the resources as part of the surface or sub-surface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of

the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequat rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for railroad [lawful] purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the [state's lawful] purposes of this chapter [in condemning property].

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, and, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS -OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought against the railroad as a result of such use.

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or

revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights,

privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

ARTICLE 7 BONDS AND NOTES

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes

may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

***(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

***(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

***(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

***(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

***(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

***(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

***(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

***(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

***(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

***(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside

the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

***(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

***(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

***Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the

delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

***Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or

in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and

receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

***(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements <u>in effect on the date of transfer</u> between the corporation and its employees shall remain in

effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) Subject to the provisions of 45 USC 1206 (Alaska Railroad Transfer Act of 1982) Within 180 days of the first meeting of the Board, the Board and representatives of employee bargaining units shall implement ground rules for the re-negotiation of collective bargaining agreements.

Sec. 42.40.710 COLLECTIVE BARGAINING (a) Unless specifically provided in this Act, the provisions of AS. 23.40 (Public Employee Relations Act) do not apply to the corporation or to it's employees. However, employees that are not executive officers may organize, and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

(b) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall seek advice of the Department of Administration proir to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(c) An agreement executed between the corporation and an employee organization shall provide for a grievance procedure in which the final step in the procedure is binding arbitration. The agreement shall define "grievance" for purposes of this section.

Sec. 42.40.720 RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall

be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS. 23.40.090 - 23.40.190 and carry out the provisions of AS 42.40.750-810.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized the boards and commissions.

Sec. 42.40.730 STRIKES (a) Employees may engage in a strike if a majority of the employees in all collective bargaining units vote by secret ballot to do so.

(b) Not withstanding the provisions of (a) of this section, the employees of the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Sec. 42.40.730. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.760. PROHIBITED ACTS. (a) The railroad Chief Executive Officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to

participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corporation to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected with him by blood or marriage,

(B) his/her religious beliefs or practices,

(C) sexual matters

(D) his/her political affiliation or philosophy

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of corporation employees suspected of being involved in criminal activity.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the [deed of conveyance] <u>transfer documents</u> for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interest in real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

(9) "collective bargaining" is defined as negotiating with an employees organization, representing employees of The Alaska Railroad Corporation on matters pertaining to conditions of employment.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010 ESTABLISHMENT OF THE CORPORATION

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state [within the Department of Commerce and Economic Development], but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers

provided in this chapter is considered an essential governmental function of the state.

* Sec. 4 AS 42.40.020 (a) is amended to read:

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of [the commissioner of the Department of Commerce and Economic Development, the Chief Executive Officer and eight [seven] voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to transportation, business, and finance. Except for [the commissioner of commerce and economic development], the chief executive officer, and the member appointed under (d) of this section, a voting member may not be a state officer or employee.

(b) Except for [the commissioner of commerce and economic development and] the chief executive officer of the corporation, the voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

* Sec. 5. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 6. AS.42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perfoim duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

(4) any conduct that was intended to harm the corporation whether or not it constitute a crime

* Sec. 7. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

* Sec. 8. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other state law, the provisions of this Act prevail. [Where possible], Provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 9. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 10. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. As soon as practicable after establishment of the corporation and prior to transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

* Sec 11. Sections 3 - 7 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 12. Sections 1,2,8-11 of this Act take effect immediately in accordance with AS 01.10.070.(c).

* Sec. 13. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development and seven voting members appointed by the governor. These seven members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The voting members must have experience or professional training and expertise in fields relevant to the purposes of this

chapter, including, but not limited to transportation, business, and finance. A voting member may not be a state officer or employee.

(b) Unless prohibited by law, one voting member shall be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(c) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(e) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(f) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(g) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

****** (h) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves

the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) Conviction of a felony

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Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. The appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. Four voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. Four affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices. The rules may provide for excluding non-voting members during executive sessions.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(4) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation subject to the approval by the Governor. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The

appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) Board authorization or concurrence is required for the following:

(1) transferring the corporation's entire interest in real property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees.

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the authority may not participate in a decision of the authority in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "particpate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if

that person or a member of that persons immediate family has only a remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary

information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature.

***** Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. The rules shall include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) Except as provided in AS 42.40.270, the corporation may by rule designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.250. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make

specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the authority or relating to operation of facilities of the authority.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430or by declaration of taking;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other

interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad;

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts and leases with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (21) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall interface with other related state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans required under (a) of this section. The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private

distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. As to all land that is transferred or acquired

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be classified as railroad utility corridors;

(2) future railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of other width as designated by the corporation, and may be surveyed by the metes and bounds method; and

(3) the corporation may lease or rent portions of the utility corridor for other transportation services.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or subject to selection by the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, future or intended railroad purposes. The request must include a statement of and justification for the present, future or intended railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily classify and reserve the land identified in the request for railroad

purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) classify that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to classify the land for railroad purposes.

(3) approve in part and deny in part the request for classification under this section.

(c) A conveyance under (b)(1) or (3) of this section vests in the corporation the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials the land conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) The corporation's ownership of state land entitles it to exclusive use and control of the surface, subsurface, complete subjacent and lateral support of the surface, subsurface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq

(the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. (a) The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or

proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their

successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or

notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are

immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital

in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the

corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their

well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity.

However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

ARTICLE 8. STATE OVERSIGHT AND REVIEW

Sec. 42.40.800. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska

Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

Cook
4/28/84

Original sponsors: Hayes, Ringstad,
Shultz, et al

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 512 (Finance)

IN THE LEG LATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to operate the Alaska Railroad with a board of nine directors responsible for management of the corporation; requiring the board to appoint a chief executive officer to manage the daily affairs and operations of the corporation; authorizing the board to adopt rules to carry out its functions; authorizing the corporation to issue bonds and notes; authorizing the corporation to own and manage all property acquired by the corporation or transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982); authorizing the corporation to exercise eminent domain; exempting the corporation from AS 19, AS 23.40.070 - 23.40.260, AS 30.15, AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060, 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and AS 44.62.040 - 44.62.320; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government; and

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of railroad service that best satisfies the needs of the people of the state;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the

financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing bonds exempt from federal and state taxation;

(D) generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical railroad transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices;

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the

corporation are vested in the board of directors. The board consists of the chief executive officer of the corporation, and eight members appointed by the governor. The eight appointed members must be registered voters in the state except as provided in (1) and (2) of this subsection. Except for the member appointed under (3) of this subsection, no more than two appointed members may be from any one of the four judicial districts in the state. Except for the chief executive officer and the member appointed under (3) of this subsection, a member may not be a state officer or employee. Appointed members shall have the following qualifications:

(1) one member of the board shall be a person who has at least 10 years of experience in railroad management; a person who is not a resident of the state may be appointed under this paragraph;

(2) one member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with 49 U.S.C. (Interstate Commerce Act); a person who is not a resident of the state may be appointed under this paragraph;

(3) one member shall be an employee who is a member of a bargaining unit representing employees of the corporation;

(4) two members shall have at least five years of experience as owners or managers of a business in the state;

(5) one member shall be a public member with no direct or indirect financial interest in a transportation industry, except as a consumer of transportation services.

(b) The appointed members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) The appointed members of the board serve for staggered terms of five years each.

(b) The governor may, by written notice to a member, remove the member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) any conduct intended to harm the corporation, even if it does not constitute a crime.

Sec. 42.40.040. VACANCIES. (a) Except for the chief executive officer of the corporation, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) An appointed member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an

appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) provide for safe, efficient, and economical railroad transportation to meet the overall needs of the state;

(5) raise needed capital by issuing bonds of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(6) review state and other land disposal proposals to aid in planning for future development or expansion of railroad transportation services;

(7) ensure that the accounting procedures of the corporation meet generally accepted accounting principals consistent with

railroad industry standards;

(8) ensure that the procurement procedures of the corporation comply with the procurement standards and procedures established for state agencies to the extent practicable consistent with efficient railroad operations;

(9) apply to the legislature for an appropriation to be used to provide a service that is not otherwise self-sustaining if a subsidy is required to maintain that service.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix the compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board may by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation.

(b) The board shall by rule establish procedures for carrying out the following powers and duties of the corporation and may delegate the exercise of the following powers and duties in accordance with the procedures to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property, except the corporation's entire interest in land;

(2) establishing specific rates, tariffs, divisions, and

contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) The board may by rule require the exercise of a power or duty delegated under (a) or (b) of this section to be subject to board approval. Specific board approval is required for the following:

(1) issuing bonds;

(2) mortgaging or pledging corporation assets;

(3) donating property or other assets belonging to the corporation;

(4) acting as a surety or guarantor;

(5) adopting a long-range program or capital improvement plan;

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

(8) diversifying, expanding, or reducing services in a major way;

(9) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(10) selecting independent auditors and accountants;

(11) exercising the power of eminent domain;

(12) entering into collective bargaining agreements;

(13) adopting annual budgets; and

(14) beginning capital projects with an estimated completion cost of more than $500,000 or an estimated completion time of more

than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined in accordance with AS 42.40.160. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) unless one person has requested to have the subjects discussed in public, subjects that tend to prejudice the reputation and character of a person;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.175. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption of a rule, the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed rule and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting a rule. The board may take action on a rule that

varies in content from the summary provided with the notice of the proposed rule if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

Sec. 42.40.180. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption of a rule on an emergency basis. An emergency rule may be adopted only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.175 do not apply to actions taken under this section. However, within 10 days after the adoption of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.175(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency rule from lapsing the board may adopt the same rule under AS 42.40.180 before the end of the 120-day period.

Sec. 42.40.185. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.175(a) or 42.40.180(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a rule invalid

(1) for substantial failure by the board to comply with AS 42.40.175 or 42.40.180; or

(2) if the rule was adopted under AS 42.40.180, upon the grounds that the emergency rule was not necessary for the orderly

operation of the corporation's facilities or programs.

Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. (a) The board may provide by resolution that rules and orders in effect on the date of transfer that are not inconsistent with this chapter or other state law remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

(b) AS 42.40.175 does not apply to actions taken under this section.

Sec. 42.40.200. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

Sec. 42.40.210. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of

this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a prohibition contained in this section.

(e) For purposes of this section

(1) "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes;

(2) "immediate family" means

(A) spouse;

(B) dependent parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, niece, or nephew.

Sec. 42.40.220. COMPLAINT PROCEDURE. The board shall provide by rule for a formal procedure for the receipt and consideration of complaints or suggestions regarding activities of the corporation.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, improve, lease, encumber and otherwise grant security interests in land or personal property and exchange, donate, convey, alienate, or otherwise dispose of personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation,

maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the corporation, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment;

maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

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(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment;

(19) assume all rights, liabilities, and obligations of the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain or provide for a security force to protect property owned, managed or transported by the corporation and persons using railroad transportation services provided by the corporation;

(21) issue its bonds and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its bonds by pledge, mortgage, or other lien on its contracts, revenue, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interest in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in

connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(29) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. Subject to AS 42.40.290, the report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category. The report shall list all complaints and suggestions received by the corporation during the previous fiscal year and describe the action taken on the complaint or suggestion.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.200 and rules implementing that section.

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000;

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies and municipalities in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the long range program and capital improvement plans. The board shall provide copies of the updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action

which the person is involved by affiliation with the corporation, the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) The corporation shall take title in its own name to all land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982). All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way are railroad utility corridors;

(2) land outside the railroad utility corridors is rail land.

(b) A railroad utility corridor shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land for a corridor of that width. A railroad utility corridor may be surveyed by the metes and bounds method. The corporation may not convey its entire interest in land within a railroad utility corridor except as provided in AS 42.40.400 and 42.40.370(d). The corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and

transmission purposes and support functions associated with those purposes and for commercial and other uses if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, the corporation may not convey its entire interest in rail land except as provided in AS 42.40.~~300~~370(d) and 42.40.400~~(d)~~.

(d) A lease by the corporation to a party other than the state shall be made at fair market value as determined by appraisal by a qualified appraiser or by competitive bid.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land it determines may be useful for railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board may identify and request the commissioner of natural resources to convey land necessary or useful for present or future railroad purposes owned by or tentatively approved for transfer to the state, including land not contiguous to land already held by the corporation. The request must include a statement of and justification for the present or future railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and defer disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF STATE LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes

and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request for designation of the identified land and convey as appropriate.

(b) A conveyance of land under this section may be for less than fair market value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface, material, and mineral estate, including the right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, or communication services.

(d) The corporation may reconvey to the state land received under this section, under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), by eminent domain, or otherwise that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When emergency conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with the concurrence of the Department of Natural Resources. The relocation must affect only the amount of state land

necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. Notwithstanding AS 09.55.250, the corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for the operation of the railroad, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may vacate an easement acquired under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire the easement for use in conformity with 45 U.S.C. 1201 - 1214.

Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land that will enhance the operations of the corporation if it is available under a federal law other than the Alaska Statehood Act of 1958 (P.L. 85-508, 72 Stat. 339). The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.420. MUNICIPAL USE OF LAND. Upon request of a municipality the corporation may authorize use of the railroad utility corridor or rail land for a pedestrian walkway or trail. Before

authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless from and indemnify the corporation for liability and claims arising from any use authorized under this section including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment, including prejudgment and postjudgment interest, rendered against the corporation or for the amount of a settlement entered into by the corporation, and for all costs and attorney's fees incurred by the corporation in settling or defending the claim; and

(2) stop the use upon request of the corporation if the use interferes with expansion or replacement of railroad facilities, creates a safety hazard, or interferes with railroad operations.

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. (a) The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 - 1622c (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

(b) The corporation is an instrumentality and agency of the state for purposes of exchanging land with the United States, municipalities, corporations including corporations formed under 43 U.S.C.

1601 - 1628 (Alaska Native Claims Settlement Act), and individuals.

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute of limitations runs against the title or interest of the corporation to or in land owned by the corporation or under its jurisdiction. Title to or interest in land owned by the corporation or under its jurisdiction may not be acquired by adverse possession or prescription, or in any other manner except by conveyance from or formal vacation by the corporation.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.-310(b), the corporation shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery,

pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability, and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds to provide money to carry out its purposes.

(b) Bonds may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear fixed or variable interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination or denominations;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds may be sold in the manner, on the terms, and at the price the board determines. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board, but notes shall mature at the time or times determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on bonds of the corporation is payable from corporation money or assets. Bonds may be additionally secured by a pledge of a grant or contribution from the federal, state, or municipal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with

corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different

character that in any way affect the security or protection of the bonds.

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds or coupons attached to them ceases to be an officer before the delivery of the bond or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds.

Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency that loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the corporation by this chapter to fulfill the terms of a contract made by the corporation with the holders or federal agency, or in any way impair the rights and remedies of the holders until the

bonds together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the corporation, in a contract with the holders and insofar as it relates to a federal agency, in a contract with the federal agency.

Sec. 42.40.680. REMEDIES. A holder of bonds issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.705. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective

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bargaining or other mutual aid or protection.

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the railroad labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative;

or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit

or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference

conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

Sec. 42.40.820. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators/arbitrators

knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under AS 42.40.840 and shall fashion the award the arbitrator considers equitable.

Sec. 42.40.860. AGREEMENTS. (a) The Department of

Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

(d) Notwithstanding (a) - (c) of this section, an organization and the corporation may mutually agree to submit a dispute to binding arbitration at any time.

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or

agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination, or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity or to investigate other activity directly related to official railroad business.

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(4) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of an employer.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers under AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation shall notify the Department of Law within 30 days before initiating legal action unless special circumstances exist that require immediate

legal action to protect the corporation assets or to continue existing service.

(b) If notice of legal action is not given under (a) of this section, within 15 days of taking action the board shall notify the Department of Law of the action taken and of the special circumstances that exempted the action from the requirements of (a) of this section.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, excise taxes, income taxes, or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

(c) The corporation is subject to AS 45.50.562 - 45.50.596.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of this chapter conflict with the provisions of other state law, the provisions of this chapter prevail. Provisions of this chapter shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not later than two years after the date of transfer, the Department of Labor in consultation with the corporation shall develop and the corporation, shall adopt a plan to achieve compliance with AS 18.60. The plan shall be implemented and compliance achieved within five years after it is adopted.

(b) No later than two years after the date of transfer, the corporation in consultation with the Department of Public Safety and appropriate municipal officials, shall develop and adopt a plan to achieve compliance with building and related safety codes applicable

to facilities of the corporation. The plan shall be implemented and compliance achieved within five years after it is adopted. In the sole determination of the commissioner of public safety, any existing building owned or controlled by the corporation that does not present a serious safety hazard and for which compliance would be uneconomical in consideration of its remaining useful life shall be exempted from compliance with state or municipal safety codes.

Sec. 42.40.950. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "bonds" means bonds, bond anticipation notes, notes, refunding bonds, or other obligations;

(3) "corporation" means the Alaska Railroad Corporation;

(4) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, an employee who fulfills management functions and is so designated by the board, and employees occupying the following positions on the date of transfer: general manager, assistant general manager, assistant to the general manager, chief of administration, and general counsel;

(7) "land" means any interest in real property, including tide and submerged land and any right appurtenant to the interest;

(8) "rule" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by the corporation to implement, interpret, or make specific the law enforced or administered by it to govern its procedure except one that

(A) relates only to the internal management of the corporation;

(B) relates to specific rates, tariffs, divisions, and contract rate agreements;

(C) relates to service schedules of the railroad;

(D) is directed to a specifically named person or to a group of persons and does not apply to the general public; or

(E) relates to the use of public works under the jurisdiction of the corporation if the effect of the order is indicated to the public by means of signs or signals.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 4. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable after establishment of the Alaska Railroad Corporation and before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska

Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) The board of directors of the Alaska Railroad Corporation shall on or before the date of transfer of the Alaska Railroad to the state adopt personnel rules necessary to prevent an interruption of services of the railroad.

(c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements adopted under (a) of this section. The board shall renegotiate all agreements adopted under (a) of this section within two years after the date of transfer of the Alaska Railroad to the state unless the parties agree to the contrary.

* Sec. 5. SALE OF RAILROAD. (a) Not later than two years following the date of the transfer of the Alaska Railroad to the state, the Board of Directors of the Alaska Railroad Corporation, in consultation with the state, shall request proposals from the private sector for the acquisition or operation of the Alaska Railroad. The board may engage the services of an investment banking firm or other professional expertise to assist in the development of the request and evaluation of proposals received. The board shall consider every proposal from the private sector for the acquisition or operation of the Alaska Railroad, even if it is not made in response to a request for proposals under this subsection.

(b) In order to be considered responsive, a proposal must

(1) ensure continued or improved rail service;

(2) return to the state its investment in the Alaska Railroad to

the extent possible;

(3) be consistent with the terms and conditions of 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), and not activate the reversion provisions of 45 U.S.C. 1209 (Alaska Railroad Transfer Act of 1982);

(4) demonstrate with reasonable certainty that the railroad after acquisition by the private sector will be operated as a profitable carrier; as used in this paragraph, "profitable carrier" means a carrier that will be able to

(A) generate sufficient revenue to meet its expenses, including reasonable maintenance of necessary equipment and facilities; and

(B) finance its capital needs in the private market; and

(5) demonstrate how the railroad can continue operation of services, including current levels of passenger service.

(c) The board may negotiate the details of any proposal found to be responsive, including the execution of a letter of intent to conclude a transfer upon approval of the governor and the legislature.

(d) Within one year after requesting proposals under (a) of this section, the board shall submit a report on the results of the process to the governor, including its specific findings on the responsiveness of any proposal received and its recommendations for conclusion of a transfer of the railroad or its management to the private sector.

(e) Within 120 days after receipt of the board's report, if the board has recommended transfer of the Alaska Railroad or its management to the private sector, the governor shall

(1) disapprove the proposed transfer; or

(2) submit the report and recommendations to the legislature.

(f) Failure by the governor to act within 120 days after receipt of

the board's report shall be considered disapproval.

(g) The legislature shall approve or disapprove a proposed transfer without modification. The approval of the legislature is required before the board is authorized to complete the transfer.

(h) Unless a proposal under (a) of this section is approved, the process provided in this section shall be repeated every two years.

(i) The board shall, within five years after the date of transfer of the Alaska Railroad to the state, prepare a report for the governor and the legislature on the feasibility of other operational alternatives for transfer consistent with the criteria under (b) of this section of all or part of the railroad to the private sector, including allowing recipients of permanent fund dividends to direct their dividends to a railroad purchase fund.

* Sec. 6. SPECIAL REPORT. The corporation shall study any problems created by vibrations due to operating the railroad from Ship Creek through Inlet View to the Turnagain Area and extending to Potter's Marsh. The study shall include consideration of any potential for problems that may be created by hauling coal and larger quantities of gravel along that portion of the rail line. By February 1, 1986, the corporation shall present a report to the legislature on the study containing recommendations for correcting any problems identified.

* Sec. 7. This Act takes effect on the effective date of an amendment to the constitution of the State of Alaska relating to the Alaska Railroad.

Cook
5/1/84

Original sponsors: Hayes, Ringstad,
Shultz, et al

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 512 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government; and

(5) there is vast potential in Alaska's natural resource areas

and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of railroad service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing bonds exempt from federal and state taxation;

(D) generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical railroad transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad

according to sound business management practices;

(G) preserve the integrity of the railroad utility corrido for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directl or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There i established the Alaska Railroad Corporation. The corporation is public corporation and is an instrumentality of the state within th Department of Commerce and Economic Development. The corporation ha a legal existence independent of and separate from the state. Th exercise by the corporation of the powers provided in this chapter i considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of th corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development the commissioner of transportation and public facilities, and seve members appointed by the governor. The seven appointed member must be registered voters in the state except as provided in (1) and (2) of this subsection. At least two appointed members shall b from each judicial district directly served by the Alaska Railroad Except for the commissioners, a member may not be a state office or employee. Appointed members shall have the following qualifications:

(1) one member of the board shall be a person who has a least 10 years of experience in railroad management; a person who i not a resident of the state may be appointed under this paragraph;

(2) one member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with 49 U.S.C. (Interstate Commerce Act); a person who is not a resident of the state may be appointed under this paragraph;

(3) two members shall have at least five years of experience as owners or managers of a business in the state.

(b) Except for the commissioners, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature or the legislature adjourns without confirming the member.

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for the commissioner of commerce and economic development, and the commissioner of transportation and public facilities, the members of the board serve for staggered terms of five years each.

(b) The governor may, by written notice to a member, remove the member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony;

(4) any conduct intended to harm the corporation, even if it does not constitute a crime; or

(5) malfeasance and misfeasance.

Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of commerce and the commissioner of transportation and public facilities, a vacancy on the board is filled by appointment by the governor, and

the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) An appointed member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but may delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial an

legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) provide for safe, efficient, and economical railroad transportation to meet the overall needs of the state;

(5) raise needed capital by issuing bonds of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(6) review state and other land disposal proposals to aid in planning for future development or expansion of railroad transportation services;

(7) ensure that standards of the United States Interstate Commerce Commission for class I railroads are used for accounting purposes by the corporation;

(8) ensure that the procurement procedures of the corporation comply with the procurement standards and procedures established for state agencies to the extent practicable consistent with efficient railroad operations;

(9) apply to the legislature for an appropriation to be used to provide a service that is not otherwise self-sustaining if a subsidy is required to maintain that service.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix the compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint

and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board may by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation.

(b) The board shall by rule establish procedures for carrying out the following powers and duties of the corporation and may delegate the exercise of the following powers and duties in accordance with the procedures to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property, except the corporation's entire interest in land;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) The board may by rule require the exercise of a power or duty delegated under (a) or (b) of this section to be subject to board approval. Specific board approval is required for the following:

(1) issuing bonds;

(2) mortgaging or pledging corporation assets;

(3) donating property or other assets belonging to the corporation;

(4) acting as a surety or guarantor;

(5) adopting a long-range program or capital improvement plan;

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

(8) diversifying, expanding, or reducing services in a major way;

(9) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(10) selecting independent auditors and accountants;

(11) exercising the power of eminent domain;

(12) entering into collective bargaining agreements;

(13) adopting annual budgets; and

(14) beginning capital projects with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The

board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined in accordance with AS 42.40.160. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) unless the person has requested to have the subjects discussed in public, subjects that tend to prejudice the reputation and character of a person;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the

corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption of a rule, the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed rule and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed rule if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption of a rule on an emergency basis. An emergency rule may be adopted only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption of a rule on an emergency basis the board shall give notice

of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency rule from lapsing the board may adopt the same rule under AS 42.40.190 before the end of the 120-day period.

Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a rule invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency rule was not necessary for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.205. APPLICATION. Adoption of a rule is not subject to AS 42.40.180 or 42.40.190 if it

(1) relates only to the internal management of the corporation;

(2) relates to specific rates, tariffs, divisions, and contract rate agreements;

(3) relates to service schedules of the railroad;

(4) is directed to a specifically named person or to a group of persons and does not apply to the general public; or

(5) relates to the use of public works under the jurisdiction of the corporation if the effect of the order is indicated to the public by means of signs or signals.

Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. (a) The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

(b) AS 42.40.180 does not apply to actions taken under this section.

Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

Sec. 42.40.230. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in decision if that person or a member of that person's immediate famil has only a remote interest, the fact and extent of the in.est i disclosed to the board in a public meeting and is noted in the minute of the board before any participation by the member or in the deci sion, and thereafter in a public meeting the board by vote authorize or approves the participation. If the person whose participation i: under consideration is a board member, that person may not vote unde: this subsection. For purposes of this subsection, "remote interest' means an interest that in good faith is defined as remote by rule: adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a prohibition contained in this section.

(e) For purposes of this section

(1) "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes;

(2) "immediate family" means

(A) spouse;

(B) dependent parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, niece, or nephew.

Sec. 42.40.240. COMPLAINT PROCEDURE. The board shall provide by

rule for a formal procedure for the receipt and consideration of complaints or suggestions regarding activities of the corporation.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, improve, lease, encumber and otherwise grant security interests in land or personal property and exchange, donate, convey, alienate, or otherwise dispose of personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the

corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate transportation and related services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the corporation, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment;

(19) assume all rights, liabilities, and obligations of the

Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain or provide for a security force to protect property owned, managed or transported by the corporation and persons using railroad transportation services provided by the corporation;

(21) issue its bonds and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its bonds by pledge, mortgage, or other lien on its contracts, revenue, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or

agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(29) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. Subject to AS 42.40.200, the report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter. Auditors shall use the standards of the United States Interstate Commerce Commission for Class I railroads.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the

auditor or legislative audit division of this information is subject to AS 42.40.200 and rules implementing that section.

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater;

(3) the issuance of securities, bonds or contracts in an amount exceeding $5,000,000; or

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the legislature approves the action by law, the corporation may not

(1) exchange, donate, sell, or otherwise convey its entire

interest in land;

(2) issue securities, bonds, or contracts in an amount exceeding $5,000,000;

(3) extend main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater.

Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies and municipalities in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the long range program and capital improvement plans. The board shall provide copies of the updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is

prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) The corporation shall take title in its own name to all land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982). All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way are railroad utility corridors;

(2) land outside the railroad utility corridors is rail land.

(b) A railroad utility corridor shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land

for a corridor of that width. A railroad utility corridor may be surveyed by the metes and bounds method. The corporation may not convey its entire interest in land within a railroad utility corridor except as provided in AS 42.40.285, 42.40.370(d), and 42.40.400. The corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes, including pipelines and support functions associated with those purposes and for commercial and other uses if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, the corporation may not convey its entire interest in rail land except as provided in AS 42.40.285, 42.40.370(d), and 42.40.400.

(d) A lease by the corporation to a party other than the state shall be made at fair market value as determined by appraisal by a qualified appraiser or by competitive bid.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land it determines may be useful for railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board may identify and request the commissioner of natural resources to convey land necessary or useful for present or future railroad purposes owned by or tentatively approved for transfer to the state, including land not contiguous to land already held by the corporation. The request must include a statement of and justification for the present or future railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and defer disposal or

lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF STATE LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request for designation of the identified land and convey as appropriate.

(b) A conveyance of land under this section may be for less than fair market value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface, material, and mineral estate, including the right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, or communication services.

(d) The corporation may reconvey to the state land received under this section, under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), by eminent domain, or otherwise that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When emergency conditions

require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with the concurrence of the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. Notwithstanding AS 09.55.250, the corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for the operation of the railroad, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may vacate an easement acquired under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire the easement for use in conformity with 45 U.S.C. 1201 - 1214.

Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land that will enhance the operations of the

corporation if it is available under a federal law other than the Alaska Statehood Act of 1958 (P.L. 85-508, 72 Stat. 339). The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.420. MUNICIPAL USE OF LAND. Upon request of a municipality the corporation may authorize use of the railroad utility corridor or rail land for a pedestrian walkway or trail. Before authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless from and indemnify the corporation for liability and claims arising from any use authorized under this section including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment, including prejudgment and postjudgment interest, rendered against the corporation or for the amount of a settlement entered into by the corporation, and for all costs and attorney's fees incurred by the corporation in settling or defending the claim; and

(2) stop the use upon request of the corporation if the use interferes with expansion or replacement of railroad facilities, creates a safety hazard, or interferes with railroad operations.

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 - 1622c (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the

control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.435. EXCHANGE OF LAND. The corporation may exchange land subject to AS 42.40.285. The corporation is an instrumentality and agency of the state for purposes of exchanging land with the United States, municipalities, corporations including corporations formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement Act), and individuals.

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute of limitations runs against the title or interest of the corporation to or in land owned by the corporation or under its jurisdiction. Title to or interest in land owned by the corporation or under its jurisdiction may not be acquired by adverse possession or prescription, or in any other manner except by conveyance from or formal vacation by the corporation.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a

fidelity bond in an amount determined by the board for board members and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.-310(b), the corporation shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability, and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds to provide money to carry out its purposes.

(b) Bonds may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear fixed or variable interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination or denominations;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds may be sold in the manner, on the terms, and at the price the board determines. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board, but notes shall mature at the time or times determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on

bonds of the corporation is payable from corporation money or assets. Bonds may be additionally secured by a pledge of a grant or contribution from the federal, state, or municipal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies

exercisable by the trustee for the protection of the holders of bonds of th orporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds or coupons attached to them ceases to be an officer before the delivery of the bond or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the

issuance of the bonds.

Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency that loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the corporation by this chapter to fulfill the terms of a contract made by the corporation with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the corporation, in a contract with the holders and insofar as it relates to a federal agency, in a contract with the federal agency.

Sec. 42.40.680. REMEDIES. A holder of bonds issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds issued under this chapter are payable solely from the

revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.705. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska

Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The

railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the railroad labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall

establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage

membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS

If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

Sec. 42.40.820. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the

railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and

the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under AS 42.40.840 and shall fashion the award the arbitrator considers equitable.

(d) Notwithstanding (a) - (c) of this section, an organization and the corporation may mutually agree to submit a dispute to binding arbitration at any time.

Sec. 42.40.860. AGREEMENTS. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the

payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the

performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination, or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity or to investigate other activity directly related to official railroad business.

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or

negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(4) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of an employer.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers under

AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.80.010, regarding the state as a party to an action.

Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation shall notify the Department of Law within 30 days before initiating legal action unless special circumstances exist that require immediate legal action to protect the corporation assets or to continue existing service.

(b) If notice of legal action is not given under (a) of this section, within seven days of taking action the board shall notify the Department of Law of the action taken and of the special circumstances that exempted the action from the requirements of (a) of this section.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, excise taxes, income taxes, or other taxes provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

(c) The corporation is subject to AS 45.50.562 - 45.50.596.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of this chapter conflict with the provisions of other state law, the provisions of this chapter prevail. Provisions of this chapter shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not later than two years after the date of transfer, the Department of

Labor in consultation with the corporation shall develop and the corporation, shall adopt a plan to achieve compliance with AS 18.60. The plan shall be implemented and compliance achieved within five years after it is adopted.

(b) No later than two years after the date of transfer, the corporation in consultation with the Department of Public Safety and appropriate municipal officials, shall develop and adopt a plan to achieve compliance with building and related safety codes applicable to facilities of the corporation. The plan shall be implemented and compliance achieved within five years after it is adopted. In the sole determination of the commissioner of public safety, any existing building owned or controlled by the corporation that does not present a serious safety hazard and for which compliance would be uneconomical in consideration of its remaining useful life shall be exempted from compliance with state or municipal safety codes.

Sec. 42.40.940. NEGOTIATION FOR SALE OF THE RAILROAD. The governor may require the board to negotiate in good faith the sale of the Alaska Railroad.

Sec. 42.40.950. REVERSION OF ASSETS. If the corporation ceases to exist, for reasons other than sale of the Alaska Railroad, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "bonds" means bonds, bond anticipation notes, notes, refunding bonds, or other obligations;

(3) "corporation" means the Alaska Railroad Corporation;

(4) "date of transfer" means the date on which the United

States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, an employee who fulfills management functions and is so designated by the board, and employees occupying the following positions on the date of transfer: general manager, assistant general manager, assistant to the general manager, chief of administration, and general counsel;

(7) "land" means any interest in real property, including tide and submerged land and any right appurtenant to the interest;

(8) "rule" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by the corporation to implement, interpret, or make specific the law enforced or administered by it to govern its procedure.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the

Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 5. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable after establishment of the Alaska Railroad Corporation and before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) The board of directors of the Alaska Railroad Corporation shall on or before the date of transfer of the Alaska Railroad to the state adopt personnel rules necessary to prevent an interruption of services of the railroad.

(c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements adopted under (a) of this section. The board shall renegotiate all agreements adopted under (a) of this section within two years after the date of transfer of the Alaska Railroad to the state unless the parties agree to the contrary.

* Sec. 6. SALE OF RAILROAD. (a) Not later than two years following the date of the transfer of the Alaska Railroad to the state, the Board of Directors of the Alaska Railroad Corporation, in consultation with the

state, shall request proposals from the private sector for the acquisition or operation of the Alaska Railroad. The board may engage the services of an investment banking firm or other professional expertise to assist in the development of the request and evaluation of proposals received. The board shall consider every proposal from the private sector for the acquisition or operation of the Alaska Railroad, even if it is not made in response to a request for proposals under this subsection.

(b) In order to be considered responsive, a proposal must

(1) ensure continued or improved rail service;

(2) return to the state its investment in the Alaska Railroad to the extent possible;

(3) be consistent with the terms and conditions of 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982), and not activate the reversion provisions of 45 U.S.C. 1209 (Alaska Railroad Transfer Act of 1982);

(4) demonstrate with reasonable certainty that the railroad after acquisition by the private sector will be operated as a profitable carrier; as used in this paragraph, "profitable carrier" means a carrier that will be able to

(A) generate sufficient revenue to meet its expenses, including reasonable maintenance of necessary equipment and facilities; and

(B) finance its capital needs in the private market; and

(5) demonstrate how the railroad can continue operation of services, including current levels of passenger service.

(c) The board may negotiate the details of any proposal found to be responsive, including the execution of a letter of intent to conclude a transfer upon approval of the governor and the legislature.

(d) Within one year after requesting proposals under (a) of this

section, the board shall submit a report on the results of the process to the governor, including its specific findings on the responsiveness of any proposal received and its recommendations for conclusion of a transfer of the railroad or its management to the private sector.

(e) Within 120 days after receipt of the board's report, if the board has recommended transfer of the Alaska Railroad or its management to the private sector, the governor shall

(1) disapprove the proposed transfer; or

(2) submit the report and recommendations to the legislature.

(f) Failure by the governor to act within 120 days after receipt of the board's report shall be considered approval.

(g) The legislature may disapprove a proposed transfer without modification by law enacted within 45 days after the proposal is submitted. If a proposal is submitted while the legislature is not in session, the legislature may disapprove the proposal with 45 days after the beginning of the next regular session. Failure by the legislature to act within the period required under this subsection shall be considered approval of the proposal.

(h) Unless a proposal under (a) of this section is approved, the process provided in this section shall be repeated every two years.

(i) The board shall, within five years after the date of transfer of the Alaska Railroad to the state, prepare a report for the governor and the legislature on the feasibility of other operational alternatives for transfer consistent with the criteria under (b) of this section of all or part of the railroad to the private sector, including allowing recipients of permanent fund dividends to direct their dividends to a railroad purchase fund.

* Sec. 7. SPECIAL REPORT. The corporation shall study any problems created by vibrations due to operating the railroad from Ship Creek through

Inlet View to the Turnagain Area and extending to Potter's Marsh. The study shall include consideration of any potential for problems that may be created by hauling coal and larger quantities of gravel along that portion of the rail line. By February 1, 1986, the corporation shall present a report to the legislature on the study containing recommendations for correcting any problems identified.

* Sec. 8. Section 3 of this Act takes effect on the effective date of an amendment to the constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 9. Sections 1, 2, and 4 - 7 of this Act take effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M March 12, 1984

SUBJECT: Alaska Railroad
(CSSB 352 (Trsp))

TO: Senator Pappy Moss
Chairman, Senate Transportation
Committee

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

Here is a draft of CSSB 352 (Trsp) that you requested. Due to the general complexity of the bill and the fact that provisions were submitted to the Senate Transportation Committee from many sources, I have found a great many redundancies, ambiguities, and conflicts in this bill. In resolving these problems I have tried to conform to the apparent intent of the committee, but may have misconstrued some provisions. For this reason it is critical that you carefully review this draft and let me know if there are changes that should be made to it.

In addition, be alerted that I have reorganized portions of the bill, primarily by dividing very long sections into several smaller sections or moving sections from inappropriate articles and placing them elsewhere. I have changed certain wording so that it is consistent. For example, since "land" is defined to be all real property including tide and submerged land, I have replaced references to "real property" with "land" and removed superfluous references to tide and submerged land. Likewise, since "executive officer" and "executive official" appear to be interchangeable, I have consistently used the term "executive officer".

Section 42.40.020(e) provides for confirmation of board members. It is my understanding that you wish to retain this provision and that you understand that it can only function as a request to the governor to submit the members for confirmation, as has been done with certain other boards and

commissions. It is not, however, constitutionally enforceable under Article III, sections 25 and 26 of the state constitution as construed in Bradner v. Hammond, 553 P.2d 1 (Alaska, 1976).

Section 42.40.390 appears to be an attempt to grant the power of land use regulation, such as platting and zoning, to the railroad corporation, which would contravene the requirement contained in Article X, section 2 that all local government powers shall be vested in boroughs and cities. If, on the other hand, the purpose of the section is to exclude rail property from municipal land use regulation, that should be done specifically. I would recommend that the section be clarified or eliminated.

Section 42.40.720 grants protection from liability resulting from the execution or issuance of bonds or notes to employees and executive officers. Both these terms are defined and neither includes members of the board of directors. Should they be specifically included within this section?

Section 42.40.900(b) provides that in claims brought against the corporation in which it is the prevailing party, it is not an abuse of discretion for a court to award full costs and attorney's fees. I note that, for some reason, actions brought by the corporation are not included within this section. More importantly, this appears to be an attempt to overrule the line of cases that overturns awards of full attorney's fees by trial courts as abuses of discretion. Continental Ins. Co. v. U.S. Fid. & Guar. Co., 552 P.2d 964 (Alaska 1976); Davis v. Hallett, 587 P.2d 1170 (Alaska 1978). An award of attorney's fees is always subject to review for possible abuse of discretion. To the extent that this section treats the railroad corporation differently from other litigants similarly situated by shielding an award of full attorney's fees from review, it may constitute a denial of equal protection of the law under both the state and federal constitutions. To the extent that this section can be construed not to discriminate in favor of the corporation, it serves no purpose. I would recommend that it be eliminated.

Please let me know if I can be of further assistance with this draft.

TBC:ojb

J4/066

Cook
3/12/84

Original sponsors: Kerttula, Faiks, Halford, et al

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 352 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to operate the Alaska Railroad with a board of nine directors responsible for management of the corporation; requiring the board to appoint a chief executive officer to manage the daily affairs and operations of the corporation; authorizing the board to adopt rules to carry out its functions; authorizing the corporation to issue bonds and notes; authorizing the corporation to manage all property acquired by the corporation or transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982); authorizing the corporation to exercise eminent domain; exempting the corporation from certain laws; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation

network;

(D) foster and promote the development of the st land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence; and

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of transportation service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing

obligations exempt from federal and state taxation and applying for federal money to which the state may be entitled or that may be available;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by

the governor. The seven appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One person who is not a resident of the state may be appointed by the governor to be a member of the board, if, at the time of appointment, the person has at least 10 years of experience in railroad management.

(c) One member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirements imposed under 49 U.S.C. (Interstate Commerce Act). A person who is not a resident of the state may be appointed under this subsection.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) manage the corporation on a self-sustaining basis;

(4) apply to the legislature for an appropriation to be used to provide a particular service that is not otherwise self-sustaining if a subsidy is required to maintain that service;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(7) review all state land disposal proposals to aid in planning for future development or expansion of transportation services;

(8) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a

delegated power or duty to be subject to board approval.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range capital improvement and program plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) expanding or reducing services in a major way;

(10) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service

levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements; and

(14) adopting annual budgets.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing reasonable notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined by a majority vote of the board. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) The board may exclude from an executive session the chief executive officer of the corporation and the member appointed under AS 42.40.020(d) if the subject of the session is related to labor

relations or personnel contracts.

(c) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) subjects that tend to prejudice the reputation and character of a person and that the person has not requested to have discussed in public;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed changes to rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the

proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed change and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting, amending, or repealing a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed change if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption, amendment, or repeal of a rule on an emergency basis. An emergency change may be made only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption, amendment, or repeal of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency change from lapsing the board may make the same change under AS 42.40.180 before the end of

the 120-day period.

Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted, amended, or repealed by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a change invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency change was not necessary for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board.

Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and proprietary or other information of a type treated as confidential under standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of

other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer land or personal property, subject to other provisions of law;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including rail properties transferred to it by the federal government;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska

Railroad;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) and the closing report of July 14, 1983, as amended, prepared and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

(20) maintain a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing; and

(27) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the

legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.-40.220 and rules implementing that section.

Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN. (a) The corporation shall prepare and the board shall adopt a long range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year.

(c) The employees of the corporation shall prepare and revise the long range capital improvement and program plan. The board may not contract for the preparation or revision of the plan.

Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private

distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are utility

corridors;

(2) land other than railroad rights-of-way or easements is rail land.

(b) Utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and for support functions associated with those purposes, if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land for any purpose that does not interfere with use of a utility corridor.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may identify federal land necessary or useful for present, future or intended railroad purposes and request the commissioner of natural resources to nominate the land for state selection.

(b) The board by rule may identify and request the commissioner of natural resources to convey land necessary or useful for present, future, or intended railroad purposes owned by or tentatively approved for transfer to the state, including land not adjacent to a utility corridor. The request must include a statement of and justification for the present, future or intended railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the

corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request.

(b) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(c) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the

relocation and notify the the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for lawful purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is title necessary to carry out the lawful purposes in condemning property.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.410. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

Sec. 42.40.420. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will

enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.430. MUNICIPAL EASEMENTS. Upon request the corporation may grant to a municipality a limited use easement in rail land or, subject to AS 42.40.350(b), over a utility corridor to be used for a pedestrian walkway or trail. Before granting a limited use easement under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the easement including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) vacate the easement upon request of the corporation if, as determined by the corporation, the easement interferes with expansion or replacement of railroad facilities.

Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred

by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-(b), the corporation shall protect its assets, services, and personnel by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide

money to carry out its purposes. However, the proceeds may not be used for activities other than those specifically related to the purposes for which the instruments are originally issued.

(b) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds

and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(b) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the instruments:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or

notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) to vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) to pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) to appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) to limit the rights of the holders of bonds or notes of

the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when those definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds bei refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or

in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.670. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.690. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the

issuance of the bonds or notes.

Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.710. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.720. OFFICERS AND EMPLOYEES NOT LIABLE. An executive officer or employee of the corporation is not subject to personal

liability or accountability because of the execution or issuance of bonds or notes.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40 (Public Employee Relations Act) do not apply to the corporation or to its employees. However, employees that are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

Sec. 42.40.770. AGREEMENT. (a) At the request of the board or corporation employee organization, the Department of Administration shall participate in negotiations between the corporation and the employee organization.

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(b) An agreement executed between the corporation and an employee organization shall provide for a grievance procedure in which the final step in the procedure is binding arbitration. The agreement shall define "grievance" for purposes of this section.

Sec. 42.40.780. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 - 23.40.190 and carry out the provisions of AS 42.40.750 - 42.40.810.

(c) Members of the railroad employees labor relations agency

receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.790. STRIKES. (a) Employees may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of (a) of this section, the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Sec. 42.40.800. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation, an executive officer, or employee may not directly or indirectly:

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of

official duties, require or coerce an employee to submit to an interrogation, examination or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) In a claim or other legal action against the corporation including actions involving the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, it is not an abuse of discretion for a court to award full costs and attorney's fees, including compensation for the financial losses to

official duties, require or coerce an employee to submit to an interrogation, examination or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

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the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(d) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes,

provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) The following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62 040 - 44.62.320.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40 conflict with the provisions of other law, the provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "collective bargaining" means negotiating with an

employees organization and representing employees on matters pertaining to conditions of employment;

(3) "corporation" means the Alaska Railroad Corporation;

(4. "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, manager of strategy, manager of operations planning, manager of supply, manager of procurement, manager of safety, manager of administrative procedure, chief counsel, or, if so designated by the board, any employee who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility;

(7) "land" means all real property, including tide and submerged land;

(8) "rail properties" means all real and personal property, tangible and intangible, of the corporation.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and eight [SEVEN] members appointed by the governor. The eight [SEVEN] appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE

COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

* Sec. 8. AS 42.40.180 is repealed and reenacted to read:

Sec. 42.40.180. RULES. (a) The board shall establish a procedure for adopting, amending, and repealing rules to carry out its functions and the purposes of this chapter, including a procedure for the adoption or change of rules on an emergency basis when essential to continue or to reinstate the orderly operation of the corporation's facilities or programs.

(b) The board shall adopt rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

* Sec. 9. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD

Cook
3/16/84

Original sponsors: Kerttula, Faiks, Halford, et al

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 352 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to operate the Alaska Railroad with a board of nine directors responsible for management of the corporation; requiring the board to appoint a chief executive officer to manage the daily affairs and operations of the corporation; authorizing the board to adopt rules to carry out its functions; authorizing the corporation to issue bonds and notes; authorizing the corporation to own and manage all property acquired by the corporation or transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982); authorizing the corporation to exercise eminent domain; exempting the corporation from AS 19, AS 23.40, AS 30.15, AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060, 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and AS 44.62.040 - 44.62.320; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the

state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence; and

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of transportation service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation and applying for federal money to which the state may be entitled or that may be available;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the

corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. The seven appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board shall be a person who has at least 10 years of experience in railroad management. A person who is not a resident of the state may be appointed under this subsection.

(c) One member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirements imposed under 49 U.S.C. (Interstate Commerce Act). A person who is not a resident of the state may be appointed under this subsection.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of

commerce and economic development and the chief executive officer of the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is

responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) apply to the legislature for an appropriation to be used to provide a particular service that is not otherwise self-sustaining if a subsidy is required to maintain that service;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(7) review all private and state land disposal proposals to aid in planning for future development or expansion of transportation services;

(8) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The

compensation for an executive officer appointed under this subsection is subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range capital improvement and program plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) expanding or reducing services in a major way;

(10) expanding the main or branch rail lines, other than performing routine t k alignment as necessary to maintain service levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements; and

(14) adopting annual budgets.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing reasonable notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined by a majority vote of the board. A subject may not be considered at an executive session unless

it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) unless the person has requested to have the subjects discussed in public, subjects that tend to prejudice the reputation and character of a person;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed

changes to rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed change and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting, amending, or repealing a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed change if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption, amendment, or repeal of a rule on an emergency basis. An emergency change may be made only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption, amendment, or repeal of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not

more than 120 days. To prevent an emergency change from lapsing the board may make the same change under AS 42.40.180 before the end of the 120-day period.

Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted, amended, or repealed by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a change invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency change was not necessary for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. AS 42.40.180 does not apply to actions taken under this section.

Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions

and contract rate agreements.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer land or personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1203(a) and described in the

report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms of employment, in accordance with 45 U.S.C.

1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) and the closing report of July 14, 1983, as amended, prepared and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

(20) maintain a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing; and

(27) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in

this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section.

Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN. (a) The corporation shall prepare and the board shall adopt a long range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long range capital improvement and program plan. The board shall

provide copies of the updated plan to the governor and the legislature by December 1 of each year.

Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are railroad utility corridors;

(2) land other than railroad rights-of-way or easements is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land necessary or useful for present, future or intended railroad purposes and request the commissioner of natural resources to sellect the land for the state through the federal land selection process.

(b) The board by rule may identify and request the commissioner of natural resources to convey land necessary or useful for present,

future, or intended railroad purposes owned by or tentatively approved for transfer to the state including land not adjacent to a railroad utility corridor. The request must include a statement of and justification for the present, future or intended railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42 40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request.

(b) A conveyance of land under this section may be for less than its appraised value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation and notify the the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for lawful purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the lawful purposes in condemning the land.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section

includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.410. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

Sec. 42.40.420. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in it own name conveyances of all interests in federal land.

Sec. 42.40.430. MUNICIPAL USE OF RAILROAD LAND. Upon request the corporation may authorize use of railroad land for municipal purposes. Subject to AS 42.40.350(b), the corporation may authorize a municipality to establish a walkway or trail over a utility corridor. Before authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the railroad land including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) stop the use of railroad land upon request of the corporation if, as determined by the corporation, the use interferes with expansion or replacement of railroad facilities.

Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-(b), the corporation shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes. However, the proceeds may not be used for activities other than those specifically related to the purposes for which the instruments are originally issued.

(b) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without

premium.

(c) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(b) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or

bond anticipation note proceeds are not available, from other money or assets of the corporation.

Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the instruments:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of

bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) to vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) to pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust

company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) to appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) to limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when those definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest

that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.670. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or bond anticipation notes to an underwriter the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.690. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.710. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a

political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.720. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40 (Public Employee Relations Act) do not apply to the corporation or to its employees. However, employees that are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

Sec. 42.40.770. AGREEMENT. (a) At the request of the board or corporation employee organization, the Department of Administration shall participate in negotiations between the corporation and the employee organization.

(b) An agreement executed between the corporation and an employee organization shall provide for a grievance procedure in which

the final step in the procedure is binding arbitration. The agreement shall define "grievance" for purposes of this section.

Sec. 42.40.780. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 - 23.40.190 and carry out the provisions of AS 42.40.750 - 42.40.810.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.790. STRIKES. (a) Employees may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of (a) of this section, the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Sec. 42.40.800. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An

action to enforce this section may be brought by any person.

Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly:

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal

activity.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision or the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of

the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) The following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40 conflict with the provisions of other state law, the provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases

to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "collective bargaining" means negotiating with an employees organization and representing employees on matters pertaining to conditions of employment;

(3) "corporation" means the Alaska Railroad Corporation;

(4) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, manager of strategy, manager of operations planning, manager of supply, manager of procurement, manager of safety, manager of administrative procedure, chief counsel, or, if so designated by the board, any employee who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility;

(7) "land" means any interest in real property, including tide and submerged land.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and <u>eight</u> [SEVEN] members appointed by the governor. The <u>eight</u> [SEVEN] appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed

board member until the member is rejected by the legislature.

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

* Sec. 8. AS 42.40.180 is repealed and reenacted to read:

Sec. 42.40.180. RULES. (a) The board shall establish a procedure for adopting, amending, and repealing rules to carry out its functions and the purposes of this chapter, including a procedure for the adoption or change of rules on an emergency basis when essential to continue or to reinstate the orderly operation of the corporation's facilities or programs.

(b) The board shall adopt rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

* Sec. 9. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and

the transfer of all or part of the railroad operation to the private sector.

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) Within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of bargaining agreements adopted under (a) of this section.

* Sec. 12. AS 42.40.190 and 42.40.200 are repealed.

* Sec. 13. Sections 3 - 8 and 12 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 14. Sections 1, 2, and 9 - 11 of this Act take effect immediately in accordance with AS 01.10.070(c).

ERRATA

Page 8, line 10, delete entire number (11) and renumber accordingly.

Page 9, line4, should be AS 42.40.160 instead of AS 42.40.140.

Page 17, line 1 and line 8, add the following:

After "REPORT." insert "(a)" and on line 8 add a new (b) to read: "(b) Every five years the annual report shall include an analysis of potential sales arrangements with private enterprise. The analysis shall include documentation of at least three corporation initiated orrers to sell the corporation to private enterprise."

Cook
4/28/84

Original sponsors: Kerttula, Faiks, Halford, et al

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 352 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to operate the Alaska Railroad with a board of nine directors responsible for management of the corporation; requiring the board to appoint a chief executive officer to manage the daily affairs and operations of the corporation; authorizing the board to adopt rules to carry out its functions; authorizing the corporation to issue bonds and notes; authorizing the corporation to own and manage all property acquired by the corporation or transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982); authorizing the corporation to exercise eminent domain; exempting the corporation from AS 19, AS 23.40.070 - 23.40.260, AS 30.15, AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060, 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and AS 44.62.040 - 44.62.320; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence; and

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of transportation service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the

jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation and applying for federal money to which the state may be entitled or that may be available;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists

of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. The seven appointed members must be registered voters in the state except as provided in (b) and (c) of this section. Except for the member appointed under (d) of this section, no more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board shall be a person who has at least 10 years of experience in railroad management. A person who is not a resident of the state may be appointed under this subsection.

(c) One member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirements imposed under 49 U.S.C. (Interstate Commerce Act). A person who is not a resident of the state may be appointed under this subsection.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of commerce and economic development and the chief executive officer of

the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain

powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) apply to the legislature for an appropriation to be used to provide a particular service that is not otherwise self-sustaining if a subsidy is required to maintain that service;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(7) review all private and state land disposal proposals to aid in planning for future development or expansion of transportation services;

(8) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards;

(9) ensure that standards of the United States Interstate Commerce Commission for class I railroads are used for accounting purposes by the corporation.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

(b) Within 60 days after its first meeting, the board shall delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property that do not constitute a transfer of the corporation's entire interest in land;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) issuing notes, debentures, and bonds;

(2) mortgaging or pledging corporation assets;

(3) donating property or other assets belonging to the corporation;

(4) acting as a surety or guarantor;

(5) adopting a long-range capital improvement and program

plan;

(6) adopting annual reports;

(7) effecting general comprehensive increases and decreases in rates;

(8) expanding or reducing services in a major way;

(9) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(10) selecting independent auditors and accountants;

(11) exercising the power of eminent domain;

(12) entering into collective bargaining agreements; and

(13) adopting annual budgets;

(14) beginning a capital project with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing reasonable notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for

voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined in accordance with AS 42.40.140. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) unless the person has requested to have the subjects discussed in public, subjects that tend to prejudice the reputation and character of a person;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption,

amendment, or repeal of a rule, the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed changes to rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed change and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting, amending, or repealing a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed change if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption, amendment, or repeal of a rule on an emergency basis. An emergency change may be made only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.-40.180 do not apply to actions taken under this section. However, within 10 days after the adoption, amendment, or repeal of a rule on

an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.-180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency change from lapsing the board may make the same change under AS 42.40.180 before the end of the 120-day period.

Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted, amended, or repealed by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a change invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency change was not necessary for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. AS 42.40.180 does not apply to actions taken under this section.

Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a privileged or proprietary nature. Those matters include personnel records, communications with and work

product of legal counsel, and, consistent with the standards practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

Sec. 42.40.230. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this

section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a prohibition contained in this section.

(e) For purposes of this section

(1) "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes;

(2) "immediate family" means

(A) spouse;

(B) dependent parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, niece, or nephew, residing in the household of the board member or executive officer.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the State, taking title to the

property in the name of the corporation;

(8) hold, maintain, use, operate, improve, lease, exchange, or encumber land or personal property and exchange, donate, convey, alienate, or otherwise dispose of personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1203(a) and described in the report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume all rights and liabilities of the Alaska Railroad in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) and the closing report of July 14, 1983, as amended, prepared and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

(20) maintain a security force to enforce municipal ordinances, state laws, and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the

corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities;

(29) enter into agreements with a state agency or other instrumentality of the state; and

(30) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall adopt and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category consistent with the protection of privileged and proprietary information under AS 42.40.220.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter. Auditors shall use the standards of the United States Interstate Commerce Commission for class I railroad carriers.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section.

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services pro-

vided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000;

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

Sec. 42.40.290. LONG-RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN. (a) The corporation shall prepare and the board shall adopt a long-range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long-range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year.

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation

shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) The corporation shall receive from the United States and, in its own name, take title to all rail property transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of

1982). All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way are railroad utility corridors;

(2) land outside railroad utility corridors is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land to allow a corridor width of 100 feet on both sides of the centerline of the extended or main branch line track. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey title to land within a utility corridor. However, the corporation may lease, grant easements in or permits for, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for other commercial uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, the corporation may not convey its entire interest in rail land except as provided in AS 42.40.370(d) and 42.40.400.

(d) A lease by the corporation to a party other than the state shall be made at fair market value as determined by an appraisal or by competitive bid.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land it determines may be useful for present or future railroad purposes for selection under the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339), as amended, and request the commissioner of natural resources to select the land for the state through the federa

land selection process.

(b) The board by rule may identify and request the commissioner of natural resources to convey land necessary or useful for present, future, or intended railroad purposes owned by or tentatively approved for transfer to the state, including land not contiguous with a railroad utility corridor or rail land. The request must include a statement of and justification for the present, future or intended railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and defer disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request.

(b) A conveyance of land under this section may be for less than its appraised value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface material and mineral estate, including the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour,

excavate, or otherwise use the land for railroad, transportation, transmission, communication, and related purposes.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When emergency conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation and notify the the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may vacate an easement acquired under this chapter by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire the easement for use in conformity with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for

acquisition of federal land available under federal law that will enhance the operations of the corporation if it is available under a federal law other than the Alaska Statehood Act of 1958 (P.L. 85 - 508, 72 Stat 339), as amended. The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.420. MUNICIPAL USE OF RAILROAD LAND. Upon request the corporation may authorize use of railroad land for municipal purposes. Subject to AS 42.40.350(b), the corporation may authorize a municipality to establish a walkway or trail over a utility corridor. Before authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless from and indemnify the corporation for any liability and claims arising from any use authorized under this section including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment, including prejudgment and postjudgment interest, rendered against the corporation or for the amount of a settlement entered into by the corporation, and for all costs and attorney's fees incurred by the corporation in settling or defending the claim; and

(2) stop the use of railroad land upon request of the corporation if, as determined by the corporation, the use interferes with expansion, replacement of railroad facilities, creates a safety hazard, or interferes with railroad operations.

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. (a) The corporation, as an instrumentality of the state, may acquire in its

own name from the United States under 50 App U.S.C. 1622 - 1622c (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

(b) The corporation is an instrumentality and agency of the state for purposes of exchanging land with the United States, municipalities, corporations including corporations formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement Act), and individuals.

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute of limitations runs against the title or interest of the corporation to or in land owned by the corporation or under its jurisdiction. Title to or interest in land owned by the corporation or under its jurisdiction may not be acquired by adverse possession or prescription, or in any other manner except by conveyance from or formal vacation by the corporation.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-(b), the corporation shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and notes to provide money to carry out its purposes.

(b) Bonds or notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds and notes may be sold in the manner, on the terms, and at the price the board determines. Notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political

subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all

parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency that loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the corporation by this chapter to fulfill the terms of a contract made by the corporation with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the corporation, in a contract with the holders and insofar as it relates to a federal agency, in a contract with the federal agency.

Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may

organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the railroad labor relations agency by

(1) an employee or group of employees or an organization acting on their behalf alleging that 30 percent of the employees of a

proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the

votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, a collective bargaining agreement may not bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an

organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.-710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it

determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor

relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.-40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

Sec. 42.40.820. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists

between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators or arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under

AS 42.40.840 and shall fashion the award the arbitrator considers equitable.

Sec. 42.40.860. AGREEMENTS. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

(d) Notwithstanding (a) - (c) of this section, an organization and the corporation may mutually agree to submit a dispute to binding arbitration at any time.

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of

AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination, or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage;

(B) the employee's religious beliefs or practices;

(C) sexual matters;

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity or to investigate other activity directly related to official railroad business.

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor

relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(4) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of an employer.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation

shall notify the Department of Law within 30 days before initiating legal action unless special circumstances exist that require immediate legal action to protect the corporation assets or to continue existing service.

(b) If notice of legal action is not given under (a) of this section, within 15 days of taking action the board shall notify the Department of Law of the action taken and of the special circumstances that exempted the action from the requirements of (a) of this section.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The

corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) The following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40 conflict with the provisions of other state law, the provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "collective bargaining" means negotiating with an employees organization and representing employees on matters pertaining to conditions of employment;

(3) "corporation" means the Alaska Railroad Corporation;

(4) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, manager of strategy, manager of operations planning, manager of supply, manager of procurement, manager of safety, manager of administrative procedure, chief counsel, or, if so designated by the board, any employee who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility;

(7) "land" means any interest in real property, including tide and submerged land, and any right appurtenant to the interest;

(8) "rule" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by the corporation to implement, interpret, or make specific the law enforced or administered by it to govern its procedure except one that

(A) relates only to the internal management of the corporation;

(B) relates to specific rates, tariffs, divisions, and contract rate agreements;

(C) relates to service schedules of the railroad;

(D) is directed to a specifically named person or to a group of persons and does not apply to the general public; or

(E) relates to the use of public works under the jurisdiction of the corporation if the effect of the order is indicated to the public by means of signs or signals.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and <u>eight</u> [SEVEN] members appointed by the governor. The <u>eight</u> [SEVEN] appointed members must be registered voters in the state except as provided in (b) and (c) of this section. Except for the member appointed under (d) of this section, no more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a stat

officer or employee.

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

* Sec. 8. AS 42.40.180 is repealed and reenacted to read:

Sec. 42.40.180. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter, including a procedure for the adoption of rules on an emergency basis when essential to continue or to reinstate the orderly operation of the corporation's facilities or programs.

(b) The board shall adopt rules to safeguard property owned, managed, or transported by the corporation and to protect employees

and persons using the corporation's property or services.

* Sec. 9. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) Within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of bargaining agreements adopted under (a) of this section.

* Sec. 12. The state-owned railroad as defined under 45 U.S.C. 1202(4) may not apply for a right-of-way across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve under 16 U.S.C. 410hh(4)(b) - (e).

* Sec. 13. AS 42.40.190 and 42.40.200 are repealed.

* Sec. 14. Sections 3 - 8 and 13 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 15. Sections 1, 2, and 9 - 12 of this Act take effect immediately in accordance with AS 01.10.070(c).

AK.
RAILROAD
Bill Drafts
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Working Draft Number 7
March 8, 1984

IN THE SENATE

SENATE TRANSPORTATION COMMITTEE SUBSTITUTE

SENATE BILL NO. 352

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) It is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued

existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government;

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section.

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation and to apply for any Federal monies to which the State would be entitled, or may be available;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and

levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes.

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of Commerce and Economic Development and six voting members appointed by the Governor. These six members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than

two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner of Commerce and Economic Development, a voting member may not be a state officer or employee.

(b) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) One voting member shall be or have been an executive official of an American railroad consistent with the Interstate Commerce Act (49 U.S.C. et.sec.).

(d) In addition to the voting members, the following non-voting members shall serve on the board:

(1) an employee who is a member of a bargaining unit with the corporation shall be appointed by the governor to represent the employees.

(2) the chief executive officer of the corporation.

(e) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(f) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(g) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(h) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. Four voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. Four affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Manage the corporation on a self-sustaining basis;

(4) apply to the legislature for a subsidy if it is required to maintain a service which is not otherwise self-sustaining;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporations while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(7) review all public and private land disposal proposals in planning for future development or expansion.

(8) insure that accepted railroad industry standards are used for the corporation's accounting and procurement systems.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board approval imposed by the rules.

(b) Within 60 days after their first meeting, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions,

and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(5) establish and maintain the Railroad's procurement and accounting systems.

(c) Specific board approval is required for the following:

(1) transferring the corporation's entire interest in real property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range capital improvement and program plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) expanding or reducing services in a major way;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) the exercise of the power of eminent domain;

(13) collective bargaining agreements as provided by 42.40.710.

(14) annual budget plans.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public except executive sessions. The question of holding an executive session to discuss matters that come within the exceptions contained in (b) and (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(b) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the Alaska Railroad;

(2) subjects that tend to prejudice the the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(c) The board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

(d) The board may by motion exclude non-voting members of

the board from an executive session for defined and specific reasons.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting. Reasonable notice of the meetings shall be provided to the public.

Sec. 42.40.230. RULES. (a) The board shall establish in its bylaws a procedure for adopting rules to carry out its functions and the purposes of this chapter.

(1) The corporation shall make available to members of the public copies of the rules adopted under this section.

(2) Within 45 days after adoption, the chairman of the board shall submit a rule adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460.

(b) Except as provided in (c) of this section, at least 15 days before the adoption, amendment, or repeal of a rule, the board shall give public notice of the proposes action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed rules with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for adoption, amendment, or repeal of the rule and must include an informative summary of the proposes subject of the rule. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments,

or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a rule which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this subsection if the subject matter of the rule, or its amendment or repeal, remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(c) The board shall in its bylaws establish a procedure for adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or programs. The requirements of (b) of this section do not apply to the initial adoption in accordance with (b) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (b) of this section during the 120-day period.

(d) A rule adopted under this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by order of the adoption.

(e) The failure to mail notice to a person as provided in (b) of this section does not invalidate an action taken by the board.

(f) An interested person may get a judicial declaration on the validity of a rule by bringing an action for declaratory relief in the superior court. In addition to any other ground

the court may declare the regulation invalid (1) for substantial failure to comply with this section, or (2) in the case of an emergency regulation or order of repeal, upon the grounds that the facts recited in the statement do not constitute an emergency under (c) of this section.

(g) Provisions of this section do not apply to rules, regulations and orders in effect before the transfer of the Alaska Railroad to the State of Alaska under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) and adopted in accordance to Section 8 of this law.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission including but not limited to proprietary information, and information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(9) acquire property by eminent domain in accordance with AS 42.40.430;

(10) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer any real or personal property including facilities and equipment in accordance with the provisions of this Act.

(11) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(12) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(13) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(14) maintain offices and facilities at places it designates;

(15) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to

obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(16) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(17) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(18) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, properties and facilities of the railroad, including contracts, leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(19) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(20) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(21) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(22) assume and satisfy liabilities of the United States or its agencies as provided by the federal transfer legislation and the closing report or its substantive equivalent as accepted by the legislature;

(23) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(24) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(25) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(26) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(27) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(28) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(29) cancel bonds purchased under (28) of this section.

(30) do all things necessary, convenient or desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN. (a) The corporation shall prepare and the board shall

adopt a long-range capital improvement and program plan. The plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter and explain the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and update the plan required under (a) of this section. The board may not contract for the preparation or revision of the plan, but shall require their preparation and revision by employees of the corporation.

(c) The board shall provide copies of its updated plan to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may

(1) defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope

of official duties or powers; and

(2) purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. (a) All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired shall be designated as follows

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired are railroad utility corridors;

(2) All other real property transferred under the Transfer Act, or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad

corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of the railroad utility corridor but only for transportation, communication, and transmission purposes and for support functions associated with such purposes so long as parallel uses of the Railroad corridor are not restricted.

(d) The corporation may lease, grant easements or permits, or otherwise authorize use of portions of rail lands for other services including but not limited to transportation, communication, and transmission purposes and for support function associated with such purposes.

Sec. 42.40.410. NOMINATION OF LAND. The board may ~~by rule~~ identify and request federal land to be nominated for state selection for Railroad purposes.

Sec. 42.40.420. IDENTIFICATION, CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or tentatively approved for transfer to the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future railroad purposes. The request must include a statement of and justification for the present, or future railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily designate and reserve the land identified in the request for railroad purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary designation and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) designate that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate the land for railroad purposes.

(3) approve in part and deny in part the request for designation under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use for its purposes, timber and other constructed material, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate or otherwise use the surface or subsurface for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the

relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

*Sec. 42.40.425. LAND USE REGULATION. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and, to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and

*Problem - future analysis

filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought

against the railroad as a result of such use,

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. (a) The corporation shall protect its assets, services, and personnel by insurance, including certain self-insured retentions.

(b) The corporation shall also maintain Casualty, Property, Business Interruption, Marine, Boiler and Machinery, Pollution Liability, and Miscellaneous Insurances in amounts reasonably calculated to cover potential claims for bodily injury, death or disability, consequential and property damage that may arise or be related to its operations and activities, including the liabilities of the State.

(c) The Corporation may contract with the Department of

Administration, Division of Risk Management for the provision of all or part of the requirements in subsections (a) and (b).

Sec. 42.40.540. CLAIMS. (a) All claims and suits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In any claim or other legal action against the corporation, including actions involving the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, whether or not the action is considered to be a public interest case, it is not an abuse of discretion for a court to award full costs and attorney fees and for the losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.80.010, regarding the state as a party to an action.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45

U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

*Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

*Problem - future analysis

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) Bond or bond anticipation note proceeds may not be dedicated to activities other than those the board reasonably determines to be specifically related to the purposes for which the instruments are issued.

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their

limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use

and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or dif-

ferent character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have

notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.62[illegible] REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the

state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter

are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. *(a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise

*Problem - future analysis

or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.710. COLLECTIVE BARGAINING RIGHTS. (a) The provisions of the Public Employee Relations Act (AS 23.40) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive official and other executive officials appointed by the chief executive official, may self organize and form, join, or assist an organization to

engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.720. AGREEMENT. (a) ~~At the request of either the board of directors of the corporation or an employee organization,~~ the Department of Administration shall participate in labor negotiations.

(b) An agreement executed between the corporation and an employee organization shall define "grievances." The agreement shall provide for a grievance procedure in which the final step in the procedure is binding arbitration.

Sec. 42.40.730. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY.

(a) There is established a railroad employees labor relations agency which consists of three members appointed by the governor. One member shall be a member of the labor relations agency (AS 23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 -- 23.40.190 to carry out the provisions of the article.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. STRIKES. (a) Employees of the corporation may engage in a strike if a majority of the employees in a

collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of subsection (a), the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

Sec. 42.40.750. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

*(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.760. PROHIBITED ACTS. (a) The railroad ~~corporation~~ Chief Executive officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corpo-

ration to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected with him by blood or marriage,

(B) his religious beliefs or practices,

(C) sexual matters,

(D) his political affiliation or philosophy;

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of corporation employees suspected of being involved in criminal activity.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

*Problem - future analysis

*(4) AS 37.05;

*(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

*(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40.010 - 42.40.990 conflict with the provisions of other law, the provisions of AS 42.40.010 - 42.40.990 prevail. Provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1202 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

*(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interests in real property,

*Problem - future analysis

including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation as provided in 45 USC 1202(10).

(8) "executive officials" means the authority's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, or any employee of the authority who fulfills the management functions under a different title or who exercises a similar or comparable level of responsibility if so designated by the board;

(9) "Collective bargaining" is defined as negotiating with an employees organization, representing the employees of The Alaska Railroad Corporation on matters pertaining to conditions of employment.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act of 1984.

* Sec. 3. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 4. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perform dutie under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

* Sec. 5. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

* Sec. 6. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

* Sec. 7. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.030 enacted in Sec. 2 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

*Problem - future analysis

* Sec. 8. PRE-EXISTING RULES, REGULATIONS AND ORDERS OF THE ALASKA RAILROAD. The Board of ~~Commissioners~~ Directors of the Alaska Railroad Corporation, by resolution, may continue in force after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

* Sec. 9. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. As soon as practicable after transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 10. Sections 3 - 5 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 11. Sections 1, 2, 6, 7, 8 and 9 of this Act take effect immediately in accordance with AS 01.10.070.(c).

*Problem - future analysis

3/10/84 Draft

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) It is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development and eight voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to

transportation, business, and finance. Except for the commissioner of commerce and economic development, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. Except for the commissioner of commerce and economic development, the appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the goverror during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of [$250] $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. [Four] Five voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. [Four] Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain

powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis

(4) notify the legislature of any possible application for state appropriation for any service which is not self-sustaining.

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(7) review all public and private land disposals in planning for future development or expansion.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. [subject to the approval by the Governor.] The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate

powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) Specific board approval [authorization or concurrence] is required for the following:

(1) transferring the corporation's entire interest in real property; other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expansion or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees as provided by AS. 42.40.700;

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year;

(14) the excercise of the power of eminent domain.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the corporation [authority] may not participate in a decision of the corporation [authority] in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that persons immediate family has only a

remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary

information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature. The board shall provide by rule for advance public notice for its meetings.

***** Sec. 42.40.230. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that in the determination of the board, will have a substantial impact on the public or be used in the corporations dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the

protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the corporation or relating to operation of facilities of the corporation. <u>This report shall include a breakdown of a service's real costs and income in each category of railroad operations</u>.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

52 - 42.40.280 → Added

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other

interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad in accordance with 45 U.S C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts, leases or other agreements with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 *****and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest,

consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (29) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall consult [interface] with affected [other related] state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans required under (a) of this section. [The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.]

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. As to all land that is transferred or acquired

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be classified as railroad utility corridors;

(2) future railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main

or branch line, or may be of other width as designated by the corporation, and may be surveyed by the metes and bounds method; and

(3) the corporation may lease or rent portions of the utility corridor for other transportation services.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or subject to selection by the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, future or intended railroad purposes. The request must include a statement of and justification for the present, future or intended railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily classify and reserve the land identified in the request for railroad purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by written Decision — departmental order shall;

(1) classify that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to classify the land for railroad purposes.

(3) approve in part and deny in part the request for classification under this section.

(c) A conveyance under (b)(1) or (3) of this section vests in the corporation the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials the land conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) The corporation's ownership of state land entitles it to exclusive use and control of the surface, subsurface, complete subjacent and lateral support of the surface, subsurface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

→ (g) U 29. Control Navigable

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. (a) The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution

or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes

enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for

the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an

underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are

unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes,

provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.[illegible]. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other

employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

ARTICLE 8. STATE OVERSIGHT AND REVIEW

Sec. 42.40.800. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.XXX. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

13-2150
Cook
3/15/84

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

HOUSE JOINT RESOLUTION NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

Proposing an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

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

* Section 1. Article III, sec. 22, Constitution of the State of Alaska, is amended to read:

SECTION 22. EXECUTIVE BRANCH. Except as provided in Section 28 of this article, all [ALL] executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may be established by law and need not be allocated within a principal department.

* Sec. 2. Article III, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 28. ALASKA RAILROAD. Upon the transfer of the Alaska Railroad to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act), a board, commission, authority, or corporation to manage the railroad and its property may be established by law within or outside of a principal department. Members of the board, commission, authority, or board of directors of the corporation shall be appointed by the governor, subject to confirmation by a majority of the members of each house of the legislature in joint session, and may be removed as provided by law. The board, commission, authority, or

board of directors may appoint a principal executive officer if authorized by law.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

13-2150
Cook
3/15/84

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

HOUSE JOINT RESOLUTION NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

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board of directors may appoint a principal executive officer if authorized by law.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development and seven voting members appointed by the governor. These seven members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The voting members must have experience or professional training and expertise in fields relevant to the purposes of this

chapter, including, but not limited to transportation, business, and finance. A voting member may not be a state officer or employee.

(b) Unless prohibited by law, one voting member shall be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(c) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(e) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(f) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(g) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

****** (h) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves

the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) Conviction of a felony

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Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. The appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. Four voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. Four affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices. The rules may provide for excluding non-voting members during executive sessions.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(4) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation subject to the approval by the Governor. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The

appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) Board authorization or concurrence is required for the following:

(1) transferring the corporation's entire interest in real property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees.

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the authority may not participate in a decision of the authority in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "particpate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if

that person or a member of that persons immediate family has only a remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary

information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature.

***** Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. The rules shall include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) Except as provided in AS 42.40.270, the corporation may by rule designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.250. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make

specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the authority or relating to operation of facilities of the authority.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430or by declaration of taking;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other

interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad;

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts and leases with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (21) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall interface with other related state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans required under (a) of this section. The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private

distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. As to all land that is transferred or acquired

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be classified as railroad utility corridors;

(2) future railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of other width as designated by the corporation, and may be surveyed by the metes and bounds method; and

(3) the corporation may lease or rent portions of the utility corridor for other transportation services.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or subject to selection by the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, future or intended railroad purposes. The request must include a statement of and justification for the present, future or intended railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily classify and reserve the land identified in the request for railroad

purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) classify that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to classify the land for railroad purposes.

(3) approve in part and deny in part the request for classification under this section.

(c) A conveyance under (b)(1) or (3) of this section vests in the corporation the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials the land conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) The corporation's ownership of state land entitles it to exclusive use and control of the surface, subsurface, complete subjacent and lateral support of the surface, subsurface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq

(the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. (a) The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or

proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their

successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or

notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are

immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital

in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the

corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their

well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity.

However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

ARTICLE 8. STATE OVERSIGHT AND REVIEW

Sec. 42.40.800. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska

Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

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IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE.

(a) The Legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States

government;

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer to the private sector for ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). It is the purpose of the legislature to

(1) provide for the level of service that best satisfies the needs of the people of the state;

(2) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by insuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state

investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(3) insure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and for the purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Commerce and Economic Development, but the corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential governmental function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of the Department of Commerce and Economic Development and eight voting members appointed by the governor. These eight members must be residents of and registered voters in the state except as provided in (b) and (c) of this section. No more than two of these members may be from any one of the four judicial districts in the state. The public [voting] members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to

transportation, business, and finance. Except for the commissioner of commerce and economic development, a voting member may not be a state officer or employee.

(1) One voting member [shall] may be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad.

(2) One person may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(3) One [an] employee of the corporation from an empolyee bargaining unit appointed by the governor to represent the employees;

(4) the chief executive officer of the corporation.

(b) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(c) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(d) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(e) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

Sec. 42.40.030. TERM OF OFFICE AND REMOVAL. Except for the commissioner of commerce and economic development, the appointed members of the board serve for staggered terms of five years each, and serve at the pleasure of the governor during their terms..

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of [$250] $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. QUORUM. [Four] Five voting members of the board constitute a quorum for the transaction of business.

Sec. 42.40.070. VOTING. [Four] Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by means of telecommunication devices.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.080. MANAGEMENT BY THE BOARD. The board is responsible

for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier; subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) Generally manage the corporation on a self-sustaining basis

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

(7) review all public and private land disposals in planning for future development or expansion.

(8) insure that accepted railroad industry standards are used for the corporation's accounting and procurement systems.

Sec. 42.40.090. STATE OVERSIGHT (a). The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or 5 percent of the railroads total track mileage, whichever is

greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000.

(4) any possible application for state appropriation for any service which is not self-sustaining.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) why the project is necessary or desirable to achieve the purposes of this chapter and;

(4) whether and when the undertaking will be self-sustaining financially.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation. [subject to the approval by the Governor.] The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of the first meeting of the board, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(5) establish and maintain the Railroad's procurement and accounting systems.

(c) Specific board approval [authorization or concurrence] is required for the following:

(1) transferring the corporation's entire interest in real property; other than the execution of a release of a lein or satisfaction of a mortgage after payment has been received;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program and capital improvement plan subject to Sec. 42.40.310;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversification and major expanison or reducing services beyond those provided on the date of transfer or as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

(12) certifying collective barganing agreements with railroad employees as provided by AS. 42.40.700;

(13) capital projects with an estimated completion cost in excess of $500,000 or an estimated completion time of more than one year;

(14) the excercise of the power of eminent domain.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the corporation [authority] may not participate in a decision of the corporation [authority] in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that persons immediate family has only a remote interest and if the fact and extent of the interest is

disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested mamber or employee. As used in this subsection, "remote interest" means interests that in good faith are defined as remote by rules adopted by the corporation.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

Sec 42.40.220. MINUTES AND NOTICE OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature. The board shall provide by rule for advance public notice for its meetings.

***** Sec. 42.40.230. RULES. (a) The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that in the determination of the board, will have a substantial impact on the public or be used in the corporations dealings with a significant segment of the public.

(b) The rules shall also include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

(c) The Board of Directors of the Alaska Railroad Corporation, by resolution, may continue in force after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. The Board of Directors may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section,

information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, and information including but not limited to specific shippers, divisions, and contract rate agreements.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The plans may include suggestions for legislation relating to the structure, powers, or duties of the corporation or relating to operation of facilities of the corporation. This report shall include a breakdown of a service's real costs and income in each category of railroad operations.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

Sec. 42.40.280. PERFORMANCE AUDIT. On a yearly basis the board shall have a performance audit conducted by a recognized railroad management team expert on all aspects of the Alaska Railroad

operations.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt rules and bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter

(13) maintain offices and facilities at places it designates;

(14) acquire, hold, and disperse of Stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(15) undertake and provide for the acquisition, construction, maintenance, equiping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(17) prescribe rates to be charged for services provided by the Alaska Railroad <u>in accordance with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982)</u>;

(18) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(19) enter into contracts, leases or other agreements with connecting carriers and shippers, and other persons concerning the services, activities, operations, properties, and facilities of the railroad. including contracts leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(20) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(21) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(22) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(23) assume and satisfy liabilities of the United States or its agencies as provided by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982 *****and the closing report or its substantive equivalent as accepted by the legislature;

(24) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(25) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(26) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(27) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(28) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(29) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(30) cancel bonds purchased under (29) of this section;

(31) adopt rules having the force of law that require designated classes of proprietary information and communications to be held confidential;

(32) do all things necessary, convenient and desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range program plan and a capital improvement plan. The board shall consult [interface] with affected [other related] state agencies in preparation of the plans. The long-range program plan shall delineate the manner in which the corporation intends to accomplish

the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railway and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the plans required under (a) of this section. [The board may not contract for the preparation or revision of either the long-range program plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.]

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary

judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All lands transferred or acquired shall be designated as follows

(1) railroad rights-of-way or easements transferred under the Transfer Act or otherwise acquired shall be classified as railroad utility corridors;

(2) all other real property transferred under the Transfer Act or otherwise acquired, are rail lands.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width only if the adjoining land is not rail property, and may be surveyed by the metes and bounds method; and

(c) The corporation may not sell land within the railroad corridor. [However], Except as provided in AS 42.40.460, the corporation may lease, grant easements or permits or otherwise authorize use of portions of the utility corridor but only for transportation, transmission, or communication purposes and for support functions associated with such purposes. Final sale or disposal of land must be approved by the legislature.

(d) The corporation may lease, grant easements or permits or otherwise authorize use of portions of rail lands for other services including but not limited to transportation, transmission, and communication purposes and for support functions associated with such

purposes, so long as parallel uses of the railroad corridor are not restricted.

(c) Vegetation control involving the use of pesticided and herbacides on lands owned or managed by the Corporation shall be conducted in compliance with state requirements otherwise applicable with state requirements otherwise applicable to state pesticide and herbacide projects.

Sec. 42.40.410 NOMINATION OF LAND The board may [by rule] identify and request through the Department of Natural Resources federal land to be nominated for state selection for railroad purposes.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board [by rule] may identify and request conveyance of land owned by or tentatively approved for transfer to [subject to selection by] the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, or future [or intended] railroad purposes. The request must include a statement of and justification for the present or future [or intended] railroad use. Upon submission of a request for [classification and] conveyance to the commissioner of natural resources, the commissioner shall temporarily [classify and] reserve the land identified in the request for railroad purposes and shall temporarily [vacate a classification allowing] hold in abayance any disposal or lease of that land other than to the corporation under laws or programs of the state. [A temporary classification and vacation] such lands held by the department of natural resources under this section is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall;

(1) designate [classify] that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to designate [classify] the land for railroad purposes.

(3) approve in part and deny in part the request for designation [classification] under this section and convey as appropriate.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials and the right to tunnel, ditch, recontour, excavate or otherwise use the sub-surface for railroad, transportation, transmission, or communication and related services without regard to the classification of the resources as part of the surface or sub-surface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail

operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for railroad [lawful] purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the [state's lawful] purposes of this chapter [in condemning property].

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

(e) The corporation may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq

(the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.460. MUNICIPAL RIGHTS -OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including but not limited to

(a) defending the corporation in any cause of action brought against the railroad as a result of such use.

(b) indemnifying the corporation for the amount of any judgement rendered against the railroad including prejudgement interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right

of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights,

privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

(f) The corporation may defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.560. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution

from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

***(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

***(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

***(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

***(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

***(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

***(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

***(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

***(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

***(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

***(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside

the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

***(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

***(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

***Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the

delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

*** Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or

in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and

receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

***(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements <u>in effect on the date of transfer</u> between the corporation and its employees shall remain in

effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) Subject to the provisions of 45 USC 1206 (Alaska Railroad Transfer Act of 1982) Within 180 days of the first meeting of the Board, the Board and representatives of employee bargaining units shall implement ground rules for the re-negotiation of collective bargaining agreements.

(d) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Sec. 42.40.760. PROHIBITED ACTS. (a) The railroad Chief Executive Officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corporation to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected with him by blood or marriage,

(B) his/her religious beliefs or practices,

(C) sexual matters

(D) his/her political affiliation or philosophy

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of corporation employees suspected of being involved in criminal activity.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

Sec. 42.40.910. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the [deed of conveyance] <u>transfer documents</u> for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all interest in real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation:

(8) "executive officials" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and General Counsel.

(9) "collective bargaining" is defined as negotiating with an employees organization, representing employees of The Alaska Railroad Corporation on matters pertaining to conditions of employment.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE: REMOVAL. (a) Except for the commissioner of Commerce and Economic Development, the voting members of the board serve for staggered terms of five years each [, AND SERVE AT THE PLEASURE OF THE GOVERNOR DURING THEIR TERMS].

* Sec. 4. AS.42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation causes by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

(4) any conduct that was intended to harm the corporation whether or not it constitutes a crime

* Sec. 5. AS 42.40.100(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation [SUBJECT TO THE APPROVAL BY THE GOVERNOR]. The chief executive officer serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

* Sec. 6. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other state law, the provisions of this Act prevail. [Where possible], provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 7. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 8. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. As soon as practicable after establishment of the corporation and prior to transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

* Sec 9. Sections 3 - 5 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 10. Sections 1,2,6,7,8 of this Act take effect immediately in accordance with AS 01.10.070.(c).

* Sec. 9. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

Offered: 3/23/84
Referred: Finance

Original sponsors: Hayes, Ringstad,
Shultz, et al

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 512 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government; and

(5) there is vast potential in Alaska's natural resource areas

and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of service that best satisfies the needs of the people of the state;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad

according to sound business management practices;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. At least five of the seven appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board may be a person who has at least 10 years of experience in railroad management.

(c) One member of the board may be or have been an executive

official of a United States railroad that is not now and never was a connecting carrier of the Alaska Railroad.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of commerce and economic development and the chief executive officer, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as

a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(5) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(6) review state and other land disposal proposals to aid

in planning for future development or expansion of transportation services;

(7) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following powers and duties of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) The board may by rule require the exercise of a power or

duty delegated under (a) or (b) of this section to be subject to board approval. Specific board approval is required for the following:

(1) except for executing a release of a mortgage or other lien after payment is received, conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program or capital improvement plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversifying, expanding, or reducing services provided on the date of transfer;

(10) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements;

(14) adopting annual budgets; and

(15) beginning capital projects with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing notice to the public of its meetings.

(c) The board shall keep minutes of each meeting and shall send a certified copy of the public portion of each meeting to the governor and the legislature.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. The board may consider in an executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board may adopt rules

(1) governing the business of the corporation; and

(2) designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

(b) Within 90 days after its first meeting, the board shall

establish a procedure for adopting, amending, and repealing rules to carry out the functions and the purposes of this chapter. The procedures shall provide for advance public notice and opportunity for public comment on proposed rules or changes to rules that, in the determination of the board, will have a substantial impact on the public or be used in the corporation's dealings with a significant segment of the public.

(c) The board shall establish a procedure for the adoption, amendment, or repeal of a rule on an emergency basis when essential for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer that are not inconsistent with this chapter or other state law remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

Sec. 42.40.200. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers,

divisions and contract rate agreements.

Sec. 42.40.210. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a prohibition contained in this section.

(e) For purposes of this section "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer land or personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine

benefits and other terms of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain or provide for a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) include in any borrowing the amounts necessary to

establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(28) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(29) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(30) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.200 and rules implementing that section.

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000;

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing,

describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the long range program and capital improvement plans. The board shall provide copies of the updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property,

other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are railroad utility corridors;

(2) land other than railroad rights-of-way or easements is

rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. Except as provided in AS 42.40.420, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, sale of rail land is subject to approval by the legislature.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land for railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board may identify and request the commissioner of natural resources to convey land necessary or useful for present or future railroad purposes owned by or tentatively approved for transfer to the state, including land not adjacent to a railroad utility corridor. The request must include a statement of and justification for the present or future railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request for designation of the identified land and convey as appropriate.

(b) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, or communication services without regard to the classification of the resources as part of the surface or subsurface estate.

(c) The corporation may reconvey to the state land received under this section or under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the

relocation with the concurrence of the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.400. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.420. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in rail land to be used for a pedestrian walkway or trail. Before granting a right-of-way under

this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or

revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governo a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and notes to provide money to carry out its purposes.

(b) Bonds and notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or

within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds and notes may be sold in the manner, on the terms, and at the price the board determines. Notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of

bonds or notes of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal, state, or municipal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all

parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

ARTICLE 3. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.710 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor

relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.-40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent or the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which

organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor

relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the probibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred or an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under

AS 42.40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

Sec. 42.40.820. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by agreement or mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by

secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occuring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under AS 42.40.340 and shall fashion the award considered equitable.

(d) Notwithstanding the provisions of (a) - (c) of this section, the parties to the dispute may mutually agree to submit the dispute to binding arbitration at any time.

Sec. 42.40.360. AGREEMENTS. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employement. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as

its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the

corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers under AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, excise taxes, income taxes, or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation

Commission.

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of this chapter conflict with the provisions of other state law, the provisions of this chapter prevail. Provisions of this chapter shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officers;

(5) "executive officer" means the corporation's chief executive officer, an employee who fulfills management functions and is so designated by the board, and employees occupying the following positions on the date of transfer: general manager, assistant general manager, assistant to the general manager, chief of administration, and general counsel;

(6) "land" means any interest in real property, including tide and submerged land.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.910. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and <u>eight</u> [SEVEN] members appointed by the governor. At least <u>six</u> [FIVE] of the <u>eight</u> [SEVEN] appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and

expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

* Sec. 5. AS 42.40.020(c) is amended to read:

(c) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) any conduct that was intended to harm the corporation, even if it does not constitute a crime.

* Sec. 8. AS 42.40.040(a) is amended to read:

(a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC

DEVELOPMENT AND T[E] chief executive officer, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

* Sec. 9. SPECIAL REPORT. The corporation shall prepare a report for the governor and the legislature on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad's operation's is to the private sector.

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable after establishment of the Alaska Railroad Corporation and before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) The board of directors of the Alaska Railroad Corporation shall

on or before the date of transfer of the Alaska Railroad to the state adopt personnel rules necessary to prevent an interruption of services of the railroad.

(c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements adopted under (a) of this section. The board shall renegotiate all agreements adopted under (a) of this section within two years after the date of transfer of the Alaska Railroad to the state unless the parties agree to the contrary.

* Sec. 12. Sections 3 - 8 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 13. Sections 1, 2, and 9 - 11 of this Act take effect immediately in accordance with AS 01.10.070(c).

Cook
3/22/84

Original sponsors: Hayes, Ringstad,
Shultz, et al

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 512 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government; and

(5) there is vast potential in Alaska's natural resource areas

and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of service that best satisfies the needs of the people of the state;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad

according to sound business management practices;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. At least five of the seven appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board may be a person who has at least 10 years of experience in railroad management.

(c) One member of the board may be or have been an executive

official of a United States railroad that is not now and never was a connecting carrier of the Alaska Railroad.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of commerce and economic development and the chief executive officer, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as

a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(5) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(6) review state and other land disposal proposals to aid

in planning for future development or expansion of transportation services;

(7) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following powers and duties of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) The board may by rule require the exercise of a power or

duty delegated under (a) or (b) of this section to be subject to board approval. Specific board approval is required for the following:

(1) except for executing a release of a mortgage or other lien after payment is received, conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program or capital improvement plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversifying, expanding, or reducing services provided on the date of transfer, except as authorized in a major way under this chapter;

(10) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements;

(14) adopting annual budgets; and

(15) beginning capital projects with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing notice to the public of its meetings.

(c) The board shall keep minutes of each meeting and shall send a certified copy of the public portion of each meeting to the governor and the legislature.

Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

Sec. 42.40.170. EXECUTIVE SESSIONS. The board may consider in an executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.180. RULES. (a) The board may adopt rules

(1) governing the business of the corporation; and

(2) designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

(b) Within 90 days after its first meeting, the board shall establish a procedure for adopting, amending, and repealing rules to carry out the functions and the purposes of this chapter. The procedures shall provide for advance public notice and opportunity for public comment on proposed rules or changes to rules that, in the determination of the board, will have a substantial impact on the public or be used in the corporation's dealings with a significant segment of the public.

(c) The board shall establish a procedure for the adoption, amendment, or repeal of a rule on an emergency basis when essential for the orderly operation of the corporation's facilities or programs.

Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer that are not inconsistent with this chapter or other state law remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

Sec. 42.40.200. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information

including proprietary information associated with specific shippers, divisions and contract rate agreements.

Sec. 42.40.210. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a

prohibition contained in this section.

(e) For purposes of this section "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer land or personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or

state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain or provide for a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(29) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is

being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.200 and rules implementing that section.

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000;

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to

achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the long range program and capital improvement plans. The board shall provide copies of the updated plans to the governor and the legislature by December 1 of each year.

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board,

employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are railroad utility corridors;

(2) land other than railroad rights-of-way or easements is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The

corporation may not convey land within a utility corridor. Except as provided in AS 42.40.420, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, sale of rail land is subject to approval by the legislature.

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land for railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board may identify and request the commissioner of natural resources to convey land necessary or useful for present or future railroad purposes owned by or tentatively approved for transfer to the state, including land not adjacent to a railroad utility corridor. The request must include a statement of and justification for the present or future railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in

the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the reques for designation of the identified land and convey as appropriate.

(b) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, or communication services without regard to the classification of the resources as part of the surface or subsurface estate.

(c) The corporation may reconvey to the state land received under this section or under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with the concurrence of the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may

exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

Sec. 42.40.400. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

Sec. 42.40.420. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in rail land to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including

(A) defending the corporation in a cause of action

brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members

and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

Sec. 42.40.520. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and notes to provide money to carry out its purposes.

(b) Bonds and notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds and notes may be sold in the manner, on the terms, and at the price the board determines. Notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal, state, or

municipal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law

and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the

issuance of the bonds or notes.

Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal

liability or accountability because of the execution or issuance of bonds or notes.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.710 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.-40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the

history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the

parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or

administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with

AS 42.40.710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the probibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40 890. If the railroad labor relations agency finds that a person named in the complaint or accusation

has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

Sec. 42.40.820. REGULATIONS. The railroad labor relations

agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by agreement or mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occuring for an order enjoining the strike. A strike may not be enjoined unless it can be

shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under AS 42.40.840 and shall fashion the award considered equitable.

(d) Notwithstanding the provisions of (a) - (c) of this section, the parties to the dispute may mutually agree to submit the dispute to binding arbitration at any time.

Sec. 42.40.860. AGREEMENTS. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employement. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and

negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(4) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits affecting the working conditions of the employees; it does not mean the general policies describing the function and purposes of the corporation.

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights,

privileges, and immunities as the state and state officers under AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, excise taxes, income taxes, or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of this chapter conflict with the provisions of other state law, the provisions of this chapter prevail. Provisions of this chapter shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.980. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the

corporation including executive officers;

(5) "executive officer" means the corporation's chief executive officer, an employee who fulfills management functions and is so designated by the board, and employees occupying the following positions on the date of transfer: general manager, assistant general manager, assistant to the general manager, chief of administration, and general counsel;

(6) "land" means any interest in real property, including tide and submerged land.

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and <u>eight</u> [SEVEN] members appointed by the governor. At least <u>six</u> [FIVE] of the <u>eight</u> [SEVEN] appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter,

including transportation, business, and finance. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) any conduct that was intended to harm the corporation, even if it does not constitute a crime.

* Sec. 8. AS 42.40.040(a) is amended to read:

(a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND THE] chief executive officer, a vacancy on the board

is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

* Sec. 9. SPECIAL REPORT. The corporation shall prepare a report for the governor and the legislature on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad's operation's is to the private sector.

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable after establishment of the Alaska Railroad Corporation and before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) The board of directors of the Alaska Railroad Corporation shall on or before the date of transfer of the Alaska Railroad to the state ad

personnel rules necessary to prevent an interruption of services of the railroad.

(c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements adopted under (a) of this section. The board shall renegotiate all agreements adopted under (a) of this section within two years after the date of transfer of the Alaska Railroad to the state unless the parties agree to the contrary.

* Sec. 12. Sections 3 - 8 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

* Sec. 13. Sections 1, 2, and 9 - 10 of this Act take effect immediately in accordance with AS 01.10.070(c).

AK.

RAILROAD

Comparison:

SB 10. SB 352

HB 512

SIDE-BY-SIDE SUBJECT COMPARISON

OF SB-10 and

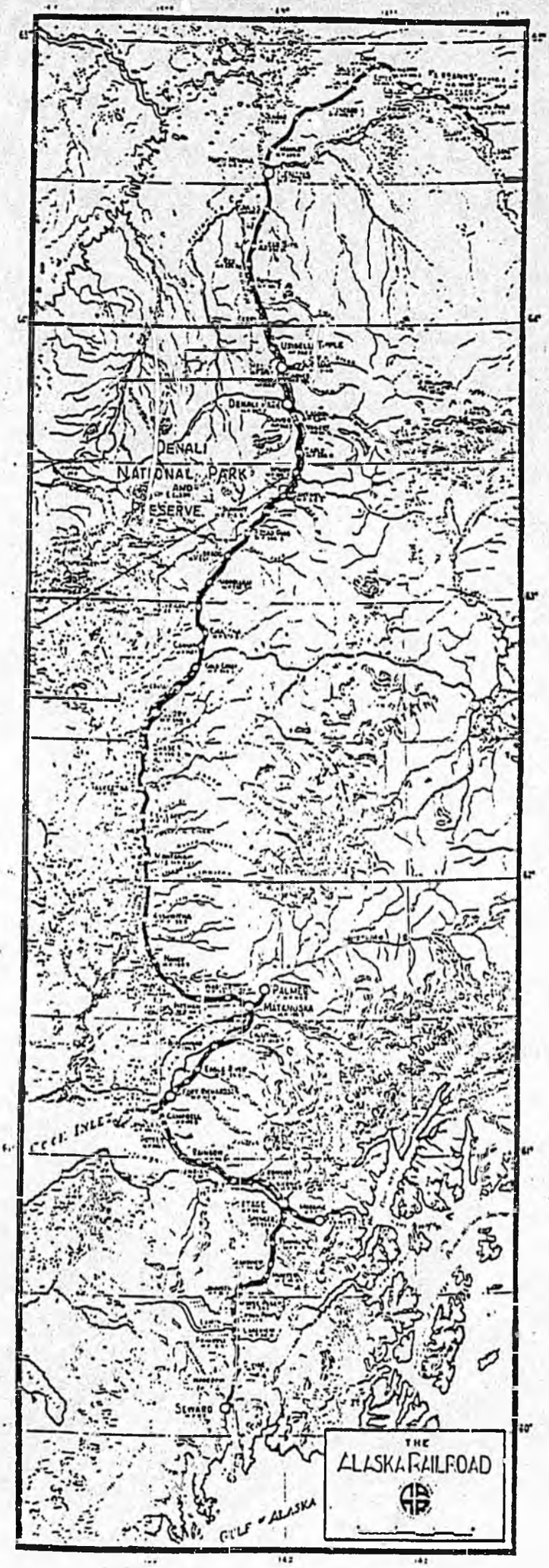
SB-352 (HB-512,

WITH

COMPARATIVE ANALYSIS BY LEGISLATIVE AFFAIRS AGENCY, DIVISION OF LEGAL SERVICES

PREPARED BY:
Senate Transportation
Committee Staff

January 23, 1984


DENALI
NATIONAL PARK
AND
PRESERVE
MATANUSKA
SEWARD
THE
ALASKA RAILROAD

Cross Reference/Index

	Comparison	SB 10	SB 352
Legislative Findings, Policy, and Declarations.	1	1	1
Establishment of Authority (Corporation)	4	3	3
Limitation of Liability	6	4	16
Board of Commissioners (Directors)	7	4	3
Term of Office, Vacancies	8	5	4
Compensation and Expenses	9	6	5
Quorum and Notice of Meetings	10	6	5
Voting	11	6	5
Management of Authority (Executive Officers)	12	7	5
Delegation	13	8	5
Conflicts of Interest	15	9	N/A
Public Board Meetings	17	11	7
Minutes of Meetings	18	11	7
Administrative Procedure (Rules)	19	12	7
Public Disclosure of Information	21	14	7
General Powers	22	14	8
Annual Report	26	18	8
Annual Audit	27	18	8

Cross Reference/Index

	Comparison	SB 10	SB 352
Long-range Program and Capital Improvement Plans	28	19	11
Use of Authority (Corporation) Assets	29	20	12
Rail Properties	30	21	13,15
Classification, Acquisition, and use of State Land for Railroad Purposes	32	23	13
Development of Oil, Gas, Minerals, and Geothermal Resources on Authority Land	34	25	N/A
Land Use Regulation	35	26	N/A
Eminent Domain and Acquisition of Property and Materials	3[illegible]	27	15
Bonds and Notes	37	27	17
Independent Financial Advisor	41	32	22
Validity of Pledge	42	32	22
Remedies	43	32	22
Negotiable Instruments	44	33	23
Bonds and Notes Eligible for Investment	45	33	23
Refunding Bonds	46	33	23
Credit of State not Pledged; Required Disclaimer (Credit of State not Pledged)	47	34	24
No Personal Liability (Officers Not Liable)	48	34	24
Revenues	49	35	17

	Comparison	SB 10	SB 352
Insurance	51	35	16
Safeguarding of Money	52	35	N/A
Fidelity Bond	53	35	16
Reversion of Assets	54	35	25
State Review	55	35	N/A
Action-Forcing Mechanism	57	37	N/A
Intervention	58	38	N/A
Trusteeship	59	39	N/A
Personnel	60	40	25
Political Activities	61	41	26
Licenses and Permits	62	42	N/A
Claims Against the Authority (Claims)	63	42	16
Unauthorized Representation	65	42	16
Exemption from Taxation	66	42	24
Payments in Place of Local Real Property Taxation and Impact Aid	67	43	N/A
Enforcement of Law and Authority Regulations by Authority Security Force	68	44	N/A
Penalty for Violation of Designated Regulation	69	45	N/A
Construction	70	45	N/A
Definitions	71	45	27

Cross Reference/Index

	Comparison	SB 10	SB 352
Time for Paying Compensation or Damages or Bond to Build Railroad Fences and Cattle Guards	74	47	N/A
Commencement of Legal Existence of Alaska Railroad Authority (Corporation)	76	47	N/A
Appointment of First Members of the Board of Commissioners	77	47	27
Closing Report Submitted under Federal Transfer Legislation	78	48	N/A
Assets and Liabilities to be Noted in Audit	79	48	N/A
Initial Long-range Program and Capital Improvement Plans	80	48	N/A
Pre-existing Rules, Regulations and Orders of the Alaska Railroad	81	49	N/A
Collective Bargaining Agreement Between the Alaska Railroad Authority (Corporation) and Employees	82	49	N/A
Conflicting Laws Inapplicable	83	49	27
Application of Existing Statutes	84	50	26
Subsequently Enacted Statutes	85	51	N/A
Effective Date	86	51	28
(Special Report)	87	N/A	8
(Appropriations)	88	N/A	17
(Interim Receipts, Temporary Bonds, and Temporary Bond Anticiaption Notes	89	N/A	21

Cross Reference/Index

	Comparison	SB 10	SB 352
(Validity of Signatures)	90	N/A	21
(Short Title)	91	N/A	27

Underlined provisions represent language not found in compared section.

SB-10 SB-352(HB-512) Comparison

Introduced: 1/18/83
Referred: Transportation and Finance

IN THE SENATE BY KERTTULA

SENATE BILL NO. 10

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS, POLICY, AND DECLARATIONS. (a) The legislature finds that

(1) the United States government has expressed its determination to discontinue federal operation of the Alaska Railroad at the earliest possible date;

(2) for the time being, private acquisition and operation of the railroad in a manner consistent with the federal transfer legislation and this Act is not presently considered to be a reasonable possibility or in the best interests of the citizens of the state;

(3) continued operation of the railroad is possible only if the state acquires the railroad from the federal government and provides for operation of the railroad;

(4) continued operation and development of the Alaska Railroad is essential to the long-term economic growth and development of the state and its natural resources and will serve an important public purpose; and

(5) continued operation of the Alaska Railroad will promote the general welfare of the people of the state by providing important freight and passenger service to residents of the state, businesses, visitors, and military installations in the state.

(b) It is the policy of the state to

(1) foster and promote the development of the state's land and

SB 10

Introduced: 1/23/84
Referred: Transportation and Finance

IN THE SENATE BY KERTTULA, FAIKS AND HALFORD

SENATE BILL NO. 352

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) The Alaska Railroad is an essential part of the state transportation network that without state action will cease to be a transportation option available within Alaska. The federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence. It is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(2) There is vast potential in Alaska's natural resource areas and that extension of the Alaska Railroad into natural resource areas is necessary for the achievement of the goals of lower freight cost and long-term economic growth.

(b) It is the purpose of this Act to create an entity and to provide that entity with the powers and duties necessary to operate and manage the Alaska Railroad as a viable independent entity pending the eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

(c) The legislature declares that

SB 352

The statement of legislative purpose in SB 152 bears little resemblance to that statement in SB 10.

ont.)

natural resources;

(2) foster and promote the long-term economic growth and development of the state;

(3) provide necessary and feasible freight and passenger rail transportation services to residents, businesses, visitors, and military installations in the state;

(4) develop and implement plans for a transportation network that effect the policies set out in this subsection; and

(5) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state.

(c) The legislature declares that

(1) the exercise of the powers of the state in the interest of the people of the state is necessary to accomplish the policy set out in (b) of this section by authorizing the creation of a public authority with the powers, duties, and functions as provided in this Act to operate the Alaska Railroad and to manage its rail, industrial, port and other properties;

(2) it is in the best interests of the people of the state for the public authority created by this Act to operate and manage in a prudent manner the Alaska Railroad

(A) to be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) with the railroad authority, and not the state, constituting a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission;

(C) with the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) to carry out its responsibilities on a self-sustaining basis;

(cont.)

(1) the exercise of the powers of the state in the interest of the people of the state is necessary to accomplish the policy set out in (a) of this section by authorizing the creation of a public corporation with the powers, duties, and functions as provided in this Act to operate the Alaska Railroad and to manage its rail, industrial, port and other properties;

(2) it is in the best interests of the people of the state for the public corporation that will operate and manage the Alaska Railroad to be created in such a way that

(A) the corporation will be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) the corporation, and not the state, will constitute a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission;

(C) the corporation will have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) the corporation may carry out its responsibilities on a self-sustaining basis;

(E) the best possible combination of types and levels of safe, efficient and economical transportation can be provided that is necessary to meet the overall needs of the state, supported when necessary by state investment;

(F) the railroad may be operated prudently and according to sound business management practices; and

(G) borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

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(cont.)

(E) to provide the best possible combination of types and levels of safe, efficient, and economical transportation that is necessary to meet the overall needs of the state supported when necessary by state investment;

(F) according to sound business management practices;

(G) to provide the level of service that best satisfies the needs of the people of the state;

(H) in a fiscally sound manner; and

(I) to ensure that borrowing by the authority does not directly or indirectly endanger the state's own borrowing capacity;

(3) the continued operation of the railroad will assure greater use, development, reclamation, and settlement of the state's land for the maximum benefit of the people; and

(4) the important public purposes to be served by the railroad authority require the authority to have all of the powers and duties granted to it by this Act; the legislature intends that the authority, consistent with sound business management practices, exercise its powers and duties as a public service on behalf of the state and recognizes that the exercise of the powers and duties granted by this Act requires the authority to engage in the wide range of conduct authorized by this Act.

SB-10

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD AUTHORITY.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF AUTHORITY. There is established the Alaska Railroad Authority. The authority is a public corporation and, for purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Transportation and Public Facilities, but the authority has a legal existence independent of and separate from the state. The exercise by the authority of the powers provided in this chapter is considered an essential governmental function of the state. The existence of the authority is perpetual.

SB-352(HB-512)

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation for the purposes of art. III, sec. 22, Constitution of the State of Alaska. The corporation shall be considered a principal department only for the purposes of art. III, sec. 26, Constitution of the State of Alaska. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Comparison

The statement in SB 10 that the authority is an instrumentality of the state within DOT&PF is omitted from SB 352 and a statement that the corporation "shall be considered a principal department..." is inserted in an apparent effort to justify legislative confirmation of board members. Both SB 10 and SB 352 provide that certain members of the board shall be confirmed by the legislature. The Alaska Supreme Court has found that the power to appoint executive officers is solely an executive function. While Article III, sections 25 and 26 of the state constitution requires legislative confirmation of the appointments of heads of departments and members of quasi-judicial or regulatory agencies, the court has held that those sections represent the outer limits of the legislature's power to confirm.

(4) (cont.)

(Bradner v. Hammond, 553 P. 2d 1 (Alaska, 1976)) in an apparent effort to force the Alaska Railroad Corporation into a status that will allow for legislative confirmation of appointments to the board, Sec. 42.40.010 of SB 352 contains the following sentence:

> "The corporation shall be considered a principal department only for the purposes of Article III, sec. 26, Constitution of the State of Alaska."

Despite this effort at characterizing the board as a ". . . board or commission . . . at the head of a principal department or a regulatory or quasi-judicial agency. . . ." (Article III, Section 26, Constitution of the State of Alaska), I am certain that the court would find that the board does not fit within the terms of Article III, section 26 and that legislative confirmation on that basis is inappropriate.

There is a basis for arguing in support of the confirmation requirement. It could be argued that Bradner applies only to appointments of officers of the executive branch and does not apply to appointments of officers of public corporations or authorities that have an independent legal status from the executive branch of government. Confirmation of appointments to independent public corporations or authorities does not directly invade the governor's power of appointment, because the governor has no duty to administer the corporation that is similar to his duty to administer the executive branch. Nevertheless, it must be stressed that the provision regarding confirmation of board members is subject to constitutional attack.

Sec. 42.40.020. LIMITATION OF LIABILITY. A liability incurred by the authority must be satisfied exclusively from the assets and credit of the authority and no creditor or other person has a right of action against the state on account of a debt, obligation, or liability of the authority.

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

SB-10

Sec. 42.40.030. BOARD OF COMMISSIONERS. (a) The powers of the authority are vested in the Board of Commissioners. The board consists of the commissioner of transportation and public facilities, who serves as a voting member; the chief executive officer of the authority, who serves as an ex officio nonvoting member; an authority employee appointed by the governor, who serves as a nonvoting member and represents the labor organizations that are certified to represent authority employees; and six voting public members appointed by the governor. The public members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including, but not limited to transportation, business, and finance and must have the standing in their communities to command the respect of their fellow citizens. Unless prohibited by law, one public member shall be or have been an executive official of an American railroad that is not now or was never a connecting carrier of the Alaska railroad. At least four public members must be selected from areas served by the railroad. The public members may not be state officers or employees.

(b) The public members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A public member appointed by the governor, unless and until the member has been rejected by the legislature, has the full powers and responsibilities of a confirmed board member.

(c) The board shall elect from its membership a chairman, a vice-chairman, a treasurer, and a secretary and prescribe their specific duties by rule.

(d) The chairman shall call meetings of the board at least once every three months. The chairman may call other meetings of the board as the chairman considers necessary. The chairman shall preside at meetings of the board.

(e) The governor by written notice to the member may remove a public member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a misdemeanor involving moral turpitude or a felony; or

(4) any conduct that was intended to harm the authority whether or not it constitutes a crime.

SB-352(HB-512)

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of five voting members appointed by the governor. These five members must be residents of and registered voters in the state except as provided in (b) of this section. No more than two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. A voting member may not be a state officer or employee.

(b) One person who is not a resident of or registered voter in the state may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a majority of the membership of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member unless and until the member has been rejected by the legislature.

(e) The board shall elect from its membership a chairperson and vice-chairperson and prescribe their specific duties by rule.

(f) The board shall appoint a secretary and prescribe the specific duties of the secretary.

(g) The chairperson shall call meetings of the board at least once every three months. The chairperson may call other meetings of the board as the chairperson considers necessary. The chairperson shall preside at meetings of the board.

(h) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) conviction of a misdemeanor involving moral turpitude.

Compariso

The board of directors is composed of five voting members and one non-voting member appointed by the governor in SB 352. The chief executive officer of the corporation serves as another non-voting member as in SB 10. Otherwise, composition of the board of commissioners under Section 42.40.030 of SB 10 is substantially different. Material in (e) (4) of SB 10 does not appear in SB 352.

Sec. 42.40.040. TERM OF OFFICE; VACANCIES. (a) The public members of the board serve for staggered terms of five years each.

(b) A vacancy on the board is filled by appointment by the governor and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(c) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(d) A member whose term has expired shall serve until a successor has been appointed.

Sec. 42.40.010. TERM OF OFFICE. The appointed members of the board serve for staggered terms of five years each.

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the legislature in joint session. A member selected to fill a vacancy holds office for the balance of the term for which the member's predecessor is appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member whose term has expired shall serve until a successor has been appointed.

SB-10

Sec. 42.40.050. COMPENSATION AND EXPENSES. A public member of the board is entitled to compensation at the rate of $300 for each day the member is engaged in actual performance of duties as a member of the board. The board shall provide by rule for compensation for partial days during which a member is engaged in the actual performance of duties. A member is entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180.

SB-352(HB-512)

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $200 for each day the member is engaged in the actual performance of duties as a member of the board.

(b) In addition to compensation under (b) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

Compensation for board members is $200 per day in SB 352 and $300 per day in SB 10. In addition, compensation is available to appointed members only under SB 352. There is no provision for payment for partial days in SB 10.

Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Four voting members of the board constitute a quorum for the transaction of business. In addition to the notice requirements of AS 44.62, notice of a meeting of the board, including an agenda for the meeting, must be given to

(1) each member of the board;

(2) the governor;

(3) the leadership of the legislature;

(4) at least two newspapers of statewide circulation; and

(5) members of the general public upon request.

Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Three voting members of the board constitute a quorum for the transaction of business.

Three voting members constitutes a quorum in SB 352 rather than four as in SB 10. The additional provisions on notice of meetings in SB 10 do not appear in SB 352.

SB-10 SB-352(HB-512) Comparison

Sec. 42.40.070. VOTING. The board shall provide by rule for t
manner of voting and any representation of persons absent from mee
ings. The rules may provide for voting and conferring by means
telecommunication devices or by mail or for voting as directed in
written proxy taking a position on a particular issue so long
voting is consistent with AS 44.62.310. However, no proxy is allowed
that delegates to the holder discretion to act for a principal on
undisclosed or general matters.

Sec. 42.40.070. VOTING. The board shall provide by rule for the
manner of voting and representation of persons absent from meetings.
The rules may provide for voting and conferring by means of telecommu-
nication devices or by mail or for voting as directed in a written
proxy taking a position on a particular issue.

SB 352 does not contain the last line in SB 10 limiting use of proxy.

SB-10

Sec. 42.40.080. MANAGEMENT OF AUTHORITY. (a) Unless the board provides for management of the authority by a third-party contractor under (b) of this section,

(1) the board shall appoint and fix compensation for the chief executive officer and legal counsel of the authority; the appointment of legal counsel is subject to the approval, for competence, of the governor;

(2) the chief executive officer shall appoint and fix compensation for the other executive officials; the appointments and compensation are subject to board approval;

(3) officials appointed under (1) and (2) of this subsection serve at the pleasure of the board;

(4) the chief executive officer may appoint and fix compensation for any additional personnel necessary to carry out the purposes of this chapter;

(5) except as may be required by federal law, no executive official of the authority may be compensated at a rate in excess of that established under AS 39.20.080 for the heads of principal executive departments of the state.

(b) The board may provide for, in a manner consistent with the purposes of this chapter and subject to the approval of the state as provided in AS 42.40.600(g), the management and operation of the railroad by a third-party contractor. Subject to the limitations in (a) of this section, the board may provide for appointment and compensation of any executive official, including but not limited to those provided for in (a) of this section, necessary to augment the management and operation of the railroad by the third-party contractor.

SB-352(HB-512)

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall appoint and fix compensation for the chief executive officer of the corporation. The chief executive officer serves at the pleasure of the board.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

Comparison

No provision is contained in SB 352 for management by a third-party contractor as in SB 10. SB 352 contains no limit on compensation as is found in (a) (5) of SB 10.

SB-10 SB-352(HB-512) Comparison

Sec. 42.40.090. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the authority to the chief executive officer, subject to any requirement of board concurrence or authorization imposed by the rules.

(b) Within 180 days of its establishment, the board shall by rule delegate the following activities of the authority to the chief executive officer or other executive official designated by the board, subject to any board review of the activities as may be specified in the rules:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the authority's entire interest in real property of the authority;

(2) establishment of specific rates, tariffs, divisions and contract rate agreements;

(3) routine changes in service levels; and

(4) procurement.

(c) General or particular board authorization or concurrence is required for the following:

(1) transfer of the authority's entire interest in real property other than the execution of a release of a lien or satisfaction of a mortgage after payment has been received;

(2) issuance of notes, debentures, or bonds;

(3) mortgaging or pledging of authority assets;

(4) donation of money, property, or other assets belonging to the authority;

(5) an action by the authority as a surety or guarantor;

(6) capital projects with an estimated completion cost in excess of $250,000 or an estimated completion time of more than one year;

(7) adoption of the long-range program and capital improvement plans under AS 42.40.325;

(8) certification of annual reports under AS 42.40.310;

SB 10

Sec. 47.40.110. DELEGATION. (a) The board shall by rule delegate powers and duties necessary and appropriate for the management of the daily affairs and operations of the corporation to the chief executive officer, subject to a requirement of board concurrence or authorization imposed by the rules.

(b) Within 60 days of its establishment, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests that do not constitute a transfer of the corporation's entire interest in real property of the corporation;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) General or particular board authorization or concurrence is required for the following:

(1) transferring the corporation's entire interest in real property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging authority assets;

(4) donating property, or other assets belonging to the corporation;

(5) acting as a surety or guarantee;

(6) adopting a long-range expansion and capital improvement plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

SB 352

In (b) 180 days in SB 10 is changed to 60 days in SB 352. Material in (c) (6) of SB 10 does not appear in SB 352.

(cont.)

(9) generally applicable, comprehensive increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission for application to rail carriers generally;

(10) diversification and major expansion or reduction of services beyond those provided on the date of transfer or as provided under this chapter;

(11) the exercise of the power of eminent domain;

(12) expansion of main or branch lines, other than routine track realignment as necessary to maintain service levels in effect on the date of transfer; and

(13) selection of independent auditors and accountants.

(cont.)

(9) expanding or reducing services in a major way as provided under this chapter;

(10) expanding the main or branch lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer; and

(11) selecting independent auditors and accountants.

14

ARTICLE 2. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or employee of the authority may not participate in a decision of the authority in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section. For purposes of this section, "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

(b) A board member or employee may participate in a decision if that person or a member of that person's immediate family has only a remote interest and if the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or employee in the decision, and thereafter in a public meeting the board authorizes or approves the participation by a vote of its membership excluding the interested member or employee. As used in this subsection, "remote interest" means

(1) that of a nonsalaried officer of a nonprofit corporation;

(2) that of an employee or agent of a contracting party when the compensation of the employee or agent consists entirely of fixed wages or salary and the contract is awarded by bid or by other competitive process;

(3) that of a landlord or tenant of a contracting party, except when the property subject to the lease or sublease is owned or managed by the authority;

(4) that of a holder of less than one percent of the shares of the corporation or cooperative that is the contracting party;

(5) that of an owner of a savings and loan account or bank savings or share account or credit union deposit account if the interest represented by the account is less than two percent of the total deposits held by the institution; or

(6) other interests that in good faith are defined as remote by rules or regulations adopted by the authority.

(c) A board member or employee is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

No comparable provision

ont.) (d) An action, including the award of a contract, in which a board member or employee participates in violation of this section or AS 39.50.090 is void if the board member's vote or employee's participation was necessary to the decision. If a board member votes or an employee participates in a decision in violation of this section or AS 39.50.090 and that vote or participation is not necessary to the decision, the board may ratify the action after disclosure of the violation in a public meeting of the board and without participation by the interested member or employee in the decision to ratify. A board member or employee who violates a prohibition contained in this section or in AS 39.50 forfeits office upon a determination by the board in a public meeting that the violation was intentional.

(e) The executive officials and board members of the authority are subject to AS 39.50.

(f) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules and regulations implementing this section, providing additional conflict of interest and ethical rules and regulations as it considers appropriate, and providing for the removal by the board of a board member or employee who intentionally violates a prohibition contained in this section or in AS 39.50.

No comparable provision

Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public, with the exception of executive sessions permitted by AS 44.62.310 and (b) of this section.

(b) In addition to those subjects which may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the authority's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of the information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of the board are public with the exception of an executive session conducted under AS 44.62.310 and (b) of this section.

(b) In addition to those subjects that may be discussed in executive session under AS 44.62.310, the board may consider in executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information, as defined in a manner consistent with the standards and practices of the United States Interstate Commerce Commission for protection of information associated with specific shippers, divisions, and contract rate agreements.

Sec. 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting and shall send a certified copy of the minutes of the public portion of each meeting to the governor and the leadership of the legislature.

Sec 42.40.220. MINUTES OF MEETINGS. The board shall keep minutes of each meeting.

SB 352 contains no requirement that copies of minutes be sent th to the governor and leadership of the legislature as in SB 10.

SB-10

Sec. 42.40.230. ADMINISTRATIVE PROCEDURE. (a) Except for AS 44.62.310 regarding public meetings, as limited by AS 42.40.210(b), the Administrative Procedure Act (AS 44.62) does not apply to the authority, its rules, regulations, or actions taken under this chapter. The authority shall make available to members of the public copies of the rules and regulations adopted under this section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460. The legislature may annul or temporarily suspend a regulation adopted by the authority.

(b) The board shall adopt rules and regulations to govern its procedures and to carry out the purposes of this chapter. Within 90 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that, in the determination of the board, will have a substantial impact on the public or be used in the authority's dealings with a significant segment of the public. The rules shall also provide for the adoption of emergency regulations without public notice and comment when the immediate adoption or repeal of a regulation is necessary to continue or reinstate the orderly operation of the authority's facilities or programs. However, emergency regulations may not remain in effect more than 120 days unless during that period the board complies with the public notice and comment procedure required for regulations that are not of an emergency nature.

(c) The rules adopted under (b) of this section establishing a regulation-making procedure and all rules or regulations relating to procurement of property by the authority, conflicts of interest, disclosure of information in the possession of the authority, or the regulation of persons outside the authority through the exercise of police power shall be submitted to the attorney general for review and approval before becoming effective. The attorney general shall respond to the authority within 60 days after receipt of the rules or regulations either approving them as consistent with or disapproving

SB-352(HB-512)

Sec. 42.40.230. RULES. The board shall establish a procedure for adopting rules to carry out its functions and the purposes of this chapter. The rules shall include a procedure for the adoption of emergency rules when the adoption of an emergency rule is essential to continue or to reinstate the orderly operation of the corporation's facilities or program.

Comparison

Most of the material regarding rule making in SB 10 is omitted from SB 352. The board is simply authorized to adopt rules.

(cont.)

them as in conflict with the Alaska Statutes and the Constitution of the State of Alaska. A disapproval of rules or regulations must be accompanied by a memorandum of law explaining the conflict with existing law and a recommendation for revisions to cure the defect. Rules or regulations submitted to the attorney general are considered approved if the attorney general fails to approve or disapprove the rules or regulations, as provided in this subsection, within 60 days after receipt.

(d) A regulation is not subject to the procedures in (b) of this section if it is one that

5 (1) relates to the use of public works, [including terminal areas, industrial reserves, rights-of-way and streets,] under the jurisdiction of the ~~authority~~ Corporation if the effect of the ~~regulation~~ order is indicated to the public by means of signs or signals;

4. (2) is directed to a specifically named person or to a group of persons and does not apply ~~generally throughout the state~~ to the general public; or

3. (3) [CONCERNS] related to service schedules of the railroad; or

2. (4) relates to specific [RATES] tariffs, divisions, and contract rate agreements.

(e) The authority is an agency of the state for purposes of jurisdictional determinations and judicial review of the authority's action.

SB 10

(1) relates only to the internal management of the Corporation;
2

(30)

SB-10 SB-352(HB-512) Comparison

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule or regulation of the authority under this section, facts and information in the possession of the authority are public and communications, reports, files, books, accounts, and papers of every nature in its possession are open to public inspection at reasonable times.

(b) The authority may by rule or regulation designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include but are not limited to personnel records, communications with and work product of counsel and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

(c) A person may make written objections to the public disclosure of information contained in an application, report, or document filed with the authority, stating the grounds for the objection. When an objection is made, the board may order the information withheld from public disclosure if the information

(1) would adversely affect the interest of that person and is not required in the interest of the public; or

(2) may be protected from disclosure consistent with the standards and practices of the United States Interstate Commerce Commission including but not limited to proprietary information associated with specific shippers, divisions and contract rate agreements.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule of the corporation under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) Except as provided in AS 42.40.270, the corporation may by rule designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of counsel consistent with the standards and practices of the United States Interstate Commerce Commission, and information associated with specific shippers, divisions, and contract rate agreements.

SB 352 contains no provision like (c) of SB 10 authorizing objection to public disclosure of information.

SB-10

ARTICLE 3. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. The authority may

(1) adopt a seal;

(2) adopt rules and regulations;

(3) sue and be sued;

(4) appoint officers, employees, trustees, and agents, and prescribe their powers and duties;

(5) hire legal counsel to represent the authority;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interests in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the authority;

(8) acquire property by eminent domain or by declaration of taking;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including without limitation facilities and equipment;

(10) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(11) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(12) contract with and accept transfers, gifts, grants or loans of funds or property from the United States, the state, and its political subdivisions, subject to the provisions of federal, state, or local programs;

SB-352(HB-512)

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;

(8) acquire property by eminent domain in accordance with AS 42.40.430;

(9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer any real or personal property including facilities and equipment;

(10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;

(11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;

(12) recommend to the legislature and the governor any tax,

Comparison

Not all of the general powers in SB 10 are contained in SB 352, however those powers omitted in this section appear to be essentially covered in other sections. In addition, SB 352 authorizes the adoption of corporate bylaws.

(cont.)

(13) acquire, hold and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(14) undertake or provide for the management, operation, maintenance, use, and control of all of the properties of the Alaska Railroad including without limitation, the tracks, equipment and other property transferred to it by the federal government or by any person;

(15) undertake or provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(16) recommend to the legislature and the governor any tax, financing, or security measure the authority considers appropriate for maximizing the public interest in the operation of the railroad;

(17) lend its funds, property, credit or services for authority purposes;

(18) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the authority is a party;

(19) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the authority estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

SB 10

(cont.)

financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(13) maintain offices and facilities at places it designates;

(14) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(15) prescribe rates to be charged for services provided by the Alaska Railroad on a competitive basis;

(16) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(17) enter into contracts and leases with connecting carriers and shippers, that contain provisions to preserve and expand the railroad's traffic base;

(18) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

(19) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

(20) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C 1201-1214 (Alaska Railroad Transfer Act of 1982);

SB 352

(cont.)

(20) maintain offices and facilities at places it designates;

(21) purchase the authority's bonds at a price not more than the principal amount of them plus interest;

(22) cancel bonds purchased under (21) of this section;

(23) apply to the appropriate agencies of the state, the United States, and to a foreign country and other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate transportation services, and to obtain, hold, and reuse the licenses and permits in the same manner as other operating units or persons;

(24) prescribe rates to be charged for services provided by the Alaska Railroad;

(25) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(26) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, properties and facilities of the railroad, including contracts, leases and other agreements that contain provisions intended to preserve and expand the railroad's traffic base;

(27) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system and acquisition and operation of other modes of transportation service connecting to the railroad's rail service;

(28) adopt regulations having the force of law that are designed to safeguard property owned, managed, or transported by the authority, to protect employees and persons using the authority's property or services, and to promote safe, healthy, secure, and

(cont.)

(21) assume and satisfy liabilities of the United States or its agencies as provided by the federal transfer legislation and the closing report or its substantive equivalent as accepted by the legislature;

(22) maintain a security force to enforce state law and the corporations rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(23) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;

(24) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) purchase the corporation's bonds at a price not more than the principal amount of them plus interest; and

(28) cancel bonds purchased under (21) of this section.

24

(cont.)

effective railroad operations;

(29) maintain a security force to enforce state law and the authority's regulations;

(30) adopt rules and regulations having the force of law that require designated classes of proprietary and personnel information and communications to be confidential;

(31) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations that may be imposed by the federal transfer legislation;

(32) assume and satisfy liabilities of the United States or its agencies as provided by the federal transfer legislation and the closing report, or its substantive equivalent, as accepted by the legislature; and

(33) do all things necessary, convenient or desirable to carry out the powers and duties expressly granted or necessarily implied in this chapter or under other laws of the state or the laws and regulations of the federal government.

Sec. 42.40.310. ANNUAL REPORT. The board shall direct preparation of, certify and distribute to the governor and to each member of the legislature by February 1 of each year a report generally describing the operations and financial condition of the authority. The board may include in the report suggestions for legislation relating to the structure, powers, or duties of the authority or relating to the operation of facilities of the authority.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year.

The report is due 90 days after the end of the fiscal year in SB 352 rather than February 1. The last line in SB 10 regarding suggestions for legislation does not appear in SB 352

Sec. 42.40.320. ANNUAL AUDIT. The board shall have the financial records of the authority audited annually by an independent certified public accountant experienced in railroad accounting. The authority shall, at all times during normal business hours and as often as the governor's auditor or the legislative audit division considers necessary, make available to an auditor appointed by the governor or to the legislative audit division for examination all of its financial records, and shall permit the auditor appointed by the governor or the legislative audit division to audit, examine and make excerpts or transcripts from the records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, provision of services and the rates at which the services are provided and other relevant data; disclosure of this information is subject to AS 42.40.240 and rules and regulations implementing that section.

Sec. 42.40.270. ANNUAL AUDIT. The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The corporation shall make all of its financial records available to an auditor appointed by the governor or to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.240 and rules implementing that section.

SB-10

Sec. 42.40.325. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The authority shall prepare and the board shall adopt a long-range program plan and a capital improvement plan in accordance with sec. 10 of this Act.

(b) The long-range program plan must delineate the manner in which the authority intends to accomplish the purposes of and fulfill its responsibilities under this chapter during each of the five years after the plan is adopted. The long-range program plan shall provide information substantially consistent with the requirements of AS 37.07.050. The format of the long-range program plan must be jointly determined by the authority, the legislative audit division, and the division of budget and management, Office of the Governor.

(c) The long-range capital improvement plan must present and explain the authority's anticipated capital improvements for each of the five years after the plan is adopted. The long-range capital improvement plan must include the information required by AS 42.40.-600(b) together with any other information prescribed by the governor or the legislative audit division.

(d) The authority shall annually revise and the board shall adopt the plans required in this section.

(e) The authority shall provide copies of its plans to the governor and the leadership of the legislature.

(f) The governor and the legislative audit division may conduct an annual performance and efficiency audit in accordance with sec. 10 of this Act.

SB-352(HB-512)

Sec. 42.40.310. LONG-RANGE EXPANSION AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long-range expansion plan and a capital improvement plan. The long-range expansion plan shall delineate the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted.

(b) The board shall annually review and update the plans required under (a) of this section. The board may not contract for the preparation or revision of either the long-range expansion plan or the capital improvement plan, but shall require their preparation and revision by employees of the corporation.

(c) The board shall provide copies of its updated plans to the governor and the legislature by December 1 of each year.

Comparison

There are many minor differences between these sections. Material in (c) and (f) of SB 10 is deleted, while SB 352 adds the date that copies of the plan are to be delivered; December 1.

SB-10

Sec. 42.40.330. USE OF AUTHORITY ASSETS. (a) The authority shall apply all money, property, other assets, and credit of the authority toward activities authorized by this chapter. The authority may not issue shares of stock, pay dividends, make private distribution of assets, make loans to board members or employees, or engage in business for private benefit. The use of authority money, property, other assets, or credit for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the authority may

(1) assist board members and employees as members of a general class of persons to be assisted by an activity to the same extent as other members of the class and as long as no special privileges or treatment accrues to the member or employee by reason of status or position held in the authority;

(2) return to board members and employees fees, dues, or service charges originally contributed by them and surplus to the purposes for which collected;

(3) defend and indemnify a current or former employee, agent, or board member of the authority and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, reasonably incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the authority, if acting in good faith on behalf of the authority and within the scope of official duties or powers; and

(4) purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the authority and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

SB-352(HB-512)

Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for purposes not authorized by law by persons having the possession or control of it is prohibited.

(b) Notwithstanding the provisions of this section, the corporation may

(1) defend and indemnify a current or former employee, agent, or board member of the corporation and their successors against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers; and

(2) purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding instituted against these individuals arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold these individuals harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance and its policy limits are discretionary with the board and insurance is not considered to be compensation to the insured individual.

(b) (1) and (2) of SB 10 do not appear in SB 352.

SB-10 SB-352(HB-512) Comparison

ARTICLE 4. RAIL PROPERTIES.

Sec. 42.40.400. RAIL PROPERTIES. (a) The authority shall receive from the United States and, in its own name, take title to all rail properties transferred under the federal transfer legislation. All land among the rail properties so transferred or otherwise acquired by the authority is subject to AS 38.95.010 and is not subject to classification, control or disposal under AS 38 or other state law, except as otherwise specifically provided in this chapter.

(b) Within 120 days after transfer of the rail properties, the authority shall convey to the state the subsurface estate of and the mineral rights in the land among the rail properties. The conveyance shall be made by one or more quitclaim deeds executed by the chief executive officer and delivered to the commissioner of natural resources. The authority may reserve in each quitclaim deed the right to extract and use for the authority's purposes sand, gravel, other construction materials, and, in accordance with AS 42.40.410(g), coal on the subject land. The interest retained by the authority after conveyance to the state under this subsection entitles it to exclusive use and control of the surface, complete subjacent and lateral support of the surface, and the right to tunnel, ditch, recontour, excavate and otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(c) The authority may litigate, compromise, and otherwise settle claims related to the transfer of rail properties from the United States and to recover for breach of warranties made or other obligations assumed by the United States or other party in relation to the transfer or status of the rail properties.

(d) The authority may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the authority and may receive conveyances of all interests in its own name.

(e) The authority, as an agency of the state, may acquire in its own name from the United States under the Surplus Property Act (50 App. U.S.C. 1622 et seq.), the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 471 et seq.), or other law, property under the control of a federal department or agency that is useful for the authority's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

ARTICLE 5. RAIL PROPERTIES.

Sec. 42.40.400. LAND. All land among the rail properties transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. As to all land that is transferred or acquired

(1) railroad rights-of-way or easements transferred under the federal act or otherwise acquired shall be classified as railroad utility corridors;

(2) future railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of other width as designated by the corporation, and may be surveyed by the metes and bounds method; and

(3) the corporation may lease or rent portions of the utility corridor for other transportation services.

Sec. 42.40.430. OTHER ASSETS. (a) The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of interests in federal land available under federal law that will enhance the operations of the corporation and may receive conveyances of all interests in its own name.

(b) The corporation, as an agency of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended (the Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes and may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

The two provisions differ considerably. However, some of the provisions of SB 10 are found in other sections of SB 352. Material in (b), (c), and (f) of SB 10 is not contained in SB 352.

(cont.)

(f) Before disposing of an interest in real property, other than a leasehold, a utility or access easement, or a land use permit, to a party other than the state, the authority shall give public notice of the disposition in two newspapers of general circulation. The authority shall make copies of the notice available to the public at its administrative office, and mail copies of the notice to the commissioner of natural resources, the governor, and the leadership of the legislature.

Sec. 42.40.410. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by resolution may identify land owned by or subject to selection by the state, including tide and submerged land, as necessary or useful for present or intended railroad purposes. The resolution must include a statement of and justification for the present or intended railroad use and the date when the use should begin. Upon submission of the resolution and a request for classification and conveyance to the commissioner of natural resources, the commissioner may temporarily classify and reserve the land identified in the request for railroad purposes and may temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights.

(b) Within 180 days after receiving the request, the commissioner of natural resources by departmental order shall

(1) permanently classify the surface estate of that land for railroad purposes and, subject to valid existing rights, convey the state's interests in and to the surface estate of the land to the authority;

(2) deny the classification and conveyance as not in the best interest of the state; or

(3) approve in part and deny in part the request for classification under this section.

(c) In the absence of a reservation to the contrary, a conveyance under (b) of this section vests in the authority the exclusive right to extract and use for its purposes sand, gravel, other construction materials, and, in accordance with (g) of this section, coal on the land conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The authority and the commissioner of natural resources may agree to joint management of railroad land and to conditions for classification of railroad land. The authority and the commissioner of natural resources may agree to periodic joint review of state land to determine suitability for railroad purposes and periodic joint review of the status of railroad land to determine the necessity for continued ownership by the authority. The authority may reconvey to the state land that the authority and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the authority's purposes.

Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and request conveyance of land owned by or subject to selection by the state, including tide and submerged land and land not adjacent to a railroad corridor, as necessary or useful for present, future or intended railroad purposes. The request must include a statement of and justification for the present, future or intended railroad use. Upon submission of a request for classification and conveyance to the commissioner of natural resources, the commissioner shall temporarily classify and reserve the land identified in the request for railroad purposes and shall temporarily vacate a classification allowing disposal or lease of that land under laws or programs of the state. A temporary classification and vacation is subject to valid existing rights and remains in effect for 180 days.

(b) Within 90 days after receiving a request under (a) of this section, the commissioner of natural resources by departmental order shall:

(1) classify that land for railroad purposes and, subject to valid existing rights, convey the state's interests to the corporation; or

(2) notify the corporation of reasons for refusal to classify the land for railroad purposes.

(c) A conveyance under (b)(1) of this section vests in the corporation the exclusive right to extract and use for its purposes sand, gravel, rock, timber and other construction materials the land conveyed without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

(e) The corporation's ownership of state land entitles it to exclusive use and control of the surface, subsurface, complete subjacent and lateral support of the surface, subsurface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with concurrence of the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level.

In (b), 180 days in SB 10 is changed to 90 days in SB 352. In SB 352 there is no provision similar to (b) (3) in SB 10 allowing the commissioner to approve in part a request for classification. There is no provision similar to (g) in SB 10 concerning the extraction of coal.

ont.) (e) The authority's ownership of a surface interest in state land entitles it to exclusive use and control of the surface, complete subjacent and lateral support of the surface, and the right to tunnel, ditch, recontour, excavate or otherwise use the subsurface for railroad, transportation, transmission, and related purposes.

(f) When physical conditions require that track or other right-of-way fixtures of the authority be moved from the existing location and relocated on state-owned land adjacent to or in the vicinity of the existing right-of-way, and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the authority may effect the relocation after notice to the Department of Natural Resources. The relocation must be limited to land adequate to restore or continue safe rail operations at a normal level. Within 45 days after a relocation under this subsection, the authority shall request classification and conveyance of the land for railroad purposes in accordance with (a) of this section.

(g) Before the authority extracts coal on lands in which it owns an interest, as authorized by AS 42.40.400(b) and (c) of this section, it shall submit a request for authorization to do so to the Department of Natural Resources. Within 45 days after receiving the request, the Department of Natural Resources shall approve the request if it determines that the coal to be extracted is located on lands in which the authority owns an interest and is not subject to existing rights of a third party. The state holds title to all coal on lands in which the authority owns an interest until the coal is extracted from the land by the authority under this subsection or otherwise disposed of in accordance with AS 38.05.130 and AS 42.40.415. The authority may use coal made available to it under this chapter for operational, non-income producing purposes only, including the generation of power to support operations and in-kind compensation to a person with whom the authority contracts to extract coal.

Sec. 42.40.415. DEVELOPMENT OF OIL, GAS, MINERALS, AND GEOTHERMAL RESOURCES ON AUTHORITY LAND. (a) The Department of Natural Resources, in accordance with AS 38.05, may lease or otherwise develop oil, gas, minerals, and geothermal resources located on land in which the authority owns an interest, including a surface interest, only upon satisfaction of the following conditions:

(1) the Department of Natural Resources submits to the authority a request for authorization identifying the interest to be developed and describing with specificity the proposed plan for development of the interest, potential negative effects the proposed development may have on the authority's operations, and measures that will be used to avert or mitigate the effects;

(2) the authority reviews the request for authorization and, after considering potential negative effects and proposed mitigation measures, determines that the plan of development presents no appreciable risk of interference with the operations of the authority;

(3) the Department of Natural Resources and the authority agree upon a suitable requirement that the lessee or party other than the state undertaking the development reimburse the authority from the proceeds of the development for costs incurred by the authority and materials lost by the authority as a result of the development; and

(4) the authority issues to the Department of Natural Resources a written authorization to proceed with the plan for lease or development; the authority may not unreasonably withhold its consent to a request for authorization submitted by the Department of Natural Resources under this section.

(b) The Department of Natural Resources shall require a party other than the state exercising rights under this section to post a surety bond in an amount sufficient to secure the authority against potential detrimental effects of the activity undertaken.

(c) The Department of Natural Resources shall maintain an accurate record of all income received by the state from the land in which the authority has an interest and of the value of all subsurface estates conveyed by the authority to the state. The Department of Natural Resources shall prepare a yearly summary of the income and subsurface value and submit it to the legislature and the authority before March 15 of each year.

(d) There is established in the state treasury the Alaska Railroad income fund. All income received by the state from lands in which the authority has an interest shall be deposited into the fund.

No comparable provision

Sec. 42.40.420. LAND USE RECULATION. The board may adopt exclusive regulations governing land use by private parties having interests in or permits for land owned or managed by the authority. The power conferred by this section is exercised for the common health, safety, and welfare of the public and, to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions with private parties.

No comparable provision

SB-10

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The authority may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The authority may acquire a fee simple title whenever, in the judgment of the authority, ownership of a fee simple is necessary to carry out the authority's lawful purposes in condemning property. When the authority acquires a fee simple, it shall as soon as practicable reconvey the subsurface estate to the state by a quitclaim deed.

(c) The authority may file a declaration of taking, under AS 09.55.420 - 09.55.460, in the same manner and with the same effect as the state.

(d) The authority's power of eminent domain includes, without limitation, the power to obtain material, including clay, gravel, sand, or rock, the land necessary to obtain the material, and access to the land and material.

(e) The authority may vacate land, or part of it, or rights in land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing of the deed, title reverts to the State of Alaska, if compensation has been paid.

SB-352(HB-512)

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land or an interest in land for lawful purposes consistent with this chapter.

(b) The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple is necessary to carry out the state's lawful purposes in condemning property.

(c) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(d) The power of eminent domain conferred under this section includes the power to obtain material, including clay, gravel, sand, timber, or rock for railroad use, the land necessary to obtain the material, and access to the land and material.

Comparison

The last sentence in (b) of SB 10 is deleted from SB 352 and the material in (c) of SB 10 is deleted.

ARTICLE 5. FINANCIAL PROVISIONS.

Sec. 42.40.500. BONDS AND NOTES. (a) The authority, by resolution of the board, may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on the bonds or notes of the authority are payable from money or assets of the authority. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, if bond or bond anticipation note proceeds are not available, the notes may be paid from other money or assets of the authority. Bonds or notes may be additionally secured by a pledge of a grant or contribution or other property from the federal government, the state or any of its political subdivisions, or a corporation, association, institution, or person, or a pledge of money, income, or revenues of the authority from any source.

(c) Bonds or bond anticipation notes may be issued in one or more series and shall be dated, bear interest (fixed or variable) at the rate or rates per year or within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank of priority, be executed in the manner and form, be payable from the sources in the medium of payment and place or places inside or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the board may provide. Bond anticipation notes mature at the time or times determined by the board. Bonds mature at the time, not exceeding 50 years from their date, determined by the board. Before the preparation of definitive bonds or bond anticipation notes, the authority may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes.

(b) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(c) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

(d) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(e) Bonds or bond anticipation notes may be sold in the manner,

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(d) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines.

(e) If an officer whose signature or a facsimile of whose signature appears on bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid as if the officer had remained in office until delivery.

(f) Bond or bond anticipation note proceeds may not be dedicated to activities other than those the board reasonably determines to be specifically related to the purposes for which the instruments are issued.

(g) In a resolution of the board authorizing or relating to the issuance of bonds or bond anticipation notes, the board has power by provisions in the resolution that will constitute covenants of the authority, and contracts with the holders of the bonds or bond anticipation notes

(1) to pledge to a payment or purpose all or a part of its revenues to which its right then exists or may later exist, and the money derived from the revenues, and the proceeds of its bonds or notes;

(2) to covenant against pledging all or part of its revenues, or against permitting or suffering a lien on the revenues or its property;

(3) to covenant as to establishment of reserves or sinking funds and the provision for and the regulation and disposition of the reserves or sinking funds;

(4) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(5) to covenant as to bonds and notes to be issued, and

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on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 30 years from their date, determined by the board.

(f) The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the bonds or bond anticipation notes:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed

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their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;

(6) to covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of other debts;

(7) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(8) to provide for the replacement of lost, stolen, destroyed, or mutilated bonds or notes;

(9) to covenant against extending the time for the payment of bonds or notes or interest on bonds or notes;

(10) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the authori-

(11) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) to establish the procedure, if any, by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) to covenant as to the custody of its properties or investments, their safekeeping and insurance, and the use and

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or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint, a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds

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disposition of insurance money;

(14) to vest in a trustee or trustees inside or outside the state property, rights, powers, and duties in trust as the authority may determine, that may include any or all of the rights, powers, and duties of a trustee appointed by the holders of bonds or notes of the authority, and to limit or abrogate the rights of the holders of the bonds or notes of the authority to appoint a trustee under this chapter or limit the rights, powers, and duties of the trustee;

(15) to pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of a covenant or agreement of the authority with the holders of its bonds or notes;

(16) to agree with an authority trustee that may be a trust company or bank having the powers of a trust company inside or outside the state as to the pledging or assigning of revenues or funds in which the authority has any rights or interest; the agreement may further provide for other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of bonds or notes of the authority and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the authority;

(17) to appoint and provide for the duties and obligations of a paying agent or other fiduciary as the resolution may provide inside or outside the state;

(18) to limit the rights of the holders of bonds or notes of the authority to enforce a pledge or covenant securing the bonds or notes; and

(19) to make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and to make the covenants to do or refrain from doing the acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the board, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts, or things may not be enumerated in this section.

(cont.)

or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

Sec. 42.40.510. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

Sec. 42.40.515. VALIDITY OF PLEDGE. The pledge of assets or revenues of the authority to the payment of the principal or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the assets or revenues are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether those parties have notice of the lien of the pledge. Nothing in this section prohibits the authority from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

Sec. 42.40.520. REMEDIES. A holder of bonds or notes or of coupons attached to them issued under this chapter, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted under this chapter or under the trust agreement or resolution, or under any other contract executed by the authority under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the authority or by its board members or employees.

Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corp required by this chapter or by the trust agreement or resolution

Sec. 42.40.525. NEGOTIABLE INSTRUMENTS. Bonds and notes and interest coupons attached to them issued under this chapter are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

SB-10 SB-352(HB-512) Comparison

Sec. 42.40.53?. BONDS AND NOTES ELIGIBLE FUR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest money, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

Sec. 42.40.440. BONDS AND NOTES ELIGIBLE FUR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

SB-10

Sec. 42.40.535. REFUNDING BONDS. (a) The authority may provide for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding that have been issued under this chapter, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the bonds. The issuance of the refunding bonds, the maturities and other details of them, the rights of the holders of them, and the rights, duties, and obligations of the authority in respect to them are governed by the applicable provisions of this chapter that relate to the issuance of bonds.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and, if sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption, or payment of the outstanding bonds. Pending the application of the proceeds of refunding bonds, with any other available money, to the payment of the principal, accrued interest, and any redemption premium on the bonds being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of any interest on the refunding bonds and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America, the State of Alaska, or other entities with comparably rated credit that mature or that will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

SB-352(HB-512)

Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

Comparison

Sec. 42.40.540. CREDIT OF STATE NOT PLEDGED; REQUIRED DISCLAIMER. Bonds and notes issued under this chapter do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state or of a political subdivision of the state other than the authority but are payable solely from the revenues or assets of the authority. Each bond and note issued under this chapter must contain on its face a statement that the authority is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of a political subdivision of the state other than the authority is pledged to the payment of the principal of or the interest on the bond or note.

Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

Sec. 42.40.545. NO PERSONAL LIABILITY. A board member or employee of the authority is not subject to personal liability or accountability for executing bonds or notes or because of their issuance.

Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

SB-10

Sec. 42.40.550. REVENUE. Revenues generated by the authority do not become part of the general fund of the state but are kept and managed by the authority for purposes authorized by this chapter.

SB-352(HB-512)

Sec. 42.40.550. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes as required by 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

Comparison

These sections raise a question concerning the application of Article IX, Section 7, of the constitution. As interpreted in State v. Alex 646 P. 2d 203 (Alaska, 1982), that prohibition against dedicated funds extends to all sources of public revenue, so it would apply to money generated by the Alaska Railroad. (See also 1982 Op. Att'y Gen., Nos. J66-785-81 and J66-649-80.) This legislation requires that revenue generated by the railroad corporation be retained for railroad purposes in contravention of the prohibition against dedicated funds. However, the federal law providing for the transfer of the railroad to the state requires that revenues generated by the railroad corporation be kept by the railroad and used for railroad purposes. (45 U.S.C. 1207 (a)(5)) (cont.)

Comparison continued

Faced with this requirement in federal law, it is likely that the Alaska Supreme Court will strain to fit this into the exception to the prohibition against dedicated funds as being ". . . required by the federal government for state participation in federal programs." (Article IX, Section 7, Constitution of the State of Alaska) In any case, there appears to be little the legislature can do to resolve the conflict between the federal railroad transfer law and our constitution.

Sec. 42.40.555. INSURANCE. The authority shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability, and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.530. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability and property damage that may arise from or be related to its operations and activities, naming the state as an additional insured.

Sec. 42.40.560. SAFEGUARDING OF MONEY. The authority shall maximize revenues from and deposit all money in depositories acceptable to the governor and otherwise safeguard the money under instructions as the governor may from time to time issue.

No comparable provision

Sec. 42.40.565. FIDELITY BOND. The authority shall obtain a fidelity bond in an amount determined by the board for its members and any official responsible for accounts and finances. A bond must be in effect for the tenure in office of the bonded person.

Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for its members and any officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

SB-10

SB-352(HB-512)

Sec. 42.40.570. REVERSION OF ASSETS. If the authority ceases to exist, for whatever reason, its assets revert to the state.

Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assetu revert to the state.

59

ARTICLE 6. STATE OVERSIGHT.

Sec. 42.40.600. STATE REVIEW. (a) The board shall notify the governor and the leadership of the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer to the authority or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts for other borrowings with a term in excess of one year and in an amount exceeding $5,000,000.

(b) The notice required by (a) of this section must be in writing and describe the proposed undertaking in detail, specifying

(1) its financial impact on the authority;

(2) its impact on the level and nature of services provided by the authority;

(3) why the project is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking will be self-sustaining financially.

(c) The notice required by (a) of this section shall be published and given in the same manner as notice required under AS 42.40.060.

(d) Within 45 days after receipt of the notice required by (a) of this section, the governor may

(1) disapprove the proposed undertaking;

(2) suspend the proposed undertaking and direct that it not be implemented until the legislature has reviewed it under (f) of this section; or

(3) approve the proposed undertaking, in which case the authority may proceed with the undertaking.

(e) A decision by the governor disapproving the proposed undertaking under (d) of this section is binding on the authority, unless the authority is directed by the legislature under AS 42.40.610 to

SB 10

No comparable provision

55

proceed with the proposed undertaking. If the governor suspends the proposed undertaking under (d) of this section, the governor shall promptly transmit a decision to the board and the leadership of the legislature in the form of a recommendation that the legislature acquiesce in the proposed undertaking or that the legislature reject the proposed undertaking. The authority's proposed undertaking is considered approved if the governor fails to act under (d) of this section within the prescribed time.

(f) During a legislative session, within 60 days after receipt of the governor's recommendation the legislature may, by law, reject the proposed undertaking. The legislation is binding on the authority. The proposed undertaking is considered approved if the legislature fails to pass legislation rejecting it within the prescribed time.

(g) Notwithstanding the provisions of (a) - (f) of this section, a proposed extension of main or branch lines by more than 50 percent of the railroad's total track mileage and requiring the issuance of securities, notes, bonds, or contracts for other borrowings of an amount in excess of $50,000,000 or provision for the management and operation of the railroad by a third-party contractor must be specifically authorized by law.

(h) An undertaking described in (a) or (g) of this section is considered approved or rejected for purposes of this section if

(1) the authority has been directed to act or refrain from acting in accordance with AS 42.40.610; or

(2) the legislature by law has specifically approved the undertaking by authorizing, appropriating financing for, or guaranteeing the authority's borrowing for the proposed undertaking.

No comparable provision

Sec. 42.40.610. ACTION-FORCING MECHANISM. (a) The governor or the legislature, by resolution, may request that the authority exercise or refrain from exercising its powers and authorities. Notice of a request shall be given to the legislature by the governor and to the governor by the legislature.

(b) To the greatest extent practicable within 30 days after receipt of a request the board shall respond to both the governor and the leadership of the legislature in writing specifying

(1) the manner in which it proposes to take the requested action or any modification to the requested action sought by the authority; or

(2) the specific reasons, financial, legal or otherwise, why the board declines to take the requested action.

(c) At the request of the governor or on its own initiative, the legislature by law may then direct the authority to take the requested action or the legislature may act to cure the problem precluding the authority from taking the requested action. If the authority is unable to take the requested action for financial reasons, it is obligated to do so, even if directed, only upon provision by the legislature of sufficient money to plan and implement the action.

No comparable provision

Sec. 42.40.615. INTERVENTION. (a) When authorized by law, the governor as provided in the legislation shall intervene and exercise such control over the authority as is necessary and appropriate to correct a deficiency or to assure that the purposes of this chapter may be reasonably accomplished, including directing affirmative action when

(1) the board has requested intervention by resolution;

(2) the authority has represented to the public or to creditors that recourse may be had to the assets, property, or credit of the state on account of acts or omissions of the authority, unless the secondary or direct liability has been expressly assumed by the state;

(3) the authority has failed to file an annual report as required by AS 42.40.310 within 120 days after receipt of formal notice of the omission or has filed an annual report that is false or misleading on a material matter;

(4) a deadlock has occurred in the board, or the membership of the board is insufficient to constitute a quorum for conduct of affairs so that the authority is unable to conduct its operations or perform its activities; or

(5) the assets of the authority have been or are committed to be misapplied or wasted or illegally expended, or the authority has committed or is about to commit a material violation of this chapter.

(b) The governor may take actions necessary to achieve the object of the intervention stated in the legislation and make ancillary corrections, and shall accomplish the purposes of the intervention as expeditiously as reasonable. Board members and employees may not be displaced nor the conduct of their duties impaired more than necessary to accomplish the purposes of the intervention and the intervention must cease as soon as the objective stated in the legislation and ancillary corrections have been accomplished.

No comparable provision

SB-10 SB-352(HB-512) Comparison

Sec. 42.40.820. TRUSTEESHIP. (a) When authorized by law, the governor may petition the superior court of the State of Alaska for the Third Judicial District at Anchorage to impose a trusteeship over the authority and appoint the trustees if

(1) the board has requested imposition of the trusteeship by resolution;

(2) the authority has become insolvent or otherwise unable to carry out its contractual obligations to creditors and other persons;

(3) the authority has filed an annual report that is false or deceptively misleading on a material matter;

(4) the authority has become incompetent or ineligible to carry out the public purposes for which it was established;

(5) the authority has misused, abused, or continuously exceeded the power or authority conferred by this chapter or committed repeated violations of this chapter;

(6) the assets of the authority have been or are committed to be misapplied or wasted, or illegally expanded, or a material violation of this chapter has been committed or is about to be committed and the governor has determined that intervention as provided in AS 42.40.615 would not be feasible under the circumstances; or

(7) the credit-worthiness of the state has been directly or indirectly substantially impaired by actions of the authority.

(b) The trustees appointed by the superior court shall take reasonable actions necessary during the trusteeship to achieve its object. The trustees have the power and authority to reorganize the authority and amend its rules and regulations; suspend or remove board members and executive officials; manage the assets and affairs of the authority; and exercise all powers necessary or appropriate to fulfill outstanding agreements, to restore the capability of the authority to perform the functions and activities for which it was established, to reinstate its credit or credibility with its creditors or obligees or the credit of the state or its credibility with its creditors or obligees to the extent impaired by authority actions.

No comparable provision

59

SB-10 SB-352(HB-512) comparison

ARTICLE 7. MISCELLANEOUS PROVISIONS.

Sec. 42.40.700. PERSONNEL. (a) All personnel employed by the Alaska Railroad are personnel of the authority, and not of the state. The provisons of AS 39 do not apply to personnel employed by authority.

(b) For the purposes of the Public Employment Relations (AS 23.40.070 - 23.40.260) the authority is considered a "public employer" within the meaning of that Act, except that AS 23.40.070(3) does not apply to the authority, and the authority's employees are classified as employees under AS 23.40.200(a)(1).

(c) The authority may not enter into any collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with any organization representing the authority's executive officials.

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

(b) The collective bargaining agreements between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982), they are renegotiated, subject to the approval of the board.

(c) The corporation may not enter into a collective bargaining agreement concerning wages, hours, working conditions or other employment terms, conditions and benefits with an organization representing the corporation's chief executive official or executive officials appointed by the chief executive official.

In SB 352 material is added in (b) regarding collective bargaining agreements. Material in (b) of SB 10 is deleted.

60

SB-10

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the authority may not be used for partisan political activity or to further the election or defeat of a person seeking an elective office. Money or a substantial part of the activities of the authority may not be used for publicity or educational purposes designed to support or defeat legislation pending before congress or the legislature. However, board members and employees of the authority may communicate with and appear before committees of congress or the legislature as well as local legislative bodies in connection with financing and other matters directly affecting the authority or its ability to carry out the purposes for which it is established and respond to requests by members of congress, the legislature, or local legislative bodies for information, views, and testimony.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge does not create any disability or legal disadvantage based on conviction of a criminal offense.

SB-352(HB-512)

Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may upon request communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

Comparison

Sec. 42.40.720. LICENSES AND PERMITS. Except as otherwise provided in this chapter, if the laws of a municipality, the state, or the United States require a person to hold a license or permit to undertake certain activities or perform an act, the authority, before under taking the activity or perfo.ming the act, shall comply with the law to the same extent the state is required to comply.

No comparable provision

SB-10

Sec. 42.40.740. CLAIMS AGAINST THE AUTHORITY. (a) All claims and lawsuits involving activities of the railroad, including without limitation suits in contract, quasi-contract, or tort, shall be brought against the authority, and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the authority, the authority and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, AS 09.65.040, and other similar or related statutes.

(c) Claims against the authority are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(d) The authority is not subject to the provisions of AS 44.80.-010, regarding the state as a party to an action.

SB-352(HB-512)

Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation, and not against the state.

(b) In a claim or other legal action against the corporation involving its activities, including the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, the party or parties that maintained the action shall be liable to the corporation for its full costs and legal fees in defending the action and for the financial losses to the corporation that are directly attributable to the maintenance of that action.

(c) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state officers as provided in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(d) Claims against the corporation are not subject to the provisions of AS 44.77.010 - 44.77.070 regarding claims against the state.

(e) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

Comparison

Section 42.40.540(b) has been added in SB 352 providing that if the railroad corporation prevails in a legal action, the other party is liable for full costs and legal fees incurred by the corporation in defending the action. This subsection is flawed in that it ignores to possibility that the corporation will be a prevailing plaintiff rather than a prevailing defendant in many cases.

Aside from that minor consideration, this subsection raises a sever constitutional question. Under the Civil Rules of Court there are situations where a prevailing party has only a limited right to attorney's fees and cost. (See Civil Rule 72 (k)) In any case, Civil Rule 82 provides for payment of attorney's fees to a prevailing party according to a schedule that, in general, provides less than the full cost incurred in fees.

63 (cont.)

Comparison continued

Singling out the railroad corporation for different treatment from any other prevailing party creates equal protection problems under both the federal and state constitutions that need to be considered. Furthermore, since Article IV, Section 15 of the state constitution grants the supreme court the power to promulgate rules governing practice and procedure in civil cases, it appears that this subsection will have to be approved by two-thirds of the members elected to each house of the legislature. Uniform Rule 39(e) requires that if a bill contains a section changing a court rule the bill must have a section citing the rule and noting what change is made. The fact that the bill changes a court rule must also be noted in the title of the bill. SB 352 does not comply with these technical requirements.

Sec. 42.40.730. UNAUTHORIZED REPRESENTATION. All persons who assume to act for the authority without authority to do so are jointly and severally liable for the debts and liabilities incurred.

No comparable provision

Sec. 42.40.755. EXEMPTION FROM TAXATION. (a) The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and devoted to an essential public and governmental function and purpose, and the property, assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, a borough, city, municipality, school district, public utility district and other taxing unit. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds, or interest on them, are at all times exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death.

(b) Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority.

(c) For purposes of AS 14.17 relating to the computation of the required local effort by a district as defined in AS 14.17.250(3), property exempted from taxation by this chapter is considered taxable real and personal property.

Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, the corporation is not required to pay a tax or assessment on property owned by the corporation under the provisions of this chapter or on the income from the property.

(d) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

SB-10

Sec. 42.40.770. PAYMENTS IN PLACE OF LOCAL REAL PROPERTY TAXATION AND IMPACT AID. (a) To the extent feasible, without impairing the authority's financial viability and consistent with sound business principles, including but not limited to the operation of the railroad on a self-sustaining basis, the need for capital accumulation, and consistency with regulation by the United States Interstate Commerce Commission, the authority may

(1) make voluntary payments to political subdivisions served by the railroad or in which the authority has substantial land holdings in place of local taxation of authority real property; and

(2) provide financial assistance to political subdivisions and other local districts in the development of public education and other facilities required to be developed as a result of expanded authority activities in the area.

(b) The board shall adopt regulations prescribing the conditions under and the extent to which it will undertake to provide payments or assistance, including, but not limited to

(1) the conditions cited in (a) of this section;

(2) the relative magnitude of the taxation effort deficit or impact caused by authority activities in an area;

(3) the relative need among communities affected by authority activities; and

(4) the present or anticipated benefits to the communities attributable to authority activities.

SB-352(HB-512)

No comparable provision

Comparison

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.870. ENFORCEMENT OF LAW AND AUTHORITY REGULATIONS BY AUTHORITY SECURITY FORCE. Members of the security force maintained by the authority under AS 42.40.300 may enforce state laws and regulations adopted by the authority with respect to violations of the laws or regulations that occur on or to property owned, managed or transported by the authority. Members of the security force may exercise the same enforcement powers granted by law to state law enforcement officers.

No comparable provision

Sec. 42.40.880. PENALTY FOR VIOLATION OF DESIGNATED REGULATION. A person who violates a regulation of the authority that has been designated by the authority as a regulation that is necessary to protect life, health or property, is guilty of a class B misdemeanor.

No comparable provision

Sec. 42.40.890. CONSTRUCTION. This chapter shall be liberally construed to carry out its purposes.

No comparable provision

SB-10

Sec. 42.40.900. DEFINITIONS. In this chapter, unless the context clearly indicates otherwise,

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

(2) "board" means the Board of Commissioners of the Alaska Railroad Authority;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under the federal transfer legislation;

(4) "employees" means all persons employed by the authority, including executive officials;

(5) "executive officials" means the authority's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, or any employee of the authority who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility if so designated by the board;

(6) "federal transfer legislation" means that Act of Congress authorizing transfer of the Alaska Railroad to the State of Alaska or the authority;

(7) "immediate family" means

(A) spouse;

(B) dependent parent, parent-in-law, child, son-in-law, or daughter-in-law; or

(C) a parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece, or nephew residing in the household of an officer or employee of the authority;

(8) "land" means all interests in real property, including tide and submerged land;

SB-352(HB-512)

Sec. 42.40.950. DEFINITIONS. In this chapter,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the deed of conveyance for the properties of the Alaska Railroad under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officials;

(5) "railroad utility corridor" means a right-of-way for railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska Railroad Transfer Act of 1982).

(6) "land" means all real property, including tide and submerged land;

(7) "rail properties" means all real and personal property, tangible and intangible, of the corporation.

Comparison

cont.)

(9) "leadership of the legislature" means the president of the senate, the speaker of the house, the minority leaders of each house, the chairmen of the senate and house transportation and finance committees, the chairman of the legislative budget and audit committee or jurisdictional successors or persons or offices designated by those individuals;

(10) "rail properties" means all right, title, and interest of the United States to real and personal property, tangible and intangible, identified in the closing report prepared under the federal transfer legislation and transferred to the authority under the legislation;

(11) "regulation" has the same meaning as under AS 44.62.-640;

(12) "rules" means rules, standards, or written procedures relating to the governance and internal management and affairs of the authority or the board; rules may not be considered to be "regulations".

* Sec. 3. AS 09.55.310(a)(4) is amended to read:

(4) if the property sought to be condemned is for a railroad other than one operated by the Alaska Railroad Authority, the cost of good and sufficient fences along the line of the railroad, and the cost of cattle guards where fences may cross the line of the railroad.

No comparable provision

* Sec. 4. AS 09.55.350 is amended to read:

Sec. 09.55.350. TIME FOR PAYING COMPENSATION OR DAMAGES OR BOND TO BUILD RAILROAD FENCES AND CATTLE GUARDS. The plaintiff shall, within 30 days after final judgment, pay the sum of money assessed. If the use is for railroad purposes other than the purposes of the Alaska Railroad Authority, the plaintiff may, at the time of or before the payment, elect to build the fences and cattle guards. If the plaintiff [HE] so elects, the plaintiff [HE] shall execute to the defendant a bond, with one or more sureties to be approved by the court, in double the assessed cost of the same to build such fences and cattle guards within eight months from the time the railroad is built on the land taken. If the bond is given, the plaintiff need not pay the cost of the fences and cattle guards. In an action on the bond, the plaintiff may recover reasonable attorney fees.

No comparable provision

* Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:

(46) members of the Board of Commissioners of the Alaska Railroad Authority

No comparable provision

* Sec. 6. COMMENCEMENT OF LEGAL EXISTENCE OF ALASKA RAILROAD AUTHORITY. The legal existence and authority of the Alaska Railroad Authority commences upon appointment by the governor under AS 42.40.010 enacted in sec. 2 of this Act of all members of the Board of Commissioners of the authority.

No comparable provision

SB-10

* Sec. 7. APPOINTMENT OF FIRST MEMBERS OF THE BOARD OF COMMISSIONERS. (a) The governor shall designate the terms of the six public members of the Board of Commissioners of the Alaska Railroad Authority first appointed under AS 42.40.040. Of the six public members first appointed

(1) two shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years;

(4) two shall serve a term of five years.

(b) The governor may exercise the power of appointment under AS 42.40.030 only upon acceptance by the legislature by law of the closing report or its substantive equivalent prepared and submitted under the federal transfer legislation or upon approval by the legislature of operation of the Federal Alaska Railroad by the authority.

SB-352(HB-512)

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the governor shall designate the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation as follows:

(1) one shall serve a term of two years;

(2) one shall serve a term of three years;

(3) one shall serve a term of four years; and

(4) two shall serve a term of five years.

Comparison

* Sec. 8. CLOSING REPORT SUBMITTED UNDER FEDERAL TRANSFER LEGISLATION. The closing report submitted under the federal transfer legislation must include a statement of the assets and liabilities of the Alaska Railroad proposed to be transferred to and assumed by the Alaska Railroad Authority or the state which statement is as specific and definitive as practicable under the federal transfer legislation. The legislature may accept or reject the report and may not condition acceptance on its modification in any material respect.

No comparable provision

* Sec. 9. ASSETS AND LIABILITIES TO BE NOTED IN AUDIT. To the extent practicable, for the five years following the date of transfer of the Alaska Railroad to the state or the Alaska Railroad Authority the status of the assets and liabilities specifically identified in the closing report submitted under the federal transfer legislation must be noted in the annual audit.

No comparable provision

* Sec. 10. INITIAL LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) Within 18 months of the date of transfer of the Alaska Railroad to the state or the Alaska Railroad Authority, the authority shall prepare and the Board of Commissioners of the authority shall adopt a long-range program plan and a capital improvement plan in accordance with AS 42.40.325.

(b) Beginning three years after the preparation of the long-range program plan described in (a) of this section, the governor and the legislative audit division may conduct an annual performance and efficiency audit of the authority's compliance with the plan.

No comparable provision

* Sec. 11. PRE-EXISTING RULES, REGULATIONS AND ORDERS OF THE ALASKA RAILROAD. The Board of Commissioners of the Alaska Railroad Authority, by resolution, may continue in force for a period of not more than two years after date of transfer all or part of the rules, regulations, and orders of the Alaska Railroad which were in effect one day before the date of transfer and are not inconsistent with this chapter or other state law. All authorities continued in force under this section shall expire on the second anniversary of the date of transfer. The Board of Commissioners may adopt in its rules, regulations, and orders the substance of former federal authorities relating to the Alaska Railroad. This adoption is not considered a continuation of the federal authorities if made in compliance with the procedural requirements of this chapter and other applicable law.

No comparable provision

" Sec. 12. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD AUTHORITY AND EMPLOYEES. As soon as practicable after transfer of the Alaska Railroad, the Alaska Railroad Authority and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the authority and its employees shall remain in effect until they expire by their terms or, as required under the federal transfer legislation, they are renegotiated, subject to the approval of the Board of Commissioners of the Alaska Railroad Authority.

No comparable provision

* Sec. 13. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail.

* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are in conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982).

* Sec. 14. APPLICATION OF EXISTING STATUTES. (a) AS 19 does not apply to the operations of the Alaska Railroad Authority.

(b) The Alaska Railroad Authority is considered a political subdivision of the state for the purposes of AS 23.10.055.

(c) AS 23.10.420 does not apply to the operations of the Alaska Railroad Authority.

(d) AS 30.15 does not apply to the operations of the Alaska Railroad Authority.

(e) AS 39 does not apply to the operation of the Alaska Railroad Authority.

(f) The following provisions of AS 37 do not apply to the operations and budgeting procedures of the Alaska Railroad Authority: AS 37.05; AS 37.07; AS 37.10.010 - 37.10.060, 37.10.085; AS 37.20; and AS 37.25.

(g) The Alaska Railroad Authority is not subject to the jurisdiction of the Alaska Transportation Commission.

ARTICLE 8. GENERAL PROVISIONS.

Sec. 42.40.800. APPLICATION OF EXISTING STANDARDS. The Alaska Railroad Corporation is not subject to the jurisdiction of the Alaska Transportation Commission. The following laws do not apply to the operations of the Alaska Railroad Corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 44.62.040 - 44.62.320.

There provisions are moved from temporary to permanent law.

Sec. 44. SUBSEQUENTLY ENACTED STATUTES. No subsequently enacted statute shall be interpreted or construed to apply to the Alaska Railroad Authority, the Alaska Railroad, or any of the authority's activities unless it specifically so provides by its terms.

No comparable provision

* Sec. 16. EFFECTIVE DATE. This Act takes effect upon acceptance by the Alaska State Legislature of the closing report submitted under the federal transfer legislation enacted by Congress authorizing transfer of the Alaska Railroad to the State of Alaska or the Alaska Railroad Authority or upon approval by the legislature of operation of the Federal Alaska Railroad by the Alaska Railroad Authority.

* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

SB 352 contains an immediate effective date while SB 352 contains an elaborate effective date tied to the federal railroad transfer legislation.

No comparable provision

Sec. 42.40.250. SPECIAL REPORT. The corporation shall investigate and prepare a report for the governor and the legislature on the long-term operations of the railroad that are in the best interest of the state. The report shall be due January 1, 1988. It shall make specific recommendations on operational alternatives and the transfer of all or part of the railroads operations to the private sector.

No comparable provision

Sec. 42.40.560 APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of AS 42.40.300 and 42.40.310.

No comparable provision

Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

No comparable provision

Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

No comparable provision

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

AK. RAILROAD

ANALYSIS:

CSHB 352

+ HB512

Steve

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM January 18, 1984

SUBJECT: Alaska Railroad (HB 512)

TO: Representative Bette Cato

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

Here is the section by section analysis of HB 512 that you requested.

* Section 1 This is a statement of legislative findings and purpose. In (a) the legislature finds that the Alaska Railroad is an essential part of the state transportation network that will cease to be an option without state action and that extending the railroad into natural resource areas is necessary for long-term economic growth. In (b) the purpose of the Act is stated to be the creation of an entity to operate and manage the railroad pending the transfer of the railroad to the private sector. In (c) the legislature finds that it is necessary to create a public corporation to operate the railroad and that the corporation should be created so that it will be responsible for the management of the financial and legal obligations of the railroad, will constitute a common carrier under the Interstate Commerce Commission, will have the ability to issue tax exempt obligations, may carry out its responsibilities on a self-sustaining basis, and so that the best transportation can be provided supported by state investment when necessary, the railroad may be operated prudently, and borrowing by the corporation does not endanger the state's own borrowing capacity.

* Section 2

Section 42.40.010 The Alaska Railroad Corporation is established as a public corporation outside the executive branch of government but considered a principal department for the purposes of art. III, sec. 26 of the state constitution.

This last provision is an apparent effort to justify legislative confirmation of members of the board of directors.

The Alaska Supreme Court has found that the power to appoint executive officers is solely an executive function. While Article III, sections 25 and 26 of the state constitution requires legislative confirmation of the appointments of heads of departments and members of quasi-judicial or regulatory agencies, the court has held that those sections represent the outer limits of the legislature's power to confirm. (Bradner v. Hammond, 553 P.2d 1 (Alaska, 1976)) Despite the effort at characterizing the board as a ". . . board or commission . . . at the head of a principal department or a regulatory or quasi-judicial agency. . . ." (Article III, Section 26, Constitution of the State of Alaska), I am certain that the court would find that the board does not fit within the terms of Article III, Section 26 and that legislative confirmation on that basis is inappropriate.

There is a basis for arguing in support of the confirmation requirement. It could be argued that Bradner applies only to appointments of officers of the executive branch and does not apply to appointments of officers of public corporations that have an independent legal status from the executive branch of government. Confirmation of appointments to independent public corporations does not directly invade the governor's power of appointment, because the governor has no duty to administer the corporation that is similar to his duty to administer the executive branch. Nevertheless, it must be stressed that the provision regarding confirmation of board members is subject to constitutional attack.

Section 42.40.020 Five voting members who are voters in the state. are appointed to the board of directors by the governor No more than two members may be from one judicial district and two members must have at least five years experience as owners or managers of a business in the state. A member may not be a state officer or employee. However, the governor may appoint one person who is not a voter if he has at least 10 years of experience in management of railroads. In addition to voting members, the governor shall appoint a nonvoting member who is an employee of the corporation and the chief executive officer of the corporation shall serve as another nonvoting member. The voting members are to be confirmed by the legislature.

The board is to elect a chairperson and appoint a secretary. The chairperson must call a meeting at least every three months and may call other meetings. The governor is authorized to remove a member from the board for incapacitation, failure to attend meetings, conviction of a felony, or conviction of a misdemeanor involving moral turpitude.

Section 42.40.030 The appointed members of the board serve for staggered five year terms.

Section 42.40.040 A vacancy on the board is filled by the governor and the appointment must be confirmed by the legislature. Despite a vacancy the board may exercise its powers if it has a quorum of members.

Section 42.40.050 An appointed member of the board receives $200 for each day he is engaged in the performance of duties as a board member. In addition, he is entitled to per diem and travel expenses.

Section 42.40.070 The board must provide by rule for the method of voting and representation of persons absent from a meeting.

Section 42.40.100 The board appoints the chief executive officer of the corporation and fixes his compensation. The chief executive officer of the corporation appoints other executive officers and fixes their compensation subject to board approval.

Section 42.40.110 By rule the board delegates duties necessary for the management of daily affairs of the corporation to the chief executive officer. Within 60 days after it is established, the board must delegate certain specified activities of the corporation.

Section 42.40.200 Meetings of the board are public with the exception of executive sessions. These may be called as authorized under the Administrative Procedure Act or to consider matters pertaining to personnel, the corporation's legal position, land acquisition or disposal, or proprietary information as defined in a manner consistent with the practices of the Interstate Commerce Commission.

Section 42.40.220 The board must keep minutes of each meeting.

Section 42.40.230 The board must establish a procedure for adopting rules, including a procedure for adopting emergency rules.

Section 42.40.240 Information of the corporation is open to public inspection except the corporation may withold certain matters from disclosure if they are of a nonpublic, privileged, or proprietary nature.

Section 42.40.250 The corporation must prepare a report on the long-term operations of the railroad that is due January 1, 1988. The report shall include recommendations on the transfer of railroad operations to the private sector.

Section 42.40.260 A report describing the operations and financial condition of the corporation during the preceding fiscal year of the railroad shall be distributed to the governor and the legislature within 90 days after the fiscal year ends.

Section 42.40.270 The board must have the records of the corporation audited annually. Corporation records will be made available to an auditor appointed by the governor or to the legislative audit division.

Section 42.40.300 In addition to other powers authorized by law, the corporation may exercise certain specified general powers listed in this section.

Section 42.40.310 The board must adopt a long-range expansion plan and capital improvement plan. The plans cover five year periods and must be updated annually. These plans are to be prepared by employees of the corporation. Copies of the updated plans are to be provided to the governor and the legislature by December 1 each year.

Section 42.40.320 The corporation may not issue stock, pay dividends, make private distributions of assets, make loans to board members or employees or engage in business for private benefit. The corporation may defend and indemnify a current or former employee, agent, or board member against costs incurred in connection with a civil or criminal action if the person acted in good faith on behalf of the corporation and within the scope of his official duties or powers. The corporation may purchase insurance to protect its employees, agents, and board members for actions arising out

of the performance or failure of performances of duties for or employment with the corporation.

Section 42.40.400 Land acquired by the corporation is under the control of the corporation. Railroad rights-of-way or easements shall be classified as railroad utility corridors. Future railroad utility corridors must be at least 100 feet wide on both sides of the center line of the extended main or branch line, or may be of other width as designated by the corporation. Portions of the utility corridor may be leased or rented for other transportation services.

Section 42.40.420 The board may request conveyance of land owned by or subject to selection by the state. Upon receipt of a request the commissioner of natural resources shall temporarily classify the land for railroad purposes and vacate a classification allowing disposal or lease of that land under other laws. The temporary classification remains in effect for 180 days. Within 90 days after receiving a request, the commission must convey the state's interests in the land to the corporation or notify the corporation of reasons for refusal to classify the land for railroad purposes. A conveyance under this section vests in the corporation the right to extract and use construction materials on the land without regard to whether the resources are part of the surface or subsurface estate.

The corporation may reconvey to the state land that the corporation and the commissioner identify as unnecessary for the corporation's purposes. When physical conditions require that track or fixtures be moved to state-owned land to maintain safe rail operations, the relocation may be made with concurrence of the Department of Natural Resources.

Section 42.40.430 The corporation is authorized to exercise the power of eminent domain and declaration of taking.

Section 42.40.450 The corporation may acquire interests in federal land and property that is available under federal law and may acquire property that is available from the state.

Section 42.40.500 A liability incurred by the corporation may be satisfied only from the assets of the corporation and no creditor has a right of action against the state.

Section 42.40.520 The corporation must obtain a fidelity bond for its board members and officers responsible for finances.

Section 42.40.530 The corporation must keep in force public liability insurance naming the state as an additional insured.

Section 42.40.540 Claims involving activities of the railroad shall be brought against the corporation and not against the state. (b) provides that if the railroad corporation prevails in a legal action, the other party is liable for full costs and legal fees incurred by the corporation in defending the action. This subsection is flawed in that it ignores the possibility that the corporation will be a prevailing plaintiff rather than a prevailing defendant in many cases.

Aside from that minor consideration, this subsection raises a severe constitutional question. Under the Civil Rules of Court there are situations where a prevailing party has only a limited right to attorney's fees and cost. (see Civil Rule 72 (k)) In any case, Civil Rule 82 provides for payment of attorney's fees to a prevailing party according to a schedule that, in general, provides less than the full cost incurred in fees. Singling out the railroad corporation for different treatment from any other prevailing party creates equal protection problems under both the federal and state constitutions that need to be considered. Furthermore, since Article IV, Section 15 of the state constitution grants the supreme court the power to promulgate rules governing practice and procedure in civil cases, it appears that this subsection will have to be approved by two-thirds of the members elected to each house of the legislature. Uniform Rule 39(e) requires that if a bill contains a section changing a court rule the bill must have a section citing the rule and noting what change is made. The fact that the bill changes a court rule must also be noted in the title of the bill. HB 512 does not comply with these technical requirements.

Under (c) the corporation enjoys certain legal rights which the state has. Provisions dealing with the administrative handling of claims against the state do not apply to the corporation.

Section 42.40.550 Revenue generated by or appropriated to the corporation shall be retained and used for railroad purposes by the corporation. This raises a question concerning the application of Article IX, Section 7, of the constitution. As interpreted in State v. Alex 646 P. 2d 203 (Alaska, 1982), that prohibition against dedicated funds extends to all sources of public revenue, so it would apply to money generated by the Alaska Railroad. (See also 1982 Op. Att'y Gen., Nos. J66-785-81 and J66-649-80.) This legislation requires that revenue generated by the railroad corporation be retained for railroad purposes in contravention of the prohibition against dedicated funds. However, the federal law providing for the transfer of the railroad to the state requires that revenues generated by the state-owned railroad be kept by the railroad and used for railroad purposes. (45 U.S.C. 1207 (a)(5)) Faced with this requirement in federal law, it is likely that the Alaska Supreme Court will strain to fit this into the exception to the prohibition against dedicated funds as being ". . .required by the federal government for state participation in federal programs." (Article IX, Section 7, Constitution of the State of Alaska) In any case, there appears to be little the legislature can do to resolve the conflict between the federal railroad transfer law and the state constitution.

Section 42.40.560 With the concurrence of the governor, the corporation may request an appropriation from the legislature to assist it in carrying out its general powers and preparing long-range expansion and capital improvement plans.

Section 42.40.570 The corporation may issue bonds and bond anticipation notes. The principal and interest are payable from corporation assets. The board shall by resolution establish the form and manner of execution of bonds or bond anticipation notes. They may be sold as determined by the board and shall mature at the time, not exceeding 50 years from their date, determined by the board. The board is authorized to enter into certain agreements with the holders of the bonds or bond anticipation notes listed in (f).

Section 42.40.580 The corporation may issue interim receipts or temporary bonds or bond anticipation notes exchangeable for bonds or bond anticipation notes once they have been executed.

Section 42.40.590 If an officer whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before delivery of the bonds, notes, or coupons, the signature is valid.

Section 42.40.600 The pledge of assets of the corporation to the payment of bonds or notes is valid and the assets are subject to the lien of the pledge without physical delivery or other act. The corporation is not prohibited from selling assets subject to a pledge.

Section 42.40.620 A holder of bonds or notes or a trustee may enforce all rights under this chapter, the trust agreement or resolution, or any other contract executed by the corporation relating to the bonds or notes and may compel the performance of duties of the corporation required by law or the trust agreement or resolution.

Section 42.40.630 Bonds and notes issued by the corporation are negotiable instruments.

Section 42.40.640 Bonds and notes issued by the corporation are securities in which all public bodies of the state and other financial entities may invest funds.

Section 42.40.650 The corporation may issue refunding bonds. They may be sold or exchanged for outstanding bonds and the proceeds applied to the purchase, redemption or payment of outstanding bonds.

Section 42.40.660 The state is not liable for the debts of the corporation. Bonds and notes are payable solely from the revenue or assets of the corporation and are not a liability of the state or a pledge of the faith and credit of the state. Each bond and note issued by the corporation must contain a statement that the corporation is not obligated to pay it except from the revenue or assets pledged for it and neither the faith and credit nor the taxing power of the state is pledged to the payment of it.

Section 42.40.670 An officer or employee of the corporation is not subject to personal liability because of the execution or issuance of bonds or notes.

Section 42.40.680 The property of the corporation and its assets are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds and

notes issued by the corporation are exempt from taxation except for inheritance, transfer, and estate taxes.

Section 42.40.690 The assets of the corporation revert to the state if it ceases to exist.

Section 42.40.700 Employees of the railroad are employees of the corporation and not of the state. Laws relating to public employees do not apply. The collective barg ining agreements between the corporation and its employees remain in effect until they expire or are renegotiated. The corporation may not enter into a collective bargaining agreement with an organization representing the corporation's chief executive official or other executive officials appointed by him.

Section 42.40.710 Assets of the corporation may not be used for political activity. Board members and employees may on request appear before Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation. A board member or employee who violates this section is subject to a civi penalty not to exceed $5,000.

Section 42.40.900 Certain state laws listed in this section do not apply to the corporation. The railroad is not subject to the jurisdiction of the Alaska Transportation Commission.

Section 42.40.950 Definitions for the chapter are provided.

Section 42.40.990 The short title of this chapter is the Alaska Railroad Corporation Act.

* Section 3 If provisions of this Act conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with the Alaska Railroad Transfer Act of 1982.

* Section 4 Members of the first board of directors serve terms that differ in length and will result in staggered terms for members that follow.

* Section 5 The Act takes effect immediately.

TBC:ojb
J2/044

Alaska State Legislature

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BETTYE FAHRENKAMP, VICE CHAIRMAN
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Senate
Committee on Transportation

SENATE TRANSPORTATION COMMITTEE
Staff Analysis
CS for Senate Bill No. 352 (Transportation)

with italicized reference to major differences found in CS for House Bill No. 512 (Transportation)

March 29, 1984

Title

Includes a brief description of the main elements of the bill. The list of statutes the corporation is exempt from is also included in the title.

The statutes are:

AS 19 - Title 19 is the statute which sets out the duties of state agencies in regard to highways and ferries and related activities.

AS 23.40 - Chapter 40 deals with the relationship between state entities and labor organizations. But see Article 8 of this legislation for Personnel and Labor Relations provisions.

AS 30.15 - Chapter 15 is concerned with state participation in port facilities and development.

AS 35 - Title 35 sets out the duties and powers of the Department of Transportation and Public Facilities with regard to public facilities.

AS 37.05 - Chapter 05 is the Fiscal Procedures Act. For provisions in this legislation which replace similar provisions in the Fiscal Procedures Act see Section 1, 3(A) and (F); 42.40.100(1) and (8); 42.40.120(b)(4), (C)(11); 42.40.260; 42.40.270.

AS 37.07 - Chapter 07 contains the Executive Budget Act. For similar provisions in this legislation see 42.40.260; and 42.40.270

and 42.40.280.

AS 37.10.010 - 37.10.060 - Give the Department of Administration duties related to Public Funds.

AS 37.10.085 prohibits financial aid to corporations by state or political subdivisions.

AS 37.20 sets out a method for the state to receive federal property. Sec. 42.40.360; 42.40.420 and 42.40.440 for comparable provisions.

AS 37.25 is the miscellaneous provisions of the public finance title.

AS 38 - Title 38 is the Public Lands statute. For similar provisions see 42.40.350; 42.40.360; 42.40.370; 42.40.380; 42.40.390; 42.40.400; 42.40.410; 42.40.420 and 42.40.430.

AS 39 - Title 39 is the public officer and employees statute. See sections 112.40.020; 42.40.030; 42.40.040; (see also Sections 3,4,5, and 6); 42.40.050; 42.40.060 and Article 8 of this Act.

AS 44.62.040 - 44.62.320 - is the Administrative Procedures Act. But see 42.40.150; 42.40.160; 42.40.170; 42.40.180; (see also Section 8); 42.40.200; 42.40.210; 42.40.220 for similar provisions contained in this Act.

*Section 1 This is a statement of legislative findings and purpose. In (a) the legislature finds that the Alaska Railroad is an essential part of the state transportation network that may cease to be an option without state action. It also states that the railroad is necessary for long-term economic growth of the state and an essential part of the state transportation network. In (b) the purpose of the Act is stated to be the creation of an entity to operate and manage the railroad pending the transfer of the railroad to the private sector. That it will be responsible for the management of the financial and legal obligations of the railroad, will constitute a common carrier under the Interstate Commerce Commission, will have the ability to issue tax exempt obligations, carry out its responsibilities on a self-sustaining basis, and so that the best transportation can be provided supported by state investment when necessary, the railroad may be operated prudently, and borrowing by the corporation does not endanger the state's own borrowing capacity. It is also charged with protecting the railroad utility corridor.

*Section 2
Section 42.40.010

The Alaska Railroad is established as a public corporation within the Department of Commerce and Economic Development. However, Section 3 would remove the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

Section 42.40.020
The corporation is run by a board with nine members including the Commissioner of Commerce and Economic Development, the Chief Executive Officer of the Corporation and one appointed member who is a representative of the corporation's organized labor. In addition, there are six public members who may not be state employees. One of the public members must have 10 years experience and one shall have been an executive official of a U.S. railroad. Except for the two public members just mentioned, all public members must be registered Alaskan voters. With the exception of the Commissioner of Commerce and Economic Development and the chief executive officer, the board shall be confirmed by the majority of the members of each house of the legislature in joint session.

However, see Section 4 where 42.40.020 is amended if the Constitutional Amendment passes. Under this amendment the Commissioner of Commerce and Economic Development is removed from the board and the board is increased to eight appointed members.

The House version, [CSHB 512(Trsp)], is slightly different in that it gives the governor more discretion in naming public members to the board. In the Senate Bill the two railroad experts are mandatory members but in the House version they are optional. In addition, the Senate Bill requires all members of the board, except for the railroad experts, to be registered voters but in the House Bill the two non-registered voters may be any two of the seven public members. The House Bill also differs slightly in its description of the work experience requirements of board members. It allows work experience if it relates to fields relevant to this Act while the Senate Bill just requires five years of business experience. The Senate requirement is limited to business experience in Alaska while the House does not have a similar limitation.

Section 42.40.030 All members required to be confirmed by the Legislature serve for staggered five year terms and serve at the pleasure of the Governor. Section 10 sets up how the first board of directors will serve which results in staggered terms for members that follow.

However, see Section 6 and Section 7 which amend 42.40.030 if the Constitutional Amendment passes. Under these amendments a board member could be removed only for cause.

Section 42.40.040 A vacancy on the board is filled by the governor and the appointment must be confirmed by the legislature. Despite a vacancy the board may exercise its power if it has a quorum of members.

Section 42.40.050 An appointed member of the board received $250 for each day he is engaged in the performance of duties as a board members and partial day provisions may be established by the board. In addition, he is entitled to per diem and travel expenses.

The House Bill, [CSHB 512(Trsp)], provides for a $400 per day compensation rate.

Sec. 42.40.060 The board is to elect a chairman and vice-chairman from its membership and appoint a secretary.

Section 42.40.100 - The board is to manage the corporation according to the guidelines provided in this section. This corporation is to be generally self-sustaining, subject to the ICC consistent with the Transfer Act and provide safe, efficient and economical transportation. The board must apply to the legislature for appropriations if a service is provided which is not self-sustaining. In addition, the board is responsible for reviewing all land disposals so that future expansions of the railroad are not restricted.

The House Bill, [CSHB 512(Trsp)], does not include the provision requiring the corporation to apply for an appropriation if it provides a service which is not self sustaining.

Section 42.40.110 The board appoints the Chief Executive Officer of the corporation and fixes his compensation. The Chief Executive Officer of the corporation appoints other executive officers. The salaries of the executive officers appointed by the Chief Executive Officer are subject to board approval.

The House Bill, [CSHB 512(Trsp)], requires that the board approve all executive officers appointed by the Chief Executive Officer.

Section 42.40.120 By rule the board delegates duties necessary for the management of daily affairs of the corporation to the Chief Executive Officer. Within 60 days after it is established, the board must delegate certain specified activities of the corporation. Some activities are delegated but require specific board approval for final action.

In addition to the delegated activities which require board approval found in the Senate version, the House Bill, [CSHB 512(Trsp)], requires specific board approval to begin capital projects with an estimated completion cost of $500,000 or on estimated completion time of more than one year.

Section 42.40.150 Meetings of the board are public with the exception of executive sessions. The board provides by rule how notice of the meetings shall be given. The board is required to keep minutes of the meetings.

In addition to the requirement that minutes be kept of the meetings the House Bill, [CSHB 512(Trsp)], requires that a certified copy of the public portion of the minutes of each meeting be sent to the governor and the legislature.

Section 42.40.160 A quorum is established as five and an affirmative action by the board also requires five votes. The board may confer and vote by teleconferencing but may not vote by proxy.

Section 42.40.170 Executive sessions are limited to matters listed and must be called by a majority vote. No action may be taken at an

executive session and discussion must be limited to the topic of the motion or an auxiliary subject.

In the House Bill, [CSHB 512 (Trsp)], the list of subjects to be covered in an executive session is more general in nature than the list in the Senate Bill. In addition, the list is permissive rather than an exclusive list. There is no majority vote requirement to call an executive session nor is there a prohibition against taking action in an executive session. There is no restriction to discuss only the topic contained in the motion.

Section 42.40.180 The board is to adopt rules to carry out the purposes of this chapter. It is required to give public notice 15 days before it adopts, amends or repeals a rule. Public notice consists of publishing in at least three newspapers of statewide circulation and to persons requesting notice. Every interested party must be given one hour to testify and all relevant matter must be considered.

But see Section 8 which repeals the rule making procedure if the Constitutional Amendment passes. In its place, the new section would give all powers to adopt a rule making procedure to the board.

The House Bill [CSHB 512 (Trsp)], leaves the development of a procedure for providing notice and an opportunity to testify up to the board. It shall establish this procedure within 30 days after its first meeting. The board is also given the responsibility of developing an emergency rule making procedure but the 90 day rule does not apply to the development of this procedure.

Section 42.40.190 The board is required to set up a process for adopting emergency rules. Emergency rules are to be limited to situations where they are necessary for the orderly operation of the corporation's facilities or programs. The requirements of 42.40.180 need not be followed but within 10 days public notice is to be given of the action. Rules adopted under this section remain in effect for no more than 120 days unless the procedures of 42.40.180 are followed.

The House Bill, [CSHB 512(Trsp)], has no similar restrictions or requirements for emergency rules. In the preceding section, the board is given full authority to set up a procedure for adopting emergency rules but the question of what topics may be covered by the emergency rules is not addressed.

Section 42.40.200 Sets up a procedure for challenging a rule adopted under 42.40.180(a) and 42.40.190(a) but restricts the ability to declare a rule invalid for procedural deficiency.

The House Bill, [CSHB 512(Trsp)], has no similar provision.

Section 42.40.210 The board may, by resolution, adopt the existing rules without following the rule making procedure of 42.40.180.

The rules adopted by resolution may not be inconsistent with this chapter or other state law. The House Bill also contains a

provision whereby the substance of previous federal rules may be adopted however the operative effect of this provision is unclear.

Section 42.40.220 Records of the corporation are open to public inspection except the corporation may withhold certain matters from disclosure by rule if they are of a nonpublic, privileged, or proprietary nature.

The House Bill, [CSHB 512 (Trsp)], requires that the board must by rule identify the records as confidential before they are withheld from the public.

Special Note: The House Bill, [CSHB 512 (Trsp)], contains a provision on conflict of interest. No similar provision is contained in the Senate Bill. The conflict of interest section in the House Bill, 42.40.210, says a board member or executive officer may not participate in a decision of the corporation if he, or an immediate family member, has an interest unless their interest is remote. Interest and remote are defined and a procedure is set out for situations where the application of the section is not clear. In addition, the board shall adopt rules to further define conflict of interest and ethical rules 120 days after its first meeting.

Section 42.40.250 In addition to other powers authorized by law, the corporation may exercise certain specified general powers listed in this section.

In addition to slight drafting changes found in numbers (10), (11), (19) and (20) the House Bill, [CSHB 512 (Trsp)], contains two additional powers. Number (27) of the House Bill provides the power to own subsidiary companies or enter into agreements where part ownership or a similar interest in another corporation is part of the agreement. Number (28), of the House Bill seems to allow additional railroad activity which could technically be beyond the powers to extend the current railroad facility.

Special Note: The House Bill, [CSHB 512(Trsp)], contains a section requiring an oversight report to the governor and the legislature before certain action is taken (Sec. 42.40.280). The Senate Bill contains no similar provision.

Section 42.40.260 A report describing the operation and financial condition of the corporation during the preceding fiscal year of the railroad shall be distributed to the governor and the legislature within 90 days after the fiscal year ends.

The House Bill, [CSHB 512 (Trsp)], also includes a provision that the report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operate facilities of the corporation.

Section 42.40.270 The board must have the records of the corporation audited annually. Corporation records will be made available to an auditor appointed by the governor or to the legislative audit division.

In addition, the board is required to have an annual performance audit conducted by a recognized railroad management expert.

In the House Bill, [CSHB 512 (Trsp)], the performance audit is to be conducted by a qualified professional performance auditing firm rather than a railroad management expert as provided in the Senate Bill.

Section 42.40.280 The board mus[illegible]ot a long-range program and capital improvement plan. The plan cov[illegible]five year period and must be updated annually. Copies of th[illegible].ted plan are to be provided to the governor and the legislature by December 1 of each year.

The House Bill, [CSHB 512 (Trsp)], requires separate reports for each subject area. In addition, the board is required to consult with other state agencies when they develop the plans if another state agency is affected by their plans.

Section 42.40.320 The corporation may not issue stock, pay dividends, make private distributions of assets, make loans to board members or employees or engage in business for private benefit. The corporation may defend and indemnify a current or former employee, agent, or board member against costs incurred in connection with a civil or criminal action if the person acted in good faith on behalf of the corporation and within the scope of his official duties or powers. The corporation may purchase insurance to protect its employees, agents, and board members for actions arising out of the performance or failure of performances of duties for or employment with the corporation.

Section 42.40.350 Land acquired by the corporation is under the control of the corporation. Railroad rights-of-way or easements are railroad utility corridors. Land other than right-of-way or easements is rail land. Future railroad utility corridors must be at least 100 feet wide on both sides of the center line of the extended main or branch line, or may be less if adjoining land does not belong to the corporation. Portions of the utility corridor may be leased or rented for other transportation services if the use does not restrict other parallel uses of the utility corridor. The corporation may sell or lease rail land however, none of the railroad utility corridor may be sold.

The House Bill, [CSHB 512(Trsp)], requires legislative approval for sale of rail land.

Section 42.40.360 The board may nominate federal land for state selection for a railroad purpose. The Commissioner of Natural Resources would acquire the land through the federal land selection process.

In addition, the board may request any state land from the Department of Natural Resources. Upon receipt of the written request the Commissioner of the Department of Natural Resources must reserve the land in the railroad's name for 180 days.

Section 42.40.370 When the railroad requests state land under the preceding section the Commissioner has 90 days to reply in writing

whether or no the request has been denied, denied in part or if the request has been granted. A conveyance under this section may be for less than fair market value and, absence a reservation to the contrary, vest full ownership of surface and subsurface rights. The land may be reconveyed back to the state if it is no longer necessary for the corporation's purposes.

The House Bill, [CSHB 512 (Trsp)], does not contain a provision allowing transfer to the corporation for less than fair market value.

Section 42.40.380 The corporation is authorized to relocate rail facilities to state land when an emergency exists. The Chief Executive Officer makes the determination that it is necessary to relocate for safe and adequate rail operations. After the relocation the corporation is required to notify the Department of Natural Resources.

The House Bill, [CSHB 512 (Trsp)], does not require an emergency condition, rather it says simply that a physical condition must require relocation. However, the House Bill requires concurrence of Department of Natural Resources before the move.

Section 42.40.390 The board may develop rules governing land used by a third party. The rules are to protect the common health, safety, and welfare of the public and may not be limited by leases. contracts or other transaction.

No comparable provisions in the House Bill.

Section 42.40.400 The corporation is authorized to exercise the power of eminent domain and declaration of taking.

Section 42.40.410 The corporation may vacate land acquired for railroad purposes by filing in the appropriate recording district.

Section 42.40.420 The corporation may acquire interests in federal land on its own behalf.

Section 42.40.430 The corporation may authorized municipal use of rail land. It may also authorize a walkway or trail on the utility corridor so long as parallel uses are not restricted. Before authorizing the use of either rail land or the utility corridor, the municipality must sign a hold harmless agreement and indemnify the corporation for any judgment against it for use related to the municipal use. When the corporation determines the use is inconsistent with expansion or replacement of railroad facilities the municipal use must be stopped.

The House Bill, [CSHB 512(Trsp)], allows the granting of a right-of-way on any rail property for use of a pedestrian walkway or trail. It does not contain a provision protecting parallel uses of the railroad corridor nor does it state who shall determine when the municipality shall vacate the right-of-way if it interferes with rail use.

Section 42.40.440 The corporation may acquire surplus property from either the federal government or the state.

Special Note: The House Bill contains a provision requiring compliance with state law if pesticides or herbicides are used by the corporation.

Section 42.40.500 A liability incurred by the corporation may be satisfied only from the assets of the corporation and no creditor has a right of action against the state.

Section 42.40.510 The corporation must obtain a fidelity bond for its board members and officers responsible for finances.

Section 42.40.520 The corporation is required to keep in force all manners of insurance to protect its assets, services, and employees from any potential liability. It may, however, provide for certain self-insurance retentions.

The corporation must provide public liability insurance under the House Bill. It is not authorized to self-insure.

Section 42.40.530 Revenue generated by or appropriated to the corporation shall be retained and used for railroad purposes by the corporation.

Section 42.40.540 With the concurrence of the governor, the corporation may request an appropriation from the legislature to assist it in carrying out its general powers and preparing long-range expansion and capital improvement plans.

Section 42.49.600 The corporation may issue bonds and bond anticipation notes. The principal and interest are payable from corporation assets. The board shall by resolution establish the form and manner of execution of bonds or bond anticipation notes. They may be sold as determined by the board and shall mature at the time, not exceeding 50 years from their date, determined by the board. The proceeds from the bonds may not be used for any other purpose than that for which the instruments were originally issued. There is also a list of mandatory requirements that the instruments must comply with.

Special Note: The House Bill, (CSHB 512(Trsp)), sections on bonds and notes is substantially different from the Senate version. However, the powers, duties and obligations, of the corporations in relation to its ability to raise money through bonding ostensibly remains the same.

Section 42.40.610 Bonds and notes issued by the corporation are negotiable instruments.

Section 42.40.620 Bonds and notes issued by the corporation are securities in which all public bodies of the state and other financial entities may invest funds.

Section 42.40.630 Payment of the principal or interest on lands may be made from assets or revenue of the corporation regardless of the source.

Section 42.40.640 This section authorizes the board to enter into certain agreements with holders of the bonds or bond anticipation notes and provides for a general authority to enter into additional agreements in the absolute discretion of the board if an agreement will make bonds or notes more marketable.

Section 42.40.650 The corporation may issue interim receipts or temporary bonds or bond anticipation notes exchangeable for bonds or bond anticipation notes once they have been executed.

Section 42.40.660 The corporation may issue refunding bonds. They may be sold or exchanged for outstanding bonds and the proceeds applied to the purchase, redemption or payment of outstanding bonds.

Section 42.40.670 The board is required to retain a financial advisor independent of an underwriter who is negotiating with them for a bond sale.

Section 42.40.680 The signatures of corporation officers on bonds or notes are valid regardless of the officers' current relationship to the corporation.

Section 42.40.690 The pledge of assets of the corporation to the payment of bonds or notes is valid and the assets are subject to the lien of the pledge without physical delivery or other act. The corporation is not prohibited from selling assets subject to a pledge.

Section 42.40.700 A holder of bonds or notes or a trustee may enforce all rights under this chapter, the trust agreement or resolution, or any other contract executed by the corporation relating to the bonds or notes and may compel the performance of duties of the corporation required by law or the trust agreement or resolution.

Section 42.40.710 The state is not liable for the debts of the corporation. Bonds and notes are payable solely from the revenue or assets of the corporation and are not a liability of the state or a pledge of the faith and credit of the state. Each bond and not issued by the corporation must contain a statement that the corporation is not obligated to pay it except from the revenue or assets pledged for it and neither the faith and credit nor the taxing power of the state is pledged to the payment of it.

Section 42.40.720 An officer, board member, or employee of the corporation is not subject to personal liability because of the execution or issuance of bonds or notes.

Section 42.40.750 Employees of the railroad are employees of the corporation and not of the state. Laws relating to public employees do not apply.

Section 42.40.760 The provisions of the Public Employee Relations Act do not apply. However, non-executive officials may organize and engage in collective bargaining.

Section 42.40.770 The board or the employees organization may request the Department of Administration to participate in their contract negotiations. Any labor agreement accepted by the two parties must have a grievance procedure which has binding arbitration as its last step.

The House Bill, [CSHB 512(Trsp)], provides that the Department of Administration may participate in labor negotiations without stating at whose invitation or if in fact they need to be invited to participate. In addition, the corporation is required to confer with the Department of Administration before entering into labor negotiations.

Section 42.40.780 There is created a railroad labor relations agency made up of three members appointed by the governor. The agency shall perform the functions described in AS 23.40.090 - 23.40.190 which are the functions currently carried out by the state personnel board for all state employees.

It should be noted that the House Bill, [CSHB 512(Trsp)], has spelled out the provision of AS 23.40.090 - 23.40.190 rather than cite them as the Senate Bill does. Those provisions can be found in the House Bill at; 42.40.740 which is cited as AS 23.40.090 in the Senate Bill; 42.40.750 which is cited as AS 23.40.100 in the Senate Bill; 42.40.760 which is cited as AS 23.40.110 in the Senate Bill; 42.40.770 which is cited as AS 23.40.120 in the Senate Bill; 42.40.780 which is cited as AS 23.40.130 in the Senate Bill; 42.40.790 which is cited as AS 23.40.140 in the Senate Bill; 42.40.800 which is cited as AS 23.40.150 in the Senate Bill; 42.40.810 which is cited as AS 23.40.160 in the Senate Bill; 42.40.820 which is cited as AS 23.40.170 in the Senate Bill; 42.40.830 which is cited as AS 23.40.180 in the Senate Bill; and 42.40.840 which is a slightly modified version of AS 23.40.190 cited in the Senate Bill. The difference between the Senate cite and 42.40.840 is that the railroad labor relations agency acts on its own to initially name the mediator while the Senate cite allows one of the parties to request a mediator. In addition, the House version requires that the mediator be mutually agreeable to both parties and shall be chosen from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements. The Senate cite has no similar provision.

Section 42.40 790 Railroad employers have a full right to strike if a collective bargaining unit votes to do so by secret ballot. However, the parties may agree in writing to submit interpretation or application disputes to an arbitrator. Under this provision the railroad employees clearly fall under 23.40.200(a)(3) which are commonly referred to as "class 3" employees.

The House Bill has a substantial rewrite of this section. Basically the House has the employees somewhere between class 2

employees and class 1 employees (see AS 23.40.200). In the House version the employees are permitted to strike for a limited time and may be enjoined by a court of law at the request of the corporation. After being enjoined the dispute is automatically sent to binding arbitration. The arbitrator is the same person as was the original mediator chosen under 42.40.840.

Section 42.40.800 Prohibits use of corporation money, assets or property for political activity except lobbying on matters which directly affect the corporation. It provides for a $5000 penalty for violation of this section.

The House Bill, [CSHB 512(Trsp)], has no similar provision.

Section 42.40.810 Prohibits requiring or coercing employees to undertake activities, or restrain from activities, except as directly related to the performance of their official duties.

The House Bill, [CSHB 512(Trsp)] has no similar provision.

Special Note: In addition to the provision found in the Senate Bill, the House Bill contains two additional provisions; 42.40.870 and 42.40.880. 42.40.870 allows the deduction of union dues from an employee's wages, it should be noted that the power to make such an agreement exists under 42.40.760(b)(2) which is cited as AS 23.40.110 under the Senate Bill. 42.40.880 provides for a religious exception from the payment of union dues.

Section 42.40.900 Claims involving activities of the railroad shall be brought against the corporation and not against the state. The corporation board members and employees have the same immunities from liability for claims against the corporation as do other state officers. Claims against the corporation must first go through an administrative appeal process to the Department of Administration before going to court action.

Section 42.40.910 The property of the corporation and its assets are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds and notes issued by the corporation are exempt from taxation except for inheritance, transfer, and estate taxes.

Section 42.40.920 The corporation is exempt from the jurisdiction of the Alaska Transportation Commission. In addition, it is exempt from the following statutes:

The statutes are:

AS 19 - Title 19 is the statute which sets out the duties of state agencies in regard to highways and ferries and related activities.

AS 23.40 - Chapter 40 deals with the relationship between state entities and labor organizations. But see Article 8 of this legislation for Personnel and Labor Relations provisions.

AS 30.15 - Chapter 15 is concerned with state participation in port facilities and development.

AS 35 - Title 35 sets out the duties and powers of DOT&PF with regard to public facilities.

AS 37.05 - Chapter 05 is the Fiscal Procedures Act. For provisions in this legislation which replace similar provisions in the Fiscal Procedures Act see Section 1, 3(A) and (F); 42.40.100(1) and (8); 42.40.120(b)(4), (C)(11); 42.40.260; 42.40.270.

AS 37.07 - Chapter 07 contains the Executive Budget Act. For similar provisions in this legislation see 42.40.260; and 42.40.270 and 42.40.280.

AS 37.10.010 - 37.10.060 - Give the Department of Administration duties related to Public Funds.

AS 37.10.085 prohibits financial aid to corporations by state or political subdivisions.

AS 37.20 sets out a method for the state to receive federal property. Sec. 42.40.360; 42.40.420 and 42.40.440 for comparable provisions.

AS 37.25 is the miscellaneous provisions of the public finance title.

AS 38 - Title 38 is the Public Lands statute. For similar provisions see 42.40.350; 42.40.360; 42.40.370; 42.40.380; 42.40.390; 42.40.400; 42.40.410; 42.40.420 and 42.40.430.

AS 39 - Title 39 is the public officer and employees statute. See sections 112.40.020; 42.40.030; 42.40.040; (see also Sections 3,4,5, and 6); 42.40.050; 42.40.060 and Article 8 of this Act.

AS 44.62.040 - 44.62.320 - is the Administrative Procedures Act. But see 42.40.150; 42.40.160; 42.40.170; 42.40.180; (see also Section 8); 42.40.200; 42.40.210; 42.40.220 for similar provisions contained in this Act.

Section 42.40.930 If provisions of this Act conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of the Act shall be construed so that they do not conflict with the Alaska Railroad Transfer Act of 1982.

Section 42.40.940 The assets of the corporation revert to the state if it ceases to exist.

Section 42.40.980 Definitions of the chapter are provided.

The House Bill, [CSHB 512(Trsp)], has a substantially different list of positions under executive officer.

Section 42.40.990 The short title of this chapter is the Alaska Railroad Corporation Act.

Section 3 Amends 42.40.010 by removing the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

Section 4 Amends 42.40.020(a) if the Constitutional Amendment passes by removing the Commissioner of Commerce and Economic Development from the board and increases the appointed members of the board from seven to eight.

Section 5 Amends 42.40.020(e) by removing reference to the Commissioner of Commerce and Economic Development if the Constitutional Amendment passes.

Section 6 Amends 42.40.030 if the Constitutional Amendment passes by removing reference to the Commissioner of Commerce and Economic Development and by removing the ability of the governor to remove board members at his pleasure.

Section 7 Amends 42.40.030 if the Constitutional Amendment passes by adding a new section which would state specific reasons for which a governor may remove board members.

Section 8 Repeals 42.40.180 if the Constitutional Amendment passes and replaces it with a new section. The new section gives the board discretion in adopting a rule making process.

Section 9 The corporation must prepare a report on the long-term operations of the railroad that is due January 1, 1988. The report shall include recommendations on the transfer of railroad operations to the private sector.

Section 10 Members of the first board of directors serve terms that differ in length and will result in staggered terms for members that follow.

Section 11 Existing collective bargaining agreements are to be adopted by the corporation and remain in effect for two years. Within 180 days of the first meeting the board and the unions shall establish a procedure for renegotiating the existing collective bargaining agreements.

Section 12 Repeals 42.40.190 and 42.40.200 if the Constitutional Amendment passes.

Section 13 The effective date of Section 3-8 and 12 is the effective date of the Constitutional Amendment should it pass. Section 12 sections 1,2 and 9-11 take effect immediately.

This analysis contains key concepts embodied in CSHF 512 (transportation) and also lists the differences between CSHB 512 (transportation) and CSSB 352 (transportation) relating to the establishment of a public corporation to operate and manage the Alaska Railroad. This has been prepared by the House Transportation Committee staff.

Key Concepts

Purpose section contains provisions that support future transfer to the private sector for ownership, operation, or both consistent with the federal transfer legislation.

The board of directors is exclusively responsible for the operations of the railroad. Day to day operations are delegated to the chief executive officer, who is appointed by and serves at the pleasure of the board.

There is a detailed powers and duties section to give the board general direction in management of the corporation.

The general policy of the legislation is to separate the railroad corporation from government as much as possible. This is difficult under the State Constitution and considering the use of public funds.

The board establishes rules to govern their operation and there is a procedure for public comment and participation in the formulation of rules. Exceptions are listed in the case of proprietary, rate and other information.

The board is to prepare long-range program and capital improvement plans. The corporation is required to be audited annually and submit an annual report.

In the "Lands" section, the corporation holds title to and has exclusive control of all lands transferred by the federal government, surface and subsurface. There is also a "fast track" procedure for acquiring state lands for railroad purposes and the powers of eminent domain. (NOTE the Federal Interest Land Policy Management Act provided for a mechanism for acquiring federal lands for transportation corridors.) Municipalities may get access to rail lands and rights-of-way for municipal trails.

The corporation may sell revenue bonds and must insure that it's borrowing does not endanger the states borrowing abilities. Revenues generated by or appropriated to the corporation are under the control of the corporation and the operations are tax-exempt consistent with the federal transfer legislation.

Employees of the railroad corporation are employees of the corporation and not of the state. Consistent with the federal transfer legislation, collective bargaining agreements shall be continued for a two year period during which time the contracts are renegotiated.

An amendment to the constitution is proposed to remove the corporation from one of the principal departments as is currently required and to give the legislature confirmation of board members. The amendment is contained in HJR 72 and SJR 43.

Differences in the House and Senate Versions.

Two members of the board may have experience in railroad operations.

Rate of compensation for board members is $400 in the House version and $250 per day in the Senate version.

The House Bill contains a conflict of interest section for board members.

The House Bill requires State Oversight Reports for the Governor and the ~~leadership of the~~ legislature in addition to the formal action that may be taken in oversight by the federal Interstate Commerce Commission.

Legislative approval is required for final sale of land.

The House Bill has a section on the use of pesticides and herbicides on railroad land.

The House version of the bonding section has been reviewed by the state bond counsul and appropriate recommendations have been incorporated in the House bill.

The House Bill contains a detailed labor relations section as opposed to the Senate specifying sections of existing law. Conflicts were found in the latter process and the House bill details the sections as appropriate.

A mediations/arbitration process has been structured for the resolution of disputes in the collective bargaining process. Strikes for a limited time are permitted similar to the state's "class A-2" employees.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 30, 1984

MAR 30 1984

SUBJECT: Alaska Railroad (CSHB 512 (Trsp))

TO: Representative Joe Hayes

FROM: Tamara Brandt Cook
Deputy Director TBC
Division of Legal Services

Here is the section by section analysis of HB 512 that you requested.

* Section 1 This is a statement of legislative findings and purpose. In (a) the legislature finds, among other things, that the Alaska Railroad is an essential part of the state transportation network that will cease to be an option without state action and that extending the railroad into natural resource areas is necessary for long-term economic growth. In (b) the purpose of the Act is stated to be, among other things, the creation of an entity to operate and manage the railroad pending the transfer of the railroad to private sector. It is the purpose of the legislature to create a public corporation to operate the railroad and that corporation should be created so that it will be responsible for the management of the financial and legal obligations of the railroad, will constitute a common carrier under the Interstate Commerce Commission, will have the ability to issue tax exempt obligations, and so that the best transportation can be provided supported by state investment when necessary, the railroad may be operated prudently, and borrowing by the corporation does not endanger the state's own borrowing capacity.

* Section 2

Section 42.40.010 The Alaska Railroad Corporation is established as a public corporation within the Department of Commerce and Economic Development.

Section 42.40.020 Seven members, at least five of whom are voters in the state, are appointed to the board of directors by the governor. No more than two appointed members may be from one judicial district and all members must have at least five years experience or training in fields relevant to the purposes of AS 42.40. The governor shall appoint one member who is an employee of the corporation and a member of a bargaining unit. The commissioner of commerce and economic development and the chief executive officer of the corporation shall serve as additional members. The appointed members are to be confirmed by the legislature.

This last provision can only function as a request to the governor to submit the members for confirmation. It is not, however, constitutionally enforceable under Article III, sections 25 and 26 of the State Constitution as construed in Bradner v. Hammond, 553 P.2d (Alaska, 1976).

Section 42.40.030 The appointed members of the board serve for staggered five year terms.

Section 42.40.040 A vacancy on the board is filled by the governor and the appointment must be confirmed by the legislature. Despite a vacancy the board may exercise its powers if it has a quorum of members. A member whose term expires serves until a successor has been appointed.

Section 42.40.050 An appointed member of the board receives $400 for each day he is engaged in the performance of duties as a board member. In addition, he is entitled to per diem and travel expenses.

Section 42.40.060 The board elects from its membership a chairman and vice-chairman. The board appoints a secretary.

Section 42.40.100 The board is responsible for the management of the corporation. As part of this duty, the board is obligated to carry out certain itemized functions.

Section 42.40.110 The board appoints the chief executive officer of the corporation and fixes his compensation. The chief executive officer of the corporation appoints other executive officers and fixes their compensation subject to board approval.

Section 42.40.120 By rule the board delegates duties necessary for the management of daily affairs of the corporation to the chief executive officer. Within 60 days after it is

established, the board must delegate certain specified activities of the corporation. The board may require exercise of a delegated duty to be subject to board approval. Specific board approval is required for certain itemized actions.

Section 42.40.150 Meetings of the board are public with the exception of executive sessions. The chairman must call a meeting every three months and may call other meetings as necessary. The board keeps minutes of meetings.

Section 42.40.160 Five members of the board constitute a quorum. Five affirmative votes are required for board action. The board provides for the manner of voting, but may not allow voting by proxy.

Section 42.40.170 The board may consider in an executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or information of a type treated as confidential by the Interstate Commerce Commission.

Section 42.40.180 The board must establish a procedure for adopting rules, including a procedure for adopting emergency rules.

Section 42.40.190 The board may provide that rules and orders in effect on the date of transfer of the railroad to the state that are not inconsistent with AS 42.40 or other state law remain in effect.

Section 42.40.200 Information of the corporation is open to public inspection except the corporation may withhold certain matters from disclosure if they are of a nonpublic, privileged, or proprietary nature.

Section 42.40.210 A board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of his immediate family has a direct or indirect financial interest unless the interest is remote and participation is approved by the board. Within 120 days after the first meeting, the board shall adopt rules implementing this section, providing additional conflict of interest rules, and providing for the removal of a board member or executive officer who intentionally violates a prohibition contained in this section.

Section 42.40.250 In addition to other powers authorized by law, the corporation may exercise certain specified general powers listed in this section.

Section 42.40.260 A report describing the operations and financial condition of the corporation during the preceding fiscal year of the railroad shall be distributed to the governor and the legislature within 90 days after the fiscal year of the railroad ends.

Section 42.40.270 The board must have the records of the corporation audited annually. Corporation records will be made available to an auditor appointed by the governor or to the legislative audit division.

Section 42.40.280 The board shall provide a state oversight report to the governor and the legislature before undertaking certain major actions. Requirements of the report are specified.

Section 42.40.290 The board must adopt a long-range expansion plan and capital improvement plan. The plans cover five year periods and must be updated annually. Copies of the updated plans are to be provided to the governor and the legislature by December 1 each year.

Section 42.40.300 The corporation may not issue stock, pay dividends, make private distributions of assets, make loans to board members or employees or engage in business for private benefit.

Section 42.40.310 The corporation may defend and indemnify a current or former employee, agent, or board member against costs incurred in connection with a civil or criminal action if the person acted in good faith on behalf of the corporation and within the scope of his official duties or powers. The corporation may purchase insurance to protect its employees, agents, and board members for actions arising out of the performance or failure of performances of duties for or employment with the corporation.

Section 42.40.350 Land acquired by the corporation is under the control of the corporation. Railroad rights-of-way or easements shall be classified as railroad utility corridors. Future railroad utility corridors must be at least 100 feet wide on both sides of the center line of the extended main

or branch line, or may be of lesser width if adjoining land is not rail land. Portions of the utility corridor may be leased or rented for transportation, communication, and transmission purposes. The corporation may authorize other uses of rail land, but sale is subject to approval of the legislature.

I note that, for some reason, other methods of disposing of land, such as trading it for other property, is not subject to legislative approval. This seems inconsistent from a policy point of view. It may also conflict with the "separation of powers" doctrine which is recognized in Alaska. Bradner v. Hammond, supra. While the precise question was not considered, a scheme that included legislative approval of a Cook Inlet land exchange survived consideration by the court. State v. Lewis, 559 P.2d 630 (Alaska 1977) However, that case involved approval of the exchange of large parcels of land only. The court emphasized the extreme nature of the state interest in settling the land issues arising out of the Alaska Native Claim Settlement Act and the unique nature of that situation. Neither of these considerations apply here. In this draft, legislative approval must be obtained before the sale of any parcel may take place, even very small parcels of little value. Requiring approval in every instance could interfere with the executive function of carrying out the purpose of the Act. Since only land of the Alaska Railroad Corporation is involved and not the land of any other state agency or entity, the provision could amount to local and special legislation.

Section 42.40.360 The board may request conveyance of land owned by or tentatively approved for transfer to the state. Upon receipt of a request the commissioner of natural resources shall temporarily reserve the land for railroad purposes and delay disposal or lease of that land under other laws. The temporary reservation remains in effect for 180 days.

Section 42.40.370 Within 90 days after receiving a request, the commission must convey the state's interests in the land to the corporation, notify the corporation of reasons for refusal to classify the land for railroad purposes, or approve in part and deny in part the request. A conveyance under this section vests in the corporation the right to extract and use construction materials on the land without regard to whether the resources are part of the surface or

subsurface estate. The corporation may reconvey to the state land that the corporation and the commissioner identify as unnecessary for the corporation's purposes.

Section 42.40.380 When physical conditions require that track or fixtures be moved to state-owned land to maintain safe rail operations, the relocation may be made with concurrence of the Department of Natural Resources.

Section 42.40.390 The corporation is authorized to exercise the power of eminent domain and declaration of taking.

Section 42.40.400 The corporation may vacate land and title goes to the state.

Section 42.40.410 The corporation may acquire interests in federal land that is available under federal law.

Section 42.40.420 Upon request the corporation may grant to a municipality a right-of-way for a pedestrian walkway or trail. Before granting the right-of-way the board must require the municipality to agree to hold the corporation harmless and indemnify the corporation for any use made of the right-of-way and to vacate the right-of-way on request of the corporation if it interferes with expansion or replacement of railroad facilities.

Section 42.40.430 The corporation may acquire property available from the federal or state government.

Section 42.40.440 Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation must be conducted in compliance with state requirements applicable to other state pesticide or herbicide use.

Section 42.40.500 A liability incurred by the corporation may be satisfied only from the assets of the corporation and no creditor has a right of action against the state.

Section 42.40.510 The corporation must obtain a fidelity bond for its board members and officers responsible for finances.

Section 42.40.520 The corporation must keep in force public liability insurance covering potential claims against the corporation or the state related to corporation activities.

Section 42.40.530 Revenue generated by or appropriated to the corporation shall be retained and used for railroad purposes by the corporation.

This raises a question concerning the application of Article IX, Section 7, of the constitution. As interpreted in State v. Alex 646 P. 2d 203 (Alaska, 1982), that prohibition against dedicated funds extends to all sources of public revenue, so it would apply to money generated by the Alaska Railroad. (See also 1982 Op. Att'y Gen., Nos. J66-785-81 and J66-649-80.) This legislation requires that revenue generated by the railroad corporation be retained for railroad purposes in contravention of the prohibition against dedicated funds. However, the federal law providing for the transfer of the railroad to the state requires that revenues generated by the state-owned railroad be kept by the railroad and used for railroad purposes. (45 U.S.C. 1207 (a)(5)) Faced with this requirement in federal law, it is likely that the Alaska Supreme Court will strain to fit this into the exception to the prohibition against dedicated funds as being ". . .required by the federal government for state participation in federal programs." (Article IX, Section 7, Constitution of the State of Alaska) In any case, there appears to be little the legislature can do to resolve the conflict between the federal railroad transfer law and the state constitution.

Section 42.40.540 With the concurrence of the governor, the corporation may request an appropriation from the legislature to assist it in carrying out AS 42.40.

Section 42.40.600 The corporation may issue bonds and bond anticipation notes. The board shall by resolution establish the form and manner of execution of bonds or bond notes. They may be sold as determined by the board and bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Section 42.40.610 Bonds and notes i sued by the corporation are negotiable instruments.

Section 42.40.620 Bonds and notes issued by the corporation are securities in which all public bodies of the state and other financial entities may invest funds.

Section 42.40.630 Bonds or notes are payable from corporation assets. Bonds or notes may be additionally secured from any source.

Section 42.40.640 An issue of bonds may be secured by a trust indenture or by a secured loan agreement giving powers to a corporate trustee by means of which the corporation may enter into any agreements with the trustees or holders of the bonds, pledge assets, and provide of any matter that affects the security of the bonds.

Section 42.40.650 In negotiating the sale of bonds or notes to an underwriter, the board must retain a financial advisor who is independent from the underwriter.

Section 42.40.660 If an officer whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before delivery of the bonds, notes, or coupons, the signature is valid.

Section 42.40.670 The pledge of assets of the corporation to the payment of bonds or notes is valid and the assets are subject to the lien of the pledge without physical delivery or other act. The corporation is not prohibited from selling assets subject to a pledge.

Section 42.40.680 A holder of bonds or notes or a trustee may enforce all rights under this chapter, the trust agreement or resolution, or any other contract executed by the corporation relating to the bonds or notes and may compel the performance of duties of the corporation required by law or the trust agreement or resolution.

Section 42.40.690 The state is not liable for the debts of the corporation. Bonds and notes are payable solely from the revenue or assets of the corporation and are not a liability of the state or a pledge of the faith and credit of the state. Each bond and note issued by the corporation must contain a statement that the corporation is not obligated to pay it except from the revenue or assets pledged for it, and neither the faith and credit nor the taxing power of the state is pledged to the payment of it.

Section 42.40.700 A board member or employee of the corporation is not subject to personal liability because of the execution or issuance of bonds or notes.

Section 42.40.710 Employees of the railroad are employees of the corporation and not of the state. Laws relating to public employees do not apply.

Section 42.40.720 Provisions relating to collective bargaining rights of public employees do not apply to the corporation's employees, but employees who are not executive officers may organize and engage in collective bargaining.

Section 42.40.730 A railroad labor relations agency is established to carry out the provisions of this article. Members receive no compensation but are entitled to per diem and travel expenses.

Section 42.40.740 The railroad labor relations agency shall decide the unit appropriate for the purposes of collective bargaining.

Section 42.40.750 The railroad labor relations agency must investigate a petition submitted by employees or a group of employees or organization alleging that 30 percent of the employees of a proposed bargaining unit want to be represented by an organization or that the organization reorganized by the corporation no longer represents the majority of employees in the unit. The railroad labor relations agency must also investigate a petition submitted by the corporation alleging that an organization has presented a claim to be recognized as representative of a majority of employees in a unit. The railroad labor relations agency must provide for a hearing on a question of representation and an election on the question if it finds that there is a question of representation. An election may not be held in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration of the agreement.

Section 42.40.760 Action that constitutes an unfair labor practice is set out.

Section 42.40.770 If a complaint that an unfair labor practice has occurred is filed with the railroad labor relations agency, it shall investigate the complaint and shall try to eliminate any prohibited practice found to exist by informal methods of conference.

Section 42.40.780 If the railroad labor relations agency fails to eliminate a prohibited practice by conference it may serve a copy of the complaint on the respondent and the complaint shall be handled under the administrative adjudication portion of the Administrative Procedure Act.

Section 42.40.790 If the railroad labor relations agency finds that a person has engaged in a prohibited practice, the agency shall issue an order requiring the person to desist and carry out the provisions of this Article. If the agency finds that a person named in a complaint has not engaged in a prohibited practice, the agency shall dismiss the complaint.

Section 42.40.800 The railroad labor relations agency may apply for an order from the court enjoining prohibited acts.

Section 42.40.810 The railroad labor relations agency may issue subpoenas, administer oaths, examine witnesses, and receive evidence.

Section 42.40.820 The railroad labor relations agency is required to adopt regulations to carry out this article.

Section 42.40.840 When negotiation of a collective bargaining agreement reaches an impasse, the railroad labor relations agency appoints a person to act as mediator. The mediator must attempt to bring the parties together to effectuate a settlement, but may not compel a settlement.

Section 42.40.850 After a decision by a mediator, the employees may strike for a limited time. The strike may be enjoined if it has begun to threaten the health, safety, or welfare of the public. After an injunction is issued, if an impasse still exists the dispute shall be submitted to binding arbitration.

Section 42.40.860 The corporation shall seek advice from the Department of Administration before entering into a collective bargaining agreement, but the final decision regarding the agreement shall be made by the board. An agreement shall be in writing and shall include a grievance procedure. Either party may enforce an agreement by petition to the railroad labor relations agency.

Section 42.40.870 On written authorization the corporation shall deduct from the payroll of an employee the amount of dues and employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver the money deducted to that bargaining representative.

Section 42.40.880 A collective bargaining agreement that incorporates union security provisions shall safeguard the

rights of nonassociation of employees with bona fide religious convictions and shall declare an employee exempt from becoming a member upon submission of proof of religious conviction. The employee must pay an amount equal to regular dues to the organization and the organization shall contribute it to a charity.

Section 42.40.890 Definitions of "collective bargaining", "election", and "organization" for purposes of this Article are provided.

Section 42.40.900 Claims involving activities of the railroad shall be brought against the corporation and not against the state. Certain laws applicable to claims against the state do not apply to the corporation.

Section 42.40.910 The property of the corporation and its assets are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds and notes issued by the corporation are exempt from taxation except for inheritance, transfer, and estate taxes.

Section 42.40.920 Certain state laws listed in this section do not apply to the corporation. The railroad is not subject to the jurisdiction of the Alaska Transportation Commission.

Section 42.40.930 If provisions of this Act conflict with the provisions of other state law, the provisions of this Act prevail. Where possible, provisions of this Act shall be construed so that they do not conflict with the Alaska Railroad Transfer Act of 1982.

Section 42.40.940 The assets of the corporation revert to the state if it ceases to exist.

Section 42.40.980 Definitions for the chapter are provided.

Section 42.40.990 The short title of this chapter is the Alaska Railroad Corporation Act.

The following provisions take effect when a constitutional amendment is adopted:

* Section 3 The provision that the corporation is in the Department of Commerce and Economic Development is deleted.

* Section 4 The commissioner of commerce and economic development is eliminated from the board and another appointed member is added.

* Section 5 Reference to the commissioner of commerce and economic development is deleted.

* Section 6 Reference to the commissioner is deleted and the board members no longer serve at the pleasure of the governor.

* Section 7 The governor may remove a board member only for certain itemized causes.

* Section 8 The reference to the commissioner is deleted.

The following temporary law sections take effect immediately:

* Section 9 The corporation must prepare a report for the governor and the legislature on the long-term operations of the railroad. The report is due on January 1, 1988 and must contain specific recommendations on operational alternatives and the transfer of the railroad's operations to the private sector.

* Section 10 Members of the first board of directors serve terms that differ in length and will result in staggered terms for members that follow.

* Section 11 Before transfer of the railroad to the state, the corporation and its employees shall adopt collective bargaining agreements that continue the provisions in effect between the Alaska Railroad and its employees on the date of transfer. The agreements adopted under this section remain in effect to the extent required under the Alaska Railroad Transfer Act. On or before the date of transfer the board shall adopt personnel rules necessary to prevent an interruption of services, within 180 days after the first meeting of the board, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements. The board shall renegotiate all agreements adopted under this section within two years after the date of transfer.

The following sections contain effective dates:

* Section 12 Section 3 - 8 take effect on the effective date of a constitutional amendment relating to the Alaska Railroad.

* Section 13 The rest of the Act takes effect immediately.

TBC:ojb
J5/026

HB 512
ARTICLE 7

COMPARISON OF 3/15/84 WORK DRAFT WITH PROPOSED DRAFT

Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

Our draft is identical, except that we have made the "conflict of interest" provisions of AS 39 apply to the board and all appointed executive officers.

(b) The collective bargaining agreements in effect on the date of transfer between the corporation and its employees shall remain in effect until they expire by their terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer Act of 1982) they are renegotiated, subject to the approval of the board.

This language is not included in our draft because similiar language is already included in the "temporary law" section of the bill.

(c) Subject to the provisions of 45 U.S.C. 1206 (Alaska Railroad Transfer Act) within 180 days of the first meeting of the board, the board and representatives of employee bargaining units shall implement ground rules for the re-negotiation of collective bargaining agreements.

This language is not included in our draft, but could be included in the "temporary law" section of the bill.

Sec. 42.40.710 COLLECTIVE BARGAINING (a) The provisions of AS 23.40.010 - 23.40.080, AS 23.40.110, AS 23.40.200 - 23.40.260 (Public Employee Relations Act) do not apply to the corporation or to it's employees. However, employees that are not executive officers may

organize, and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

This language provides that selected sections of the Public Employees ~~Retirement~~ Relations Act (PERA) apply to the railroad corporation, and exempts them from other sections. The language in our draft exempts them from all of the provisions of PERA, and incorporates language from appropriate provisions of PERA as part of the railroad bill.

(b) The Department of Administration may participate in labor negotiations between the corporation and an employee organization. The corporation shall seek advice of the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements shall be made by the board.

This language is not consistent with the position of the Administration. But, to be consistent with the Committee's draft we have included the same language in Sec. 42.40.850 (b) of our draft (except that we have changed may participate to shall participate).

(c) An agrement executed between the corporation and an employee organization shall provide for a greivance procedure in which the final step is binding arbitration. The agreement shall define "greivance" for purposes of this section.

Our draft includes comparable language in Sec. 42.40.850 (a).

Sec. 42.40.720 RAILROAD EMPLOYEES LABOR RELATIONS AGENCY (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure

of the governor.

Our draft includes similiar langauge in Sec. 42.40.720

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 - 23.40.100, and AS 23.40.120 - 23.40.190.

Our draft contains similiar language. But, some of the sections of AS 23.40 referenced in this language are incorporated into the language of our draft.

(c) Members of the railroad employees labor relations agency receive no compensation for their service, but are entitled to per diem and travel expenses authorized the boards and commissions.

Our draft contains the same language.

Sec. 42.40.730 ADVISORY ARBITRATION (a) If efforts at mediation under AS 23.40.190 fail to resolve a dispute, the dispute shall be submitted to advisory arbitration. The corporation shall choose one of the arbitrators, and the railroad employees labor relations board shall choose one of the arbitrators.

(b) Arbitration of the dispute shall be conducted under AS 09.43.100 to the extent that the sections do not conflict with this section. A decision reached by the arbitrators shall not be binding upon the parties.

Our draft substitutes Sec. 42.40.630 (MEDIATION) for this section.

Sec. 42.40.740 STRIKES (a) After submitting a dispute to advisory arbitration, employees may engage in a strike of a majority of all employees in collective bargaining units vote by secret ballot to do so.

We include a strike section in Sec. 42.40.640 but have added a provision for a 90 day "cooling off" period, and have revised the language to assure equal representation for each employee.

(b) Not withstanding the provisions of (a) of this section, the employees of the corporation may agree in writing to submit a dispite arising from interpretation or application of a collective bargaining agreement to arbitration.

We have deleted this section because it is redundant. Sec. 23.40.710 (c) of the House draft and Sec. 42.40.850 (a) of our draft already provide for this.

Sec. 42.40.750 POLITICAL ACTIVITIES (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees of the corporation may communicate with and appear before committees of Congress, the State legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $ 5,000. An action to enforce this section may be brought by any person.

This section is not in our draft, but there is no objection to including it.

Sec. 42.40.760 PROHIBITED ACTS (a) The railroad chief executive officer, or any person employed by the corporation may not directly or indirectly:

(1) require or coerce any employee of the corporation to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the corporation to make any report concerning any of his/her activities or undertakings unless the activity or undertaking is related to the performance of his official duties.

(3) except as directly related to the performance of his/her official duties, require or coerce any employee of the corporation to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected wtih him

by blood or marriage,

(B) his/her religious beliefs or practices,

(C) sexual matters

(D) his/her political affiliation or philosophy

(4) coerce any employee of the corporation to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the corporation, if the employee does not proport to speak or act in an official activity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations or corporation employees suspected of being involved in criminal activity.

This section is not included in our draft because we assume that these provisions would be included in the personnel rules of the corporation. There is no objection to including the language in the law.

SIDE-BY-SIDE COMPARISON

OF CSHB 512 (TRANSPORTATION)

AND

CSSB 352 (TRANSPORTATION)

Prepared By:

House Transportation Committee Staff

March 27, 1984

TABLE OF CONTENTS

	PAGE NUMBER
Legislative Findings and Purpose	1
Establishment of the Corporation	3
Board of Directors	4
Term of Office	5
Vacancies	6
Compensation and Expenses	7
Board Officers	8
Management by the Board	9
Executive Officers	10
Delegation	11
Meetings of the Board	13
Quorum and Voting	14
Executive Sessions	15
Rules	16
Previously Adopted Rules and Orders	17
Public Disclosure of Information	18
Conflicts of Interest	19
Emergency Rules	20

Validity of Rules	21
General Powers	22
Annual Report	25
Audits	26
State Oversite Reports	27
Long Range Program and Capital Improvement Plans	28
Long Range Capital Improvement and Program Plan	28
Use of Corporation Assets	29
Indemnification	30
Land	31
Request for Land	32
Conveyance of Land	33
Use of State Land	34
Eminent Domain	35
Vacation of Land	36
Land Use Rules	37
Federal Land	38
Municipal Rights-of-Way	39
Municipal Use of Railroad Land	39
Acquisition of Government Property	40

Use of Pesticides and Herbicides	41
Limitation of Liability	42
Fidelity Bond	43
Insurance	44
Revenue	45
Appropriations	46
General Provisions	47
Negotiable Instruments	48
Bonds and Notes Eligible for Investment	49
Payment of Bonds and Notes	50
Security for Bonds	51
Agreements with Holders	51
Independent Financial Advisor	53
Validity of Signatures	54
Validity of Pledge	55
Remedies	56
Credit of State Not Pledged	57
Limitation on Personal Liability	58
Interim Receipts, Temporary Bonds, and Temporary Bond Anticipation Notes	59

Refunding Bonds	60
Corporation Employees	61
Collective Bargaining Rights	62
Railroad Labor Relations Agency	63
Railroad Employees Labor Relations Agency	63
Collective Bargaining Unit	64
Representatives and Elections	65
Unfair Labor Practices	67
Prohibited Acts	67
Investigation and Conciliation of Complaints	68
Complaint and Accusation	69
Orders and Decisions	70
Enforcement by Injunction	71
Power to Investigate and Compel Testimony	72
Regulations	73
Penalty for Violations of Order or Decision	74
Mediation	75
Strikes	76
Agreements	77
Organization Dues and Employee Benefits, Deductions and Authorizations	78

Exemption 79

Definitions 80

Political Activities 81

Claims 82

Exemption from Taxation 83

Application of Existing Laws 84

Conflicting Laws Inapplicable 85

Reversion of Assets 86

Definitions 87

Short Title 88

Effective On The Passage Of The Constitutional Amendment

Sec. 3 AS 42.40.010 amended
Establishment of the Corporation 89

Sec. 4 AS 42.40.020 amended
Board of Directors 90

Sec. 5 AS 42.40.020 (e) amended
Board of Directors 91

Sec. 6 AS 42.40.030 amended
Term of Office; Removal 92

Sec. 7 AS 42.40.030 amended
Term of Office; Removal 93

Sec. 8 AS 42.40.040 (a) amended (House)
Vacancies 94

Sec. 8 AS 42.40.180 repealed and reenacted (Senate)
Rules 95

Sec. 12 AS 42.40.190 and AS 42.40.200
Emergency Rules and Validity of Rules 101

Special Report 96

Appointment of First Board of Directors
of Alaska Railroad Corporation 97

Collective Bargaining Agreements 98

Sec. 12 Effective Dates (House) 99

Sec. 13 Effective Dates (Senate) 99

Sec. 13 Effective Dates (House) 100

Sec. 14 Effective Dates (Senate) 100

CSSB 352(T)

Original sponsors: Kerttula, Faiks, Halford, et al

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 352 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to operate the Alaska Railroad with a board of nine directors responsible for management of the corporation; requiring the board to appoint a chief executive officer to manage the daily affairs and operations of the corporation; authorizing the board to adopt rules to carry out its functions; authorizing the corporation to issue bonds and notes; authorizing the corporation to own and manage all property acquired by the corporation or transferred to the state under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982); authorizing the corporation to exercise eminent domain; exempting the corporation from AS 19, AS 23.40, AS 30.15, AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060, 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and AS 44.62.040 - 44.62.320; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

CSHB 512(T)

Original sponsors: Hayes, Ringstad, Shultz, et al

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 512 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence;

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government; and

(5) there is vast potential in Alaska's natural resource areas and extension of the Alaska Railroad into natural resource areas is necessary for long-term economic growth.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

CSSB 352(T)

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

(3) the federal government has offered to the state the option of taking over the Alaska Railroad to ensure its continued existence; and

(4) it is in the state's best interest to accept the railroad under the terms and conditions offered by the United States government.

(b) It is the purpose of this Act to

(1) create a viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the railroad to the private sector for its ownership or operation or both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(2) provide for the level of transportation service that best satisfies the needs of the people of the state consistent with the other findings and policies of this section;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation and applying for federal money to which the state may be entitled or that may be available;

(D) carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices; and

(G) preserve the integrity of the railroad utility corridor for transportation, communication, and transmission purposes;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

CSHB 512(T)

(2) provide for the level of service that best satisfies the needs of the people of the state;

(3) create a public corporation with the powers, duties, and functions needed to operate the Alaska Railroad and manage its rail, industrial, port and other properties in the best interest of the people of the state by ensuring that the corporation will

(A) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad rather than the state;

(B) operate the railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(C) have the ability to raise capital by issuing obligations exempt from federal and state taxation;

(D) generally carry out its responsibilities on a self-sustaining basis;

(E) provide the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state, supported when necessary by state investment;

(F) provide for the prudent operation of the railroad according to sound business management practices;

(4) ensure that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

CSSB 352(T)

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

CSHB 512(T)

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CSSB 352(T)

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. The seven appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board shall be a person who has at least 10 years of experience in railroad management. A person who is not a resident of the state may be appointed under this subsection.

(c) One member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirements imposed under 49 U.S.C. (Interstate Commerce Act). A person who is not a resident of the state may be appointed under this subsection.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

CSHB 512(T)

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the chief executive officer of the corporation, and seven members appointed by the governor. At least five of the seven appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for the commissioner, the chief executive officer, and the member appointed under (d) of this section, a member may not be a state officer or employee.

(b) One member of the board may be a person who has at least 10 years of experience in railroad management.

(c) One member of the board may be or have been an executive official of a United States railroad that is not now and never was a connecting carrier of the Alaska Railroad.

(d) One member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(e) Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of commerce and economic development and the chief executive officer of the corporation, members of the board serve for staggered terms of five years each at the pleasure of the governor.

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CSSB 352(T)

Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

(b) A vacancy on the board does not impair the authority of a quorum of members to exercise the powers and perform the duties of the board.

(c) A member of the board whose term has expired shall serve until a successor has been appointed.

CSHB 512(T)

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(c) A member of the board whose term has expired shall serve until a successor has been appointed.

CSSB 352(T)

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $250 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

CSHB 512(T)

Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed member of the board is entitled to compensation at a rate of $400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions.

CSSB 352(T)

Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary.

CSHB 512(T)

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CSSB 352(T)

ARTICLE 2. MANAGEMENT.

Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

(1) be responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) generally manage the corporation on a self-sustaining basis;

(4) apply to the legislature for an appropriation to be used to provide a particular service that is not otherwise self-sustaining if a subsidy is required to maintain that service;

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(6) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(7) review all private and state land disposal proposals to aid in planning for future development or expansion of transportation services;

(8) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

CSHB 512(T)

ARTICLE 2. MANAGEMENT.

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(3) generally manage the corporation on a self-sustaining basis;

(4) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

(5) raise needed capital by issuing obligations of the corporation while ensuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity;

(6) review state and other land disposal proposals to aid in planning for future development or expansion of transportation services;

(7) ensure that the accounting and procurement procedures of the corporation meet accepted railroad industry standards.

CSSB 352(T)

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval.

CSHB 512(T)

Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The appointment of other executive officers and their compensation are subject to board approval.

CSSB 352(T)

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range capital improvement and program plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) expanding or reducing services in a major way;

(10) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements; and

(14) adopting annual budgets.

CSHB 512(T)

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation.

(b) Within 60 days after its first meeting, the board shall by rule delegate the following powers and duties of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the use of, or conveying other interests in property;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

(c) The board may by rule require the exercise of a power or duty delegated under (a) or (b) of this section to be subject to board approval. Specific board approval is required for the following:

(1) except for executing a release of a mortgage or other lien after payment is received, conveying the corporation's entire interest in land;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging corporation assets;

(4) donating property or other assets belonging to the corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range program or capital improvement plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases in rates other than those periodically approved by the United States Interstate Commerce Commission;

(9) diversifying, expanding, or reducing services provided on the date of transfer;

(10) expanding the main or branch rail lines, other than performing routine track alignment as necessary to maintain service levels in effect on the date of transfer;

CSSB 352(T)

CSHB 512(T)

(11) selecting independent auditors and accountants;

(12) exercising the power of eminent domain;

(13) entering into collective bargaining agreements;

(14) adopting annual budgets; and

(15) beginning capital projects with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year.

CSSB 352(T)

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the board shall call meetings of the board at least once every three months and may call other meetings of the board as necessary. The chairman shall preside at meetings.

(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing reasonable notice to the public of its meetings.

(c) The board shall keep minutes of each meeting.

CSHB 512(T)

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(b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing notice to the public of its meetings.

(c) The board shall keep minutes of each meeting and shall send a certified copy of the public portion of each meeting to the governor and the legislature.

CSSB 352(T)

Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

CSHB 512(T)

Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the board constitutes a quorum for the transaction of business.

(b) Five affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices.

CSSB 352(T)

Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of holding an executive session shall be determined by a majority vote of the board. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

(b) Only the following subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the corporation;

(2) unless the person has requested to have the subjects discussed in public, subjects that tend to prejudice the reputation and character of a person;

(3) matters that, by law or municipal charter or ordinance, are permitted to be kept confidential from public disclosure;

(4) matters pertaining to personnel;

(5) matters pertaining to the corporation's legal position;

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

CSHB 512(T)

Sec. 42.40.170. EXECUTIVE SESSIONS. The board may consider in an executive session matters that pertain to personnel, the corporation's legal position, land acquisition or disposal, or proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements.

CSSB 352(T)

Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption, amendment, or repeal of a rule the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed changes to rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed change and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting, amending, or repealing a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed change if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

CSHB 512(T)

Sec. 42.40.180. RULES. (a) The board may adopt rules

(1) governing the business of the corporation; and

(2) designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

(b) Within 90 days after its first meeting, the board shall establish a procedure for adopting, amending, and repealing rules to carry out the functions and the purposes of this chapter. The procedures shall provide for advance public notice and opportunity for public comment on proposed rules or changes to rules that, in the determination of the board, will have a substantial impact on the public or be used in the corporation's dealings with a significant segment of the public.

(c) The board shall establish a procedure for the adoption, amendment, or repeal of a rule on an emergency basis when essential for the orderly operation of the corporation's facilities or programs.

CSSB 352(T)

Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. AS 42.40.180 does not apply to actions taken under this section.

CSHB 512(T)

Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer that are not inconsistent with this chapter or other state law remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

CSSB 352(T)

Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shipoers, divisions and contract rate agreements.

CSHB 512(T)

Sec. 42.40.200. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal council, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.210. CONFLICTS OF INTEREST. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

(c) A board member or executive officer is not considered to be financially interested in a decision when the decision could not affect that person in a manner different from its effect on the public or community.

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate, and providing for the removal by the board of a board member or executive officer who intentionally violates a prohibition contained in this section.

(e) For purposes of this section "participate in a decision" includes all discussions, deliberations, preliminary negotiations, and votes concerning a matter that is the subject of formal action by the board.

CSSB 352(T)

Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption, amendment, or repeal of a rule on an emergency basis. An emergency change may be made only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption, amendment, or repeal of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency change from lapsing the board may make the same change under AS 42.40.180 before the end of the 120-day period.

CSHB 512(T)

SEE PAGE 16, PARAGRAPH C
LINE 9
FOR EMERGENCY RULES

CSSB 352(T)

Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted, amended, or repealed by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a change invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency change was not necessary for the orderly operation of the corporation's facilities or programs.

CSHB 512(T)

NO COMPARABLE PROVISION

CSSB 352(T)

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other powers authorized by law, the corporation may

(1) adopt a seal;

(2) adopt bylaws governing the business of the corporation;

(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer land or personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1201(a) and described in the report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

CSHB 512(T)

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(3) sue and be sued;

(4) appoint trustees and agents of the corporation and prescribe their powers and duties;

(5) hire legal counsel to represent the corporation;

(6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;

(7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer land or personal property, subject to other provisions of this chapter;

(9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;

(11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;

(12) maintain offices and facilities at places it designates;

(13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

CSSB 352(T)

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) and the closing report of July 14, 1983, as amended, prepared and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

(20) maintain a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing; and

CSHB 512(T)

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the railroad, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms of employment, in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(19) assume and satisfy liabilities of the United States in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain or provide for a security force to enforce state law and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its obligations by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on the obligations for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

CSSB 352(T)

(27) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

CSHB 512(T)

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(29) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

CSSB 352(T)

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

CSHB 512(T)

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

CSSB 352(T)

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section.

CSHB 512(T)

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.200 and rules implementing that section.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided;

(2) extension of the main or branch lines by more than 25 miles or five percent of the railroad's total track mileage, whichever is greater; or

(3) the issuance of securities, notes, bonds or contracts with a term in excess of one year and in an amount exceeding $5,000,000;

(4) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter; and

(4) whether and when the undertaking is expected to be self-sustaining financially.

CSSB 352(T)

Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN. (a) The corporation shall prepare and the board shall adopt a long range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year.

CSHB 512(T)

Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

(b) The board shall annually review and update the long range program and capital improvement plans. The board shall provide copies of the updated plans to the governor and the legislature by December 1 of each year.

CSSB 352(T)

Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

CSHB 512(T)

Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

CSSB 352(T)

Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

CSHB 512(T)

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

(b) The corporation may purchase insurance to protect and hold personally harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure of performance, in good faith, of duties for, or employment with, the corporation and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding. The purchase of insurance is discretionary with the board and insurance is not considered to be compensation to the insured person.

CSSB 352(T)

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are railroad utility corridors;

(2) land other than railroad rights-of-way or easements is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land.

CSHB 512(T)

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements are railroad utility corridors;

(2) land other than railroad rights-of-way or easements is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. Except as provided in AS 42.40.420, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land. However, sale of rail land is subject to approval by the legislature.

CSSB 352(T)

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land necessary or useful for present, future or intended railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board by rule may identify and request the commissioner of natural resources to convey land necessary or useful for present, future, or intended railroad purposes owned by or tentatively approved for transfer to the state, including land not adjacent to a railroad utility corridor. The request must include a statement of and justification for the present, future or intended railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

CSHB 512(T)

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land for railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

(b) The board may identify and request the commissioner of natural resources to convey land necessary or useful for present or future railroad purposes owned by or tentatively approved for transfer to the state, including land not adjacent to a railroad utility corridor. The request must include a statement of and justification for the present or future railroad use. Upon receipt of a request, the commissioner shall temporarily reserve the land identified in the request for railroad purposes and delay disposal or lease of that land under other laws to a party other than the corporation. The temporary reservation of land is subject to valid existing rights and remains in effect for 180 days.

CSSB 352(T)

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request.

(b) A conveyance of land under this section may be for less than its appraised value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

CSHB 512(T)

Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request for designation of the identified land and convey as appropriate.

(b) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, communication services without regard to the classification of the resources as part of the surface or subsurface estate.

(c) The corporation may reconvey to the state land received under this section or under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

CSSB 352(T)

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation and notify the the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

CSHB 512(T)

Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation with the concurrence of the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

CSSB 352(T)

Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for lawful purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the lawful purposes in condemning the land.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

CSHB 512(T)

Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for railroad use, the land necessary to obtain the material, and access to the land and material.

CSSB 352(T)

Sec. 42.40.410. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

CSHB 512(T)

Sec. 42.40.400. VACATION OF LAND. The corporation may vacate land acquired for railroad purposes by executing and filing a deed in the appropriate recording district. Upon filing the deed the state shall acquire title to the land.

CSSB 352(T)

Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

CSHB 512(T)

NO COMPARABLE PROVISION

CSSB 352(T)

Sec. 42.40.420. FEDERAL LAND. The corporation may subrit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

CSHB 512(T)

Sec. 42.40.410. FEDERAL LAND. The corporation may subrit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

CSSB 352(T)

Sec. 42.40.430. MUNICIPAL USE OF RAILROAD LAND. Upon request the corporation may authorize use of railroad land for municipal purposes. Subject to AS 42.40.350(b), the corporation may authorize a municipality to establish a walkway or trail over a utility corridor. Before authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the railroad land including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) stop the use of railroad land upon request of the corporation if, as determined by the corporation, the use interferes with expansion or replacement of railroad facilities.

CSHB 512(T)

Sec. 42.40.420. MUNICIPAL RIGHTS-OF-WAY. Upon request of a municipality the corporation may grant to the municipality a right-of-way in a railroad utility corridor or in rail land to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the right-of-way including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

(B) indemnifying the corporation for the amount of a judgment rendered against the corporation including prejudgment interest, costs, and attorney's fees; and

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

CSSB 352(T)

Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

CSHB 512(T)

Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corporation, as an instrumentality of the state, may acquire in its own name from the United States under 50 App U.S.C. 1622 et seq. (Surplus Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and Administrative Services Act of 1949), or other law, property under the control of a federal department or agency that is useful for the corporation's purposes. The corporation may acquire from the Department of Administration property of the state made available under AS 44.71.010 - 44.71.040.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use.

CSSB 352(T)

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

CSHB 512(T)

ARTICLE 6. FINANCIAL PROVISIONS.

Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred by the corporation shall be satisfied exclusively from the assets or revenue of the corporation and no creditor or other person has a right of action against the state because of a debt, obligation, or liability of the corporation.

CSSB 352(T)

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

CSHB 512(T)

Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

CSSB 352(T)

Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-(b), the corporation shall protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions. The corporation shall also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

CSHB 512(T)

Sec. 42.40.520. INSURANCE. The corporation shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims against the corporation or state for bodily injury, death or disability and property damage that may arise from or be related to corporation operations and activities.

CSSB 352(T)

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

CSHB 512(T)

Sec. 42.40.530. REVENUE. Revenue generated by or appropriated to the corporation shall be retained and managed by the corporation for railroad and related purposes in accordance with 45 U.S.C. 1207-(a)(5) (Alaska Railroad Transfer Act of 1982).

CSSB 352(T)

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

CSHB 512(T)

Sec. 42.40.540. APPROPRIATIONS. The corporation may request, with the concurrence of the governor, a direct appropriation or grant from the legislature to assist in carrying out the provisions of this chapter.

CSSB 352(T)

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes. However, the proceeds may not be used for activities other than those specifically related to the purposes for which the instruments are originally issued.

(b) Bonds or bond anticipation notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the board determines. Bond anticipation notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

CSHB 512(T)

ARTICLE 7. BONDS AND NOTES.

Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and notes to provide money to carry out its purposes.

(b) Bonds and notes may be issued in one or more series and shall, as provided by the resolution of the board,

(1) be dated;

(2) bear interest at a required rate or rates per year or within a maximum rate;

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

(7) be executed in the required manner and form;

(8) be payable as required from the sources, in the medium of payment, and place or places inside or outside the state;

(9) be subject to authentication by a trustee or fiscal agent; and

(10) be subject to terms of redemption with or without premium.

(c) Bonds and notes may be sold in the manner, on the terms, and at the price the board determines. Notes shall mature at the time or times determined by the board. Bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

CSSB 352(T)

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

CSHB 512(T)

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CSSB 352(T)

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

CSHB 512(T)

Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds and notes issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds and notes may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds or notes of the state is authorized by law.

CSSB 352(T)

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

(b) Bond anticipation notes may be payable from the proceeds of the sale of bonds or other bond anticipation notes, or, if bond or bond anticipation note proceeds are not available, from other money or assets of the corporation.

CSHB 512(T)

Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and interest on bonds or notes of the corporation is payable from corporation money or assets. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal, state, or municipal government or a corporation, association, institution or person, or a pledge of money, income, or revenue of the corporation from any source.

CSSB 352(T)

Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the instruments:

(1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;

(2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;

(3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;

(4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;

(5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;

(6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;

(7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;

(8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;

(10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

CSHB 512(T)

Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the board, an issue of bonds may be secured by a trust indenture, which may be a trust company, bank or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under resolution giving powers to a corporate trustee by means of which the corporation may

(1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;

(C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;

(D) the terms and conditions upon which additional bonds of the corporation may be issued;

(E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;

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

(3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) to vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) to pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) to appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) to limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or that, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

CSSB 352(T)

Sec. 42.40.670. INDEPENDENT FINAN AL ADVISOR. In negotiating the private or public sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

CSHB 512(T)

Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

CSSB 352(T)

Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

CSHB 512(T)

Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

CSSB 352(T)

Sec. 42.40.690. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

CSHB 512(T)

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets or revenue of the corporation to the payment of the principal or interest on bonds or notes of the corporation is valid and binding from the time the pledge is made and the assets or revenue are immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the corporation, irrespective of whether those parties have notice of the lien of the pledge.

(b) Nothing in this section prohibits the corporation from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the bonds or notes.

CSSB 352(T)

Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

CSHB 512(T)

Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under this chapter, the trust agreement or resolution, or any other contract executed by the corporation under this chapter; and

(2) compel the performance of all duties of the corporation required by this chapter or by the trust agreement or resolution.

CSSB 352(T)

Sec. 42.40.710. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

CSHB 512(T)

Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and its political subdivisions are not liable for the debts of the corporation. Bonds and notes issued under this chapter are payable solely from the revenue or assets of the corporation and do not constitute a

(1) debt, liability, or obligation of the state or of a political subdivision of the state; or

(2) pledge of the faith and credit of the state or of a political subdivision of the state.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. Each bond and note issued under this chapter shall contain on its face a statement that

(1) the corporation is not obligated to pay it or the interest on it except from the revenue or assets pledged for it; and

(2) neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of it.

CSSB 352(T)

Sec. 42.40.720. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

CSHB 512(T)

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds or notes.

CSSB 352(T)

Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when those definitive bonds or bond anticipation notes have been executed and are available for delivery.

CSHB 512(T)

NO COMPARABLE PROVISION

CSSB 352(T)

Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

CSHB 512(T)

NO COMPARABLE PROVISION

CSSB 352(T)

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

CSHB 512(T)

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.710 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

CSSB 352(T)

Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40 (Public Employee Relations Act) do not apply to the corporation or to its employees. However, employees that are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining with respect to wages, hours and other terms and conditions of employment.

CSHB 512(T)

Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of AS 23.40.070 - 23.40.260 do not apply to the corporation or to its employees. However, employees who are not executive officers may organize and form, join, or assist an organization to engage in collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

CSSB 352(T)

Sec. 42.40.709. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a) There is established a railroad employees labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 23.40.090 - 23.40.190 and carry out the provisions of AS 42.40.750 - 42.40.810.

(c) Members of the railroad employees labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

CSHB 512(T)

Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency that consists of three members appointed by the governor. One member shall be a member of the state personnel board. Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall carry out the provisions of AS 42.40.710 - 42.40.890.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency by

(1) an employee or group of employees or an organization acting in their behalf alleging that 30 percent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative; or

(B) assert that the organization that has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in an appropriate unit; or

(2) the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this subsection prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the railroad labor relations agency or an election in a bargaining unit agreed upon by the parties.

(c) The railroad labor relations agency shall determine who is eligible to vote in an election held under this section and shall establish rules governing the election. In an election in which none of the choices on the ballot receive a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest number of valid votes cast in the election. If an organization receives the majority of the votes case in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit. An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(e) An election may not be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of employees in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

CSSB 352(T)

Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly:

(1) require or coerce an employee to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce an employee to make any report concerning an activity or undertaking of the employee's activities or undertakings unless the activity or undertaking is related to the performance of official duties;

(3) except as directly related to the performance of official duties, require or coerce an employee to submit to an interrogation, examination or psychological test that is designed to elicit information concerning

(A) a personal relationship with a person connected with the employee by blood or marriage,

(B) the employee's religious beliefs or practices,

(C) sexual matters,

(D) the employee's political affiliation or philosophy;

(4) coerce an employee to invest or contribute earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of an employee, if the employee does not purport to speak or act in an official capacity.

(b) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of employees suspected of being involved in criminal activity.

CSHB 512(T)

Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain, or coerce an employee in the exercise of the rights guaranteed in AS 42.40.720;

(2) dominate or interfere with the formation, existence, or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.710 - 42.40.890;

(5) refuse to bargain collectively in good faith with an organization that is the exclusive representative of employees in an appropriate unit, including the discussing of grievances with the exclusive representative.

(b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization that represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) An organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.720; or

(B) the corporation in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation, if it has been designated in accordance with AS 42.40.710 - 42.40.890 as the exclusive representative of employees in an appropriate unit.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.760 or a written accusation that a person subject to AS 42.40.710 - 42.40.890 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after a preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.710 - 42.40.890 or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order that is appropriate may be granted by the court and shall be without bond.

NO COMPARABLE PROVISION

Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings that the railroad labor relations agency considers necessary to carry out AS 42.40.710 - 42.40.890, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.710 - 42.40.890, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring the person to comply with the subpoena.

NO COMPARABLE PROVISION

Sec. 42.40.830. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

NO COMPARABLE PROVISION

Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as determined by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable to the parties from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements to act as mediator in the dispute.

(b) Before the determination of an impasse under this section, the parties may also select a mediator by agreement or mutual consent.

(c) It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

CSSB 352(T)

Sec. 42.40.790. STRIKES. (a) Employees may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(b) Notwithstanding the provisions of (a) of this section, the employees and the corporation may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

CSHB 512(T)

Sec. 42.40.850. STRIKES. (a) Following a decision by the mediator to end the mediation proceedings, employees of a collective bargaining unit may engage in a strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety, or welfare of the public.

(b) The corporation may apply to the superior court in the judicial district in which the strike is occuring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten, or is about to threaten, the health, safety, or welfare of the public. A court, in deciding whether to enjoin the strike, shall consider the total equities in the particular case, including the impact of a strike on the public and the extent to which an employee organization and the corporation have met their statutory obligations.

(c) If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under AS 42.40.840 and shall fashion the award considered equitable.

(d) Notwithstanding the provisions of (a) - (c) of this section, the parties to the dispute may mutually agree to submit the dispute to binding arbitration at any time.

CSSB 352(T)

Sec. 42.40.770. AGREEMENT. (a) At the request of the board or corporation employee organization, the Department of Administration shall participate in negotiations between the corporation and the employee organization.

(b) An agreement executed between the corporation and an employee organization shall provide for a grievance procedure in which the final step in the procedure is binding arbitration. The agreement shall define "grievance" for purposes of this section.

CSHB 512(T)

Sec. 42.40.860. AGREEMENTS. (a) The Department of Administration may participate in labor negotiations between the corporation and an organization. The corporation shall seek advice of the Department of Administration before entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

(b) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. The agreement shall include a grievance procedure that shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the railroad labor relations agency.

(c) The parties to an agreement under this section may agree to terms that specify an expiration date for the agreement.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of an employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees, and employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of AS 42.40.870, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.860 that incorporates union security provisions, including a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of an organization. The employee shall pay an amount of money equivalent to regular organization dues, initiation fees, and assessments to the organization. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving organization shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The organization shall submit to the railroad labor relations agency proof of contribution.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

(1) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.710 - 42.40.890;

(3) "organization" means a labor or employee organization of any kind in which employees participate and that exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

CSSB 352(T)

Sec. 42.40.800. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activity. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of this section is personally subject to a civil penalty assessed by a judge of the superior court in an amount not to exceed $5,000. An action to enforce this section may be brought by any person.

CSHB 512(T)

NO COMPARABLE PROVISION

CSSB 352(T)

ARTICLE 9. GENERAL PROVISIONS.

Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving activities of the railroad, including suits in contract, quasi-contract, or tort, shall be brought against the corporation and not against the state.

(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

CSHB 512(T)

ARTICLE 9. GENERAL PROVISIONS.

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(b) For the purposes of actionable claims, undertakings, payments of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and similar matters related to the presentation and prosecution of claims by and against the corporation, the corporation and its board members and employees enjoy the same rights, privileges, and immunities as the state and state officers under AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

(c) Claims against the corporation are not subject to the provisions of AS 44.77 regarding claims against the state.

(d) The corporation is not subject to the provisions of AS 44.-80.010, regarding the state as a party to an action.

CSSB 352(T)

Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other parson, other than the corporation.

CSHB 512(T)

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(c) This section does not affect or limit an exemption from license fees, property taxes, excise taxes, income taxes, or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation.

CSSB 352(T)

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) The following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

CSHB 512(T)

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 37.05;

(5) AS 37.07;

(6) AS 37.10.010 - 37.10.060;

(7) AS 37.10.085;

(8) AS 37.20;

(9) AS 37.25;

(10) AS 38;

(11) AS 44.62.040 - 44.62.320.

CSSB 352(T)

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of AS 42.40 conflict with the provisions of other state law, the provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

CSHB 512(T)

Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of this chapter conflict with the provisions of other state law, the provisions of this chapter prevail. Provisions of this chapter shall be construed so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

CSSB 352(T)

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

CSHB 512(T)

Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases to exist, for whatever reason, its assets revert to the state.

CSSB 352(T)

Sec. 42.40.980. DEFINITIONS. In this chapter unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "collective bargaining" means negotiating with an employees organization and representing employees on matters pertaining to conditions of employment;

(3) "corporation" means the Alaska Railroad Corporation;

(4) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(5) "employees" means all persons employed by the corporation including executive officers;

(6) "executive officer" means the corporation's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, manager of strategy, manager of operations planning, manager of supply, manager of procurement, manager of safety, manager of administrative procedure, chief counsel, or, if so designated by the board, any employee who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility;

(7) "land" means any interest in real property, including tide and submerged land.

CSHB 512(T)

Sec. 42.40.980. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "corporation" means the Alaska Railroad Corporation;

(3) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

(4) "employees" means all persons employed by the corporation including executive officers;

(5) "executive officer" means the corporation's chief executive officer, an employee who fulfills management functions and is so designated by the board, and employees occupying the following positions on the date of transfer: general manager, assistant general manager, assistant to the general manager, chief of administration, and general counsel;

(6) "land" means any interest in real property, including tide and submerged land.

CSSB 352(T)

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

CSHB 512(T)

Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

CSSB 352(T)

* Sec. 3. AS 42.40.010 is amended to read:

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state [WITHIN THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

CSHB 512(T)

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CSSB 352(T)

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and eight [SEVEN] members appointed by the governor. The eight [SEVEN] appointed members must be registered voters in the state except as provided in (b) and (c) of this section. No more than two appointed members may be from any one of the four judicial districts in the state. Two of the appointed members must have at least five years experience as owners or managers of a business in the state. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

CSHB 512(T)

* Sec. 4. AS 42.40.020(a) is amended to read:

(a) The powers of the corporation are vested in the board of directors. The board consists of [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation, and eight [SEVEN] members appointed by the governor. At least six [FIVE] of the eight [SEVEN] appointed members must be registered voters in the state. No more than two appointed members may be from any one of the four judicial districts in the state. The appointed members must have substantial experience or professional training and expertise in fields relevant to the purposes of this chapter, including transportation, business, and finance. Except for [THE COMMISSIONER,] the chief executive officer [,] and the member appointed under (d) of this section, a member may not be a state officer or employee.

CSSB 352(T)

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

CSHB 512(T)

* Sec. 5. AS 42.40.020(e) is amended to read:

(e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, the members of the board shall be confirmed by a majority of the members of each house of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature.

CSSB 352(T)

* Sec. 6. AS 42.40.030 is amended to read:

Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

CSHB 512(T)

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Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief executive officer of the corporation, members of the board serve for staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

CSSB 352(T)

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board; or

(3) conviction of a felony.

CSHB 512(T)

* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

(b) The governor may, by written notice to the member, remove a member from the board for

(1) incapacitation caused by injury or sickness that leaves the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of the board;

(3) conviction of a felony; or

(4) any conduct that was intended to harm the corporation, even if it does not constitute a crime.

CSSB 352(T)

NO COMPARABLE PROVISION

CSHB 512(T)

* Sec. 8. AS 42.40.040(a) is amended to read:

(a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND THE] chief executive officer, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of each house of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

CSSB 352(T)

* Sec. 8. AS 42.40.180 is repealed and reenacted to read:

Sec. 42.40.180. RULES. (a) The board shall establish a procedure for adopting, amending, and repealing rules to carry out its functions and the purposes of this chapter, including a procedure for the adoption or change of rules on an emergency basis when essential to continue or to reinstate the orderly operation of the corporation's facilities or programs.

(b) The board shall adopt rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services.

CSHB 512(T)

SEE RULES SECTION PAGE 16

CSSB 352(T)

* Sec. 9. SPECIAL REPORT. The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by January 1, 1988. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

CSHB 512(T)

* Sec. 9. SPECIAL REPORT. The corporation shall prepare a report for the governor and the legislature on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted by January 1, 1983. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad's operations to the private sector.

CSSB 352(T)

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

CSHB 512(T)

* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

(1) one shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years; and

(4) two shall serve a term of five years.

CSSB 352(T)

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) Within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of bargaining agreements adopted under (a) of this section.

CSHB 512(T)

* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable after establishment of the Alaska Railroad Corporation and before transfer of the Alaska Railroad to the state, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees on the date of transfer of the railroad. The collective bargaining agreements adopted under this section between the corporation and its employees shall remain in effect to the extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

(b) The board of directors of the Alaska Railroad Corporation shall on or before the date of transfer of the Alaska Railroad to the state adopt personnel rules necessary to prevent an interruption of services of the railroad.

(c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), within 180 days after the first meeting of the board of directors of the Alaska Railroad Corporation, the board and representatives of employee bargaining units shall establish procedures for the renegotiation of collective bargaining agreements adopted under (a) of this section. The board shall renegotiate all agreements adopted under (a) of this section within two years after the date of transfer of the Alaska Railroad to the state unless the parties agree to the contrary.

CSSB 352(T)

* Sec. 13. Sections 3 - 6 and 12 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

CSHB 512(T)

* Sec. 12. Sections 3 - 8 of this Act take effect on the effective date of an amendment to the Constitution of the State of Alaska relating to the Alaska Railroad.

CSSB 352(T)

* Sec. 14. Sections 1, 2, and 9 - 11 of this Act take effect immediately in accordance with AS 01.10.070(c).

CSHB 512(T)

* Sec. 13. Sections 1, 2, and 9 - 11 of this Act take effect immediately in accordance with AS 01.10.070(c).

CSSB 352(T)

* Sec. 12. AS 42.40.190 and 42.40.200 are repealed.

CSHB 512(T)

NO COMPARABLE PROVISION

AR.
RAILROAD

HB 512

Notes

Sec. 42.40.830. MEDIATION. If after a reasonable period of negotiation over the terms of a collective bargaining agreement, an impasse as approved by the railroad labor relations agency exists between the corporation and an organization, the railroad labor relations agency shall appoint a person mutually agreeable ~~person~~ to the parties from a list of seven qualified mediator/arbitrators knowledgeable in railway labor agreements to act as mediator in ~~any~~ the dispute, on its own initative or on the request of the parties to the dispute. It shall be the function of the mediator to bring the parties together under such favorable auspices as will tend to effectuate a settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Or on too declarative [illegible] imposing the parties may also select a mediator by agreement or mutual consent.

a-bc?

Sec. 42.40.840 STRIKE (a) Following a decision by the mediator to end ~~the~~ mediation proceedings, ~~as proscribed in Sec. 42.40.830 of this Act,~~ employees of a collective bargaining unit may engage in a ~~limited~~ strike for a limited time if a majority of the employees in that collective bargaining unit vote by secret ballot to do so. The limit of the strike is determined by the interest of the health, safety or welfare of the public. The corporation may apply to the superior court in the judicial district in which the strike is occuring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun or is about to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which an employee organization and the corporation have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit the dispute to binding arbitration. The arbitrator shall be the same person selected under Sec. 42.40.830, and shall fashion the award as He/She deems equitable.

(b) Notwithstanding the provisions of (a) of this section, the parties to the dispute may mutually agree to submit the dispute to binding arbitration, ~~after a strike vote has been taken~~.

Admin. wants strike vote prior to Arbitration

OK, 11:39.
3-22-84
Burton McKinney
Lahiski AI
Sorkin
Byers

(Ed. of 8/1)

Sec. 10. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. (a) As soon as practicable after establishment of the corporation and prior to transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. The collective bargaining agreements between the corporation and its employees shall remain in effect consistent with 45 U.S.C. 1202-1214 (Alaska Railroad Transfer Act of 1982).

(b) Subject to the provisions of 45 USC 1206 (Alaska Railroad Transfer Act of 1982) within 180 days of the first meeting of the board, the board and representatives of employee bargaining units shall implement ground rules for the renegotiation of collective bargaining agreements.

Sec. 42.40.540

(b) In any claim or other legal action against the corporation, including actions involving the expansion, extension and construction of the railroad, in which the corporation is the prevailing party, whether or not the action is considered to be a public interest case, it is not an abuse of discretion for a court to award full costs and attorney fees and for the losses to the corporation that are directly attributables to the maintenance of that action.

New subsection (b) for Sec. 42.40.850 Agreement:

The parties to an agreement under this section may agree to terms which specify an expiration date for the agreement. If a specific term is set for which an agreement will remain in effect, provisions shall be included prohibiting any strikes or lockouts during the term of the agreement and establishing a conflict resolution process for minor amendments to the agreement during the term of the agreement, which shall have binding arbitration as its final step.

PROPOSED WORDING FOR
ALASKA RAILROAD LEGISLATION

42.40.530

The corporation shall protect its assets, services and personnel by partially self-insuring its risks and by maintaining Excess Casualty, Property, Business Interruption, Marine, Boiler and Machinery, Pollution Liability, and Miscellaneous Insurances in amounts reasonably calculated to cover potential claims for bodily injury, death or disability, consequential and property damage that may arise or be related to its operations and activities, naming the State as an additional insured.

TO: SB 352 DRAFT BY COOK

Add a new section to read:

Sec. 42.40.090. MANAGEMENT BY THE BOARD. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.110. In carrying out its responsibilities under this section the board shall, subject to AS 42.40.110,

(1) be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad;

(2) operate the Alaska Railroad as a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission consistent with 45 U.S.C. 1207;

(3) manage the corporation on a self-sustaining basis;

(4) provide for the best possible combination of types and levels of safe, efficient, and economical transportation to meet the overall needs of the state;

(5) provide for the prudent operation of the Alaska Railroad according to sound business management practices;

(6) raise needed capital by issuing obligations of the corporation while insuring that borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity.

February 10, 1984

Senator Pappy Moss, Chairman
Senate Transportation Committee
Pouch V
Juneau, AK 99811

Dear Senator Moss:

At the Joint Committee hearing, which you chaired, concerning the transfer of the Alaska Railroad to the State of Alaska, questions were raised concerning the application of the Staggers Rail Act of 1980 to the Alaska Railroad. As I indicated during the hearings, we have had TOTEM's counsel obtain a copy of both the Act and the Conference Committee report on the Act for your evaluation.

I have also had TOTEM's counsel prepare an analysis of the antitrust impact of the Staggers Act on the Alaska Railroad. While TOTEM is not an unbiased observer, I believe you will find our counsel's analysis even-handed.

In reviewing the testimony during the hearing, I do not find any testimony, including Mr. Walsh's (who represented the State Task Force) or Commonwealth North, who seriously argued that the Staggers Act did not contemplate antitrust regulation as a primary component of the "checks and balances" for railroads in the deregulation atmosphere created by the Staggers Act. Specifically,

1) Under the Staggers Act all railroads are to be subjected to the antitrust laws of the United States. Indeed, as our analysis shows, it has always been the intent of Congress to substitute the antitrust laws for deregulation by the Interstate Commerce Commission.

2) All testimony given at the hearing by Mr. Walsh, Commonwealth North, and others concerned with rail regulation, appeared to indicate that they would be "satisfied" if the Alaska Railroad is treated like "any other railroad". As a reading of the Staggers Act will indicate, all other railroads are subject to the antitrust law.

3) The attached legal analysis shows that antitrust regulation is one of the three critical legs which deregulation under the Staggers Act stands on. The others are the profit motive and some continued regulation by the I.C.C. where necessary. One of the key components, the profit motive, may not be present (depending upon how the

State elects to set up the railroad). Certainly the economics of the Alaska Railroad, vis-a-vis privately owned railroads, will be significantly different.

I hope the attached data will be of use to the Committee. TOTEM hopes we will be offered the opportunity to present our suggested amendments to the Committee during the mark-up session. Our sugested amendments contain no hard and fast verbage but are merely suggestions as to how we feel the legislation could address our concerns. For instance, any language which would require legislative approval prior to entry into the water or motor carrier business would satisfy TOTEM's concerns in this area.

Should you have any further questions, please feel free to contact me.

Very truly yours,

Totem Ocean Trailer Express, Inc.

Leonard Shapiro
Vice President, Pricing

PURPOSE OF RAILROAD DEREGULATION

When Congress deregulated the railroads in the Staggers Act, (Attachment A), it intended to replace government regulation of railroads with free market forces, including competition, the profit motive, and the antitrust laws. Congress believed that competition would keep rates from being too high; the profit motive would keep them from being too low; and the antitrust laws would keep rates from being discriminatory, unfair, or predatory. All three factors -- competition, the profit motive, and antitrust -- must exist if deregulation is to work as Congress intended.

A recent court case explains the importance of these factors, and particularly of the antitrust laws.

> "As a general matter, the cases show that the antitrust laws and the Interstate Commerce Act are certainly not repugnant to one another but are mutually compatible in their objectives. This is particularly the case since the passage of the Staggers Rail Act of 1980, which seeks to free rail carriers from regulatory restraint and to open up the industry to a greater degree of marketplace competition. In the preamble to that Act, Congress declared it to be national policy 'to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.' The Act further states that its provisions shall not be construed to make lawful 'a competitive practice that is unfair destructive, predatory, or otherwise undermines competition that is necessary in the public interest . . . ' One of its expressed goals is 'to prohibit predatory pricing and practices, to avoid undue concentration of market power and prohibit unlawful discrimination.' Among other changes intended to substitute marketplace forces for regulation, the Staggers Act stripped the ICC . . . of all jurisdiction to review railroad rates and charges except in

limited circumstances where they are above or below certain jurisdictional thresholds. In passing this law, Congress intended that railroads and other carriers would continue to be subject to the antitrust laws." 1/

The Staggers Act itself lists these three factors as key elements of National Rail Transportation Policy.

"In regulating the railroad industry, it is the policy of the United States government -

(1) To allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

. . . .

(10) To encourage honest and efficient management of railroads, and in particular, the elimination of noncompensatory rates for rail transportation;

. . . .

(13) To prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination . . . . " 2/

The Conference Report on the Staggers Act (Attachment B) explains Congress' purpose and intent in relying on these factors. Competition is important, the Conference Report explains, because Congress intended for competition, rather than the Interstate Commerce Commission to keep rates low.

"Whenever there is effective competition which will restrain rate increases by the railroads, such competition should continue to function as the regulator of the rate rather than the Commission."

. . . .

"The conferees believe that the best regulator is the marketplace, and the forces of competition will restrain railroad rates more effectively than federal regulation." 3/

One of Congress' most important assumptions about rate making by railroads was that railroads would set rates that were as profitable for them as the competition would allow. "Railroads should not be carrying traffic which is losing money . . . . " (Conference Report at 95.) Congress specifically designed the rate standards of the Staggers Act to minimize interference with "carriers (who are) pricing in a manner that meets rational economic standards." (Conference Report at 90.) If a railroad has no incentive to earn a profit, then Congress' assumption does not apply, and the policies of deregulation under the Staggers Act will not work as Congress intended.

Congress believed that it was unnecessary for the ICC to order the railroads to keep their rates high enough to, for example, perform maintenance needed to keep their operations safe, because the railroads' profit motive would take care of this. The ICC summarized Congress' intention as follows: "The [Conference] Report expresses a belief that 'a carrier has no reason to keep a rate below the most beneficial level, [so that] the conferees have no reason to believe rates will be held below the most beneficial level except by oversight.'" (Conference Report, as quoted in Cost Standards for Railroad Rates, 364 ICC 898, 904 (1981).) However, a railroad without the profit motive may not necessarily set rates high enough to earn enough revenue to remain in business and provide safe, efficient, economical service. A railroad which has no incentive to make profit, therefore, is simply not the type of railroad Congress had in mind when it deregulated the railroads in the Staggers Act.

The antitrust laws are one of the most important factors in deregulation. In exchange for freedom from ICC regulation of their rates, the railroads must, like every other business in America, obey the antitrust laws. Although the ICC no longer reviews every railroad rate, rates which are predatory or discriminatory or result from unfair concentrations of market power

are still illegal under the Staggers Act. The National Rail Transportation Policy specifically prohibits predatory pricing, undue concentrations of market power and unlawful discrimination. (49 U.S.C. §10101a(13).

In general, the Staggers Act was intended "to make clear that none of the provisions of Act modifies existing law to make lawful a rate or practice that was unlawful on the day prior to enactment. Also, the Conferees intend that this section allow water carriers to challenge practices that were unlawful as unfair, destructive, predatory, or otherwise undermined competition prior to enactment of this Act." (Conference Report at 142.) As Congress provided in conjunction with the similar law deregulating motor carriers, "the elimination of antitrust immunity for since-line rates is one of the most important aspects of the legislation." House Report 6418 [on Motor Carrier Act of 1980] at 28.

For example, the Staggers Act allows railroads to experiment with flexible contract rates. The Alaska Railroad has exercised this right in the past. However, in exchange for this new right to have contract rates (which railroads were not allowed to have under prior law) the railroads' contract rates are required to be subject to antitrust laws. The Conference Report specifically points out that "the existing Federal antitrust laws apply to this section [authorizing contract rates]." (Conference Report at 101.)

The Interstate Commerce Commission recently emphasized the importance of the antitrust laws when deregulating boxcar service. In response to claims that the Commission should continue to regulate boxcar service, the ICC answered that regulation was unnecessary because the antitrust laws were available.

> "It is also important to recognize that the antitrust laws provide a remedy against attempted monopolization by means of predatory pricing.

> We conclude the predatory pricing on boxcar traffic is highly unlikely to occur, and even in those few instances where it is a remote possibility, the antitrust laws exist to provide sufficient deterrent and remedy. Congress' instruction is that we regulate only in those instances where regulation is necessary to protect against market power abuse and other federal remedies are inadequate for the purpose." 4/

If the antitrust laws were not available, however, continued regulation would, as the Commission stated, be necessary to carry out the National Rail Transportation Policy of the Staggers Act to prevent predatory pricing, unlawful discrimination, and undue concentrations of market power.

In short, being subject to the antitrust laws is the price for deregulation. The ICC has consistently required that in exchange for freedom from ICC rate regulation, carriers must be subject to the antitrust laws.

> "Implicit in the granting of this exemption is the removal of antitrust immunity . . . . [R]emoval of antitrust immunity is the quid pro quo for the bestowal of freedom from regulation. Meaningful deregulation is more than a selective relaxation of the regulatory constraints most disliked by the industry. It fosters vigorous competition among the railroads themselves, as well as between the railroads and their rival modes of transportation. Removing antitrust immunity for collective ratemaking has been our uniform prerequisite in exempting other commodities and services from rate regulation." 5/

A railroad that is not subject to the antitrust laws therefore is not entitled to be deregulated.

Therefore, Congress only intended to deregulate railroads which (1) are motivated by the normal business incentive to earn a reasonable profit, so that they would earn enough revenue to maintain safe, efficient, economical service; (2) have sufficient competition to keep rates from being too high; and (3) which are subject to the antitrust laws so that customers,

suppliers, and competitors will have a right to go to court to seek relief from unfair railroad rates. If a railroad does not meet all three conditions, Congress did not intend for that railroad to be deregulated.

1/ Trans-Kentucky Transportation Railroad v. Louisville & N.R.Co., 1983-2 Trade Cases (CCH) P. 65,476 (E.D. Ky.1983) (emphasis added).

2/ 49 U.S.C. §10101a (Section 101 of the Staggers Act).

3/ Conference Report at p.89 and at p.93.

4/ Ex parte No. 346 (Sub-No.8) at 16 (May 2, 1983).

5/ Id. at 20 (emphasis added).

OK-Clause

ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.700 PERSONNEL. Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation except that the provisions of AS 39.50.010-39.50.200 shall apply to the members of the board and all appointed executive officers.

Sec. 42.40.710. COLLECTIVE BARGAINING RIGHTS. The provisions of the Public Employee Relations Act (AS 23.40.070-23.40.260) do not apply to the corporation or to its employees. However, employees of the corporation, except the chief executive officer and other executive officers appointed by the chief executive officer, may self organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Improve? Did a Mark for ARTA State law

Sec. 42.40.720. RAILROAD LABOR RELATIONS AGENCY. (a) There is established a railroad labor relations agency which consists of three members appointed by the governor. One member shall be a member of the state labor relations agency (AS23.40). Members serve at the pleasure of the governor.

(b) The railroad labor relations agency shall perform the functions described in AS 42.40.700-42.40.990 to carry out the provisions of this article.

(c) Members of the railroad labor relations agency receive no compensation for their services, but are entitled to per diem and travel expenses authorized for boards and commissions.

Sec. 42.40.730. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by AS. 42.40.700-

42.40.990 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

Sec. 42.40.740. REPRESENTATIVES AND ELECTIONS. (a) The railroad labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the corporation as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the corporation alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the railroad labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the railroad labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the

railroad labor relations agency or an election in a bargaining unit agreed upon by the parties. The railroad labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election it shall be certified by the railroad labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by the corporation by mutual consent.

(3) No election may be directed by the railroad labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 42.40.750. UNFAIR LABOR PRACTICES. (a) The corporation or its agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in AS 42.40.710;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under AS 42.40.010-42.40.990;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this article prohibits the corporation from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 42.40.710 or

(B) the corporation in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with the corporation,

if it has been designated in accordance with the provision of AS 42.40.700-42.40.990 as the exclusive representative of employees in an appropriate unit.

Sec. 42.40.760. INVESTIGATION AND CONCILIATION OF COMPLAINTS. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by AS 42.40.750 or a written accusation that a person subject to AS 42.40.700-42.40.990 has engaged in a prohibited practice, is filed with the railroad labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probably cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 42.40.770. COMPLAINT AND ACCUSATION. If the railroad labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with AS 42.40.700-42.40.990, or before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec 42.40.780. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of AS 42.40.700-42.40.990. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor

relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 42.40.790. ENFORCEMENT BY INJUNCTION. The railroad labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the railroad labor relations agency. Upon a showing by the railroad labor relations agency that the person has engaged or is about to engage in the practice, an injunction restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 42.40.800. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a) For the purpose of the investigations, proceedings, or hearings which the railroad labor relations agency considers necessary to carry out the provisions of AS 42.40.700-42.40.990, the railroad labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The railroad labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under AS 42.40.700-42.40.990, the superior court in the district in which the person resides or is found may, upon application by the railroad labor relations agency, issue an order requiring him to comply with the subpoena

Sec. 42.40.810. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of AS 42.40.700-42.40.990.

Sec. 42.40.820. PENALTY FOR VIOLATION OF ORDER OR DECISION. A person who violates a provision of an order or decision of the railroad labor relations agency is guilty of a misdemeanor and is punishable by fine of not more than $500.

Sec. 42.40.830. MEDIATION. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between the corporation and an organization, the railroad labor relations agency shall appoint a competent, impartial, disinterested person to act as mediator in any dispute on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the railroad labor relations agency has any power of compulsion in mediation proceedings.

Sec. 42.40.840. STRIKES. Ninety days following the mediation process proscribed in Sec. 42.40.830 of this Act, employees of a collective bargaining unit may engage in a strike if a majority of the employees in ~~that~~ collective bargaining units vote by secret ballot to do so.

Sec. 42.40.850. AGREEMENT. (a) Upon the completion of negotiations between an organization and the corporation, if a settlement is reached, the corporation shall reduce it to writing in the form of an agreement. ~~The agreement shall include a term for which it will remain in effect, not to exceed three years.~~ The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

(b) The Department of Administration shall participate in labor negotiations between the corporation and an employee organization. The corporation

- Parties to the Dispute May jointly agree on a Method for resolution for a Dispute that is not resolved
- If the parties are unable to agree on a method of final resolution of Disputes, the RR labor relation Agency may impose

may shall seek advice of the Department of Administration prior to entering into a collective bargaining agreement concerning wages, hours, and other terms and conditions of employment. However, the final decision regarding collective bargaining agreements, shall be made by the board.

Sec. 42.40.860. LABOR OR EMPLOYEE ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUCTION AND AUTHORIZATION. Upon written authorization of a corporation employee within a bargaining unit, the corporation shall deduct from the payroll of the employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 42.40.870. EXEMPTION FROM ARTICLE 7. Notwithstanding the provisions of AS 42.40.860, a collective bargaining settlement reached, or agreement entered into, under AS 42.40.850 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the railroad labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the railroad labor relations agency.

Sec. 42.40.880. DEFINITIONS. In AS 42.40.700-AS 42.40.880,

(1) "railroad labor relations agency" means railroad employee labor relations agency with regard to the corporation and employees of the corporation.

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in AS 42.40.700-42.40.990.

(3) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with the corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment.

(4) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiating in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(5) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of the corporation.

Section 19. COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ALASKA RAILROAD CORPORATION AND EMPLOYEES. (a) As soon as practicable after transfer of the Alaska Railroad, the Alaska Railroad Corporation and its employees shall adopt collective bargaining agreements that continue the applicable provisions of the agreements in effect between the Alaska Railroad and its employees immediately before transfer of the Alaska Railroad. Subject to ARTA The collective bargaining agreements between the corporation and its employees shall expire two years from the date of transfer or, as permitted under the federal transfer legislation, they are renegotiated, subject to the approval of the Board of Directors of the Alaska Railroad corporation and the Commissioner of Administration.

(c) (b) Subject to the provisions of 45 USC ~~1206~~ 1202-1214 (Alaska Railroad Transfer Act of 1982) within 180 days of the first meeting of the board, the board and representatives of employee bargaining units shall implement ground rules for the renegotiation of collective bargaining agreements.

(2) The board shall by rule on or before the [first day] date of transfer (b) under the authority granted in Sec. 42.40.230(c) adopt personnel rules and other rules and regulations as necessary to prevent an interruption of services.

Check to See if under Rule

(4) The time specified shall be such as to allow reasonable opportunity to reach the conference site.

(5) The time for beginning the conference shall not exceed twenty days from the receipt of notice designating the place and date of such conference.

The foregoing requirements and procedure should be adhered to with the proper carrier representatives in each step of the case up to and including the highest officer designated by the carrier as having final authority for disposition of such matters.

Section 2, Seventh, is brief but clear and emphatic in establishing certain limitations. It states:

"No carrier, its officers, or agents shall change the rates of pay, rules or working conditions of its employees, as a class as embodied in agreements except in the manner prescribed in such agreements or in Section 6 of this Act."

* "This is not to be confused with Section 6. which deals with procedures for changing existing agreements and writing new agreements."

Part 2
INITIAL HANDLING — NEW RULES OR RULES REVISIONS (SECTION 6, RLA)

The self-explanatory language of this clause precludes the carrier from unilaterally making any of the mentioned changes. The two avenues open to the carrier and to employees when either desires to terminate or change the agreement are through the methods provided in Section 6 of the Act or through the procedural rules stipulated in their own working agreement. The latter route is the one referred to in the Section 2, Seventh, phrase which states:

"... in the manner prescribed in such agreements ...." A typical implementing clause in a contract would read:

"All rates and rules herein shall remain in effect until thirty (30) days' notice of change is given in writing by the party desiring the change, or until changed under the provisions of the Railway Labor Act, as amended."

Section 6 is one of the most important sections of the Act concerning the actual progression of negotiations. It provides for either party to the contract to start the process of amending the contract by notifying the other party of the change sought. Section 6 also imposes time limits for subsequent conference on the matter to begin, and it provides for the National Mediation Board to enter the picture at either party's request or through the Board's self involvement.

During progression of a Section 6 Notice, the issue in the working agreement under notice remains in effect and cannot be altered by the carrier or the employees. In effect, the entire contract is precluded from being changed unilaterally.

The procedure for pursuing a contract change as set forth in Section 6 requires that:

(1) The party desiring the change must give at least thirty days' written notice to the other party, setting forth the exact change desired.

(2) Within ten days of the other party's receipt of the notice, the parties involved must have made arrangements for the time and place they will confer.

(3) Conference must begin not later than 30 days from the date of the initial notice at a place on the line of railroad unless otherwise mutually agreed.

EXAMPLE: A union desiring a change serves written notice upon the carrier, dating the notice August 31. The carrier receives the communication September 1. By no later than September 11, representatives of the union and of the carrier agree to meet in Chicago, Illinois, at 10:00 A.M., September 30 (the final day of the 30-day period following the date of the notice), unless it is mutually agreed to meet on another date.

Once negotiations are under way, the parties either come to an amicable solution which concludes matters at that point, or they reach an impasse. In the event the latter occurs, additional procedure involving the Mediation Board is provided under Section 6. At this point, either party can invoke the services of the Mediation Board, or the Board can proffer its services on its own if it finds a labor emergency exists. In either event, Section 5 of the Act, which describes the functions of the Board, assumes a direct and extremely important bearing in the negotiations.

As mentioned earlier, unilateral change of the contract is not permitted while a Section 6 Notice is in progress. Progression includes the period conference is under way, or while the issue is under the Mediation Board's jurisdiction, or until the Board has acted finally on the issue as required under Section 5 of the Act. If, however, ten days have elapsed after the termination of conferences with the

issue still unsettled and the services of the Board have NOT been requested or been proffered, the status quo position of the parties no longer exists.

This point in negotiations is a critical one because of the ten-day period following a termination of talks and because certain court rulings in this area have been indefinite. It is wise at this juncture for UTU representatives entrusted with handling such matters to note that it would be illogical and perhaps even foolhardy for them to disregard or by-pass the Mediation Board.

If a carrier-requested change in the agreement is not settled in negotiations in a manner satisfactory to the UTU representative, he should, by all means, invoke the services of the Board, and he should not permit ten days to lapse after conferences have concluded before doing so. In a situation such as that just described, the representative should notify the International immediately that negotiations failed to resolve the issue and conferences have been terminated. There should be included with his notice three copies of the Section 6 Notice and attachments, together with complete information concerning the issue so the International can determine the best course to pursue for further handling.

It is important to remember that requests for services of any Administrative Boards or Agencies under the various Federal Statutes must be made through the international president's office. The exceptions to this rule: (1) Submissions to the National Railroad Adjustment Board may be made directly to the particular board that has jurisdiction over the dispute. In the handling of disputes to the NRAB, care must be exercised because each of the Divisions of the Adjustment Board have their own rules or practices. Some of the boards, for example, require advance notice of intention to file a dispute. (2) Safety violations may be referred directly to the enforcement agency on a direct complaint or "information received" complaint basis in addition to the referral route through our National Legislative Director's office or a particular State Director's office. The international can counsel with you in making this determination, if there should be a question concerning the nature of the dispute.

Part 3
THE NATIONAL MEDIATION BOARD
(Section 5, RLA)

Once the National Mediation Board (NMB) becomes officially involved in stalemated negotiations, its primary objective is to induce the parties to settle their differences amicably. The Board's responsibility and function in this respect are outlined in Section 5 of the Act. Section 5 is quite lengthy in describing the step-by-step procedure the Board must follow. Simply stated, however, its job is:



united transportation union

ARTICLE 7. PERSONNEL AND LABOR RELATIONS

1. Sec. 42.40.840. STRIKES

1. Delet and Replace with the Following:

Sec. 42.40.840. BINDING ARBITRATION. 30 days after mediation if the dispute is not resolved, then the issue or issues shall be submitted to binding arbitration using the Federal Mediation Concilliation Service (F.M.C.S.) list of arbitrators.

2. Adopt Sec. 23.40.200. Classes of public employees; arbitration

(a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time.

2. Sec. 42.40.850. AGREEMENT. Delete (a) Not to exceed three years.and adopt the concept of the Railway Labor Act, Part 2, Sec. 6.

(b) The Department of Administration may participate in the negotiations between the corporation and an employee organization.

Delete the following: The corporation may not enter into a collective bargaining agreement concerning wages, hours, or other terms and conditions of employment unless the proposed contract terms are approved by the Department of Administration.

Gerald D. Valinske
Legislative Representative
Local 1626
Anchorage, Alaska



united transportation union

STRIKES: (a) Employees may engage in a strike if a majority of the employees in all collective bargaining units vote by secret ballot to do so.

(b) Employees may engage in a strike after mediation, subject to the voting requirements of (a) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The Alaska Railroad Corporation may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public, but also the extent to which employee organization and The Alaska Railroad Corporation have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration.

(c) Notwithstanding provisions (a) (b) of this section the employees with the concurrence of the employer may agree in writing to submit a dispute of a collective bargaining agreement to arbitration.

Gerald D. Valinske
Legislative Representative
Local 1626
Anchorage, Alaska

Karen Hutton
Vice President
A.F.G.E., Local 183
Anchorage, Alaska

NOTES TO DECISIONS

Title and right to possession at time action brought is sufficient. — Title and right to possession at the time the action is brought is sufficient to sustain an action for claim and delivery of personal property. Hager v. Gordon, 12 Alaska 181, 171 F.2d 90 (9th Cir. 1948).

Effect of obtaining writ of attachment. — Plaintiff, by obtaining a writ of attachment instead of proceeding under this section and AS 09.40.270, did not waive its security interest in its motor vehicle or prejudice any rights of a mechanic's lienor. Decker v. Aurora Motors, Inc., Sup. Ct. Op. No. 314 (File No. 593), 409 P.2d 603 (1966).

Applied in Aleut Corp. v. Arctic Slope Regional Corp., 424 F. Supp. 397 (D. Alaska 1976).

Cited in West v. Whitney-Fidalgo Seafoods, Inc., Sup. Ct. Op. No. 2338 (File No. 4747), 628 P.2d 10 (1931).

Sec. 09.40.270. Undertaking. A peace officer shall not take personal property into custody until the plaintiff delivers to the peace officer the affidavit and undertaking of sufficient sureties to the effect that they are bound in double the value of the property for the prosecution of the action and the return of the property to the defendant, if return be adjudged, and for the payment to the defendant of any sum which may be recovered against the plaintiff. (§ 24.02 ch 101 SLA 1962)

NOTES TO DECISIONS

Quoted in West v. Whitney-Fidalgo Seafoods, Inc., Sup. Ct. Op. No. 2338 (File No. 4747), 628 P.2d 10 (1981).

Cited in Decker v. Aurora Motors, Inc., Sup. Ct. Op. No. 314 (File No. 593), 409 P.2d 603 (1966).

Sec. 09.40.280. Undertaking for return of property to defendant. The defendant, may, within the time set by the court, require the return of the property upon delivering to the peace officer having custody of the property a written undertaking approved by the clerk of the court and executed by sufficient sureties to the effect that they are bound in double the value of the property for the delivery of the property to the plaintiff, if such delivery be adjudged, and for the payment to the plaintiff of such sum as may, for any cause, be recovered against the defendant. (§ 24.03 ch 101 SLA 1962)

Sec. 09.40.290. Property concealed in building or enclosure, demand and entry to effect seizure. If the property or any part of it is concealed in a building or enclosure, the peace officer shall publicly demand its delivery. If it is not delivered, the peace officer shall cause the building or enclosure to be broken open and take the property into possession. (§ 24.04 ch 101 SLA 1962)

Sec. 09.40.300. Custody of property seized. When the peace officer has taken the property into custody, the peace officer is responsible for it and shall keep it in a secure place and deliver it to the party entitled to it upon receiving the lawful fees for taking and the necessary expenses for keeping it. (§ 24.05 ch 101 SLA 1962)

Sec. 09.40.310. Third party claims. If the property taken is claimed by any person other than the defendant, and that person makes an affidavit of title to the property or the right to the possession of it, stating the grounds of the title or right, and serves it upon the peace officer taking the property while the property is still in the peace officer's custody, the peace officer may release the property unless the plaintiff, on demand of the officer, indemnifies the peace officer against the third party claim by a written undertaking approved by the clerk of court and executed by sufficient sureties. (§ 24.06 ch 101 SLA 1962)

NOTES TO DECISIONS

Stated in First Nat'l Bank v. Zawodny, Sup. Ct. Op. No. 1376 (File No. 4188), 602 P.2d 1254 (1979).

Chapter 43. Arbitration.

Article
1. Uniform Arbitration Act (§§ 09.43.010 — 09.43.180)
2. Arbitration of Small Claims (§§ 09.43.190 — 09.43.220)

Article 1. Uniform Arbitration Act.

Section
10. Arbitration agreements valid; application of article
20. Proceedings to compel or stay arbitration
30. Appointment of arbitrators by court
40. Majority action by arbitrators
50. Hearing
60. Representation by attorney
70. Witnesses, subpoenas, depositions
80. Award
90. Modification of award by arbitrators
100. Fees and expenses of arbitration
110. Confirmation of an award
120. Vacating an award
130. Modification or correction of award by court
140. Judgment or decree on award
150. Applications to court
160. Appeals
170. Court, jurisdiction
180. Short title

Cross references. — For court rule provision on arbitration and award as an affirmative defense, see Civ. R. 8(c).

NOTES TO DECISIONS

Public policy in Alaska favors arbitration as a means of resolving disputes without court interference. Arctic Contractors v. State, Sup. Ct. Op. No. 1420 (File Nos. 2595, 2657), 564 P.2d 30 (1977), aff'd on other grounds, Sup. Ct. Op. No. 1557, 573 P.2d 1385 (1978).

And is demonstrated by adoption of this article. — Alaska's strong public policy in favor of arbitration is demonstrated by the adoption of this article. Modern Constr., Inc. v. Barce, Inc., Sup. Ct. Op. No. 1336 (File No. 3060), 556 P.2d 528 (1976).

Freedom to contract for arbitration terms. — In the absence of statutory restrictions, parties are free to contract for the terms of arbitration they desire. Board of Educ. v. Ewig, Sup. Ct. Op. No. 2048 (File No. 4253), 609 P.2d 10 (1980).

Collateral references. — 5 Am. Jur. 2d, Arbitration and Award, § 1 et seq.

6 C.J.S., Arbitration, § 1 et seq.

Resolving real estate disputes through arbitration, 27 Am. Jur. Trials, pp. 621-678.

Validity of state statutory provisions for arbitration of labor disputes, as against the objection of delegation of legislative power without setting up adequate standards to guide the administrative agency, 9 ALR2d 871.

Quotient arbitration award or appraisal, 20 ALR2d 958.

Matters arbitrable under arbitration provisions of collective labor contract, 24 ALR2d 752.

Equity jurisdiction to determine valuation, where arbitration or appraisal has failed, under long-term lease providing for appraisal of premises and fixing rental value at stated intervals, 26 ALR2d 744.

Arbitrator's viewing or visiting premises or property alone as misconduct justifying vacation of award, 27 ALR2d 1160.

Laches or statute of limitations as bar to arbitration under agreement, 37 ALR2d 1125.

Arbitration provisions of employment contract providing for severance or dismissal pay, 40 ALR2d 1052.

Contract providing that it is governed by or subject to rules or regulations of a particular trade, business, or association as incorporating agreement to arbitrate, 41 ALR2d 872.

Validity and effect of arbitration agreement provision that, upon one party's failure to appoint arbitrator, controversy may be determined by arbitrator appointed by other party, 47 ALR2d 1346.

Arbitrator's consultation with outsider or outsiders as misconduct justifying vacation of award, 47 ALR2d 1362.

Effect of vacancy through resignation, withdrawal, or death of one of multiple arbitrators on authority of remaining arbitrators to render award, 49 ALR2d 900.

Constitutionality of arbitration statutes, 55 ALR2d 432.

Death of party to arbitration agreement before award as revocation or termination of submission, 63 ALR2d 754.

Arbitration of disputes within close corporation, 64 ALR2d 643.

Construction and application of provisions of general arbitration statutes excluding from their operation contracts for labor or personal services, 64 ALR2d 1336.

Disqualification of arbitrator by court or stay of arbitration proceedings prior to award, on ground of interest, bias, prejudice, collusion, or fraud of arbitrators, 65 ALR2d 755.

Power of president of corporation to commence or to carry on arbitration proceedings, 65 ALR2d 1321.

Power of arbitrators to award injunction, 70 ALR2d 1055.

Dissolved corporation's power to participate in arbitration proceedings, 71 ALR2d 1121.

Agreement to arbitrate future controversies as binding on infants, 78 ALR2d 1292.

Covenant in lease to arbitrate, or to submit to appraisal, as running with the leasehold so as to bind assignee, 81 ALR2d 804.

Necessity that arbitrators, in making awards, make specific or detailed findings of fact or conclusions of law, 82 ALR2d 969.

Time for impeaching arbitration award, 85 ALR2d 779.

Claim of fraud in inducement of contract as subject to compulsory arbitration clause contained in contract, 91 ALR2d 936.

Appealability of order or decree compelling or refusing to compel arbitration, 94 ALR2d 1071.

Discovery in aid of arbitration proceedings, 98 ALR2d 1247.

Enforcement of contractual arbitration clause as affected by expiration of contract prior to demand for arbitration, 5 ALR3d 1008.

Confirming or setting aside award: appealability of judgment confirming or setting aside arbitration award, 7 ALR3d 608.

Availability and scope of declaratory judgment actions in determining rights of parties, or powers and exercise thereof by arbitrators, under arbitration agreements, 12 ALR3d 854.

Validity and effect, and remedy in respect, of contractual stipulation to submit disputes to arbitration in another jurisdiction, 12 ALR3d 892.

Validity and construction of provision for arbitration of disputes as to alimony or support payments, or child visitation or custody matters, 18 ALR3d 1264.

Municipal corporation's power to submit to arbitration, 20 ALR3d 569.

Validity and enforceability of provision for binding arbitration, and waiver thereof, 24 ALR3d 1325.

Necessity and sufficiency of notice of and hearing in proceedings before appraisers and arbitrators appointed to determine amount of loss, 25 ALR3d 680.

Delay in asserting contractual right to arbitration as precluding enforcement thereof, 25 ALR3d 1171.

Waiver, or estoppel to assert, substantive right or right to arbitrate as question for court or arbitrator, 26 ALR3d 604.

Breach or repudiation of collective labor contract as subject to, or as affecting right to enforce, arbitration provision in contract, 29 ALR3d 688.

Breach or repudiation of contract as affecting right to enforce arbitration clause therein, 32 ALR3d 377.

Participation in arbitration proceedings as waiver of objections to arbitrability, 33 ALR3d 1242.

Power of arbitrator to correct, or power of court to correct or resubmit, nonlabor award because of incompleteness or failure to pass on all matters submitted, 36 ALR3d 939.

Setting aside arbitration award on ground of interest or bias of arbitrators, 56 ALR3d 697.

Construction and effect of contractual or statutory provisions fixing time within which arbitration award must be made, 56 ALR3d 815.

Liability of parties to arbitration for costs, fees, and expenses, 57 ALR3d 633.

Privileged nature of communications made in course of grievance or arbitration procedure provided for by collective bargaining agreement, 60 ALR3d 1041.

State court's power to consolidate arbitration proceedings, 64 ALR3d 529.

Validity and construction of statutes or ordinances providing for arbitration of labor disputes involving public employees, 68 ALR3d 885.

Demand for or submission to arbitration as affecting enforcement of mechanics' lien, 73 ALR3d 1042.

Filing of mechanics' lien or proceeding for its enforcement as affecting right to arbitration, 73 ALR3d 1066.

Refusal of arbitrators to receive evidence, or to permit briefs or arguments, on particular issues as grounds for relief from award, 75 ALR3d 132.

Admissibility of affidavit or testimony of arbitrator to impeach or explain award, 80 ALR3d 155.

Modern status of rules respecting concurrence of all arbitrators as condition of binding award under private agreement not specifying unanimity, 83 ALR3d 996.

Arbitration of medical malpractice claims, 84 ALR3d 375.

Arbitrator's power to award punitive damages, 83 ALR3d 1037.

Statute of limitations as bar to arbitration under agreement, 94 ALR3d 533.

Conflict of laws as to validity and effect of arbitration provision in contract for purchase or sale of goods, products, or services, 95 ALR3d 1145.

Defendant's participation in action as waiver of right to arbitration of dispute involved therein, 98 ALR3d 767.

Appealability of state court's order or decree compelling or refusing to compel arbitration, 6 ALR4th 752.

Claim of fraud in inducement of contract as subject to compulsory arbitration clause contained in contract, 11 ALR4th 774.

Validity of statute or rule providing for arbitration of fee disputes between attorneys and their clients, 17 ALR4th 993.

Sec. 09.43.010. Arbitration agreements valid; application of article. A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable and irrevocable, except upon grounds which exist at law or in equity for the revocation of a contract. However, AS 09.43.010 — 09.43.180 do not apply to a labor-management contract unless they are incorporated into the contract by reference or their application is provided for by statute. (§ 1 ch 232 SLA 1968; am § 3 ch 113 SLA 1972)

Cross references. — For arbitration agreements under Public Employment Relations Act, see AS 23.40.200(f).

Legislative history reports. — For report on ch. 232, SLA 1968 (HB 212 am FCC), see 1968 House Journal, p. 861.

NOTES TO DECISIONS

Section applicable to option to arbitrate. — An option to arbitrate in a written contract is a provision in a written contract to submit a controversy to arbitration and is thus literally within the meaning of this section which states that such a provision is valid. Willis Flooring, Inc. v. Howard S. Lease Constr. Co. & Assocs., Sup. Ct. Op. No. 2598 (File No. 6736), 656 P.2d 1184 (1983).

Cited in Harold's Trucking v. Kelsey, Sup. Ct. Op. No. 1739 (File No. 3695), 584 P.2d 1128 (1978); Alaska State Hous. Auth. v. Riley Pleas, Inc., Sup. Ct. Op. No. 1765 (File No. 3208), 586 P.2d 1244 (1978); City of Fairbanks v. Rice, Sup. Ct. Op. No. 2354 (File No. 4951), 628 P.2d 565 (1981); Masden v. University of Alaska, Sup. Ct. Op. No. 2421 (File No. 5291), 633 P.2d 1374 (1981).

Sec. 09.43.020. Proceedings to compel or stay arbitration. (a) On application of a party showing an agreement described in AS 09.43.010, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Arbitrability to be determined prior to rendition of award. — This section provides for court determination of the issue of arbitrability prior to rendition of an award and before the parties have subjected themselves to the effort and expense of arguing the merits of the dispute to the panel. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Possibility of waiver or estoppel where party fails to seek court review of the arbitrators' decision on arbitrability until after rendition of award. — See University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Applied in Anchorage Daily News, Inc. v. Anchorage Times Publishing Co., Sup. Ct. Op. No. 2393 (File No. 4966), 631 P.2d 500 (1981).

Sec. 09.43.030. Appointment of arbitrators by court. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement. (§ 1 ch 232 SLA 1968)

Sec. 09.43.040. Majority action by arbitrators. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by AS 09.43.010 — 09.43.180. (§ 1 ch 232 SLA 1968)

Sec. 09.43.050. Hearing. Unless otherwise provided by the agreement,

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date; the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a properly notified party to appear;

(2) the parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing;

(3) the hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award; if, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals shall continue with the hearing and determination of the controversy. (§ 1 ch 232 SLA 1968)

Sec. 09.43.060. Representation by attorney. A party has the right to be represented by an attorney at a proceeding or hearing under this chapter. A waiver of the right before the proceeding or hearing is ineffective. (§ 1 ch 232 SLA 1968)

Sec. 09.43.070. Witnesses, subpoenas, depositions. (a) The arbitrators may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and have the power to administer oaths. Subpoenas shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the superior court. (§ 1 ch 232 SLA 1968)

Sec. 09.43.080. Award. (a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not so fixed, within the time the court orders on application of a party. The parties may extend the time in writing either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

The law favors arbitration with a minimum of court interference. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974); Board of Educ. v. Ewig, Sup. Ct. Op. No. 2048 (File No. 4253), 609 P.2d 10 (1980).

Whenever possible an arbitration award rendered in the form required by this section is presumptively valid and shall be upheld without inquiry into the merit of the dispute. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Subsection (a) sets out the minimum requirements as to the form of an award. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Written findings and conclusions not required. — The language in subsection (a) does not require the arbitrators to submit written findings of fact or conclusions of law. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Authority to fashion remedies. — There is ample authority for the proposition that arbitrators generally have authority to fashion any remedy necessary to the resolution of the dispute. Board of Educ. v. Ewig, Sup. Ct. Op. No. 2048 (File No. 4253), 609 P.2d 10 (1980).

Sec. 09.43.090. Modification of award by arbitrators. On application to the arbitrators by a party or, if an application to the court by

a party is pending under AS 09.43.110 — 09.43.130 on submission to the arbitrators by the court under the conditions the court may order, the arbitrators may modify or correct the award upon the grounds stated in AS 09.43.130(a)(1) and (3), or for the purpose of clarifying the award. An application to the arbitrators by a party shall be made within 20 days after delivery of the award to the applicant. Written notice of the application shall be given promptly to the opposing party, stating that objections to the application must be served within 10 days from the notice. A modified or corrected award is subject to the provisions of AS 09.43.110 — 09.43.130. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Superior court authorized to order clarification. — This section clearly authorizes the superior court to return an award to the arbitrators for clarification. University of Alaska v. Modern Constr., Inc., Sup. Ct. Op. No. 1048 (File No. 1977), 522 P.2d 1132 (1974).

Sec. 09.43.100. Fees and expenses of arbitration. Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Ordinarily attorney's fees are not awarded where matters are submitted to arbitration. This is consistent with the strong public policy favoring arbitration, which would be seriously undercut if a party could obtain attorney's fees merely by filing a complaint as an initial step in the arbitration process. Harold's Trucking v. Kelsey, Sup. Ct. Op. No. 1739 (File No. 3695), 584 P.2d 1128 (1978).

Award of attorney's fees held proper. — See Harold's Trucking v. Kelsey, Sup. Ct. Op. No. 1739 (File No. 3695), 584 P.2d 1128 (1978).

Sec. 09.43.110. Confirmation of an award. Upon application of a party, the court shall confirm an award unless within the time limits imposed by AS 09.43.120 and 09.43.130 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in AS 09.43.120 and 09.43.130. (§ 1 ch 232 SLA 1968)

NOTES TO DECISIONS

Applied in Willis Flooring, Inc. v. Howard S. Lease Constr. Co. & Assocs., Sup. Ct. Op. No. 2598 (File No. 6736), 656 P.2d 1184 (1983).

Chapter 40. Labor Organizations.

Article 1. Local Organizations and Ferry System Employees.

Section
46. Collective bargaining agreement

Sec. 23.40.040. Collective bargaining agreement. The commissioner of transportation and public facilities or an authorized representative, in accordance with AS 23.40.020 — 23.40.030, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of transportation and public facilities. The commissioner of transportation and public facilities may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. (§ 1 ch 93 SLA 1962; am § 11 Executive Order No. 39 (1977))

Revisor's notes. — In 1983 this section was redrafted to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982.

Effect of amendments. — The 1977 amendment substituted references to the commissioner of transportation and public facilities for references to the commissioner of public works throughout the section.

Article 2. Public Employment Relations Act.

NOTES TO DECISIONS

When article may be rejected.

In accord with 1st paragraph in main pamphlet. See City of Sitka v. International Bhd. of Elec. Workers, Local 1547, Sup. Ct. Op. No. 2578 (File No. 6116), 653 P.2d 332 (1982).

Action not in reliance on rights under article. — Where municipality's electrical department employees had pursued unionization since the early 1960's, long before the enactment of this article, although all the electrical department employees signed union authorization cards sometime in 1972, there was no evidence of any organizational activities occurring between the effective date of this article, September 5, 1972, and the passage of the exemption ordinance in question, July 10, 1973; thus the employees were not acting in reliance on rights granted them by this article. City of Sitka v. International Bhd. of Elec. Workers, Local 1547, Sup. Ct. Op. No. 2578 (File No. 6116), 653 P.2d 332 (1982).

"Public employees" excludes teachers. — The legislature chose to define "public employees" as excluding teachers from the Public Employment Relations Act because the cooperative relations purpose of that act was already fulfilled with regard to teachers under the provisions of Title 14. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Cited in Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983); Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

Sec. 23.40.070. Declaration of policy.

NOTES TO DECISIONS

Applied in Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Sec. 23.40.170. Regulations.

NOTES TO DECISIONS

Stated in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

Sec. 23.40.200. Classes of public employees; arbitration.

NOTES TO DECISIONS

I. General Consideration.
II. Arbitration.

I. GENERAL CONSIDERATION.

Certain teachers not covered by section. — Teachers, who are not "public employees" for purposes of this article, are not covered by this section. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Strikes by teachers. — Issuance of injunction to end teachers' strike, without separate finding of irreparable harm was not error, since by making these strikes illegal, the legislature has decided that a teachers' strike would cause irreparable harm. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

II. ARBITRATION.

Not exclusive remedy. — The fact that an arbitrator cannot grant the relief afforded by a statute is an indication that holding arbitration to provide an exclusive remedy would conflict with the statutory purpose. Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Issues arbitrable. — The duty to maintain fit premises under a collective bargaining agreement providing for bush housing is one for which a contract remedy is available and is thus arbitrable. Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Issues not arbitrable. — The legality of a clearly expressed and plainly applicable contract formula was held not arbitrable under the terms of a contract clause providing for arbitration in disputes involving the meaning or application of the express terms of the contract. Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Because of the explicit nonwaiver provisions of AS 34.03.040, the right to sue under the Uniform Residential Landlord and Tenant Act, AS 34.03, cannot be prospectively bargained away in a collective bargaining agreement which provides for arbitration. Public Safety Employees Ass'n v. State, Sup. Ct. Op. No. 2607 (File No. 6053), 658 P.2d 769 (1983).

Sec. 23.40.250. Definitions.

NOTES TO DECISIONS

Teachers, who are not "public employees" for purposes of this article, are not covered by this section. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

The legislature defined "public employees" as excluding teachers from the Public Employment Relations Act because the cooperative relations purpose of that act was already fulfilled with regard to teachers under the provisions of Title 14. Anchorage Educ. Ass'n v. Anchorage School Dist., Sup. Ct. Op. No. 2537 (File No. 5021), 648 P.2d 993 (1982).

Quoted in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

American Federation of Government Employees
LOCAL 183
AFFILIATED WITH THE AFL-CIO WASHINGTON, D.C.

LOCAL 183
POST OF FICE BOX 35
ANCHORAGE, ALASKA 99510

TELEPHONE 272-8316

REFER TO FILE:

February 2, 1984

Following is a list of changes and additions we would like made to Senate Bill Number 352:

1. Page 3, line 26, change to read as follows: an employee of the corporation represented the bargaining units, appointed by the governor to represent the employees.

2. Page 26, line 11 through 14: delete

3. Page 26, line 9, insert the following:

d. Employees who are not part of an employees organization bargaining unit on the day before transfer, are not executive officials on the day after transfer, and are protected under the Federal Transfer Law for the two-year period shall become a subdivision of the existing white collar bargaining unit representing The Alaska Railroad Corporation for the purpose of collective bargaining.

People Not employed employees

e. Employees who are not protected under the transfer act for two years and are classified as temporary at the time of transfer will be protected based on their seniority date.

4. Page 27, line 22, insert the following:

(8) Executive officers are the employees occupying the following positions at The Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration, and Chief Counsel.

(9) Collective bargaining is defined as negotiating with an employees organization, representing the employees of The Alaska Railroad Corporation on any matters pertaining to conditions of employment.

5. Alaska Statute Section 39.26.010, Prohibited Acts be adopted with the following modifications:

(a) The word "State" be replaced with "Alaska Railroad Corporation."

(b) Paragraph 5b. The heads of the administrative departments of the State may adopt internal management regulations for their respective departments, specifying exception to (a)(5) of this section. These regulations shall be submitted for approval to the personnel board provided for in AS 39.25.060. Replace as follows:

"The executive officials of The Alaska Railroad Corporation may adopt internal management regulations for their respective departments. These regulations shall be submitted for approval to the Board of Directors of The Alaska Railroad Corporation."

6. The State of Alaska's primary concern over including the current Alaska Railroad employees under PERS is over back year unfunded years. Why not modify the State statute for those employees of The Alaska Railroad who remain under the Civil Service Retirement to be eligible for coverage under the supplemental benefits system? at time of transfer.

Your consideration of the above request will be greatly appreciated. Also, we would appreciate receiving copies of any amendments that are issued to this bill. If you have any questions, please do not hesitate to contact us.

Sincerely yours,

Jack F. Burton
President

Karen Hutton
Vice President



united transportation union

LISTED BELOW ARE MAJOR CORPORATIONS THAT HAS APPOINTED LABOR TO THEIR BOARD OF DIRECTORS WITHOUT RESTRICTIONS:

	CORPORATION	BOARD MEMBERS REPRESENTED BY LABOR
1.	CHRYSLER MOTOR CORPORATION	(1) MEMBER
2.	EASTERN AIRLINES	(3) MEMBERS
3.	AMERICAN MOTORS CORPORATION	(1) MEMBER
4.	PAM AMERICAN AIRLINES	(1) MEMBER
5.	WESTERN AIRLINES	IN PROCESS OF NAMING (2-3) MEMBERS
6.	WIERTON STEEL CORPORATION	LABOR HAS PURCHASED THE CORPORATION

THIS IS A LIST OF JUST A FEW AMERICAN CORPORATIONS THAT HAS GAINED SUCCESS FROM APPOINTING LABOR TO THEIR BOARDS.

GERALD D. VALINSKE
LEGISLATIVE REPRESENTATIVE
LOCAL 1626
ANCHORAGE, ALASKA

TOTE Suggested Committee Report Language

It is the policy of the State that the Alaska Railroad should be operated in a business like manner so as to foster the development of a strong and financially sound system of Interstate Commerce. Accordingly, the Railroad should not use public resources or the benefits of its public status to compete unfairly with private carriers. Subsection (d)(1) makes the Alaska Railroad fully subject to the federal antitrust laws. The bill declines to invoke the so-called State action exemption, or any other exemption from the antitrust laws. Subsection (d)(3) also explicitly limits the Railroad to acting as a rail carrier and prohibits it from entering the water carrier or motor carrier business in competition with privately owned carriers.

Subsection (d)(2) prevents the Railroad from utilizing the public benefits of direct or indirect subsidy (such as ability to issue tax-exempt bonds and freedom from taxation and license and permit fees) to undercut rates established in the competitive marketplace. This provision allows the Railroad to meet any rate for comparable service set by any privately owned and operated carrier irrespective of whether or not the Railroad can earn a profit by doing so. This section only prohibits the Railroad from using its subsidy to undercut the rates of the private carriers for comparable service. If the Railroad can price below the privately owned carriers and still earn a profit, it is certainly permitted to do this.

TOTE Proposed Amendments to Senate Bill No. 352

1. Add a new Subsection (d) to Section 1, as follows:

(d) It is the policy of the State of Alaska that the Alaska Railroad:

(1) shall be subject to the antitrust laws of the State of Alaska, AS 45.50. 471 - 45.50. 596, and to the antitrust laws of the United States, as defined in 15 U.S.C. 12, to the same extent as privately owned and operated railroads;

(2) shall not use direct or indirect subsidy to compete unfairly with privately owned and operated carriers; and

(3) shall not offer motor or water transportation services in competition with services offered on the date of transfer by privately owned and operated motor or water carriers.

American Federation of Government Employees
LOCAL 183
AFFILIATED WITH THE AFL-CIO WASHINGTON, D.C.

LOCAL 183
POST OFFICE BOX 35
ANCHORAGE, ALASKA 99510

TELEPHONE 272-8316

REFER TO FILE:

Official Time: (a) Any employee representing an Bargaining Unit in the negotiation of a Collective bargaining agreement shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this section shall not exceed the number of individuals designated as representing the employer for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

Gerald D. Valinske
Legislative Representative
Local 1626
United Transportation Union
Anchorage, Alaska

Karen Hutton
Vice President
Local 183

AK.
RAILROAD
STAGGERS
RAIL ACT
of 1980

FOR INFORMATION:

OFFICE OF THE GENERAL COUNSEL.
Section of Legislation

SUMMARY OF THE "STAGGERS RAIL ACT OF 1980"

January 8, 1981

MEMORANDUM TO THE COMMISSION
AND HEADS OF BUREAUS AND OFFICES:

As you know, on October 14, 1980, President Carter signed into law the "Staggers Rail Act of 1980." Attached for your information is a section-by-section summary of the provisions of this act. The purpose of this document is to provide a general overview of the legislation which is both short enough to be useful and detailed enough to be reasonably comprehensive. Of course, a survey of this kind cannot hope to resolve the many complexities of this legislation in any great detail.

By way of introduction, I am also including a capsule summary of the legislative history of the act.

Additional copies of this summary are available from this office (X 57231).

Hanford O'Hara

HANFORD O'HARA
Associate General Counsel
For Legislation

Attachment

SUMMARY OF LEGISLATIVE HISTORY

SENATE

March 27, 1979	-	Senator Cannon (by request) introduces S. 796, the "Railroad Deregulation Act of 1979" (the Administration Bill).
	-	Several hearings from April 12, 1979, through July 6, 1979. S. 796 never reported by Subcommittee on Surface Transportation.
October 29, 1979	-	Senators Cannon, Long, and Packwood introduce S. 1946, the "Railroad Transportation Policy Act of 1979."
		Several hearings held beginning November 7, 1979, (ICC testimony November 7).
December 7, 1979	-	Reported by Committee on Commerce, Science, and Transportation (S. Rep. No. 96-470).
February 22, 1980	-	Hearing held on proposed Long amendment (ICC testified).
April 1, 1980	-	Passed by Senate.
April 15, 1980	-	Referred to House Committee on Interstate and Foreign Commerce.

House

April 24, 1979	-	ICC testifies before the Subcommittee on Transportation and Commerce of the House Interstate and Foreign Commerce Committee on the subject of regulatory reform of the railroad industry.
June 21, 1979	-	Congressman Staggers (by request) introduces H.R. 4570, the "Railroad Deregulation Act of 1979" (the Administration bill). A series of hearings were held from July 2-November 1, 1979 by the Subcommittee on Transportation and Commerce.
February 14, 1980	-	Congressman Florio and Madigan release a working draft of railroad deregulation legislation.

April 29, 1980	-	Subcommittee on Transportation and Commerce reported a clean bill to the Interstate and Foreign Commerce Committee.
May 1, 1980	-	Subcommittee reported bill is introduced--H.R. 7235, the "Rail Act of 1980."
May 16, 1980	-	H.R. 7235 reported by the Interstate and Foreign Commerce Committee (H.R. Rep. No. 96-1035).
June 30, 1980	-	H.R. 7235 considered on House floor-general debate.
July 2, 1980	-	Continued House floor consideration.
July 24, 1980	-	Continued House floor consideration. With the passage of Cong. Eckhardt's amendment (placing greater restrictions on maximum rates), the floor managers removed the bill from further consideration.
August 28, 1980	-	Hearing held before Subcommittee on Oversight and Investigations of House Commerce Committee on proposed cost recovery percentage provision in H.R. 7235 (ICC testified).
September 5, 1980	-	House floor consideration. Compromise amendment was introduced by Congressman Staggers and debated.
September 9, 1980	-	House passed H.R. 7235, the "Staggers Rail Act of 1980." Subsequently, this passage was vacated and S. 1946 was passed after being amended to contain the language of H.R. 7235.
September 26, 1980	-	Conference report filed (H.R. Rep. No. 96-1430).
September 30, 1980	-	Conference report passed the House and Senate.
October 14, 1980	-	Signed by the President (P.L. 96-448).

SECTION-BY-SECTION ANALYSIS OF THE SUBSTANTIVE PROVISIONS OF S. 1946

TITLE II - RAILROAD RATES AND INTER-CARRIER PRACTICES

Section 201 - Regulation of Railroad Rates

This section adds new Section 10701a to the Act. Basically it provides that, in the absence of market dominance, a carrier may establish any rate it desires so long as it contributes to the going concern value. If the carrier has market dominance, the rate must be reasonable.

Section 201 also sets forth the burden of proof obligations for proceedings to determine the reasonableness of a rate. The shipper has the burden if: (1) the rate is authorized under new Section 10707a (Zone of Rate Flexibility), and results in a revenue-variable cost percentage that is less than 20 percentage points above the cost percentage applicable that year or 190 percent, whichever is less, or (2) the rate is not within (1) but the Commission does not investigate under Section 10707. The carrier has the burden if: (1) the rate is beyond the zone of rate flexibility; or (2) the rate results in a revenue-variable cost percentage equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable in that year under new Section 10709(d) (Determination of Market Dominance) or greater than 190 percent, whichever is less; and the Commission begins an investigation. Thus, the burden is on the shipper in all instances unless the Commission begins an investigation, and the Commission is precluded from an investigation (see new Section 10707a(e)(2) added by Sec-

tion 203 of the Staggers Act) unless certain criteria are met. In a complaint proceeding, the burden remains on the shipper to prove that a rate is unreasonable, regardless of the revenue-variable cost percentage.

In determining whether a rate is reasonable, the Commission is required to recognize the policy that rail carriers are to earn adequate revenues (see Section 10704(a)(2), as amended by Section 205(b) of the Staggers Act).

Section 201 further provides that a rate may not be established below a reasonable minimum. A rate that does not contribute to going concern value is presumed unreasonable, while a rate that does so contribute is conclusively presumed not to be below a reasonable minimum. Further, a rate that equals or exceeds variable cost is conclusively presumed to contribute to the going concern value. The Commission has 90 days to take final action on a complaint alleging that a rate is too low, and if it finds a rate too low, shall order the rate raised to the minimum level required by this section. The complainant in such a proceeding has the burden of proof. The Commission may not include in variable costs an expense that does not vary directly with the level of service provided under the proposed rate.

Section 202 - Determination of Market Dominance

This section adds a new subsection to Section 10709 of the Act. Basically, it establishes a schedule of reve-

nue-variable cost percentages to be used in determining whether a carrier has market dominance over the transportation to which a challenged rate applies. The revenue to variable cost schedule is:

(1) 160 percent until September 30, 1981:

(2) 165 percent from October 1, 1981, until September 30, 1982;

(3) 170 percent from October 1, 1982, until September 30, 1983;

(4) 175 percent or the cost recovery percentage (defined below), whichever is less, from October 1, 1983, until September 30, 1984; and

(5) the cost recovery percentage during each 12-month period after October 1, 1984.

However, this section also provides that after October 1, 1983, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than 180 percent. Thus, the range for this threshold jurisdictional finding will be from no less than 170 percent to 180 percent of the revenue-variable cost ratio after October 1, 1983.

A finding that a rate results in a revenue-variable cost ratio equal to or greater than the percentage listed above does not establish a presumption that there is market dominance or that the rate is unreasonably high. It merely establishes a jurisdictional threshold, and the Commission

must still determine if there is market dominance and, if so, whether the rate is nonetheless reasonable. The definition of market dominance in Section 10709(a) of the Act is not changed by this provision. The conference report (House Report No. 96-1430, 96th Cong., 2d. Sess., September 29, 1980) specifies at page 88:

> The definition of market dominance under existing law has not been altered by the substitute, and it is not intended that there be any change in the meaning of the term, nor is any change intended in the Commission's authority to determine market dominance and reasonableness concurrently. However, since other parts of the Conference substitute provide additional rate freedom for rail carriers beyond those found in present law or under existing or proposed Commission regulations, the Commission must revise its market dominance regulations.

Thus, the Commission must determine that a rate is above the threshold and that the carrier has market dominance before it addresses the question of reasonableness, although this can be done concurrently.

Section 202 also provides certain definitions. "Fixed and variable cost" means all cost incurred by the carrier, but limits the return on equity capital to a rate equal to the embedded cost of debt. The "cost recovery percentage" means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of this cost

recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

The Commission is required, within 180 days of the effective date of the Act, and annually thereafter, to determine the cost recovery percentage. Also, as mentioned, this percentage must always be in the range of 170 to 180 percent of revenue to variable cost after October 1, 1983.

In determining a particular revenue to variable cost percentage, the Commission is to use the carrier's unadjusted costs from Rail Form A, with any adjustments specified by the Commission. (See Section 10705a(m)(1) of the Act, added by Section 217 of the Staggers Act.) A shipper may rebut evidence establishing these costs by evidence of such type as the Commission prescribes.

Section 203 - Zone of Rail Carrier Rate Flexibility

This section adds new Section 10707a to the Act. Basically, it provides a formula which allows carriers to increase any rate to reflect increases in the Index of Railroad Costs. (Carriers are allowed to raise a rate to the "adjusted base rate," to be defined below). Subject to certain restrictions, it also allows carriers to raise rates by six percent a year for four years above the adjusted base

rate (subject to a maximum of 18 percent), and by four percent annually after that. It also provides for the carry-over of the six percent increase into subsequent years but not of the four percent increase. Also, a carrier earning adequate revenues cannot use the four percent zone to increase a single-line rate.

The Commission is required to attempt to prescribe rules with respect to joint rates and carriers earning adequate revenues. Generally, rates up to the adjusted base rates are not subject to challenge while rate increases within the four and six percent zones are subject to complaint proceedings. The conference report, at page 93, states:

> "The language of subsection (b) [allowing increases up to the adjusted base rate] makes it clear that rate increases which do not exceed the adjusted base rate may not be found by the Commission to exceed a maximum rate level. The reference to rate increases under subsections (c) and (d) of this section [the six and four percent zones] is not intended to suggest that increases under those subsections are presumed to be reasonable. The reasonableness of such rate increases shall be determined under the same standards of maximum reasonableness applicable to any other rate or rate increase."

Also, during the floor debate on this subject, (Congressional Record of September 30, 1980, at page H10082) the following exchange took place:

> **"Mr. Florio.** The gentleman [Mr. Eckhardt] is correct, those flexibility rate zones can be challenged upon complaint.
>
> **Mr. Eckhardt.** They are challengeable and they are not presumed to be reasonable within that range, is that correct?

Mr. Florio. Nor are they presumed to be unreasonable.

Mr. Eckhardt. That is correct. No presumption in either direction is connection with these rates?

Mr. Florio. The gentleman is correct."

With regard to definitions, Section 203 specifies that "base rate' means, with respect to the transportation of a particular commodity: (1) until October 1, 1982, the rate in effect on October 1, 1980, (2) for the next two years, the rate in effect October 1, 1982, and (3) for the next five years, and for each subsequent five-year period, the rate in effect on the first day of the applicable five-year period. Thus, the base rate will, after four years, be changed every five years. If there is no rate in effect on the above dates, the base rate will be the rate established by the carrier (divided by the rail cost adjustment factor) unless that rate is found unreasonable by the Commission, in which case the base rate will be the rate authorized by the Commission.

The Commission is required, on a quarterly basis, to publish a rail cost adjustment factor. This factor is a fraction, the numerator of which is the latest published Index of Railroad Costs, and the denominator of which is the same index for the fourth quarter of 1980 (or 1982, or every fifth year thereafter, as appropriate). Thus, the rail cost adjustment factor for the fourth quarter of 1980 will be 1/1.

As mentioned, a carrier may increase any rate so long as the increased rate is not greater than the adjusted base rate plus the six and four percent zone. However, a carrier may not increase a rate pursuant to this provision to the extent that the cost increases to the carrier due to inflation are recovered by general increases (Section 10706) or inflation-based increases (Section 10712 of the Act, as added by Section 206 of the Staggers Act). It is not specified how the Commission is to determine that a cost increase is "due to inflation."

Section 203 also limits Commission jurisdiction over rate increases which are within the zones of flexibility. The Commission may not suspend a rate within the zones, and may only investigate in certain circumstances.[1/] However, a complaint may be filed alleging that a rate increase within the zones violates the Act. In any such complaint proceeding challenging a rate increase within the six percent zone (but not the four percent zone) which results in a rate which the Commission is not authorized to investigate on its

---

1/ The Commission may investigate a rate increase within the zones on its own initiative only if the increase results in a revenue-variable cost percentage that is equal to or greater than: (1) 20 percentage points above the Commission's jurisdictional threshold, or (2) 190 percent. Thus, after October 1, 1982, the Commission could investigate any rate increase which results in a revenue-variable cost ratio above 190 percent.

own initiative (see footnote, previous page), the Commission must, in determining reasonableness, consider whether the carrier has attained adequate revenues. The Commission must give regard to the policy of preventing a carrier with adequate revenues from obtaining excessive profits, and also to the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level.

In determining whether or not to investigate a rate increase in those instances where it can investigate, the Commission must set forth its reasoning, and give due consideration to: (1) the amount of traffic moving at revenues which do not contribute to going concern value; (2) the amount of traffic which contributes only marginally to fixed costs; and (3) the impact of the proposed rate on the attainment of national energy goals and the rail transportation policy. This provision does not modify the nonreviewability of the Commission's determination.

This section also specifies three considerations, among others, the Commission must address in determining the reasonableness of a rate. (Apparently this refers to any rate, and not simply ones filed pursuant to this provision.) Those considerations are:

> "(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic; (ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and (iii) the carrier's mix of rail traffic to deter-

mine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

This section also provides that a rate increase exceeding the adjusted base rate and/or the zones does not establish a presumption either way with regard to market dominance or reasonableness.

Finally, this section also contains the "San Antonio" provision, which limits coal rates to the municipally-owned utility in San Antonio, Texas.

Section 204 - Transportation of Recyclable Materials

This section adds a new subsection to Section 10731 of the Act. It requires that within 90 days after the effective date of the Staggers Act, all carriers must reduce and thereafter maintain rates for recyclables (other than iron or steel) at revenue-to-variable cost ratios that are equal to or less than the average revenue-to-variable cost ratio that the carriers would be required to realize to cover total operating expenses. Total operating expenses include depreciation and a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital. The Commission has jurisdiction to issue all orders necessary to enforce this subsection.

Section 205 - Rate Regulation Proceedings; Adequate Revenues

This section requires the Commission, within 230 days of the effective date of the Staggers Act, to complete a proceeding to determine whether, and to what extent, product

competition should be considered in proceedings to determine the reasonableness of rates. Product competition is defined. For the purposes of this section, imported coal is not to be taken into account when determining whether coal is available from another source. Nothing in this section is to be construed to modify the Commission's standards for determining market dominance or rate reasonableness.

This section also modifies Section 10704 of the Act. It requires the Commission to conclude a proceeding to define adequate revenue levels, and to determine on an annual basis which carriers are earning adequate revenues. There is some dispute as to whether the Commission must rely solely upon a rate of return on net investment equal to the cost of capital. Mr. Madigan (at page H10082 of the Congressional Record of September 30, 1980) stated: "A rate of return adequate to attract capital is the only economically rational revenue adequacy standard. This return is equal to the cost of capital." Further, (at page H10083 of the Congressional Record of September 30, 1980) he specified:

> "The conferees, however, do not intend that the Commission attempt to second guess the market's decision as to what return is needed to attract capital or to second guess the market's determination of the railroads' capital needs.... there is no basis for any conclusion except that railroads should not (sic) earn a return equal to the cost of capital on all of their capital."

Mr. Eckhardt, however, (at page E4857 of the Congressional Record of October 15, 1980) specified:

> "I do not believe that Mr. Madigan's remarks reflect the position of the conference on the subject of adequate revenues. Any suggestion that

> the conferees intended that the Commission must change its standards from what they are today or that they must rely solely or primarily upon a rate of return on net investment equal to the cost of capital is unfounded."

Mr. Eckhardt also appended a letter from Senator Long to the effect that Mr. Madigan's statements were specifically considered and rejected by the conference members, and that the Staggers Act does not require the Commission to develop new standards for determining revenue adequacy, but merely to conclude the process of revising its standards. Based on this, it would appear that the Commission is not required to set a revenue adequacy standard based on a return equal to the cost of capital.

Section 206 - Inflation-Based Rate Increases

This section adds a new Section 10712 to the Act, effective January 1, 1981. It permits (but does not require) the Commission, on a quarterly basis, to prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. This percentage rate increase or index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis. Any such index may permit rate increases within a specified range to allow carriers to recover a total revenue increase necessary to compensate for inflationary cost increases.

If the Commission prescribes such an index, each carrier must, within 60 days, notify the Commission of any rate or group of rates it intends to be excluded from the application of the index. The Conference Report, at

page 98, states that such an index may not be necessary, since carriers are free to recover inflation on individual rates without challenge. It further refers to the policy discouraging automatic pass-through of inflation through increases of general applicability.

Section 207 - Investigation And Suspension Of Rates

This section modifies Section 10707 of the Act. As modified, the Commission is required to complete a proceeding within five months if a suspension has occurred, and may take an additional three months if Congress is notified it is necessary. If the Commission does not reach a timely decision, the rate goes into effect.

The Commission may not use its suspension power unless: (1) it is substantially likely protestant will prevail on the merits; (2) without suspension, the proposed rate will cause substantial injury to the protestant; and (3) because of the peculiar economic circumstances of protestant, the refund provisions (discussed below) do not protect the protestant.

If the Commission does not suspend, it must require the carrier to account for all amounts received under the increase. If a part of the increase is ultimately deemed unreasonable, the carrier must refund that portion, plus interest, to shippers who paid it. If a rate is suspended, and later found reasonable, the shipper must pay the difference, plus interest. The Commission is required, by

rule, to establish standards permitting a carrier to waive the collection of amounts due under this provision if the amounts are not significant.

Section 208 - Contracts

This section adds a new section to the Act specifically authorizing carriers to enter into contracts with one or more shippers. Contracts must be filed with the Commission, along with a summary containing such nonconfidential information as the Commission prescribes. The essential terms of the contract are to be made available to the general public in tariff format. Short deadlines are established for Commission approval or disapproval of a contract.

Shippers and ports are allowed to protest a contract. However, the Act allows shippers and ports to protest and the Commission to disapprove contracts only on limited grounds; i.e., (1) that the contract will prevent the carrier from fulfilling its common carrier obligation to a complaining shipper, and (2) that the contract will result in unreasonable discrimination against a port. The Commission may not disapprove a contract on other grounds, such as that the rate is unreasonably high or low, or that the carrier has discriminated against some other shipper by not offering it the same contract terms.2/

2/ Shippers of agricultural commodities, however, may challenge a contract on the grounds that (1) "the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services...under similar conditions...;" or (2) "the proposed

The new section gives the Commission 60 days from the filing of the contract to approve or disapprove it. If not disapproved in that time period, it becomes effective. Once effective, the contract may not thereafter be challenged by anyone.

Several issues relating to this provision were raised in G.C. Memo No. 80-367, as supplemented by G.C. Memo No. 80-394. These issues and the discussion thereof will not be reiterated at this time.

Finally, the Commission is required to establish a railroad contract rate advisory service to, among other things, provide advice to the Commission and interested parties about contracts.

Section 209 - Demand Sensitive Rates

This section repeals the demand sensitive rate provision of the Act, Section 10727. The Conference Report specifies at page 101:

> The conferees direct the Commission to explore alternative methods of improving car utilization and making railroad prices and services more responsive to market conditions instead of artificial regulatory restraints. However, the Commission is on specific notice not to contravene the policy set out by Congress which is clearly to prevent demand-sensitive rates by any means to apply to agricultural commodities.

2/ (continued) contract constitutes a destructive competitive practice..." Section 208(d)(2)(B).

Also, Senator Kassebaum stated (126 Cong. Rec. S 14011, 96th Cong, 2nd Sess; September 30, 1980):

> "Demand sensitive rates are specifically repealed in the conference substitute, and strong conference report language is included making it crystal clear that it is the intent of Congress that the ICC is not to try to impose a "demand sensitive" rate on agricultural shipments. The conferees included this language in recognition of the fact that such rates are totally inappropriate in the sort of market which is the driving factor in shipments of grain and other agricultural commodities."

Chairman Gaskins sent a letter on September 16, 1980, to Senator Exon which stated: "In my view, repeal of this section [Section 10727] will lead the Commission to repeal its existing regulations regarding demand-sensitive rates and to refuse to initiate new rulemakings on this subject."

Section 210 - Phaseout of Capital Incentive Rates

This section repeals the capital incentive rate provision of the Act (Section 10729). However, it specifies that any rate established pursuant to that provision entered into prior to the effective date of the Staggers Act should remain in effect for up to five years, unless the parties agree otherwise.

Section 211 - Permissive Limited Liability Rates

This section adds a new subsection to Section 10730 of the Act. It allows carriers to establish rates under which the liability of the carrier is limited to a value pre-established by a written declaration of the shipper or by a written agreement between the shipper and the carrier.

Such an agreement may provide for a specified deductible for any claim against the carrier for damage or delay.

This section also specifies in what locations court cases may be brought for damage claims against a carrier.

This section also provides that within a year the Attorney General and the ICC must independently investigate whether rail carriers should be subject to the Carmack amendments (Section 11707). Both are to submit a report to Congress recommending appropriate legislative action. A list of issues to be addressed in this report is specified.

Section 212 - Rate Discrimination

This amendment modifies Section 10741 of the Act by striking out existing subsection (e) and adding two new subsections. These subsections provide that differences between rates of rail carriers do not violate Section 10741 if such differences result from different services provided by the carriers. It also provides that Section 10741 does not apply to: (1) contracts; (2) surcharges; (3) separate rates for distinct rail services; (4) rates applicable to different routes; or (5) business entertainment expenses. However, provisions (2), (3), and (4) do not apply with respect to rate relationships between ports or within the same port.

The Conference Report, at page 104, specifies that the conferees expect the Commission to exercise its remaining power under Section 10741 only where it is needed to prevent

abuses of market power where discrimination cannot be justified by differences in demand for services of costs. It also specifies that the reference to separate rates for distinct rail services is not intended to affect the Wichita doctrine (Atchison, T & S.F. Ry. Co. v. Wichita Board of Trade, 412 U.S. 800 (1973)). The Wichita doctrine, in essence, requires that a carrier, if it attempts to charge extra for an accessorial service that was previously included in a line haul rate, must either reduce the line haul rate or justify keeping it at the existing level.

Section 213 - Exemptions

This section modifies Section 10505 of the Act to expand the Commission's exemption authority. It provides that the Commission shall exempt a person, class of persons, or a transaction or service from regulation when the Commission finds that the application of a provision of the Act: (1) is not necessary to carry out the transportation policy, and (2) either the transaction or service is of limited scope or the provision is not needed to protect shippers from the abuse of market power. However, no exemption can relieve a carrier from the liability provisions of Section 11707.

The Commission may exempt transportation that is provided by a rail carrier as part of a continuous intermodal movement. However, the ICC may not authorize intermodal ownership that is otherwise prohibited, or relieve a carrier of labor protection obligations.

The Conference Report (at page 105) specifies that this provision permits exemptions whenever regulation is not needed to prevent abuses of market power, regardless of the presence of effective competition. It also states that the conferees expect that the Commission will pursue partial and complete exemptions from remaining regulation. Further, it specifies that the conferees expect that as many as possible of the Commission's restrictions on changes in prices and services will be removed and that the ICC will adopt a policy of reviewing carrier actions after the fact to correct abuses of power.

Section 214 - Intrastate Rates

This section provides that a State authority may only exercise jurisdiction over intrastate transportation by an interstate carrier exclusively in accordance with the provisions of the Interstate Commerce Act. Each State authority is required to submit, within 120 days, the standards and procedures it uses to exercise its jurisdiction. Within 90 days, the ICC must determine if these standards and procedures are proper, and, if so, so certify. Existing procedures and standards are deemed to be certified until the Commission acts. The certification is good for a five-year period, after which a re-filing is required.

A State authority may not exercise authority over general rate increases, inflation-based rate increases, or fuel adjustment surcharges approved by the Commission. (Please

see G.C. Memo No. 80-410 with regard to pending intrastate general rate increases). A State authority's decision on other matters may be appealed to the Commission, which must act within 30 days. Finally, this provision provides that the jurisdiction of the Commission over transportation by rail carriers and the remedies provided in Title 49 with respect to rates, classifications, rules, and practices of rail carriers is exclusive. No State law or Federal or State common law remedies are available.

Section 215 - Business Entertainment Expenses

This section provides that business solicitation or entertainment expenses incurred by rail carriers do not constitute illegal rebates or discrimination, if these expenses would be legal when incurred by a non-Commission regulated entity. In addition, it provides that the provision applies to any permissible business expense incurred prior to the effective date of the Staggers Act, other than expenses on which a penalty has already been paid pursuant to Section 10761 of the Act.

Section 216 - Efficient Marketing

This section permits tariffs increasing rates to be effective upon 20 days' notice and tariffs reducing rates to become effective upon 10 days' notice. It does not modify existing law which permits the effective date of tariffs to be reduced by the Commission upon cause shown.

Section 217 - Compensatory Joint Rate Relief

This section adds a new and extremely long and complex Section 10705a to the Act. This section provides standards and procedures for surcharging an existing rate or for canceling the application of a joint rate to a particular route. In general, it provides that a surcharging carrier will be able to get revenues equal to or in excess of 110 percent of its variable costs for providing a particular service. Special provisions are included for the protection of Class III carriers, and in certain instances connecting carriers and/or shippers may challenge the application of a surcharge.

Subsection (a) authorizes a carrier to apply a surcharge increasing or decreasing the through charge applicable to any joint rate, without the concurrence of other carriers party to the joint rate. However, a carrier earning adequate revenues may not apply a surcharge to a line which carried more than 3,000,000 gross ton miles of traffic per mile in the previous year. The surcharge must be applied in equal dollar amounts to all routes for the movement under the joint rate in which the surcharging carrier participates, and to all single line routes between the same end points.

A connecting carrier may cancel the application of a surcharge by showing that the surcharging carrier's existing revenues over the route are equal to or in excess of 110

percent of its variable costs, or by putting into effect a new division or new rate which provides the surcharging carrier 110 percent of its variable cost. Alternatively, the Commission could prescribe a new, lesser surcharge giving the surcharging carrier revenues equal to or greater than 110 percent of its variable costs.

The Commission may also cancel the application of a surcharge if a shipper shows that it has no competitive alternative and that the carrier's revenues with the surcharge exceed 110 percent of its variable costs.

A carrier may not apply a surcharge unless it has concurred in all general increases for the previous year. A carrier may only apply a surcharge under this provision once a year, and the provision is in effect for only three years unless extended for one more year by the Commission (see Section (p)(1)).

Subsection (b) provides that a carrier not earning adequate revenues may apply a surcharge applicable to traffic on any line that carried less than 3,000,000 gross ton miles of traffic per mile the previous year. If the carrier does have adequate revenues, this figure is 1,000,000 gross ton miles of traffic per mile. No concurrence of another carrier is necessary, and the surcharge may be applied in differing amounts on different movements. However, a shipper may not be required to bear more than a reasonable proportion (as determined by the Commission) of reasonably expected costs of continuing service.

A carrier may apply a surcharge under this subsection only if the existing rate does not provide revenues adequate to cover 110 percent of the carrier's variable cost plus 100 percent of its reasonably expected costs of continuing to operate the line. The Commission is required to define reasonably expected costs, which are to include all costs necessary to sustain service on the line. However, the conference report (at page 112) specifies "...the conferees intend that such surcharges may not be imposed in a manner which would require shippers to pay for extraordinary occurrence (i.e. bridge washouts, landslides) in a short period of time."

Thus, under this provision, carriers are allowed to apply surcharges to light density lines which cover both the carrier's variable costs and its reasonably expected costs. A shipper may petition the Commission to cancel the surcharge if it shows that the rate with the surcharge provides revenues which exceed these costs. The shipper is rebuttably presumed to have met this burden if it shows that the carrier's revenue to variable cost percentage is equal to or greater than the revenue to variable cost percentage in effect for that year under Section 10709(d) (jurisdictional threshold) of the Act. A carrier may rebut this presumption by showing that its reasonably expected costs exceed that percentage.

The Commission may reduce the amount of the surcharge to a level which allows revenues to cover variable costs plus reasonably expected costs. It can also reallocate the way the surcharge is applied to the traffic of the various shippers on the line. The Commission's jurisdiction to suspend surcharges applied to light density lines is limited.

Section 217 also allows a carrier to cancel the application of a joint rate to a through route without the concurrence of a connecting carrier in certain circumstances. It may not cancel if the connecting carrier or a shipper who has no competitive alternative shows that the existing rate produces revenues that are equal to or greater than: (A) 110 percent of its variable cost; or (B) such lesser percent of the carrier's variable cost as it earns over a competing through route to which appliction of the joint rate has not been cancelled, or over a competing single line route.

If a complaining party can not show (A) or (B), the Commission can only preclude cancellation if: (1) a new rate or division is established which increases the cancelling carrier's revenues to the level established under (A) or (B) (whichever is less); or (2) it imposes a surcharge which provides the cancelling carrier with revenues equal to or greater than 110 percent of its variable costs for providing the service. Nothing in this subsection may be construed to limit the Commission's authority to prescribe

joint rates which provide a carrier with revenues equal to or greater than 110 percent of variable costs.

Subsection (d) provides that (except with regard to a through route with a Class III carrier) any increase or decrease in revenue resulting from a surcharge or cancellation of a joint rate is only to be borne by or accrue to the surcharging or cancelling carrier. If a Class III carrier participates in a through route upon which a surcharge is imposed, the Class III carrier is to share in any revenues generated in excess of 110 percent of the surcharging carrier's variable cost. The Class III carrier's share is to be based on the existing division of the joint rate.

Subsection (e) provides that, when a carrier puts into effect a new rate or division in order to prevent a surcharge or cancellation from taking effect over a particular route, the surcharging or cancelling carriers can require similar concessions on other competing through routes. However, a carrier is not required to agree to a new division or a new rate which would:

(A) reduce its revenues to less than 110 percent of its variable costs or such lesser percent it earns over a competing through route with respect to which the carrier has agreed to a new rate or division;

(B) increase the surcharging or cancelling carrier's share to an amount in excess of 110 percent of its variable costs;

(C) reduce the carrier's share by a dollar amount in excess of the greatest dollar reduction the carrier has agreed to on a competing through route; or

(D) reduce the carrier's share of the total through charges to an amount in excess of the carrier's pro rata charge (based on established divisions for movements over the route) of the increase of the surcharging or cancelling carrier's share of the total through charges for movements over the route.

Subsection (f) provides that a carrier applying a surcharge or cancelling a joint rate must file a tariff with the Commission. It may not become effective for 45 days.

Subsection (g) provides that, with certain exceptions, the Commission may not remedy a surcharge or cancellation found to violate another section of Title 49 in a way which would require a carrier to provide service at less than 110 percent of variable cost (or reasonably expected costs in the case of a light density line). It also provides that any rail rate to which a surcharge is applied is subject to Sections 10701(a) and 10707 of the Act, and that a surcharge constitutes a rate increase for the purposes of those sections. Only the carrier proposing a surcharge is required to defend the surcharge, and the reasonableness of the surcharge is to be determined without regard to revenue received by other carriers party to the joint rate.

Subsection (h) requires the Commission, within five days of the surcharge filing, to make available to interested parties the Commission's determination of variable costs and revenues for the surcharged route.

Subsection (i) requires the Commission to investigate the application of a surcharge or a cancellation if a Class III carrier protests and makes a prima facie case that the surcharge or cancellation will have an adverse effect on competition. If the Commission finds the surcharge or cancellation is or is intended to be anticompetitive, it is to order its recission. However, the order cannot require a carrier to provide service under a rate which provides revenues of less than 110 percent of variable costs unless the Commission determines that the public interest so requires.

Subsection (j) provides the standards under which a Class III carrier may protest the application of a surcharge or cancellation. The Commission may, after an investigation, prescribe a lesser surcharge or a different division, but cannot lower revenues to less than 110 percent of variable costs unless the public interest so requires. The Commission has 30 days to act on a protest.

Subsection (k) permits a Class III carrier to complain to the Commission that a surcharge or cancellation creates unreasonable differences in existing rates. The Commission must investigate such a complaint, and within 30 days take whatever actions it feels are required to eliminate the differences in rates. However, no action by the Commission may

require a carrier to provide service which provides a revenue to variable cost ratio less than that provided under the surcharged joint rate or less than 110 percent, whichever is greater, unless the public interest so dictates. If the Commission considers requiring a return of less than 110 percent (based on Rail Form A costs), the carrier may prove its actual costs for the movement by other evidence.

Subsection (l) requires the Commission, upon protest by a Class II or III carrier, to prescribe a new compensatory through route when the application of a joint rate to a through route has been cancelled.

Subsection (m) sets forth the method for determining variable costs for the purpose of this section.

Subsection (n) provides that the authority to impose surcharges expires in three years, but allows the Commission to extend this for one year. Surcharges made within this time period will continue to be lawful.

The Commission is also required to classify all rail carriers on the basis of revenues. It is also required in its annual report to include a report on surcharges and cancellations by Conrail. Finally, it is required to submit, within two years, a report to Congress on the effectiveness of the surcharge provision.

Section 218 - Expedited Division of Revenues Proceeding

This section requires the Commission to complete all evidentiary proceedings to adjust the division of joint

rates within nine months if the proceeding is brought on complaint, or 18 months if initiated by the Commission. The Commission must take final action by the 180th day after completion of evidentiary proceedings. For a three year period, this expedited divisions provision does not apply to Class III carriers.

The Conference Report, at page 113, states:

> "The conferees intend that the Commission will modify its regulations governing divisions proceedings to insure that prefiling requirements do not frustrate the purpose of the Congress to expedite divisions proceedings as much as possible. The conferees also expect the Commission to examine closely alternative means of dividing revenues among carriers in a manner which might better reflect market conditions than the crude, across the board divisions which now apply regardless of the specific economic conditions of the carriers involved and the markets they serve."

Section 219 - Rate Bureaus

This section modifies the activities a rate bureau may permit its members to engage in if it is to be approved by the Commission and its members are to be immune from the antitrust laws. Carriers may not discuss, vote, or agree on single-line rates. The Commission may allow such discussions for general rate increases or broad tariff changes only if it finds that the implementation of this limitation is not feasible in those instances. A carrier may not discuss or vote on rates related to a particular interline movement unless the carrier "practicably participates" in that movement. The Commission must define "practicably participate." After January 1, 1984, or earlier if the

Commission so determines, no carrier may discuss or vote on a joint line rate where there are two or more routes between the same end points, except with a carrier which forms part of a particular single route. Until January 1, 1984, carriers may discuss general rate increases to cover inflationary cost increases for joint rates and broad tariff changes, if the rate bureau has a special procedure allowing shippers to comment prior to the filing of the tariff with the Commission. If the Commission finds that the implementation of this latter provision is not feasible, it may delay or suspend implementation in whole or in part.

In any proceeding in which it is alleged that a carrier has violated this provision, proof of a conspiracy may not be inferred from evidence that two or more carriers acted together with respect to an interline rate and that a party to such action took similar action with respect to a rate on another route. Rate bureaus are required to keep transcripts or sound recordings of all meetings, to record all votes, and to submit to the Commission the transcripts or sound recordings and votes to the Commission.

The Commission may not take any action with respect to the elimination of general rate increases or decreases prior to April 1, 1982.

Section 220 - Long and Short Haul Transportation

This section repeals Section 10726(c) of the Act, which deals with situations where a rail carrier reduces rates due to competition with a water carrier. The original House

proposal would have gone much farther, limiting the provisions of existing law to rates applicable to grains, soybeans, rice or cotton.

Section 221 - Railroad Entry

This section modifies Section 10901 of the Act. It provides that if a carrier has been issued a certificate to construct or extend a line, no other rail carrier may block the construction by refusing to permit the carrier to cross its property. The construction and subsequent operation must not unreasonably interfere with the operation of the crossed line, and the owner of the crossed line must be compensated. If the carriers cannot agree on compensation, the Commission may set it. Employee protection is established, at the discretion of the Commission.

Section 222 - Service During Periods Of Peak Demand

This section provides that a carrier shall not be found to have violated its common carrier obligations if it fulfills its commitments under contracts before responding to reasonable requests for service.

Section 223 - Reciprocal Switching

This section allows the Commission to require carriers to enter into reciprocal switching agreements. The carriers are to establish compensation and conditions, but if they cannot agree, the Commission may set them. The Commission may also provide for employee protection.

Section 224 - Car Service Compensation

This section repeals the incentive per diem provision of the Act, Section 11122(b)(2). This section also adds a new paragraph to Section 10706(a) of the Act, which requires that when two or more shippers enter into an agreement to discuss what they propose to charge rail carriers for use of rolling stock owned or leased by the shippers, they must get Commission approval of the agreement. Once approved, the shippers may act under the agreement without fear of the antitrust laws. If the shippers and carriers cannot agree upon a charge for the use of shipper owned railing stock, they may apply to the Commission to set the charge.

Section 225 - Car Utilization

This section adds a new Section 10734 to the Act which allows carriers to establish tariffs containing premium charges for special services not provided in any tariff otherwise applicable to the movement. This is designed to encourage the more efficient use of freight cars. It allows carriers to provide a more specialized service to shippers who choose to pay a premium rate.

Section 226 - Car Service Orders For Exigent Circumstances

This section limits the Commission's authority to issue emergency car service orders under Section 11123 of the Act. These orders can only be issued where there is a shortage of equipment or congestion of traffic which creates an emergency situation resulting in substantial adverse

effects on rail service in the entire country or a substantial region of the country. The Commission may issue an order for only 30 days, but can extend it if the full Commission, after a hearing, certifies that a transportation emergency exists. There apparently is no limit on how long an extension may last.

Section 227 - Employee Protection

This section provides for employee protection, as set forth in Section 11347 of the Act, to be imposed in transactions involving transfers to or the operation of or over a debtor's lines by another entity under Section 11172(b) of the Bankruptcy Act of 1978. The Conference Report, at page 120, states that this puts employees of rail carriers which enter bankruptcy after the effective date of the Bankruptcy Act in the same position as employees of carriers that entered bankruptcy prior to the Bankruptcy Act, with regard to employee protection.

Section 228 - Mergers And Other Transactions

This section sets up new standards to be used by the Commission in merger proceedings that do not involve two Class I railroads. The Commission is to approve such transactions unless it finds that: (1) as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade; and (2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs. It also provides that a rail carrier and an

affected shipper may seek approval from the ICC to provide motor carrier service prior or subsequent to rail service to serve inadequately served shippers located on a railroad other than the applicant carrier.

Section 228 also modifies Section 11345 of the Act to expedite time limits for mergers. Also, the Commission is required to consider whether a proposed transaction will have an adverse effect on competition on rail carriers in the affected region.

Section 229 - Savings Provisions

Subsection (a) of this section provides that any rate for a carrier in effect on the effective date of the Rail Act can be challenged within 180 days of enactment in a complaint alleging that the carrier had market dominance and that the rate is not reasonable under new Section 10701(a). The Conference Report, at page 121, specifies:

> "The conferees do not intend this right to be construed as creating any presumption as to the reasonableness of the rates subject to challenge. The purpose of this provision is to give affected parties a final opportunity to review the reasonableness of existing rates before their opportunity to challenge these rates is curtailed. "

Subsection (b) provides that any such rate not challenged within the 180 days, or which is challenged but found lawful, is deemed to be lawful and may not thereafter be challenged.

Subsection (c) provides that the savings provision does not apply to any rate under which the volume of traffic

moved during the 12 month period immediately preceding the effective date did not exceed 500 net tons, where the rate has increased tenfold within the three year period preceding the bringing of a challenge to the reasonableness of the rate. This provision was apparently intended to deal with the problem of paper rates: the problem is that carriers have many rates on file which are rarely used, and shippers would not be able to challenge all rates within the 180 day period established by this provision after which unchallenged rates (or those challenged but not found reasonable) are deemed reasonable and not challengeable. There is no legislative history on this subsection, which first appeared as an amendment to the bill in the Congressional Record of September 5, 1980.

Subsection (d) specifies that the burden of proof in any proceeding under this section is on the complainant.

TITLE III - RAILROAD COST DETERMINATIONS

Section 301 - Uniform Accounting System

This section makes Section 11142 of the Act, which requires the Commission to prescribe a uniform cost and revenue and reporting system, applicable only to non-rail carriers.

Section 302 - Railroad Cost Accounting

This section adds a new Subchapter IV to Chapter III of the Act. Section references hereinafter are to the new subchapter.

Section 11161 establishes for three years a Railroad Accounting Principles Board (Board) consisting of seven members and chaired by the Comptroller General of the United States. The Comptroller is to appoint the other members of the Board from among specified representatives (accountants, economists, major rail shippers, minor rail shippers, the rail industry, and the ICC).

Section 11162 requires the Board, within two years, to establish principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods. These principles are to govern the determination of all railroad costs for specific regulatory proceedings. The considerations the Board is to take into acount in determining the principles are listed. The conference report, at page 122, specifies: "...the primary purpose of the *** Board is to promulgate

sound principles to govern the determination of railroad costs rather than detailed standards."

Section 11163 requires the Commission to promulgate rules to implement and enforce the principles developed by this Board. At least every fifth year thereafter, the Commission must review and modify its rules, as necessary. The conference report, at page 123, specifies:

> "[The Conference] stresses that the principles promulgated by the Board and the rules promulgated by the Commission are to emphasize the degree of economic accuracy needed for regulatory purposes and not merely the accumulation of more detailed, but not necessarily more accurate, accounting information."

Section 11164 requires each rail carrier, within 180 days, to file with the Commission a request for preliminary certification of its cost accounting system. The Commission will so certify if the carrier's system complies with its existing accounting standards. After promulgation of rules by the Commission implementing the Board's principles, the carriers have nine months to file for final certification. The Commission has 90 days (or longer, if necessary) to grant or deny certification. If denied, the carrier must re-file within 90 days. If again denied, the Commission is to prescribe a system. Once certified, a system remains valid until the Commission promulgates new rules.

Section 11165 requires carriers to make relevant cost data available to shippers and other interested parties.

Section 11166 allows the Commission to promulgate reasonable rules to obtain expense and revenue information for regulatory purposes. Such rules are to be promulgated in accordance with the cost accounting principles established by the Board. (Please see G.C. Memo No. 80-358 on this issue.)

Section 11168 authorizes $1 million per year to carry out the provisions of this subchapter.

Section 303 - Civil Penalties for Violations of Accounting Principles Provisions

This section provides that a carrier failing to obtain final certification of its accounting system is to be fined not less than $50,000. Any party to a proceeding who knowingly discloses confidential data made available by a rail carrier may be fined up to $50,000.

TITLE IV RAILROAD MODERNIZATION ASSISTANCE

Section 401 - Feeder Railroad Development Program

This section adds new Section 10910 to the Act. Its purpose appears to be to provide shipper groups and government agencies an alternative to inadequate rail service and to preserve feeder lines by requiring a carrier in certain circumstances to sell a line to a financially responsible person, at a price not less than the constitutional minimum value. Before such a sale, the Commission must first find that the present or future public convenience and necessity requires or permits the abandonment or discontinuance of the line, or that the transportation over a particular line is inadequate.

Subsection (a) defines "financially responsible person" and "railroad line" for the purposes of this section. A "financially responsible person" includes a government agency, but not a Class I or Class II carrier. A "railroad line" means, for three years, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per year in the previous year. After three years, it includes any line of railroad. In essence, then, the provisions of this section apply only to light density lines for three years, and thereafter to any rail line.

Subsection (b) allows the Commission, in certain circumstances, to require a carrier to sell a line to a financially responsible person at a price not less than the

constitutional minimum value.3/ To do so, the Commission must find that: (A) the public convenience and necessity require or permit the rule or a line has been placed on a system diagram map but no abandonment application has been filed, and (B) an application has been filed to purchase the line.

Subsection (c) lists the five findings the Commission must make before it may determine the public convenience and necessity requires or permits the sale of a line under Subsection (b). These findings are that: (1) the carrier refuses to provide adequate service; (2) the service provided is inadequate; (3) the sale will not have a significantly adverse financial effect on the carrier; (4) the sale will not have an adverse effect on the overall operations of the carrier, and (5) the sale will be likely to result in improved service. The Commission must affirm the existence of each of these facts before it may require a sale. The burden of proof is on the party seeking to buy the line.

Subsection (d) requires the Commission to require the selling carrier to provide trackage rights for access to the acquired line. The buyer must pay reasonable compensation for the trackage rights.

3/ The constitutional minimum value is presumed, under new Section 10910(b)(2), to be not less than the net liquidation value of the line or the going concern value, whichever is greater, not including the cost of providing labor protection payments.

Subsection (e) specifies that the Commission is, to the extent practicable, to require the use of the employees who normally would have worked in connection with a sold line.

Subsection (f) requires that in the case of a sale of a light density line the Commission must, upon petition, require the establishment of reasonable joint rates and divisions over the line.

Subsection (g) allows any person operating a line acquired under this section to be exempt from regulation except with regard to transportation under joint rates. However, the provision only applies to a line of railroad abandoned during the 18-month period prior to enactment of the Staggers Act.

Subsection (h) provides a right of first refusal to a selling carrier under this section, if the purchaser later decides to sell the line.

Subsection (i) permits a person operating a line acquired under this section to determine preconditions, such as payment of a subsidy by a shipper, in order to obtain service over the line.

Subsection (j) requires the Commission to impose labor protection conditions for any line sold under this section.

Subsection (k) requires the Commission, within 60 days, to prescribe regulations and procedures to implement this section.

Section 402 - Abandonment

This section expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon abandonment applications, depending upon the complexity of and opposition to the application. Basically, it provides: (1) if not protested, the Commission shall authorize the abandonment within 45 days of filing, to be effective 75 days after filing; (2) if protested, the Commission has 45 days after filing to decide if an investigation is needed; (3) if not investigated, the Commission has 75 days after filing to decide the case; (4) if an abandonment is to be authorized without an investigation, the Commission must issue the certificate within 90 days of filing, to be effective 120 days after filing; (5) if investigated, the investigation must be completed within 135 days of filing, and an initial decision issued within 165 days of filing to become a final decision in 30 days if not appealed; (6) if a decision is appealed, a final decision must be issued within 255 days of filing; and (7) the Commission must, within 15 days of a final decision, issue a certificate permitting the abandonment within 75 days of the date of the final decision. Thus, the maximum time from filing to the effective date of an abandonment is 330 days. (This is the "worst case"--an investigated application the decision upon which is appealed and the application ultimately granted with an effective date of 75 days.)

The Commission may stay the effective date of a certificate pursuant to amended Section 10905, dealing with subsidy or purchase offers.

The burden of proof in an abandonment proceeding is on the party seeking the abandonment.

This section also modifies Section 10905 of the Act. Basically, it requires any carrier which has filed for abandonment to provide information to any party considering financial assistance--an estimate of an annual subsidy and minimum purchase price, a report on the line's physical condition, and traffic and revenue data. Any person may offer to pay the subsidy or purchase the line, and the offer must be filed with the carrier and with the Commission. If the offer is less than the carrier's estimate, the offer must explain the disparity.

If the Commission determines that a financially responsible person has offered financial assistance to enable rail transportation to be continued over the line and it is likely the assistance would cover the operating loss or pay for the purchase of the line, it must postpone issuance of the abandonment certificate. If the parties cannot agree on an offer, they may request the Commission to set the terms of the agreement. If no agreement is reached by the parties within 30 days and neither requests the Commission to set the terms, the Commission must immediately issue the abandonment certificate. If the Commission is asked to set the

terms, its decision is binding on both parties, except that the shipper has 10 days to renege.

A purchaser of a line under this provision may not transfer or discontinue service on the line for two years. Also, the purchaser may not transfer the line, except to the carrier from which it was purchased, for five years.

Section 403 - Conversion of Abandonment Right-Of-Way

This section, which amends Section 809(d) of the 4R Act, authorizes $10 million to be used over the next three years, for the purchase of abandoned railroad rights-of-way. However, any grant money can only be up to 80 percent of the total cost of a project.

Section 404 - Extension of Redeemable Preference Share Financing

This section extends the existing redeemable preference share program, established by the 4R Act, until September 30, 1982.

Section 405 - Financing

This section authorizes an additional $700 million in Section 505 of the 4R Act funds. Not more than $200 hundred million of this is to be transferred to USRA for use by Conrail to reduce its workforce.

This section also allows the Secretary of DOT to provide financial assistance to employee-shipper groups formed pursuant to a plan for the purchase or rehabilitation of railroad lines. However, only 20 percent of the total funds authorized under Section 505 of the 4R Act may be used for this purpose. Also, a financially responsible prson may

apply to the Secretary for financial assistance for the purchase or rehabilitation of railroad lines to be acquired under new Section 10910 of the Act (as added by Section 401 of the Staggers Act).

Section 406 - Transaction Assistance

This section provides that financial assistance is to be available to purchase properties of the Milwaukee Road located in Montana for rail banking. Although the term "rail banking" is not defined, it apparently means that rail lines would not be torn up, and the right of way utilized in some new manner, but would be retained for use in future rail operations.

Section 407 - Electrification Loan Guarantees

This section amends Section 211(i) of the 3R Act to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density main lines. It also allows the Secretary to guarantee obligations of Conrail and other railroads in the region in reorganization for making capital improvements to coal export facilities.

Section 408 - Amendment to the Regional Rail Reorganization Act

This section raises the amount authorized to be loaned to railroads in the region to $7.5 million, and extends USRA's loan authority to December 31, 1981.

Section 409 - Federal Assistance Report

This section requires DOT to make a report to Congress within 90 days of the end of each fiscal year listing the Federal assistance provided to the rail industry that year.

TITLE V - CONRAIL TITLE V LABOR PROTECTION

Section 501 - Monthly Displacement Allowance

This section amends Section 505(b) of the 3R Act by establishing four new formulas for monthly displacement allowances for Conrail employees. These charges were necessary "...to eliminate expensive inequities in the current formulas." (Conf. Report, at page 131)

These four formulas are as follows:

1. Non-operating employees - Except for maintenance of way employees (covered in (2)), non-operating employees will receive a hourly guarantee based upon the rate of pay of the position they held on September 1, 1979, increased to reflect subsequent general wage increases. Also, if the employee gets a higher rated position, the guarantee will be raised to the level for that position. If the employee is required to take a lower rated position, he or she will still receive the original guaranteed wage. If the employee is deprived altogether of employment, he or she will be paid the guaranteed hourly rate based on normally scheduled hours, without overtime.

2. Maintenance-of-way employees - The maintenance-of-way guarantee is based on average monthly compensation received in 1974, adjusted to reflect subsequent general wage increases. The displacement allowance is the the difference between the straight-line earnings and

80 percent of the average monthly compensation. Thus, the employee is guaranteed on a monthly basis 80 percent of the 1974 average monthly compensation, adjusted for subsequent general wage increases. At the end of each calendar year, total straight-time compensation and monthly displacement allowance payments are calculated and compared to the employee's average monthly monthly compensation multiplied by 12. Adjustments are then made to ensure that the total annual compensation is equal to the total annual compensation in 1974, plus general wage increases.

3. Operating employees - these employees (i.e., train and engine service employees) retain their current monthly guarantee, with two modifications. First, average 1977 earnings will be calculated for each classification of operating employees, plus increases due to subsequent general wage increases. This sum will constitute a maximum monthly guarantee. Employees whose current monthly guarantee exceeds this maximum will have their guarantee reduced to the maximum. Second, a monthly calculation will be made in accordance with the calculation described above for maintenance-of-way employees. If a protected employee's earnings are less than the guarantee in any month, 75 percent of the difference will be paid. At the end of the year, a comparison of guarantee and actual earnings on an annual basis

will be made, to determine if an additional payment is necessary to achieve the total annual guarantee.

4. Non-contract employees and employees who have been transferred - There is no change with regard to non-contract employees (basically, the salaried personnel). Transferred employees retain their previous guarantee.

Two other changes are made in this section. First, in addition to all unemployment compensation benefits and railroad earnings being set off against the employee's monthly displacement allowance (as under previous law), all outside earnings of protected employees deprived of employment must now be set off against the allowance. (Section (b)(7)). Second, Section (b)(10) calls for employees deprived of employment and the employer to agree on a procedure through which the employees will report their non-rail earnings and unemployment compensation in order that they may be set-off against monthly displacement allowances.

Section 502 - Duration of Monthly Displacement Allowances

This section modifies Section 505(e) of the 3R Act. It retains the basic premise--protection until age 65 if the employee has five years of service, and, if less than five, protection for the amount of time in service--but restricts payments under two circumstances.

First, an employee's monthly displacement allowance would be suspended for the period the employee does not work for reasons beyond the control of the employer, such as strikes, floods, or snowstorms. Second, it normally requires a protected employee to claim an allowance within three months of entitlement. This is intended to eliminate bookkeeping problems caused by late claims.

Section 503 - Training and Transfer

This section modifies Section 505 of the 3R Act in several ways. First, the power to transfer unemployed protected employees is extended to employers besides Conrail who have employees protected by Section 505. However, an employee of Amtrak may not be required to transfer outside his or her seniority district.

Second, new training and transfer provisions are applied to unemployeed protected employees in the marine crafts and unemployed Penn Truck Lines, Inc. employees. Training expenses would be paid for by Conrail or such other employer. It also contains a "multiple-offer" provision, which allows Conrail to make simultaneous offers to no more than four employees at a time. Those contacted employees who are junior to the least senior employee who accepts the vacancy will be furloughed or severed.

Section 504 - Payment, Audit and Report

This section modifies Section 509 of the 3R Act. It increases the amount of funds authorized to be appropriated

under Title V of the 3R Act by $255 million, to a new authorization level of $485 million. Of the new $255 million, no more than $180 million may be used as reimbursement for monthly displacement allowances. Upon the exhaustion of the $485 million authorization, Conrail and other operators are still responsible for such items as the allowances, but they will no longer be reimbursed by the Railroad Retirement Board. Such sums as necessary for the Secretary of DOT to provide for administrative expenses of the Board are also authorized to be appropriated.

In addition, USRA is directed to conduct a program audit of the payment of benefits under Title V, and evaluate the effectiveness of Title V in providing a reasonable level of protection to employees while allowing Conrail to improve management. The Association is also required to transmit an annual detailed report of its periodic program audit and evaluation to the Congress and the President within 90 days of the end of each fiscal year.

Section 505 - Railroad Hiring

This section adds a new Section 510 to the 3R Act. This new section basically provides that a protected employee of Conrail who is separated or furloughed from Conrail (other than for cause) has the first right of hire by any other rail carrier regulated by the Commission. This right would not apply to an employee who is found to be less qual-

ified than other applicants, nor would it apply to a vacancy covered by an affirmative action plan.

Section 506 - Single Collective-Bargaining Agreement

This section modifies Section 504(d) of the 3R Act. It is intended to clarify the Congressional intent that Conrail and the various unions negotiate a single agreement for each class or craft, rather than allowing the continuation of regional distinctions in treatment among members of the same class or craft. Crafts of classes are to be certified systemwide, and negotiations conducted on a similar basis.

Section 507 - Employee Protection Payments

This section provides that until the effective date of the Staggers Act, Conrail and other covered employers were to continue to make payments to employees pursuant to the provisions in effect on January 1, 1979. October 1, 1980, thus, was the date the new provisions became effective.

Section 508 - Technical Amendments

This section makes several technical and conforming changes to the 3R Act. None of these appears to have significant implications.

TITLE VI - EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Section 601 - Expedited Supplemental Transactions Proposals

This section adds a new subsection to Section 305 of the 3R Act. It requires the Secretary of DOT, within 240 days after the effective date and after comments, to determine whether to propose a supplemental transaction for the transfer of all rail properties of Conrail in Connecticut and Rhode Island to another carrier in the region. If the Secretary determines that: (A) the proposed transferee railroad is financially and operationally capable of assuming operations; (B) the proposed transfer will help meet the rail needs of Connecticut and Rhode Island; and (C) the proposed transfer is consistent with the goals of the 3R Act, the Secretary shall develop a proposal for the transaction. After USRA, the Commission, and the subject States are allowed to comment on this proposal, the Secretary is to petition the special court for an order to carry out the proposal.

The Secretary is to establish a fair and equitable price for the property to be transferred. The special court, if it determines that the transaction is generally in the public interest, is to issue orders implementing the plan.

A new employment agreement would be entered into between the parties to the transfer and affected employees.

Other supplemental transactions are also allowed under this section.

TITLE VII - MISCELLANEOUS PROVISIONS

Section 701 - Rock Island and Milwaukee Railroad Amendments

This section amends the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) (Rock Island Act) and the Milwaukee Restructuring Act (45 U.S.C. 901 et seq.) (Milwaukee Act). It provides that any appeal from any decision with regard to the constitutionality of the Rock Island Act or the Milwaukee Act made by the respective courts shall be taken to the United States Court of Appeals for the Seventh Circuit. If the appeal on constitutionality involves Sections 106 or 110 of the Rock Island Act or Sections 9 or 15 of the Milwaukee Act, (dealing with employee protection claims), the court is to determine the appeals in a consolidated proceeding and render a decision in less than 60 days from the last appeal.

Section 701 also clarifies the Rock Island Act and the Milwaukee Act by stating affirmatively that nothing in these Acts limits the right of any person to bring an action under the Tucker Act (28 U.S.C. 1491). This provision is intended to remedy the concerns expressed by the courts over the availability of such a remedy.

This section also provides for a new schedule for the negiotiation of an employee protection agreement between the Rock Island and the labor organizations. These parties are given five days after enactment of the Staggers Act to reach agreement. If they fail to do so, the matter is to be immediately submitted to the Commission. The Commission then

has 10 days to impose a fair and equitable arrangement for employee protection, unless the parties by then have reached agreement. "Fair and equitable" means no less protective than as established by the Milwaukee Act.

If an arrangement is imposed, the bankruptcy court must immediately authorize and direct the parties to implement this arrangement. An order by the Commission imposing an arrangement, or an order of the court directing implementation, may be appealed within five days to the U.S. Court of Appeals for the Seventh Circuit, which must decide such appeal within 60 days.

Benefits and allowances under this arrangement are to be paid by the Rock Island, and are to be treated as administrative expenses of the estate of the Rock Island Railroad.

This section also adds a new subsection to Section 7 of the Milwaukee Act which provides that all obligations to the United States incurred pursuant to that section by the Milwaukee or its trustee are to be waived and cancelled when the Milwaukee is reorganized or substantially all of the Milwaukee is purchased. "Substantially all" shall be considered having been purchased when more than 50 percent of the Milwaukee has been purchased or more than 50 percent of Milwaukee employees have gotten jobs with other carriers. This section is intended to remedy the situation created by the Milwaukee Act which subordinated certain obligations to

the United States to the creditors, but not to the stockholders. This section will eliminate this gap by forgiving the subordinated obligation when the 50 percent provisions are reached.

In addition, additional funds are provided for transaction assistance and for the purchase of abandoned lines by non-rail carrier entities of the Rock Island and Milwaukee, and for rail banking of Milwaukee lines in Montana.

Section 702 - Loan Guarantees

This section provides that not later than 75 days after the issuance of a final environmental impact statement with respect to a loan application, the Secretary must take final action on any application for loan guarantees (under Section 511 of the 4R Act) to be used in connection with joint ownership, construction, or rehabilitation of any facilities for a second rail carrier to serve the Powder River Basin in Wyoming and Montana. The Secretary is to attempt to minimize harm to any agricultural land in this area and shall require private land crossings for agricultural owners where necessary. Special judicial review provisions are established for any actions taken by the Secretary.

Section 703 - Conrail Studies and Emergency Funding

This section requires USRA and Conrail to each submit a report to Congress analyzing the effect of different funding levels by the Government on Conrail, rail service, the economy, and other carriers. The reports are to specify which

lines of Conrail would be abandoned, retained, or transferred under the different funding scenarios. Each report must also contain recommendations for future funding and for legislative changes. In general, a thorough analysis of Conrail, its structure, alternatives, and future is required.

The Commission is required to submit a report to Congress on the reports of Conrail and USRA. Conrail must also submit a report to Congress on the benefits to it of the provisions of the Staggers Act, along with its projections for changes in its rail structure and employee arrangements.

Emergency funding for Conrail of $329 million is provided for fiscal year 1981, if the Finance Committee of the Board of Directors of USRA determines that Conrail has taken appropriate action to eliminate losses on light density lines and other lines that are unprofitable.

Section 704 - USRA Authorization of Appropriations

This section provides a one-year authorization of $30 million for fiscal year 1981.

Section 705 - Feeder Line Rehabilitation Study

This section requires the Secretary of Transportation and the Secretary of the Treasury to submit jointly to Congress, within nine months, a report on the anticipated effect of providing an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

Section 706 - Effect on Pending Matters

This section provides that proposals docketed with rate bureaus prior to the effective date of the Staggers Act which ultimately become the subject of a proceeding before the Commission are to be conducted under the law prior to enactment of the Staggers Act. (Please see G.C. Memo No. 80-410 on this subject.)

Section 707 - Construction of Amendments

This section provides that the amendments made by the Staggers Act should not be construed to modify the existing law with respect to competition and coordination as it affected the relationships between water carriers and rail carriers.

Section 708 - Surplus Property

This section makes Conrail eligible to borrow excess equipment from the Department of the Army. However, it may only do so in the interest of public safety.

Section 709 - Study of Alaska Railroad Rules

This section requires, within six months, the Commission to complete a study to determine whether certain rates charged by the Alaska Railroad would, if such rates were entered into after enactment of the Staggers Act, have violated Section 10701 a(c)(1) of the Act.

Section 710 - Effective Dates

The provisions of the Rail Act generally take effect on October 1, 1980. However:

(1) Section 206 takes effect on January 1, 1981;

(2) Section 218(b) takes effect on October 1, 1983; and

(3) Section 701 takes effect on date of enactment.

interstate commerce commission
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LESSER

ICC CHAIRMAN UNVEILS IMPLEMENTATION PLAN FOR NEW RAIL ACT; PROMISES QUICK ACTION

Interstate Commerce Commission Chairman Darius Gaskins today announced a comprehensive program for ICC implementation of the Staggers Rail Act of 1980 signed yesterday by President Carter.

Describing the legislation as "an important step forward giving railroads the pricing freedom necessary to earn adequate revenues and in expanding competition in the transportation industry," Gaskins said the ICC "is prepared to implement the new legislation quickly and in the spirit in which it was enacted."

The ICC Chairman disclosed that the Commission, in accord with its new mandate from the Congress, plans to propose more than 20 rules within the next 45 days--some of which would repeal existing regulations. The ICC also will begin to prepare five reports required to be submitted to the Congress during the next two years.

Highlights of the legislation and a list of Commission actions to be taken in the next 45 days follow below.

CONTRACT RATES

Since December of 1978, the Commission has been actively fostering contract ratemaking as an alternative to costly and time-consuming litigation for setting rail rates. Under the previous statute, there was some remaining doubt as to the legal status of such contracts. The Staggers Rail Act of 1980 clearly legalizes and encourages such contracts.

RATE BUREAUS

The Staggers Rail Act provides a new environment for rate setting by railroads. No longer will carriers be able to discuss single-line rates with their competitors. Joint-line discussions will be limited to railroads that actually carry traffic associated with specific movements. The scope of permissible rate bureau activity will be increasingly narrowed over three years unless the Commission finds that to be infeasible.

(more)

RATE FLEXIBILITY

The Staggers Rail Act provides new jurisdictional limits for railroad rate setting. The Commission will no longer be able to question the reasonableness of carrier rates which are set at or below a level of 160 percent of variable costs in the first year. That threshold will increase to 165, 170, and 175 in subsequent years. After October 1, 1984, the threshold will fluctuate between 170 and 180 percent depending on a measurement of carrier earnings performance called the cost recovery percentage. In addition, carriers are given a zone of reasonableness of 6 percent each year for the next four years, with a maximum of 18 percent over the four-year period. The Commission is also required to establish an inflation index which would allow carriers to raise their rates on at least a quarterly basis to keep up with cost increases.

EXEMPTION FROM REGULATION

The exemption section of the Act gives the Commission clear direction to search out and eliminate outmoded regulations which are unnecessary to protect shippers from abuse of market power. The exemption provision includes a specific authorization to eliminate regulation of intermodal transportation.

SMALL COMMUNITIES RAIL SERVICE PRESERVATION

Several provisions of the Staggers Rail Act are directed to preserve or improve rail service on branch lines. The first would allow the Commission to require continued rail service on lines authorized for abandonment if a financially responsible person offers to provide the necessary financial assistance. The Commission may also require sale of a line to interested small carriers, shippers or community groups if the railroad has announced a desire to abandon the lines or if the shippers are receiving inadequate service. Finally, the Act creates several different mechanisms by which rail carriers can extend their services by using motor carriers to shippers and communities not receiving adequate rail and motor service.

PROCEDURAL CHANGES

The Congress has directed the Commission to speed up significantly the regulatory process by cutting down the time available to process rate changes, abandonments and proposed financial transactions, such as minor mergers, sales of rail lines, trackage rights agreements and stock purchases.

(more)

ICC ACTIONS TO BE TAKEN IN FIRST 45 DAYS FOLLOWING
ENACTMENT OF STAGGERS RAIL ACT OF 1980

Rulemakings

RATES

1. Notice of proposed rulemaking (NPR) setting out methodology for determining cost recovery percentage and setting a preliminary figure. 180 days from enactment to complete. (Sec. 202).

2. NPR is outstanding on minimum rate regulation (Ex Parte No. 355). Parties have been asked to comment on the effect of the legislation. (Sec. 201).

3. NPR to establish new policies on the determination of market dominance. (Sec. 202).

4. NPR setting on an interim basis the average variable cost percentage necessary to produce a market rate of return. To be used by rail carriers to refile their rates on recyclables for other than iron and steel commodities. Rail carriers have 90 days to file. (Sec. 204).

5. NPR to determine whether, and to what extent, product competition should be considered in proceedings to determine the reasonableness of rail rates. (Sec. 205).

6. NPR requesting comments on an inflation index mechanism and the possible repeal of the Commission's regulations on rail general increases in light of the index. (Sec. 203).

7. NPR establishing standards and procedures permitting a rail carrier to waive the collection of amounts due from a shipper, in certain circumstances, if such amounts are not significant. (Sec. 207).

8. NPR setting guidelines and proposing interim rule relating to summaries of contracts which are required to be filed with the Commission. (Sec. 208).

9. NPR to promulgate regulations for the filing of released rates. (Sec. 211).

10. Notice repealing the Commission's regulations on demand sensitive rates. (Sec. 209).

11. Notice repealing the Commission's regulations on capital incentive rates. (Sec. 210).

12. Notice modifying the Commission's regulations on the effective dates of increased and decreased rates. (Sec. 216).

13. NPR to determine standards and procedures to establish adequate revenue levels. (Sec. 205).

(more)

EXEMPTION FROM REGULATION

14. NPRs proposing various exemptions similar to the fresh fruit and vegetables exemption. (Sec. 213).

STATE REGULATION

15. Notice to States to file their standards and procedures on rail rates to determine if they are in accord with Commission procedure and standards. (Sec. 214).

BUSINESS ENTERTAINMENT EXPENSES

16. Notice to determine reasonable business entertainment expenses for rail carriers and motor carriers. (Sec. 215).

BRANCH LINES

17. NPR to define the phrase "reasonably expected costs" as it applies to branch line surcharges. 120 days to complete. [Sec. 217)(b)(2)(B)].

18. Notice to the public outlining the procedures to be followed in requesting variable cost and revenue data relating to surcharged routings. [Sec. 217(h)].

20. NPR to implement the Feeder Line Development Program. 60 days to implement. (Sec. 705).

PROCEDURAL RULES

21. Notice modifying the Commission's merger and abandonment procedural requirements in accord with the Act. (Sec. 228 and Sec. 402).

22. Notice of procedures to be followed in extensions of emergency service determinations. (Sec. 226).

Reports and Studies

1. Report to Congress on the impact on competition among shippers of variations between contract rates and single car rates. 90 days to complete. (Sec. 208).

2. Report to Congress whether rail carriers should continue to be subject to the liability limitation provisions of the Interstate Commerce Act, section 11707. One year to complete. (Sec. 211).

3. Report to Congress as to whether the surcharge provisions have adequately addressed the joint rate problems of rail carriers. Two years to report. (Sec. 217).

4. Study to determine if certain rates charged by the Alaska Railroad would have violated the Act, if such rates had been entered into after enactment of this Act. (Sec. 709).

5. Report to Congress on the reports of USRA, Conrail, and DOT on Conrail. Due May 1, 1981. (Sec. 703).

ICC

CONFERENCE REPORT ON S. 1946, RAILROAD TRANSPORTATION POLICY ACT OF 1980

Mr. FLORIO submitted the following conference report and statement on the Senate bill (S. 1946) an act to reform the economic regulation of railroads, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-1430)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Staggers Rail Act of 1980".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Goals

TITLE I—RAIL TRANSPORTATION POLICY

Sec. 101. Rail transportation policy.

TITLE II—RAILROAD RATES AND INTERCARRIER PRACTICES

Sec. 201. Regulations of railroad rates.
Sec. 202. Determination of market dominance.
Sec. 203. Bone of rate flexibility.
Sec. 204. Transportation of recyclable materials.
Sec. 205. Rate regulation proceedings; adequate revenues.
Sec. 206. Inflation-based rate increases.
Sec. 207. Investigation and suspension of rates.
Sec. 208. Contracts.
Sec. 209. Demand sensitive rates.
Sec. 210. Phaseout of capital incentive rates.
Sec. 211. Permissive limited liability rates.
Sec. 212. Rate discrimination.
Sec. 213. Exemption.
Sec. 214. Intrastate rates.
Sec. 215. Business entertainment expenses.
Sec. 216. Efficient marketing.
Sec. 217. Compensatory joint rate relief.
Sec. 218. Expedited division of revenues proceedings.
Sec. 219. Rate bureaus.
Sec. 220. Long and short haul transportation.
Sec. 221. Railroad entry.
Sec. 222. Service during periods of peak demand.
Sec. 223. Reciprocal switching.
Sec. 224. Car service compensation.
Sec. 225. Car utilization.
Sec. 226. Car service orders for exigent circumstances.
Sec. 227. Employee protection.
Sec. 228. Mergers and other transactions.
Sec. 229. Savings provisions.

TITLE III—RAILROAD COST DETERMINATIONS

Sec. 301. Uniform accounting system.
Sec. 302. Railroad cost accounting.
Sec. 303. Civil penalties for violations of accounting principles provisions.

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

Sec. 401. Feeder railroad development program.
Sec. 402. Abandonment.
Sec. 403. Conversion of abandoned railroad rights-of-way.
Sec. 404. Extension of redeemable preference share financing.
Sec. 405. Financing.
Sec. 406. Transaction assistance.
Sec. 407. Electrification loan guarantees.
Sec. 408. Amendment to the Regional Rail Reorganization Act of 1973.
Sec. 409. Federal assistance report.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

Sec. 501. Monthly displacement allowance.
Sec. 502. Duration of monthly displacement allowance.
Sec. 503. Training at transfer.
Sec. 504. Payment, audit, and report.
Sec. 505. Railroad hiring.
Sec. 506. Single collective-bargaining agreement.
Sec. 507. Employee protection payments.
Sec. 508. Technical amendments.

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Sec. 601. Expedited supplemental transaction proposals.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Rock Island and Milwaukee Railroads amendments.
Sec. 702. Loan guarantees.
Sec. 703. Conrail studies and emergency funding.
Sec. 704. USRA authorization of appropriations.
Sec. 705. Feeder line rehabilitation study.
Sec. 706. Effect on pending matters.
Sec. 707. Construction of amendments.
Sec. 708. Surplus property.
Sec. 709. Study of Alaska railroad rates.
Sec. 710. Effective dates.

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) historically, railroads were the essential factor in the national transportation system;

(2) the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to establish and maintain a national railroad network;

(3) today, most transportation within the United States is competitive;

(4) many of the Government regulations affecting railroads have become unnecessary and inefficient;

(5) nearly two-thirds of the Nation's intercity freight is transported by modes of transportation other than railroads;

(6) earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements;

(7) by 1985, there will be a capital shortfall within the railroad industry of between $16,000,000,000 and $20,000,000,000;

(8) failure to achieve increased earnings within the railroad industry will result in either further deterioration of the rail system or the necessity for additional Federal subsidy; and

(9) modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads to save energy and combat inflation.

GOALS

SEC. 3. The purpose of this Act is to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(5) to assist in the rehabilitation and financing of the rail system.

TITLE I—RAIL TRANSPORTATION POLICY

RAIL TRANSPORTATION POLICY

SEC. 101. (a) Chapter 101 of title 49, United States Code, is amended by inserting after section 10101 the following new section:

"§ 10101a. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

"(9) to cooperate with the States on transportation matters to assure that intrastate regulatory jurisdiction is exercised in accordance with the standards established in this subtitle;

"(10) to encourage honest and efficient

management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation;

"(11) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

"(12) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(13) to prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination;

"(14) to ensure the availability of accurate cost informaiton in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(15) to encourage and promote energy conservation.".

(b) Section 10101(a) of title 49, United States Code, is amended by striking out "To ensure" and inserting in lieu thereof "Except where policy has an impact on rail carriers, in which case the principles of section 10101a of this title shall govern, to ensure".

(c) The section analysis of chapter 101 of title 49, United States Code, is amended by inserting after the item relating to section 10101 the following new item:

"10101a. Rail transportation policy.".

TITLE II—RAILROAD RATES AND INTERCARRIER PRACTICES

REGULATION OF RAILROAD RATES

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transporation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; or

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportatidn to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; and

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.

"(c)(1) A rate for transportation or other service provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may not be established below a reasonable minimum. Any rate for transportation by such a rail carrier that does not contribute to the going concern value of such carrier is presumed to be not reasonable. A rate that contributes to the going concern value of such carrier is conclusively presumed not to be below a reasonable minimum.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission shall order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.

"(4)(A) For purposes of this subsection, variable costs shall be determined under formulas or procedures prescribed or certified by the Commission.

"(B) In the determination of variable costs for purposes of minimum rate regulation, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of such carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in such variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.".

(b)(1) Section 10761(a) of title 49, United States Code, is amended—

(A) by inserting "(other than a rail rate)" immediately after "A rate" in the first sentence;

(B) by inserting "(including a rail carrier)" immediately after "such a carrier" in the second sentence thereof; and

(C) by inserting "(including rail carriers)" immediately after "those carriers" in the third sentence thereof.

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 202. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B)(i) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(ii) For purposes of determining the cost recovery percentage only, 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In making a determination under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

"(A) 160 percent during the period beginning on the effective date of the Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending September 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

"(3) For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined pursuant to section 10705a(m)(1) of this title, with adjustments specified by the Commission. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with such section 10705a(m)(1), but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Commission shall prescribe.

"(4) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has or does not have market dominance over such transportation, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

"(5)(A) Within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for the transportation of all traffic received by rail carriers. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this sec-

tion shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

BASE OF LESS FLEXIBILITY

SEC. 703. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility

"(a) In this section—

"(1) If no rate exists for the transportation of a particular commodity on October 1, 1980, the base rate for the transportation of such commodity shall be the rate established by the rail carrier (divided by the latest rail cost adjustment factor published by the Commission), unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission (divided by the latest rail cost adjustment factor published by the Commission).

"(1)(A) 'base rate' means, with respect to the transportation of a particular commodity (i) for the 24-month period beginning on October 1, 1980, the rate in effect on October 1, 1980, (ii) for the 24-month period beginning on October 1, 1982, the rate in effect on October 1, 1982, and (iii) for the 5-year period beginning on October 1, 1984, and for each subsequent 5-year period, the rate in effect on the first day of the applicable 5-year period.

"(2)(A) 'adjusted base rate' means the base rate for the transportation of a particular commodity multiplied by the latest rail cost adjustment factor published by the Commission pursuant to this paragraph.

"(B) Commencing with the fourth quarter of 1980, the Commission shall, as often as practicable but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Commission, with appropriate adjustments to reflect the changing composition of railroad costs, including the quality and mix of material and labor), and the denominator of which is the same index for the fourth quarter of 1980, or for the fourth quarter of 1982 or for the fourth quarter of every fifth year thereafter, as appropriate.

"(b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may increase any rate over which the Commission has jurisdiction under section 10709 of this title so long as the increased rate is not greater than the adjusted base rate for the transportation involved, plus any rate increases implemented under subsection (c) or (d) of this section.

"(2) A rate increase authorized under this subsection may not be found to exceed a reasonable maximum for the transportation involved.

"(3) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title applicable to that rate.

"(c)(1) During the 12-month period beginning on the effective date of the Staggers Rail Act of 1980 and during each of the 5 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 116 percent of the adjusted base rate.

"(2)(A) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may, except as provided in subparagraph (B) of this paragraph, be implemented only in the next succeeding year.

"(B) If any portion of the total rate increase authorized under this subsection is not implemented by the end of the 4-year period beginning on the effective date of the Staggers Rail Act of 1980, such portion may be implemented in the next 2 succeeding years, except that in no event may a rail carrier increase a rate under this subsection or under subsection (d) of this section in either of such 2 succeeding years by an annual amount of more than 10 percent of the adjusted base rate.

"(d)(1) Except as provided in paragraph (2) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3)(A) The provisions of this subsection shall not apply to a rail carrier proposing to increase a single line rate if such carrier earns adequate revenues, as determined by the Commission under section 10704(a)(2) of this title.

"(B) The Commission shall, after a hearing on the record, prescribe such rules with respect to joint rates as necessary to ensure that rail carriers which earn adequate revenues, as determined under section 10704(a)(2) this title, do not receive the rate increases authorized by this subsection unless the Commission determines that it is unable to prescribe such rules without precluding rail carriers not earning adequate revenues from receiving the rate increases authorized under this subsection.

"(e)(1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under subsection (c) or (d) of this section—

"(A)(i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle.

In considering any complaint challenging a rate increase that is authorized under subsection (c) of this section and that results in a revenue-variable cost percentage that is less than the lesser of the percentages described in clauses (i) and (ii) of paragraph (2)(A), the Commission shall, in determining the reasonableness of such rate increase, give due consideration to whether the carrier proposing the rate increase has attained adequate revenues, as determined by the Commission under section 10704(a)(2) of this title, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level.

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than—

"(i) 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title; or

"(ii) a revenue-variable cost percentage of 190 percent,

whichever is less, the Commission may, on its own initiative, or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.

"(C) In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence of the following:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that (1) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (2) the proposed rate exceeds or does not exceed a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this subtitle.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by

inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

(c)(1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 2,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipally owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related to provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 204. Section 10731 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this title or any other law, within 90 days after the effective date of the Staggers Rail Act of 1980, all rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall take all actions necessary to reduce and thereafter maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. As long as any such rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase. The Commission shall have jurisdiction to issue all orders necessary to enforce the requirement of this subsection.".

RATE REGULATION PROCEEDINGS; ADEQUATE REVENUES

SEC. 205. (a)(1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 230 days after the effective date of this Act.

(2)(A) For purposes of this subsection, the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether coal is available to a consignee from another source.

(3)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its standards for the determination of the reasonableness of rail carrier rates under existing law and procedures.

(B) Nothing in this subsection shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. The enactment of this subsection shall not be considered by the Commission in any proceeding, or by any court on an appeal from that or any other proceeding, to determine the proper scope of the term "market dominance" or whether there is market dominance over the transportation to which any particular rate applies.

(b)(1) Section 10704(a)(2) of title 49, United States Code, is amended by inserting "and revise as necessary" immediately after "shall maintain".

(2) Section 10704(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The Commission shall conclude a proceeding under paragraph (2) of this subsection within 180 days after the effective date of the Staggers Rail Act of 1980 and thereafter as necessary.

"(4) On the basis of the standards and procedures under paragraph (2) of this subsection, the Commission shall, within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.".

INFLATION-BASED RATE INCREASES

SEC. 206. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Inflation-based rate increases

"(a) The Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based rate increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 207. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

"(A) is effective at the end of that time period; or

"(B) if already in effect at the end of that time period, remains in effect.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services perofrmed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.

"(4) Notwithstanding the provisions of section 10761 or section 10761 of this title, the Commission shall, by rule, establish standards and procedures permitting a rail carrier to waive the collection of amounts due under this subsection if such amounts are not significant.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 208. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such a rail carrier may not enter into a contract with purchasers of rail services except as provided in this section.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall publish special tariff rules for such contracts in order to assure that the essential terms of the contract are available to the general public in tariff format.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper), a complaint may be filed—

"(i) by a shipper only on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carriers or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

"(B) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the grounds that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice under this subtitle.

In making a determination under clause (ii) of this subparagraph, the Commission shall consider the difference between contract rates and published single car rates.

"(C) For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall, subject to the provisions of this section, order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(e) Approval of a contract filed under this section shall be effective—

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title.

"(g) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11126 of this title.

"(h) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(i)(1) A contract that is approved by the Commission under this section, and transportation under such contract, shall not be subject to this subtitle, and may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(j) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract shall hereafter have the same force and effect as if it had been entered into in accordance with the provisions of this section. Nothing in this section shall affect the rights of the parties to challenge the existence of such a contract.

"(k)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products and paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) The Commission may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Commission considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

"(l) Service under a contract approved under this section shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(m) The Commission shall establish a railroad contract rate advisory service. The advisory service shall—

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various movements and the published single car rates, and submit a report on such impact to the Congress not later than 90 days after the effective date of the Staggers Rail Act of 1980.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

SEC. 209. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 210. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 8 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 211. (a) Section 10730(a) of title 49, United States Code, is amended by inserting "and excluding any rail carrier" immediately after "motor common carrier of property".

(b) Section 10730 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

(c) Section 11707(d) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)";

(2) by inserting "(other than a rail carrier)" immediately after "delivering carrier"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) A civil action under this section may be brought in a United States district court or in a State court.

"(C) In this section, 'judicial district' means (i) in the case of the United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.".

(d) Within one year after the effective date of this Act, the Attorney General and the Interstate Commerce Commission shall independently investigate whether rail carriers should continue to be subject to section 11707 of title 49, United States Code, and submit a report to the Congress setting forth recommendations to Congress for appropriate legislative action. Each such investigation shall address the following issues:

(1) Whether, in the case of traffic with respect to which rail carriers do not have market dominance, such carriers should be subject to any higher level of liability for loss and damage than they are willing to agree to with the shippers of such traffic.

(2) Whether, in the case of traffic with respect to which rail carriers have market dominance, such carriers should be subject to any greater liability than would be imposed under a statutory comparative negligence standard.

(3) Whether liability for damage to rail traffic should be determined under a no-fault liability system and what shippers should bear the cost of such a system.

(4) Whether venue in cases arising from rail carrier liability for damages to traffic should be further limited.

(5) Whether rail carrier property damage cases should be subject to laws other than Federal law.

(6) Whether the right to claims should be limited to either the shipper or receiver of property.

(7) Whether maximum time limits should be imposed on the filing of claims with rail carriers and the courts.

(8) Whether the prevailing party in a claims proceeding should be awarded attorneys fees in order to limit needless litigation.

(9) Whether excessive attorneys fees are awarded in cases under section 11707 of title 49, United States Code.

(10) Whether claimants should be able to recover damages in excess of the market value of the commodity transported unless liability for special or consequential damages is agreed to by the carrier in writing.

RATE DISCRIMINATION

SEC. 212. Section 10741 of title 49, United States Code, is amended by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) contracts approved under section 10713 of this title, other than as provided in subsection (d)(2)(A)(ii) and (d)(2)(B) of such section;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10733 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title,

except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.".

EXEMPTION

SEC. 213. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the tranportation policy of section 10701a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

SEC. 214. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "subchapter I or IV" and inserting in lieu thereof "subchapter IV"; and

(4) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle.

"(2) Within 120 days after the effective date of the Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are in accordance with the standards and procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not in such accordance, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

"(B) The standards and procedures existing in each State on the effective date of the Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

"(4)(A) Any State authority which is certified by the Commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification or which does not seek certification may not exercise any jurisdiction over intrastate rates, classi-

fications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such certification. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this subtitle, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title, inflation-based rate increases under section 10712 of this title, or fuel adjustment surcharges approved by the Commission.

"(c) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority, in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined, on the grounds that the standards and procedures applied by the State were not in accordance with the provisions of this subtitle. The Commission shall take final action on any such petition within 30 days after the date it is received. If the Commission determines that the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11502(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(c) of title 49, United States Code, is amended by inserting "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" immediately after "unless".

(5) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501(b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 215. Section 10751 of title 49, United States Code, is amended by striking out "(other than transportation by rail)" in subsections (a) and (b).

(b) The provisions of section 10751 of title 49, United States Code, as amended by subsection (a) of this section, shall apply to any expense of the type described in subsection (a) of such section 10751 that was incurred prior to the effective date of this Act (other than an expense with respect to which a penalty was paid pursuant to section 10761 of such title 49) or that is incurred on or after such effective date.

EFFICIENT MARKETING

SEC. 216. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 10 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.".

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

COMPENSATORY JOINT RATE RELIEF

SEC. 217. (a)(1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a)(1)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party in such joint rate.

"(B) A carrier earning adequate revenues, as determined under section 10704(a)(2) of this title, may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such other carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier.

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C)(i) The canceling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice after such determination is made.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B)(iv) of this paragraph, the tariff shall become effective on the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a rail carrier canceling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3)(A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge. Nothing in this paragraph shall be construed to limit the right of a carrier to reduce rates over routes not in direct competition between the same points with routes to which it has applied a surcharge.

"(b)(1) Notwithstanding subsection (a) of this section—

"(A) a rail carrier not earning adequate revenues, as determined under section 10704 (a)(2) of this title, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile in the most recent calendar year for which traffic data is available; and

"(B) a rail carrier earning adequate revenues, as so determined, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 1,000,000 gross ton miles of traffic per mile in such most recent calendar year.

Such a surcharge may be applied without the concurrence of any rail carrier. Any such surcharge may be allocated, subject to the provisions of paragraph (4) of this subsection, in different amounts among different movements between different origins and destinations, and shall accrue solely to the surcharging carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

The Commission shall, within 120 days after the effective date of the Staggers Rail Act of 1980, complete a proceeding to define the term 'reasonably expected costs' as used in subparagraph (B) of this paragraph. In the interim, the term shall be construed in accordance with Rail Services Planning Office subsidy standards.

"(3)(A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B)(i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line that result in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable in that year under section 10709(d) of this title.

"(ii) A purchasing carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carriers' variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such revenue without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by such paragraph (3)(A) is made, the Commission may suspend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that paticipates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission imposes a surcharge, in conformity with such petition, upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rates was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division, or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge shall remain in effect during the pendency of the Commission's consideration.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Com-

mission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent of its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of 110 percent of its variable costs with all class III rail carriers in the same rate territory participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail carrier proposes to apply a surcharge under subsection (a) of this section or to cancel the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movements over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined without regard to amount received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsections (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any rate under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If, on the basis of such investigation, the Commission finds that the protested surcharge or cancellation is or is intended to be anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2)(A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 90 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class II rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applied.

"(k)(1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 90 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or canceling carrier to provide sevice at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m)(1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated

using the Commission's Rail Form A cost finding methodology), such surcharging or canceling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

"(l) Whenever the application of a joint rate to a through route is canceled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such rates, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n) Surcharges applied under subsection (a) or (c) of this section and cancellations under subsection (c) of this section shall not be subject to the provisions of section 10726(a)(1)(B) of this title.

"(o) The Special Counsel of the Commission may, consistent with the rail transportation policy in section 10101a of this title, provide assistance to class III rail carriers and small businesses in preparing actions under this section.

"(p)(1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a)(2) or (a)(3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

(c)(1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10711 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B)(i) the number of surcharges applied by the Consolidated Rail Corporation and all other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and all other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 10705a and to class II and class III rail carriers under subsection (l) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 218. (a) Section 10705(f)(1) of title 49, United States Code, is amended to read as follows:

"(f)(1)(A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought or commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report the reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

(b) Section 10705(f)(1) of title 49, United States Code, as amended by subsection (a) of this section, is further amended—

(1) by striking out subparagraph (B);

(2) by striking out "(A)" immediately before "The Commission.";

(3) by striking out "(i)" and inserting in lieu thereof "(A)";

(4) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(5) by striking out "clause (i) of this subparagraph" and inserting in lieu thereof "subparagraph (A) of this paragraph".

RATE BUREAUS

SEC. 219. (a) Section 10706(a)(1) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) 'practicably participates in that movement' shall have such meaning as the Commission shall by regulation prescribe.".

(b) Section 10706(a)(2)(A) of title 49, United States Code, is amended—

(1) by inserting "publication," immediately after "initiation," in the first sentence; and

(2) by striking out "section 10101" in the second sentence and inserting in lieu thereof "section 10101a".

(c)(1) Section 10706(a)(3)(A) of title 49, United States Code, is amended to read as follows:

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single line rates proposed by another rail carrier, except that for purposes of general rate increases and broad tariff changes only, if the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in that movement; or

"(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

(2) Section 10706(a)(3)(B) of title 49, United States Code, is amended to read as follows:

"(B) Until January 1, 1984, subparagraph (A)(ii) and (A)(iii) of this paragraph do not apply to—

"(i) general rate increases to cover inflationary cost increases, or general rate decreases; for joint rates if the agreement gives shippers, under specified procedures, at least 15 days notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

"(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply, except single line rates where subparagraph (A)(i) of this paragraph prohibits the participation of carriers with single line rates.

If the Commission finds at any time that the implementation of this subparagraph is not feasible, it may delay or suspend such implementation in whole or in part.".

(3) Section 10706(a)(3)(C) of title 49, United States Code, is amended—

(A) by inserting "(i)" immediately after "(C)"; and

(B) by adding at the end thereof the following new clause:

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such carrier and one or more other carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

"(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

"(II) concerned an interline movement of the carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of clauses (I) or (II) are satisfied before allowing the introduction of any such evidence.".

(4) Section 10706(a)(3) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.".

(d) Section 10706(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Commission may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

(e) Section 10706(1)(1)(B) of title 49, United States Code, is amended by striking out "section 10101" and inserting in lieu thereof "section 10101a".

(f) The Interstate Commerce Commission may not take any action with respect to the elimination of general rate increases or decreases prior to April 1, 1982.

(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees of such rate bureau who are affected by the amendments made by this section with fair arrangements no less protective of the interests of such employees than those established pursuant to section 11347 of title 49, United States Code. For purposes of this subsection, the term "employees" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions.

LONG AND SHORT HAUL TRANSPORTATION

SEC. 220. Section 10726(c) of title 49, United States Code, is repealed.

RAILROAD ENTRY

SEC. 221. (a) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(b) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(d)(1) Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other rail carrier may block such construction or extension by refusing to permit the carrier to cross its property if (A) the construction does not unreasonably interfere with the operation of the crossed line, (B) the operation does not materially interfere with the operation of the crossed line, and (C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the carriers are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Commission for determination.

"(e) The Commission may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".

SERVICE DURING PERIODS OF PEAK DEMAND

SEC. 222. Section 11101(a) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "A rail carrier shall not be found to have violated this section because it fulfills its commitments under contracts approved under section 10713 of this title before responding to reasonable requests for service.".

RECIPROCAL SWITCHING

SEC. 223. Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commission may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Commission may establish such conditions and compensation.

"(2) The Commission may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.".

CAR SERVICE COMPENSATION

SEC. 224. (a)(1) Section 11122(b)(2) of title 49, United States Code, is repealed.

(2) Section 11122(b)(1) of title 49, United States Code, is amended by striking out "(1)" immediately before "The rate".

(b) Section 10702(a) of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to aprties and other persons with respect to making or carrying out the agreement. The Commission shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.

"(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.".

CAR UTILIZATION

SEC. 225. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting at the end thereof the following new section:

"§ 10734. Car utilization

"In order to encourage more efficient use of freight cars, notwithstanding any other provision of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of service not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10731 the following new item:

"10734. Car utilization.".

CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

SEC. 226. Section 11123(a) of title 49, United States Code, is amended to read as follows:

"(a)(1) When the Interstate Commerce

Commission finds that a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States, the Commission may, for a period not to exceed thirty days—

"(A) suspend any car service rule or practice;

"(B) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section;

"(C) require joint or common use of facilities, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

"(D) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

"(2) The Commission may extend any action taken under paragraph (1) of this subsection beyond the thirty-day period provided in such paragraph only if the full Commission, after a hearing, certifies that a transportation emergency exists.

"(3) In carrying out the provisions of this subsection, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.".

EMPLOYEE PROTECTION

SEC. 227. (a) Section 1170 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In authorizing any abandonment of a railroad line under this section, the court shall require the rail carrier to provide a fair arrangement at least as protective of the interest of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

(b) Section 1172 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) In approving an application under subsection (b) of this section, the Commission shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

MERGERS AND OTHER TRANSACTIONS

SEC. 228. (a) Section 11344(b) of title 49, United States Code, is amended—

(1) by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new paragraph:

"(3) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.".

(b) Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Commission shall, with respect to any application that is a part of a plan or proposal developed under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), accord substantial weight to any recommendations of the Secretary of Transportation.".

(c) Section 11344 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(e) A rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, may apply for approval under this subsection of a transaction for the purpose of providing motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on a railroad other than the applicant carrier. Such application shall be approved by the Commission if the applicants demonstrate presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or seriously to fail otherwise to provide adequate normal rail services required by shippers and which shippers would reasonably expect the rail carrier to provide. The Commission shall approve or disapprove applications under this subsection within 80 days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within 80 days following receipt of such application.".

(d) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chaper 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves—

"(1) The merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which it concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commision has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 30th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its function under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.".

(c) Any application filed or pending on the effective date of this Act under section 11343, 11344, or 11345 of title 49, United States Code, before the Secretary of Transportation, the Interstate Commerce Commission, or any court shall be adjudicated or determined as if this Act had not been enacted.

SAVINGS PROVISIONS

SEC. 228. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180-day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be declared to be lawful and may not thereafter be challenged in the Commission or in any court (other than on appeal from a decision of the Commission).

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold within the 3-year period immediately preceding the bringing of a challenge to the reasonableness of such rate.

(d) The burden of proof in any proceeding under this section shall be on the complainant.

TITLE III—RAILROAD COST DETERMINATIONS

UNIFORM ACCOUNTING SYSTEMS

SEC. 301. Section 11142 of title 49, United States Code, is amended to read as follows:

"§ 11142. Uniform accounting system

"The Interstate Commerce Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.".

RAILROAD COST ACCOUNTING

SEC. 302. (a) Chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new chapter:

"Subchapter IV—Railroad cost accounting

"§ 11161. Railroad Accounting Principles Board

"(a)(1) There is established a Railroad Accounting Principles Board which shall be within and responsible to the legislative branch of the Federal Government.

"(2) The Board shall be composed of the Comptroller General of the United States, who shall serve as chairman, and six members to be appointed by the Comptroller General.

"(3) The Comptroller General shall appoint members of the Board from among persons who are well qualified for such position by virtue of experience in or knowledge of rate regulation, accounting, or cost determinations. Of the members of the Board so appointed—

"(A) one shall be from the accounting profession;

"(B) one shall be from the railroad industry;

"(C) one shall be a representative of major rail shippers;

"(D) one shall be from the Interstate Commerce Commission;

"(E) one shall be a representative of small rail shippers; and

"(F) one shall be from the economics profession.

"(4) The term of office of each appointed member of the Board shall be three years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(5) The Board shall not act in the absence of a quorum, which shall consist of three members.

"(b) Each appointed member of the Board shall receive compensation at a rate equal to 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

"(c)(1) The Board may utilize personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees or to provide the staff services necessary to assist the Board in carrying out its functions and responsibilities under this subchapter.

"(2) Individuals appointed by the Board under this subsection may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(d) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

"(e) Members and employees of the Board and all other individuals appointed under this subsection having or having had access to information in the possession of the Board shall be subject to the provisions of section 1905 of title 18.

"(f) The Board shall cease to exist three years after the effective date of the Staggers Rail Act of 1980.

"§ 11162. Cost accounting principles

"(a) Within two years after the effective date of the Staggers Rail Act of 1980, the Railroad Accounting Principles Board shall establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods, including the variable costs associated with particular movements of goods or such other costs as the Board believes most accurately represent the economic costs of such movements. Such principles shall govern the determination of all railroad costs for specific regulatory proceedings under this title.

"(b) In developing cost accounting principles under this section, the Board shall take into account the following considerations:

"(1) The specific regulatory purposes for which railroad costs are required.

"(2) The degree of accuracy of the cost information which is needed to meet regulatory purposes.

"(3) The existing capability and the probable future capability of rail carriers to provide such information and the relative benefits and costs of requiring development of additional capability.

"(4) The means by which the degree of economic accuracy required can be obtained at the least possible expense and with the least possible information reporting.

"(5) The means by which the confidentiality of such costs can best be maintained while meeting the need for such information in regulatory proceedings.

"(c) The cost accounting principles established by the Board shall require that cost information be reported or disclosed only for the essential regulatory purposes defined by the Board.

"§ 11163. Implementation of cost accounting principles

"Upon the establishment of cost accounting principles by the Railroad Accounting Principles Board under section 11162 of this title, the Interstate Commerce Commission shall promptly promulgate rules to implement and enforce such principles. Not less than once every five years after the promulgation of the original rules, the Commission shall review the principles of the Board and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this title and the goals of this subchapter. The Commission shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes.

"§ 11164. Certification of rail carrier cost accounting systems

"(a) Within 180 days after the effective date of the Staggers Rail Act of 1980, each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a request for preliminary certification of its cost accounting system. The Commission shall grant such preliminary certification if it determines that the cost accounting system of such rail carrier is in compliance with the accounting standards of the Commission in effect on the day prior to the effective date of the Staggers Rail Act of 1980.

"(b)(1) As soon as practicable, but not later than 9 months, after the promulgation of rules by the Commission under section 11163 of this title, each rail carrier described in subsection (a) of this section shall file with the Commission a request for final certification of its cost accounting system developed to comply with this section.

"(2) Within 90 days, or such additional time as the Commission finds necessary, after a rail carrier files its request for final certification under paragraph (1) of this subsection, the Commission shall grant such final certification to such carrier if the Commission determines that the cost accounting system of such carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title. If the Commission denies such final certification, the rail carrier shall revise its cost accounting

system and file a new request for certification within 90 days after the date of such denial. The Commission shall thereupon grant final certification if it determines that such cost accounting system, as revised, is in compliance with such rules. If the Commission again denies final certification to the rail carrier, the Commission shall prescribe a cost accounting system which such carrier shall adopt within a reasonable time and which shall be considered a finally certified cost accounting system for purposes of this section.

"(c) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Commission under section 11163 of this title.

"(d)(1) Certification under this section that the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title shall be valid until the promulgation of new rules by the Commission.

"(2) After the cost accounting system of a rail carrier is certified under this section, such rail carrier may, after notifying the commission, make modifications in such system unless, within 60 days after the date of notification, the Commission finds such modifications to be inconsistent with the rules promulgated by the Commission under section 11163 of this title.

"(e) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission, the Commission shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

"§ 11165. Cost availability

"As required by the rules of the Interstate Commerce Commission governing discovery in Commission proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Commission proceeding in which such data is required.

"§ 11166. Accounting and cost reporting

"(a) To obtain expense and revenue information for regulatory purposes, the Interstate Commerce Commission may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings pursuant to this title, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board under section 11162 of this title.

"(b) Any reports required by the rules established by the Commission under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

"§ 11167. Report

"The Railroad Accounting Principles Board shall, within 2 years after the effective date of the Staggers Rail Act of 1980, submit to the Congress a report setting forth any recommendations of the Board for appropriate legislative or administrative action in order to integrate the cost accounting principles and the cost accounting system certification process under this subchapter into existing rail carrier rate regulation under this title, including determinations under section 10709 of this title.

"§ 11168. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter not to exceed $1,000,000 for the fiscal year ending September 30, 1981, not to exceed $1,000,000 for the fiscal year ending September 30, 1982, and not to exceed $1,000,000 for the fiscal year ending September 30, 1983.".

(b) The analysis of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"Subchapter IV—Railroad Cost Accounting

"11161. Railroad Accounting Principles Board.

"11162. Cost accounting principles.

"11163. Implementation of cost accounting principles.

"11164. Certification of rail carrier cost accounting systems.

"11165. Cost availability.

"11166. Accounting and cost reporting.

"11167. Report.

"11168. Authorization of appropriations.".

CIVIL PENALTIES FOR VIOLATIONS OF ACCOUNTING PRINCIPLES PROVISIONS

SEC. 303. (a)(1) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11913 the following new section:

"§ 11913a. Accounting principles violations

"Any rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that fails to obtain final certification of its cost accounting system under section 11164(b) of this title shall be fined not less than $50,000.".

(2) The section analysis of chapter 119 of title 49, United States Code, is amended by inserting immediately after the item relating to section 11913 the following new item:

"11913a. Accounting principles violations.".

(b) Section 11910 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A person that knowingly discloses confidential data made available to such person under section 11166 of this title by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall be fined not more than $50,000.".

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

FEEDER RAILROAD DEVELOPMENT PROGRAM

SEC. 401. (a) Subchapter I of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10910. Railroad development

"(a) In this section—

"(1) 'financially responsible person' means a person who (A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a government authority but does not include a class I or a class II rail carrier.

"(2) 'railroad line' means (A) during the 3-year period beginning on the effective date of the Staggers Rail Act of 1980, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, and (B) after the end of such 3-year period, any line of railroad.

"(b)(1) When the Interstate Commerce Commission finds that—

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line has been placed on a system diagram map as required under section 10904 of this title, but the rail carrier owning such line has not filed an application to abandon such line under sections 10903 and 10904 of this title; and

"(B) an application to purchase such line has been filed, in accordance with regulations required under subsection (k) of this section, by a financially responsible person, the Commission shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presented to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater, but shall not include the cost of providing a protective arrangement under subsection (j) of this section.

"(c)(1) For purposes of this section, the Commission may determine that the public convenience and necessity require or permit the sale of a railroad line if the Commission determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Commission finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Commission shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Commission shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Commission shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Commission for joint rates applicable to traffic moving over through routes in which the purchasing car-

rier may practicably participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this title, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

"(j) In the case of any railroad line sold pursuant to this section, the Commission shall require the selling carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of this title.

"(k) The Commission shall, within 60 days after the effective date of the Staggers Rail Act of 1980, prescribe such regulations and procedures as may be necessary to carry out the provisions of this section.".

(b) The section analysis of chapter 109 of title 49, United States Code, is amended by adding immediately after the item relating to section 10909 the following new item:

"10910. Railroad development.".

ABANDONMENT

SEC. 402. (a)(1) Section 10903(b)(1) of title 49, United States Code, is amended by striking out the first sentence.

(2) Section 10903(c) of title 49, United States Code, is repealed.

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking out "at least 60" and all that follows through 'effective" in paragraph (1);

(B) by striking out "and" at the end of paragraph (2)(A);

(C) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding at the end of paragraph (2) the following new subparagraph:

"(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title, (ii) a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title, and (iii) the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and

(E) by inserting immediately before the period at the end of paragraph (3)(E) the following: ", and certifying that clauses (A)-(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the rail carrier and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, after the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days after the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Section 10904 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5 (a)-(d) of the Department of Transportation Act (49 U.S.C. 1654 (a)-(d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ", except that the requirement of such description or identification in such diagram may be waived by the Commission of the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to abandonment and discontinuance

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance of a particular railroad line, it shall, concurrently with service of the decision upon the parties, publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over

which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a new subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier all that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 403. Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by inserting "(1)" immediately before the first sentence thereof; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated, for the purposes of carrying out the provisions of subsection (b)(2) of this section, not to exceed an aggregate amount of $10,000,000 for the fiscal years 1981, 1982, and 1983. Such sums are authorized to remain available until expended. Notwithstanding the provisions of subsection (b)(2) of this section, the Federal share for each grant made from the funds authorized to be appropriated pursuant to this paragraph may not exceed 80 percent of the total cost of any project.".

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 404. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 (e), 827(a), 827(d), and 829) are each amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

FINANCING

SEC. 405. (a)(1) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking out "$700,000,000" and inserting in lieu thereof "$1,400,000,000".

(2) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking out "$600,000,000" and inserting in lieu thereof "$1,400,000,000".

(b)(1) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by inserting "(a)" immediately after "SEC. 509." and by adding at the end thereof the following new subsection:

"(b)(1) Not more than $200,000,000 of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section shall be transferred by the Secretary to the United States Railway Association for use by the Association in accordance with section 216(b)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(3)). Such funds shall be transferred immediately upon the finding by the Finance Committee under such section 216(b)(3).

"(2) Not less than 5 percent of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) (excluding sums transferred under paragraph (1) of this subsection) shall be available for the purchase or rehabilitation of railroad lines acquired under section 10910 of title 49, United States Code, except that no such funds shall be available for the purchase or rehabilitation of such a railroad line unless such purchase or rehabilitation is consistent with the rail plan (as defined under section 5 of the Department of Transportation Act) of the State in which such line is located.

"(3) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than $180,000,000 are authorized to be appropriated in fiscal year 1981."

(2) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(3) (A) Amounts transferred to the Association pursuant to section 509(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 may be used to purchase series A preferred stock of the Corporation to provide for the implementation by the Corporation of a program to reduce the Corporation's work force, if the Finance Committee finds that the implementation of such program will result in substantial savings to the United States.

"(B) An employee who ceases to be an employee as a result of the reduction of work force under a program implemented pursuant to this paragraph shall not, by reason of so ceasing to be an employee, or by reason of any work or employment entered into after so ceasing to be an employee, lose such employee's current connection with the railroad industry for the purposes of the Railroad Retirement Act of 1974.".

(c)(1) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(a)) is amended—

(A) by inserting "(1)" immediately before "Any railroad"; and

(B) by adding at the end thereof the following new paragraph:

"(2) An employee or employee-shipper group may apply to the Secretary for financial assistance pursuant to subsection (b)(3) of this section.

"(3) A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) may apply to the Secretary for financial assistance from funds made available pursuant to section 509(b)(2) of this title.".

(2) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may approve applications to provide financial assistance to any employee or employee-shipper ownership group formed pursuant to a plan for the purchase or rehabilitation of a line or lines of railroad or of rail facilities which are considered to be in the public interest. The Secretary shall not use more than 20 percent of the total funds available under this section for such financial assistance. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership or rehabilitation by the eligible employee-shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(3) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(A) inserting "employee or employer-shipper group" immediately after "railroad" wherever it appears;

(B) inserting "employee or employee-shipper groups" immediately after "railroads" wherever it appears; and

(C) inserting "employee or employee-shipper group's" immediately after "railroad's" wherever it appears.

(4) Section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of a Government authority that applies for financial assistance from funds made availble pursuant to section 509 (b)(2) for the purchase or rehabilitation of railroad lines purchased under section 10910 of title 49, United States Code, financing pursuant to this section shall be in the form of purchase by the Secretary of bonds or other debt obligations issued for such purpose by such Government authority.".

(5) Paragraph (4) of section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(d)), as redesignated by this subsection, is amended by inserting ", bonds, and other debt obligations" immediately after "trustee certificates".

(d) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking out "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that such term does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

(e) The first sentence of section 511(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately after "equipment" the following "(which includes but is not limited to computerized car management systems)".

TRANSACTION ASSISTANCE

SEC. 406. Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended by adding at the end thereof the following new paragraphs:

"(5) Financial assistance made available under paragraph (1)(B) of this subsection may be used to purchase, for purposes of rail banking, properties of the Milwaukee Railroad located in the State of Montana with respect to which an interest in future rail common carrier operations has been evidenced.

"(6) Applications for rail banking shall be treated equally with other applications for transaction assistance."

ELECTRIFICATION LOAN GUARANTEES

SEC. 407. Section 211(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(1)) is amended—

(1) by inserting "or any other railroad" immediately after "the Corporation" the first place it appears;

(2) by inserting "or such railroad" immediately after "the Corporation" the second and third places it appears; and

(3) by inserting immediately after the first sentence the following new sentences: "Upon application by the Corporation or by any railroad in reorganization in the region which receives a loan under section 211(a) of this Act, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 511 through 513 of such Act, guarantee obligations of the Corporation or such railroad for purposes of making capital improvements to coal export facilities.".

AMENDMENT TO THE REGIONAL REORGANIZATION ACT OF 1973

SEC. 408. (a) The second sentance of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e)(3) and (f) and" immediately after "the Association" the first place it appears.

(b) Section 211(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)(2)) is amended by striking out "$4,000,000" and inserting in lieu thereof "$7,500,000".

(c) The last sentence of section 211(d) of the Regional Rail Reorganizaiton Act of 1973 (45 U.S.C. 721(d)) is amended by striking out "1980" and inserting in lieu thereof "1981".

FEDERAL ASSISTANCE REPORT

SEC. 409. Within 90 days after the end of each fiscal year, the Secretary of Transportation shall submit a report to the Congress listing the specific Federal assistance provided the railroad industry during such fiscal year. Each such report shall set forth the reasons for each Federal loan or grant and explain the way in which such loan or grant contributed to the overall goal of providing a safe and efficient transportation system.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 501. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to such employee's compensation, in accordance with the following provisions:

"(1)(A) Effective on the effective date of the Staggers Rail Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the rate described in the preceding sentence, and will be (i) the actual hourly rate for hourly rated employees, (ii) the daily rate divided by 8 for daily rated employees, and (iii) the monthly rate divided by the working days in the claim month, further divided by 8, in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(B) In the event a protected employee's position is abolished or such employee is displaced and is thereby required to occupy a position paying an hourly rate that is less than such employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position such employee is occupying and his guaranteed hourly rate for all hours included in the straight time work schedule of such employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(C) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid such employee's guaranteed hourly rate for the number of hours such employee would have worked in the straight time work schedule of such employee's previously held position.

"(D) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become such employee's protected rate.

"(2) Notwithstanding paragraph (1) of this subsection, effective on the effective date of the Staggers Rail Act of 1980, a protected maintenance-of-way employee shall be afforded his average monthly compensation, which is defined as the total compensation received by such employee during the 12 months immediately preceding January 1, 1975, divided by his total time paid for during that period and multiplied by 174 or by his average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. If a protected employee is deprived of employment or if the employee's straight-time compensation in his current position is less in any month than the employee's average monthly compensation, the employee shall be paid the difference between his straight-time earnings, if any, and 60 percent of the average monthly compensation, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual straight-time compensation, monthly displacement allowance payments and offsets applicable pursuant to this title is less than the employee's average monthly compensation multiplied by 12, the employee shall receive an additional payment representing the difference. If in the previous calendar year an employee has received displacement allowance payments in excess of his annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(3) Effective on the effective date of the Staggers Rail Act of 1980 a protected operating employee (as defined in Interstate Commerce Commission classifications 107 through 128) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be afforded his average monthly compensation computed in accordance with this subsection as in effect prior to such effective date, but subject to a maximum amount equal to one-twelfth of the average annual earnings of all employees in the Interstate Commerce Commission classification, computed by cumulating the employee earnings reported to the Commission by the Corporation on a monthly basis for calendar year 1977 for the Interstate Commerce Commission classification of operating service in which such employee performed the preponderance of such employee's work in

calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the Interstate Commerce Commission classification shall be determined by the preponderance of such employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum amount described in the first sentence of this paragraph, the average monthly compensation of the employee will be reduced to such maximum amount for purposes of computing such employee's monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than such maximum amount, the average monthly compensation of the employee will be used to compute such employee's monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his compensation such that the compensation in such employee's current position is less in any month than the average monthly compensation of the employee or such maximum amount, whichever is less, the employee shall be paid 75 per centum of the difference between such employee's earnings, if any, and the lesser figure, minus any time lost on account of voluntary absences other than vacations. If at the close of the calendar year the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than such employee's average monthly compensation subject to the maximum amount and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an Interstate Commerce Commission classification with a lesser maximum amount than the maximum amount applicable to such employee's 1974 Interstate Commerce Commission classification, such employee shall be paid the difference without credit being taken for compensation earned by virtue of actual working hours in the calendar year in excess of the number of hours paid for in such employee's average monthly compensation multiplied by 12 or such employee's annual 1977 maximum amount, whichever is less. An employee's compensation for purposes of this subsection shall not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September [illegible] 1978. If, in the previous calendar year, an employee has received displacement allowance payments in excess of such employee's annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by subsection (g) of this section.

"(4) Effective on the effective date of the Staggers Rail Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to such employee's compensation shall retain his average monthly compensation and monthly displacement allowance computed in accordance with this subsection as in effect prior to such effective date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, such employee's entitlement to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of such employee to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be consistent with entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to subsection (d) of this section, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with this subsection prior to the effective date of the Staggers Rail Act of 1980.

"(6) In determining compensation in a protected employee's current employment, such employee shall be treated as occupying the position producing the highest rate of pay to which such employee's qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to such employee's average monthly compensation, subject to the maximum amount.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by (A) the full amount of any unemployment compensation benefits received by such employee, and (B) an amount equivalent to any outside earnings of such employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and his representative shall be furnished with such employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum amount, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment or his representative and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by such employee and the earnings of such employee in employment other than with such employer.

"(11) In the case of a supplemental transaction—

"(A) with respect to an employee described in paragraph (1) of this subsection who was not employed on September 1, 1979, the protected rate of pay of such employee shall be based on the rate of pay of the position held by such employee on the first day of the first month after September 1979 in which such employee was employed;

"(B) with respect to an employee described in paragraph (2) of this subsection who was not employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed; and

"(C) with respect to an employee described in paragraph (3) of this subsection—

"(i) if such employee was employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of such 12-month period; and

"(ii) if such employee was not employed during the 12 months immediately preceding January 1, 1975, the preponderance of work of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed.

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 502. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall, in the case of a protected employee with 5 or more years of service on the effective date of this Act, continue until the attainment of age 65 by such employee, and shall, in the case of a protected employee who has less than 5 years of service as of such date, continue for a period equal to the employee's total prior years of service, except that such monthly displacement allowance—

"(1) shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause;

"(2) shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of such employee's seniority rights in accordance with the provisions of this section;

"(3) shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (but the payment of monthly displacement allowances shall be resumed upon termination of the emergency); and

"(4) shall not be paid with respect to any month that commences after the effective date of the Staggers Rail Act of 1980 for which the employee has failed to make a claim for such allowance within 8 full calendar months (unless otherwise agreed upon by the employee or his representative and the employer) after the last day of the month for which such allowance is sought, except that such 8-month limit shall not apply to any claim which is the subject of or is based upon an arbitration decision issued pursuant to section 507 of this title.

Unless otherwise agreed upon by the employee or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 180 days after the claim therefor is made if such claim is filed during the 12-month period beginning on the effective date of the Staggers Rail Act of 1980, and within 90 days after the claim therefor is made if such claim is filed after such 12-month period. Any claim not approved or denied at the expiration of the time limits described in the preceding sentence shall be deemed approved.".

TRAINING AND TRANSFER

SEC. 503. (a)(1) Section 505(d) (1) and (3) of the Regional Rail Reorganization Act

of 1973 (45 U.S.C. 715(d) (1) and (2)) are each amended by inserting "or other employers with employees protected under this section" immediately after "Corporation" wherever it appears.

(b) Section 505(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715(d)(1)) is amended by inserting "or the system of other employers with employees protected under this section" immediately after "Corporation's system".

(3) Section 505(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715(d)(2)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this subsection, a protected employee of the National Railroad Passenger Corporation shall not be required to transfer to a location outside the seniority district of such protected employee.".

(b) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended by striking out "Transfers" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, transfers".

(c) Section 505(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of a marine craft or class on the Corporation's system, or in the craft or class of a Penn Truck Lines, Incorporated, employee, transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employees deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in subparagraph (A) of this paragraph. Employees offered transfer pursuant to this paragraph will be afforded 20 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in such craft or class, the Corporation may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation shall first attempt to locate a comparable position in a seniority district with encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to subparagraph (A) of this paragraph. If no such position exists, the Corporation may tender the employee a transfer notice involving a position elsewhere on the system pursuant to subparagraph (B) of this paragraph. In the event it is necessary to train an employee after such employee's acceptance of a position pursuant to this subparagraph, such training shall be provided by the Corporation at no cost to the employee.".

(d) Section 505(1)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(1)(1)) is amended by adding at the end thereof the following new sentences: "The Corporation may simultaneously offer a position to not more than 4 protected noncontract employees. The position shall be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer shall retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, AUDIT, AND REPORT

SEC. 504. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, AUDIT, AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Staggers Rail Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacements operators, and acquiring railroads, of the amounts paid such employees, except that the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after the effective date of the Staggers Rail Act of 1980 shall not exceed $15,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable under this title, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of its functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) AUDIT.—Beginning October 1, 1980, the Association shall conduct a program audit of the payment of benefits pursuant to this title and shall evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances. Such audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with, the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances.".

RAILROAD HIRING

SEC. 505. Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) is amended by adding at the end thereof the following new section:

"RAILROAD HIRING

"SEC. 510. Any protected employee of the Corporation and any employee of the Corporation who is separated or furloughed from his employment with the Corporation (other than for cause) shall, unless found to be less qualified than other applicants, have the first right of hire by any other railroad that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 506. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide".

EMPLOYEE PROTECTION PAYMENTS

SEC. 507. Notwithstanding any other provision of law, the Consolidated Rail Corporation and other employers with employees protected under the provisions of title V of the Regional Rail Reorganization Act of 1973 shall, until the effective date of this Act, continue to make payments for employee protection under such Act in accordance with the provisions of such Act which were

in effect on January 1, 1979. Notwithstanding any other provision of law, such Corporation and employers shall be reimbursed for such payments in accordance with the provisions of section 509(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779(a)).

TECHNICAL AMENDMENTS

SEC. 508. (a)(1) The item relating to section 509 in the table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended to read as follows:

"Sec. 509. Payment, audit, and report.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by inserting immediately after the item relating to section 509 the following new item:

"Sec. 510. Railroad hiring.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702 (16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) by amending subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking out "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate"; and

(3) by striking out the first sentence of subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) in paragraph (6), by inserting immediately after "disability," the following: "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by inserting ", section 509(b), or section 509(c)" immediately after "section 504(d)".

(f) The first sentence of section 403(d)(1) of the Rail Passenger Service Act (45 U.S.C. 563(d)(1)) is amended by striking out "If such State" and all that follows through "service".

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

SEC. 601. (a) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding at the end thereof the following new subsection:

"(f) EXPEDITED PROPOSALS.—(1) Within 240 days after the effective date of Staggers Rail Act of 1980, the Secretary, after providing an opportunity for comments from interested parties, shall determine whether to initiate a proposal for a supplemental transaction under this section for the transfer of all rail properties of the Corporation in the States of Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that—

"(A) the proposed transferee railroad is financially and operationally capable of assuming the freight operations and freight service obligations of the Corporation on a financially self-sustaining basis;

"(B) the proposed transfer would promote the establishment and retention of a financially self-sustaining rail system in the States of Connecticut and Rhode Island adequate to meet the needs of such States; and

"(C) the proposed transfer is consistent with the goals set forth in section 206(a)(6) of this Act,

the Secretary shall develop such a proposal and may, after providing the Association, the Commission, and the States of Connecticut and Rhode Island an opportunity to review and comment on such proposal, petition the special court for an order to carry out such proposal.

"(2) The Secretary shall establish a fair and equitable price for any rail properties transferred pursuant to a proposal developed under this subsection.

"(3) If the special court determines that a proposal developed under this subsection is fair and equitable, meets the requirements of this subsection, and is in the public interest, it shall issue such orders as may be necessary to carry out such proposal. The provisions of paragraphs (2)-(6) of subsection (d) of this section shall apply to the determination of the special court under this subsection, except that the standards for such determination shall be those set forth in this paragraph.

"(4) In complying with the requirements of subsection (d)(7) of this section with respect to the application of the provisions of title V of this Act to supplemental transactions, the parties to an expedited supplemental transaction under this subsection and the representatives of the employees affected thereby shall enter into a new agreement pursuant to section 508 of this Act and shall not be bound by the terms of any agreement executed under such section 508 and in effect on the date of enactment of the Staggers Rail Act of 1980.".

(b) Section 102(10) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702 (10)) is amended by striking out ", within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation".

TITLE VII—MISCELLANEOUS PROVISIONS

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

SEC. 701. (a)(1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section:

"JUDICIAL REVIEW

"SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability".

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(E)) is amended by inserting "to employees" immediately after "liability".

(b)(1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENTS

"SEC. 106. (a) No later than 5 days after the date of enactment of the Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Staggers Rail Act of 1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Staggers Rail Act of 1980, unless the Rock Island Railroad, and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and

the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

"(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act.".

(2) Section 108(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')."

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

(c)(1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 900) is amended by adding at the end thereof the following new subsection:

"(h)(1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and canceled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h)(1) (A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

(d) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1)(A), by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1)(B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) by amending paragraph (4) to read as follows:

"(4) This subsection shall apply to (A) purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate), and (B) purchase applications filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate) and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

LOAN GUARANTEES

SEC. 702. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 75 days after the date of the issuance of the final environmental impact statement with respect to the loan application, take final action on any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b)(1) The Secretary of Transportation shall review the proposed Chicago and North Western connector line route and shall not approve any route which requires the use of any agricultural land unless (A) there is no feasible and prudent alternative to the use of such land, and (B) the proposed route construction plan requires all possible planning to minimize harm to such agricultural land resulting from such use. The Secretary of Transportation may not otherwise disapprove a proposed route for the Chicago and North Western line under the authority of this subsection. This review of a proposed route shall be conducted within 90 days after the final action specified in subsection (a) of this section.

(2)(A) The Secretary shall review the use of any agricultural land used in any route for newly constructed line and shall require, to the maximum extent prudent and feasible, that such railroad provide a private grade crossing for the convenience of each landowner whose agricultural holdings are divided by such newly constructed line when the Secretary finds that such division of property will cause a substantial disruption to the agricultural use of such land. The owners of such property shall file a request for such grade crossing with the Secretary within 180 days of the final determination of the route. The finding of the Secretary under this subsection shall be final.

(B) The Secretary shall render a decision on each request for grade crossing under this paragraph within 180 days of its receipt. Such review shall not require the delay of construction of new line under subsection (a) of this section.

(c)(1) Notwithstanding any other provision of law, the actions of Secretary of Transportation taken pursuant to subsections (a) and (b) of this section shall not be subject to judicial review except as provided in this section.

(2) A claim alleging the invalidity of this section may be brought no later than the 60th day following the date a final action is taken pursuant to subsections (a) and (b) of this section.

(3) A claim challenging an action of the Secretary of Transportation under subsection (a) or (b) of this section may be brought only on the grounds that such action will deny rights under the Constitution of the United States, is arbitrary, capricious, or an abuse of discretion, exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right. Such a claim may be brought not later than the 60th day following the date of such action.

(4) A claim under paragraph (2) or (3) shall be barred unless prior to the expiration of such time limits, a complaint is filed in the United States Court of Appeals for the District of Columbia acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(5) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States.

(d) Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent, or lack thereof, of any Committee of the Congress.

CONRAIL STUDIES AND EMERGENCY FUNDING

SEC. 703. (a) For purpose of this section, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service;

(5) "region" has the meaning given such term in section 101(15) of the Regional Rail Reorganization Act of 1973; and

(6) "Secretary" means the Secretary of Transportation.

(b)(1) No later than April 1, 1980, the Association and the Corporation shall each submit a report to the Congress analyzing the impact, upon the Corporation, rail service in the region, railroad employees, the economy of the region, and other rail carriers in the region and elsewhere, and the Federal budget, of—

(A) no further Federal funding for the Corporation;

(B) continued Federal funding of the rail system of the Corporation as it is presently structured; and

(C) future Federal funding of the Corporation to the extent necessary to preserve rail service in the region which can be self-

supporting, without undue interim disruption of operations which will be maintained.

(2) Each report submitted under paragraph (1) of this subsection shall contain a description, under each of the Federal funding alternatives set forth in subsection (a) of this section, of the lines of the Corporation which would be maintained, the lines of the Corporation which would be abandoned and the lines which would be transferred.

(3) Each report submitted under paragraph (1) of this subsection shall also include specific recommendations with respect to—

(A) future projected funding requirements of the Corporation;

(B) future structure and activities of the Corporation in the region;

(C) any legislative action needed with respect to the matters described in subparagraphs (A) and (B) of this paragraph; and

(D) any other matters which the Association or the Corporation considers appropriate.

The specific recommendations submitted under this paragraph shall set forth alternatives for the Congress to consider in the event it determines that modification of such recommendations is appropriate.

(3) In developing recommendations in accordance with this subsection the Association and the Corporation shall identify measures designed to ensure a financially self-sustaining rail system in the region. The recommendations shall be based on analyses of rail properties which might be proposed for abandonment or transfer to another railroad or qualified person and proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio.

(5) In developing recommendations under this subsection, the Association and the Corporation shall each analyze and consider—

(A) projections of the Corporation's future traffic, revenues, operating costs, and capital requirements;

(B) rail properties which might be proposed for abandonment or transfer to another railroad or qualified person, taking into account the potential impact of changes in the regulatory environment;

(C) the impact on communities served by lines proposed for abandonment or transfer;

(D) proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio;

(E) the impact on the Corporation of proposed mergers by connecting or competing railroads;

(F) employee motivation and labor productivity programs and a projection of labor protection costs which could result from the recommendations;

(G) the future capital structure of the Corporation; and

(H) any other factors identified by the Association as relevant to the recommendations required to be developed and submitted pursuant to this section.

(6)(A) The Association and the Corporation shall, on the date of submission of their recommendations to the Congress under this subsection, transmit copies of such recommendations to the Secretary, the Commission, and the Governor of each State that would be affected by such recommendations. Upon request, the Association and the Corporation shall furnish a copy of their recommendations to any interested person.

(2) As soon as practicable after submission of their recommendations to the Congress, the Association and the Corporation shall publish in the Federal Register a summary of such recommendations and invite interested parties to comment on such recommendations.

(7) The Commission shall, no later than May 1, 1981, submit to the Congress its comments on the reports of the Association, the Secretary, and the Corporation under this subsection.

(8) Not later than April 1, 1981, the Secretary shall submit to the Congress his recommendations with respect to the future structure and operations of the Corporation. Not later than May 1, 1981, the Secretary shall submit to the Congress his comments and recommendations with respect to the reports of the Association and the Corporation under this subsection, and shall make any changes in his recommendations that he determines are necessary.

(9) The antitrust laws, as defined in section 601(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(3)), shall not apply to any action taken by the Association or the Secretary prior to May 1, 1981, in accordance with and under the authority of the provisions of this subsection.

(c) The Corporation shall, no later than March 15, 1981, submit to the Congress an analysis of the effects upon the Corporation and its employees of alternative changes in labor agreements and related operational changes. Such report shall include an analysis of any Federal funding that will be required.

(d) The Corporation shall, no later than January 15, 1981, submit to the Association its projections of the benefits to the Corporation of the Staggers Rail Act of 1980, its projections of changes needed in the structure of the rail system of the Corporation, including properties which may be abandoned or transferred, and other projections of potential savings or increased revenues to the Corporation.

(e) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726 (b)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(4) Purchases of up to $320,000,000 of a series A preferred stock shall be made by the Association, subject to the availability of appropriations, as required and requested by the Corporation, if the Finance Committee makes an affirmative finding that the Corporation has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. Such action shall include the imposition of surcharges on such lines, the abandonment of such lines, and the transfer of such lines.".

(f)(1) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726 (a)) is amended by striking out "$2,300,000,000" and inserting in lieu thereof "$2,620,000,000".

(2) Section 216(g) of such Act (45 U.S.C. 726(g)) is amended by striking out "$3,300,000,000" and inserting in lieu thereof "$3,620,000,000".

(3) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720 (e)) is amended by inserting immediately after "section" in the first sentence thereof the following: "or under subsection (a) of section 360 of this Act".

USRA AUTHORIZATION OF APPROPRIATIONS

SEC. 704. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $30,000,000. Sums appropriated under this subsection are authorized to remain available until expended.".

FEEDER LINE REHABILITATION STUDY

SEC. 705. (a). The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(b) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signaling equipment, or any other rail equipment (other than rolling stock).

EFFECT ON PENDING MATTERS

SEC. 706. In the case of any proposal docketed with a rate bureau prior to the effective date of this Act which is or becomes the subject of an application or proceeding before the Interstate Commerce Commission, such application or proceeding shall be determined as if this Act had not been enacted, and the antitrust immunity provided in section 10706(b) of title 49, United States Code, resulting from approval of such agreement shall continue in effect.

CONSTRUCTION OF AMENDMENTS

SEC. 707. With respect to the relationship between water carriers and rail carriers, none of the amendments made by this Act shall be construed to make lawful (1) any competitive practice that is unfair, destructive, predatory, or otherwise undermines competition and that was unlawful on the effective date of this Act, or (2) any other competitive practice that is unfair, destructive, predatory, or otherwise undermines competition.

SURPLUS PROPERTY

SEC. 708. Notwithstanding any other provision of law, the Consolidated Rail Corporation shall be considered a Federal agency for the sole purpose of Department of the Army Regulations 735-5, paragraph 1-16. Such Corporation may enter into a contract under the authority granted by this section only when it determines that the safety of the public so requires.

STUDY OF ALASKA RAILROAD RATES

SEC. 709. Within 6 months after the effective date of this Act, the Interstate Commerce Commission shall commence and complete a study to determine whether the rates charged by the Alaska Railroad pursuant to ICC-ARR Freight Tariffs 4108 and 4109 (as supplemented by supplements 1-4) would, if such rates had been entered into after the effective date of this Act, have constituted a violation of section 10701a(c)(1) of title 49, United States Code, as amended by this Act. To the extent feasible, such study shall be coordinated with the study by the State of Alaska in progress on the effective date of this Act.

EFFECTIVE DATES

SEC. 710. (a) Except as provided in subsections (b), (c), and (d) of this section, the provisions of this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b) Section 206 of this Act shall take effect on January 1, 1981.

(c) Section 218(b) of this Act shall take effect on October 1, 1983.

(d) Section 701 of this Act shall take ef-

fect on the date of enactment of this Act.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JAMES J. FLORIO,
JOHN M. MURPHY,
BOB ECKHARDT,
JIM SANTINI,
BARBARA A. MIKULSKI,
ROBERT T. MATSUI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,
TOM LOEFFLER,
GARY A. LEE,
Managers on the Part of the House.
HOWARD W. CANNON,
RUSSELL B. LONG,
J. JAMES EXON,
BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY AND DESCRIPTION

Section 1—Short title

Section 1 states that this bill may be cited as the "Staggers' Rail Act of 1980"

Section II—Findings

The Conferees find that historically the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to maintain a national railroad network as an essential part of the national transportation system. However, today, most transportation is competitive and many of the Government regulations affecting railroads have become unnecessary and inefficient. Nearly two-thirds of intercity freight is transported by modes of transportation other than railroads. Earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements. By 1985, the railroad industry will experience a capital shortfall of between $10 billion and $20 billion. The industry's failure to achieve increased earnings will result in either further deterioration of the rail system or the need for additional Federal subsidy. Modernization of economic regulation of railroads, with greater reliance on the marketplace, is essential to achieve maximum utilization of railroads, to save energy and to combat inflation.

Section III—Goals

The specific goals of this Act are to assist the industry in the rehabilitation and financing of the rail system; to reform Federal regulation to preserve a safe, adequate, economical, efficient and financially stable rail system, to assist the rail system to remain viable in the private sector of the economy; and to provide a regulatory process that balances the needs of carriers, shippers, and the public. The overall purpose of the Act is to provide, through financial assistance and freedom from unnecessary regulation, the opportunity for railroads to obtain adequate earnings to restore, maintain and improve their physical facilities while achieving the financial stability of the national rail system.

TITLE I—RAIL TRANSPORTATION POLICY

Title I of the Conference substitute sets forth the congressional declaration of policy for railroads by adding a new section 10101 (a) to the Interstate Commerce Act. The new section establishes a specific rail transportation policy to guide the Commission in its duties in regulation of the railroad industry. The Conferees intend that this policy include the encouragement and promotion of the transportation of coal by rail in accordance with the objective of energy independence at rates which do not exceed a reasonable maximum where there is an absence of effective competition.

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

Title II is related to the key areas of the Interstate Commerce Act which involve railroad rates and inter-carrier practices. In general, the title assures railroads substantially more rate freedom than is afforded them under existing law. It continues the policy started under the Railroad Revitalization and Regulatory Reform Act of 1976 of substantially eliminating rate regulation of railroads where there is effective competition. The title also affirmatively encourages railroads to use new marketing practices by permitting contracts between carriers and shippers; permissive limited liability rates; business entertainment expenses; efficient marketing through factor implementation of rates; and premium charges to encourage better car utilization.

A number of provisions are included to foster greater competition by simplifying coordination, minor mergers procedures, entry and reciprocal switching agreements. Moreover, the Commission is given the mandate to place greater emphasis on the need for carriers to have adequate revenue levels. Among other tools given the Commission for this purpose is the ability to determine the effects of inflation and to assure carriers the opportunity to recover inflation.

Specifically, Title II provides the Interstate Commerce Commission with jurisdiction to determine rate reasonableness only when a rail carrier has market dominance and the rate exceeds the applicable revenue-variable cost percentage threshold. The revenue-variable cost percentage is a level below which the Commission has no jurisdiction over the reasonableness of maximum rates. This codifies and refines the practice followed by the Commission for determining market dominance on, among other matters, the relationship of revenue to variable cost.

For four years begining October 1, 1980 and until October 1, 1984, there is a rate flexibility zone of 6 percent, subject to a cumulative total of 18 percent, in addition to inflation. If any portion of the 6 percent rate increase is not implemented in a year in which it is authorized, it may be carried over to the succeeding year. However, within the four year p eriod no carrier can take an increase within the flexibility zone in excess of 12 percent in any one year except that in the first year the zone is limited to 6 percent. If any portion of the 18 percent cumulative rate increase is not taken by October 1, 1984, it may be carried over to the next two succeeding years, with the limitation of an annual increase of 10 percent between October 1, 1984 and October 1, 1986.

Effective October 1, 1984, and in succeeding years thereafter, a carrier may annually implement a 4 percent increase, which may not be carried over in subsequent years.

The 4 percent zone is not available to increase single-line rates of carriers with adequate revenues. The Commission is to promulgate regulations in connection with joint-line movements involving both carriers with adequate revenues and carriers with inadequate revenues.

When determining the reasonableness of rates, the Commission is to recognize the policy that rail carriers shall earn adequate revenues. This title also authorizes carriers to increase a rate to cover cost increases due to inflation.

The rate of a carrier in effect upon enactment of this Act may be challenged before the Commission during the 180 day period following enactment on the basis that the carrier has market dominance over the transportation to which the rate applies. If the rate is not challenged during the 180 day period, or is found to be lawful, the rate may not be challenged thereafter. This provision does not apply to rates for volumes of traffic in the past year of under 500 net tons and which has increased tenfold in the three years prior to the challenge. The burden of proof under this section is with the complainant.

In order to encourage more effective marketing by railroads the notice period for rate increases is lowered from 30 days to 20 days and from 30 days to 10 days for rate decreases.

The Commission is required to maintain, and revise as necessary, standards and procedures for determining revenue adequacy. On the basis of the standards, the Commission is to determine within 180 days of the effective date of this Act and annually, thereafter, which carriers are earning adequate revenues.

The Commission may prescribe, on a quarterly basis, a percentage rate increase or rate index for rail carriers to compensate for inflationary cost increases. Within 60 days after the Commission prescribes such percentage rate increase or index, rail carriers intending to be excluded from such percentage rate increase or index, shall notify the Commission, and all carriers participating in a particular route must agree to be excluded for the exclusion to be effective. The percentage rate index may include percentage increases within a specified range to allow carriers to recover a total increase specified by the Commission as necessary to compensate for inflationary cost increases.

The Commission must complete an investigation or suspension proceeding concerning a rate, classification, rule or practice within 6 months, or 8 months if it reports to Congress. The Commission may not suspend a proposed rate, classification, rule or practice if a protestant is likely to prevail on the merits, substantial injury will result without the suspension, and because of the peculiar economic circumstances of the protestant preclude protection of the protestant by means of a refund if the rate is later found unreasonable by the Commission.

This title authorizes one or more carriers to enter into contracts with one or more shippers unless the Commission finds that the proposed contract unduly impairs the ability of the contract carrier(s) to meet their common carrier obligation or unreasonably discriminates against a port. In the case of agricultural commodities (including forest products and paper), a complaint may be filed on the grounds that a carrier has unreasonably discriminated by refusing to provide the complainant a similar contract under similar conditions or that the proposed contract constitutes a destructive competitive practice.

Once a contract has been approved, the

Commission cannot require a carrier to violate its terms except under the Commission's emergency powers. The exclusive remedy for a breach of contract is an action in a State or U.S. district court unless the parties otherwise agree.

Demand sensitive rates under Section 10724 of title 49 U.S.C. are repealed.

Capital incentive rates under Section 10729 of title 49 U.S.C. are repealed except that capital incentive rates prior to enactment of this Act shall remain in effect no longer than five years, unless the parties otherwise agree.

To provide both shippers and railroads with greater rate-service options the Act permits the establishment of lesser liability requirements than presently assured by law. Such liability limitations are available only if the shipper agrees to them.

To permit use of the new provisions available to both shippers and railroads, Section 10741 of title 49 U.S.C. is amended by exempting certain services from the rate discrimination provision in current law. Exempted are certain contracts, surcharges and cancellations, separate rates for distinct services, rail rates applicable to different routes or business expenses authorized under section 10751 of this title. These exemptions do not affect existing prohibitions against discrimination between ports or within the same port.

The bill authorizes a carrier to surcharge or cancel a joint rate when the existing joint rate does not provide the carrier with 110 percent of its variable cost. Other carriers may prevent the surcharge or cancellation from becoming effective, however, by adjusting the division of revenues or proposing a new rate which brings the surcharging or cancelling carrier's revenues up to 110 percent. Alternatively, a shipper or carrier can reduce to the 110 percent level a surcharge which would provide the surcharging carrier with revenues greater than 110 percent of variable cost, and can prevent a joint rate from being cancelled by providing a surcharge in lieu of cancellation which would bring the revenues of the cancelling carrier to 110 percent of its variable cost. Such a reduced surcharge or surcharge in lieu of cancellation of a joint rate is to be imposed by the Commission in conformity with the petition of the protesting shipper or carrier.

In addition a class III railroad may obtain review by the Commission of either a surcharge or cancellation if the surcharge or cancellation will have an adverse effect on the ability of a class III railroad to compete effectively, or if it will affect the class III railroad's last available route for a particular movement and produce certain adverse results for the class III railroad, or if it will adversely affect the competitive position of a shipper or receiver located on the class III railroad. In making its review, the Commission shall act to prevent anticompetitive surcharges or cancellations which affect class III railroads, and the Commission is given authority to preserve service on the route participated in by the class III railroad. The Commission may rescind the surcharge or cancellation and may require the surcharging or cancelling carrier to carry the traffic at less than 110 percent of its variable costs if necessary to preserve competition or service by the class III railroad which is required by the public interest.

The conferees note that nothing in the bill's protections reduces the availability of the Federal antitrust laws to protect against improper use of the surcharge or cancellation provisions. A rail rate to which a surcharge is applied shall constitute a rate increase for the purpose of section 10701a and 10706 of title 49, United States Code. An expedited division of revenue procedure is also established.

A similar below cost service problem occurs with respect to light density lines. That problem, however, relates more to shippers on a particular line than to inter-carrier relationships. The bill institutes the use of branch-line surcharges on any lines carrying less than 3,000,000 gross tons per year. (1,000,000 gross tons for carriers with adequate revenues).

State authority over intrastate transportation is limited to administering the provisions of the Interstate Commerce Act. Within 120 days of the effective date of this Act, State authorities must submit to the Commission standards and procedures to be used in exercising such jurisdiction. Within 90 days of the receipt of the State's filing, the Commission shall certify the State's compliance with the regulations and procedures of this Act. States are precluded from authority over general rate increases, inflation-based rate increases and fuel adjustment surcharges.

In order to encourage competitive pricing, no rail carrier is permitted to discuss single line rates proposed by another carrier, except for the purposes of general rate increases and broad tariff changes. No rail carrier may discuss a joint line rate unless it practicably participates in that movement. After January 1, 1984 (or earlier if the Commission decides), no carrier may discuss a joint line rate where there are two or more routes between the same end points, except with a carrier that forms part of a particular single route. If the Commission finds that implementation of the section is not feasible, it may delay or suspend implementation in whole or in part.

Transcripts or sound recordings and records of votes are to be available to the Commission and other Federal agencies.

The Commission shall require protective conditions for rate bureau employees.

Competition is encouraged by permitting entry by a rail carrier, through new construction, if public convenience and necessity permit or require it. Where the Commission has authorized construction or extension of a line, no other railroad may refuse to permit the carrier to cross its property if the construction or operation does not interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. The Commission may require protective conditions for the employees affected by new construction.

The Commission may require reciprocal switching where practicable and in the public interest or where such agreements are necessary to provide competitive rail service. The Commission may establish conditions and compensation where carriers are unable to agree within a reasonable time. The Commission may require that reciprocal switching agreements include labor protection provisions.

This title repeals existing incentive per diem provisions. The Commission is authorized to grant shippers antitrust immunity to conduct negotiations with carriers regarding charges for rolling stock owned or leased by such shippers. The participants have the right to petition the Commission to set compensation at a reasonable level, if the parties cannot agree.

In order to encourage more efficient car utilization, carriers are permitted to charge for special services or special levels of service not otherwise included in any tariff applicable to the movement.

For transactions that do not involve the merger or control of at least two Class I railroads, the Commission is required to approve an application unless it finds there is a likelihood of substantially lessening competition, creation of a monopoly or restraint of trade and the anticompetitive effects of the transaction outweigh the public interest.

The application of the Elkins Act to business expenses by rail carriers and motor carriers is clarified by treating these businesses as all other businesses.

Finally the Commission is given exemption authority if regulation is not necessary to carry out the Railroad Transportation Policy and protect shippers from market abuse.

TITLE III—RAILROAD COST DETERMINATIONS

Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of this bill. There is established a Railroad Accounting Principles Board for the purpose of developing cost accounting principles which identify variable costs which accurately represent the most accurate costs of rail movements.

The Board shall exist for three years. Within two years, it shall issue cost determination principles necessary for regulatory purposes which shall identify accurate costs. The principles are to apply to the entire railroad industry to ensure consistency in railroad cost accounting practices.

Each rail carrier is to maintain a system that is in compliance with the rules promulgated under Section 11163 of this title and are required to make cost data available to shippers, states, ports, communities and other interested parties that are party to a Commission proceeding.

TITLE IV—RAILROAD RECONSTRUCTION ASSISTANCE

This title continues the existing redeemable preference share financing program.

The Secretary must report to Congress within 90 days after the end of each fiscal year specifying how each grant or loan contributes to the goal of providing a safe and efficient rail system.

A new feeder railroad development program is established which gives shippers the opportunity to acquire a rail line carrying less than 3,000,000 gross tons a year if the railroad is not providing adequate service. After the third year any rail line may be acquired under this provision. The Commission must make certain findings before any acquisition can take place and the rail carrier must be given compensation for selling the line.

New time limits are established for considering abandonment applications. Applications for abandonment which are not opposed would be granted within 45 days, and the abandonment would occur within 75 days. With respect to unopposed applications, this would basically codify existing ICC practice. For applications which are opposed, ICC decisions would be reached much more quickly than under present law, and the ICC would be required to process and decide such cases within 9 months. No changes are made in the substantive abandonment standards.

The low interest redeemable preference share program under section 505 of the 4R Act is extended for two years. An additional $700,000,000 is authorized for the program, and of that amount $200,000,000 shall be transferred to the United States Railway Association for use by Conrail in reducing the size of its workforce.

Section 211(1) the Regional Rail Reorganization Act is also amended to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density mainlines or for other capital improvements to achieve the goals to the national energy policy.

Finally, section 211(d) the Regional Rail Reorganization Act of 1973 is amended to extend the time period from December 31, 1980 to December 31, 1981 to permit the United States Railway Association to continue to act on loan modifications this provision and increases the principal amount of a loan made under Section 211(d) from $4 million to $7.5 million.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

Section 501 changes the formula for calculating monthly guarantees for non-operating employees, maintenance-of-way employees and operating employees. No change is proposed in the guarantee formula currently applicable to non-contract employees and employees who have been transferred.

Section 502 would restrict the payment of the MDA in two situations. First, a protected employee's entitlement to an MDA would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, floods, snowstorms, and similar occurrences. Second, the legislation would require a protected employee to claim an MDA within three months of entitlement and would require that entitlement to claims be resolved within 150 days after a claim is filed for the first year and 90 days thereafter. This provision will eliminate bookkeeping problems caused by procrastination in filing a claim for an MDA, and enable the Corporation to assess more accurately expected payments for labor protection.

In addition, this legislation would clarify that the period of protection for a protected employee with less than 5 years of service begins to run from the beginning of the first month for which the employee receives an MDA.

Subsection 505(d) of the current law sets out transfer procedures by which the Corporation may require a protected employee deprived of employment to transfer to a bona fide vacancy within the employee's class or craft.

Section 503 addresses restrictions on manpower utilization by including employees in the marine crafts and unemployed Penn Trucks Lines, Inc. truck drivers in the provisions permitting transfer of adversely affected employees to another class, and by offering retraining programs to make the interclass transfer provision meaningful. In addition, the Corporation can make use of an expedited multiple offer procedure to Penn Truck Line and marine craft employees.

Section 504 would redesignate section 509 of the 3–R Act as section 509(a) and increase the amount of funds authorized to be appropriated under title V by $235 million to a new authorization level of $485 million make training and retraining costs incurred by the Corporation under revised section 505(d)(4)(D) reimbursable costs, and confirm existing practice whereby title V funds are used to reimburse the Railroad Retirement Board's unemployment compensation paid to protected employees.

An additional $235 million is authorized to fund the substantially reduced level of benefits afforded by these amendments. This sum would fund the program during a transition period, after which the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that impose auditing and reporting responsibilities upon the Association. Section 509 (b) would direct the Association to conduct a program audit of the payment of benefits under title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in the workforce. The Association would be afforded access to pertinent documents for the purpose of facilitating its audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Section 505 gives Conrail employees the right of first hire on other railroads.

Section 506 requires the single collective bargaining agreements be negotiated with each class and craft and that such negotiations be conducted on a system wide basis.

Section 507 would make the new formulas provided by this title effective August 1, 1980, as already required by a recent Supplement Appropriations bill, P.L. 96–304.

Section 508 makes certain technical amendments.

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Section 306 of the Regional Rail Reorganization Act of 1973 is changed by requiring that within the 240 days after the effective date of this Act the Secretary shall determine whether to initiate a proposal for the transfer of all Conrail properties in Connecticut and Rhode Island to another rail carrier in the region. The Secretary shall develop such proposal if the proposed transferee railroad is financially and operationally capable of assuming freight obligations on a financially self-sustaining basis and the transfer would promote a financially self-sustaining rail system in Connecticut and Rhode Island.

The Secretary shall establish a fair and equitable price for proposed transfers. If the special court determines that the proposal is fair and equitable and meets the other requirements of this section, it shall in order to carry out the proposal.

The parties to a supplemental transaction under this section and the representatives of the affected employees are to enter into a new agreement.

TITLE VII—MISCELLANEOUS PROVISIONS

Title VII of the Conference substitute includes provisions related to effective dates, status of pending matters and construction of amendments. In addition, the title provides the annual authorization for the United States Railway Association and funds for Conrail.

Specific provisions are also included to clarify or remedy legislation enacted early this year related to the Rock Island and Milwaukee Railroads.

SHORT TITLE

Senate bill. The Senate bill has as a short title "Railroad Transportation Policy Act of 1979".

House amendment. The House amendment has as a short title "Harley O. Staggers Rail Act of 1980".

Conference substitute. Adopts the "Staggers Rail Act of 1980" as the short title of the Act.

Findings

Senate bill. The Senate bill has no findings.

House amendment. The House amendment has findings which provide an overview of the need for legislation. Among other considerations stated are findings that today, most transportation within the United States is competitive, nearly wo-thirds of intercity freight is transported by modes other than railroads, earnings of railroads are insufficient to generate funds for necessary capital improvements, by 1985 there will be a capital shortfall of between $16,000,000,000 and $20,000,000 and that modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads to save energy and combat inflation.

Conference substitute. The House amendment.

Goals

Senate bill. The Senate bill has no statement of goals except as included in the railroad transportation.

House amendment. The House amendment sets forth specific overall goals to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States.

Conference substitute. The House amendment.

TITLE I

Railroad transportation policy

Senate bill. The Senate bill adds an independent railroad transportation policy to the Interstate Commerce Act to guide the Commission in formulating its rules, regulation, and decisions arising from its administration of the Act.

House amendment. The House amendment is similar to the Senate provision but puts a greater emphasis on the need to minimize Federal regulatory control over railroads.

Conference substitute. Adopts the House amendment with additional policy considerations taken from the Senate bill.

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

Section 201—Regulation of railroad rates

Senate bill. The Senate bill provides that a rail carrier may establish any rate which yields a revenue to variable cost ratio that is equal to or less than the average ratio of revenue to variable costs established by the Commission. It sets out standards to be used by the Commission in establishing the average ratio and establishes timeframes for action under this section.

House amendment. Section 203 of the House amendment provides that rail carriers may establish any rate for transportation or for services provided by rail carriers unless a rail carrier has market dominance over the traffic. It establishes which parties shall have the burden of proof in complaint and investigation proceedings to challenge the lawfulness of rates or rate increases. The House amendment requires the Commission in determining the reasonableness of rates, to recognize the policy that rail carriers must earn adequate revenues.

Conference substitute. The Conference substitute adopts the House amendment with various changes to conform it to the Senate bill. It allows a rail carrier to establish any rate for transportation unless a rail carrier has market dominance over the transportation, in which case the rate must be reasonable. The definition of market dominance under existing law has not been altered by the substitute, and it is not intended that there be any change in the meaning of the term, nor is any change intended in the Commission's authority to determine market dominance and reasonableness concurrently. However, since other parts of the Conference substitute provide additional rate freedom for rail carriers beyond those found in present law or under existing or proposed Commission regulations, the Commission must revise its market dominance regulations.

In maintaining the term market dominance, in addition to statutory changes designed to provide more rate freedom to rail carriers, the Conferees intend that whenever there is effective competition which will restrain rate increases by the railroads, such competition should continue to function as the regulator of the rate rather than the Commission. Maintenance of the "market dominance" standard is not intended in any way to restrict the ability of the Commission to apply this concept, both in its regulations and individual cases.

Consistent with the new rail transportation policy of this Act, the Conferees intend that competition be recognized as the best control on the ability of railroads to raise rates. The purpose of this legislation is to reverse the decline of the railroad industry, which has been caused, in part, by excessive government regulation. The Conferees believe that by allowing forces of the marketplace to regulate railroad rates wherever possible the financial health of the railroad industry will be improved and will benefit all parts of the economy, including shippers, consumers, and rail employees.

The Conference substitute establishes which party shall have the burden of proof in establishing that a rate is not reasonable and has the effect of maintaining the existing burden of proof in determining reasonableness, i.e. the carrier has the burden of proof in investigation and suspension proceedings and the shipper in complaint cases. The railroad bears the burden of proof when

a rate increase is greater than the 6 percent zone for the first four years, or the 4 percent zone after the first four years. If the rate increase is within the 6 percent or 4 percent zones but is more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lesser the railroad will also bear the burden of proof if the Commission decides to investigate.

In complaint cases i.e. where the shipper is complaining about an existing rate the burden remains on the shipper to prove that the rate is unreasonable no matter what level the rate is. The Conference substitute does not alter the existing procedure which places such a burden on the shipper.

The shipper must bear the burden of proof when the rate increase is within the 6 percent or 4 percent zones and the rate is not more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower. The shipper also bears the burden whenever a rate increase is within the 6 percent or 4 percent zone but the rate increase brings the rate more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower and the Commission decides not to investigate.

The Conference substitute adopts the language from the House bill that in determining rate reasonableness to the Commission must recognize the policy of this Act that carriers must earn adequate revenues. The difficult economic situation of much of the railroad industry is one of the reasons for this legislation and the Commission is required to make efforts to ensure that rail carriers earn adequate revenues.

The Conference substitute maintains language similar to existing law which states that variable costs shall be determined by formulas or procedures prescribed or certified by the Commission.

The Conference substitute maintains the requirement that joint rates must be reasonable. The conferees intend that the rate standard for the reasonableness of joint rates shall be the same as for all rates. The establishment of the minimum compensatory joint rate relief in Section 217 of this Act is not intended to mean that such minimum levels relate to the maximum reasonable level for joint rates. A joint rate must be reasonable, as must the divisions of such a joint rate between carriers, and the Commission should not interfere to require joint rates or any carrier's division of a joint rate to be maintained below the rate level permitted by this Act.

Rates may not be established below a reasonable minimum. Rates which contribute to going concern value shall be reasonable and rates which do not contribute to going concern value shall be presumed to be unreasonable. In essence, these provisions strengthen the minimum rate policies of the 4R Act by placing the burden of proof on the party challenging a rate as too low and by expediting the procedures whereby rates which are too low can be raised.

These modifications will ensure that carriers pricing in a manner that meets rational economic standards will not be prevented from improving their economic position by reducing rates. While the Conferees believe there may be circumstances in which rates which do not contribute to going concern value are reasonable, those circumstances are likely to be unusual and once a complainant has shown a rate does not contribute to going concern value, that rate shall be presumed to be unreasonable until the carrier charging the rate bears the burden of showing that the rate is reasonable.

These provisions will ensure that those shippers can protest that a rate is too low and that a carrier is worse off than it would be if the rate were raised. Upon finding this to be the case, the Commission may raise the rate to the minimum level at which the rate benefits the carrier. All shippers as well as the carrier are better off if traffic which makes a contribution moves than if it does not, because the carrier is made financially stronger and need not rely as much on revenue and other shippers.

The Conferees do not intend, however, that rates which are contributing to the going concern value of a carrier should be forced to be raised. The Commission should not restrict the carriage of this beneficial traffic, placing a greater burden on other shippers. This is a decision that is best made by the carrier as it judges the market. Since a carrier has no reason to keep a rate below the most beneficial level, the Conferees have no reason to believe rates will be held below the most beneficial level except by oversight. Accordingly, rates that contribute to going concern value shall be reasonable and the Commission may not require that those rates be raised.

Section 203—Determination of market dominance

Senate bill. The Senate bill establishes a level below which the Commission will have no jurisdiction over railroad rates. The jurisdictional level is equal to the average ratio of revenue to variable costs for all transportation. Until such level is determined by the Commission the jurisdictional level is set at 150% of revenue to variable cost. The Senate bill also repeals 49 U.S.C. 10709, which is the section establishing "market dominance" as a test for Commission jurisdiction over railroad rates.

House amendment. Section 204 of the House amendment retains 49 U.S.C. 10709 and adds a new subsection. The new subsection requires the Commission to find that a rail carrier does not have market dominance over the transportation to which a rate applies if that rate is below a revenue to variable cost ratio of:

160% from the effective date of the Act to September 30, 1981;

165% from September 30, 1981, to September 30, 1982;

170% from September 30, 1982, to September 30, 1983.

175% or the "cost recovery percentage", whichever is lower, from September 1, 1983 to September 30, 1984; and

the "cost recovery percentage" thereafter, except that the "CRP" may not exceed 180% nor be lower than 170%.

The House amendment establishes a "cost recovery percentage" which is the revenue to variable cost level at which the industry is covering its costs as defined in the House amendment. The Commission is required to establish the "cost recovery percentage" annually.

Conference substitute. The Conference substitute adopts the House provision establishing and defining the "cost recovery percentage". It also adopts the House language establishing a jurisdictional threshold of 160% increasing 5% each year through 1984, when the jurisdictional threshold is 175% or the cost recovery percentage, whichever is lower. After September 30, 1984, the jurisdictional threshold is the cost recovery percentage, but it may not be lower than 170% or higher than 180%.

The Conferees have adopted the concept of a jurisdictional level that varies according to the performance of the railroad industry. When the industry is earning revenues which are adequate, it is appropriate for the Commission to have the authority to review rate increases more carefully.

The Conference substitute incorporates a provision which allows a carrier to use present Rail Form A, with adjustments specified by the Commission as appropriate for the type of traffic involved, or its successor as the basis for determining the revenue to variable cost ratio of a rate. The burden is on the carrier to establish on such a basis that the rate is below the jurisdictional level, and the complainant may rebut the showing of the revenue to variable cost ratio according to the Commission formula by evidence of such type and under such burden of proof as the Commission shall prescribe. By such a showing the complainant or the railroad may demonstrate that the revenue to variable cost ratio is different than the one established under adjusted Rail Form A or its successor.

The Conferees do not intend that the Commission alter the jurisdictional threshold by reducing or increasing the items which will be considered as part of variable cost.

The Conferees have adopted a jurisdictional threshold which will deny the Commission jurisdiction over rates which the Commission reviews under present law. The reduction in Commission jurisdiction is adopted because the conferees believe that competition should be the determining factor in railroad rates wherever possible. The railroads' share of intercity freight traffic has decreased dramatically in the past three decades, to the point where most freight traffic can be transported by another mode and is subject to competition.

Section 203—Zone of rate flexibility

Senate bill. The Senate bill establishes procedures and standards for determining a "base rate" and an "adjusted base rate" for purposes of computing rate increases. Carriers are allowed to recover inflation quarterly on individual rates up to the level of the adjusted base rate without challenge.

To determine the adjusted base rate the Commission must publish quarterly a rail cost adjustment factor, which uses an index of Railroad Costs to keep rates equal with inflation.

The Senate bill allows a rail carrier to increase a rate by an amount not exceeding 6% of the adjusted base rate, subject to the restriction that the increase over 5 years under this section not exceed 14%. The Commission is not allowed to suspend any rate increase within this 6% zone, and it may investigate such increase only if it exceeds a revenue to variable cost ratio established by the Commission or if the carrier or carriers proposing the rate increase have achieved an adequate revenue level. Even a rate increase within the 6% zone is subject to challenge on complaint, with the burden of proof on the shipper.

If the Commission decides not to investigate a rate within the 6% zone, it must set forth its reasons for not doing so, after giving consideration to three factors—the amount of traffic transported below variable cost, the amount of traffic which contributes only marginally to fixed cost and the extent to which such rates can be changed, and the impact of the proposed rate increase on national energy goals, taking into account the railroads' role as a primary source of transportation and the need for a sound rail transportation system.

The Commission shall consider, among other factors, when determining the reasonableness of a rate, the amount of traffic which is transported below variable costs, the amount of traffic which contributes only marginally to fixed costs and the extent to which such rates can be changed, and the carrier's mix of rail traffic to determine whether one commodity is paying a disproportionate share of the carrier's overall revenues.

The Senate bill allows the Commission to investigate a rate even if it is within the 6% zone if such a rate is proposed by a carrier or carriers with adequate revenues.

House amendment. The House amendment establishes a base rate for purposes of rate

increases, and an adjusted base rate to account for inflation. It also provides for a 6% zone for each of the four years after the date of enactment, and a 4% zone for carriers without adequate revenue for each succeeding year.

The House amendment does not permit a suspension or investigation of rate increases within the 6 percent or 4 percent zones, if the resulting rate is less than 190 percent of revenue to variable cost of 20 percentage points above the jurisdictional threshold, which ever is lower. It also prohibits the Commission from using rules, classifications, or practice changes to limit rates. It includes a provision that limits the allowable rate on coal movements fitting a particular description.

Conference substitute. The conference substitute adopts parts of the Senate bill and parts of the House amendment. It establishes the base rate as the rate in effect on the effective date of the Act. The 'adjusted base rate' is computed quarterly by means of a "rail cost adjustment factor," as contained in the Senate bill.

A carrier is allowed to change a rate to conform to the 'adjusted base rate' at any time without challenge. A carrier may not receive a rate increase under the adjusted base rate method if the carrier has received an inflation increase through general rate increases or the inflation index thereby already assuring that the rates reflect inflation.

The language of subsection (b) makes it clear that rate increases which do not exceed the adjusted rate base may not be found by the Commission to exceed a maximum reasonable level. The reference to rate increases under subsections (c) and (d) of this section is not intended to suggest that increases under those subsections are presumed to be reasonable. The reasonableness of such rate increases shall be determined under the same standards of maximum reasonableness applicable to any other rate or rate increase.

The conference substitute adopts the 6 percent zone contained in the House amendment. A carrier is free to increase any rate by 6 percent of the adjusted base rate.

During the four year period after the effective date of the Act, the total increase allowed under this section is limited to 118 percent of the adjusted base rate. If a carrier does not take all or a portion of a rate increase in a year, the carrier may take that portion in the next succeeding year.

If a carrier chooses not to take some portion of the allowed 18 percent increase during the first four years, the carrier may take that portion in the next 2 succeeding years, except that the rate increase allowed under this section is limited to 10 percent for each of those years.

The 6% zone does not establish a limit for allowable rate increases by the Commission. If the Commission finds further rate increases do not exceed a reasonable maximum, it may allow such rate increases under the normal standards and procedures of the Act. The 6% zone is established as a procedural mechanism for carriers to change rates without undue regulatory interference. The Conferees believe that the best regulator is the marketplace, and the forces of competition will restrain railroad rates more effectively than federal regulation.

The Conference substitute requires the Commission, when considering a rate increase within the 6% zone and below the point 20 percentage points higher than the jurisdictional level or 130% of revenue to variable cost, whichever is lower, to give due consideration to whether a carrier proposing a rate increase has attained adequate revenues, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level. This provision is intended to apply only for the four years that the 6% zone applies, and only to those rate increases which are within the 6% zone and below the point 20 points higher than the jurisdictional level or 130% of revenue to variable cost, whichever is lower.

The Conferees intend that the Commission give due regard to two things, whether a rate increase would mean excessive profits, and the need for a rate increase in light of the carrier's revenue position taking into account the policy of this Act that inadequate revenue carriers make adequate revenues. This language is not intended to imply that excessive profits for inadequate revenue carriers are reasonable.

The Conferees understand that the Commission presently considers the adequacy of revenues in its determination of reasonableness, and the Conferees intend that the Commission continue to consider the adequacy of revenues in its determination of reasonableness. The Conferees intend that the Commission continue to look carefully at the adequacy of a rail carrier's revenues when considering whether a rate is reasonable and to consider all the other factors which it presently considers in determining reasonableness.

The Conference substitute adopts the 4% zone from the House amendment. A 4% zone is established free from suspension, and free from investigation if the resulting rate is below 190% or 20 percentage points above the jurisdictional threshold, whichever is lower. A carrier is allowed 4% of the existing rate as an increase without undue regulatory interference.

This zone is limited to carriers without adequate revenues. Carriers with adequate revenues are not allowed this 4% zone on single line rates, and are not allowed the zone on joint line rates unless the Commission determines in its rulemaking under this provision that it cannot establish rules preventing rail carriers with adequate revenues from taking advantage of the 4% zone without denying the zone to carriers without adequate revenues. The conferees expect the Commisson to establish the rules for determining how the 4% zone is to be applied in conformity with the policy of this Act, which is designed to provide increased regulatory freedom and to allow carriers to earn adequate revenues.

Neither the 4% or the 6% zone is intended to create any presumptions about the rate increases beyond the zone. The Conference substitute states unequivocally that a rate increase beyond the zone establishes no presumption of market dominance or reasonableness.

The Conference substitute adopts the House amendment which establishes the point at which the Commission may investigate a rate increase within the 6% or 4% zones. The point is 20 percentage points above the jurisdictional threshold or 190% of revenue to variable cost, whichever is lower. For example in the first year the jurisdictional threshold is 180%, and the point at which the Commission may investigate is 180%.

The Conference substitute adopts the Senate provision which requires the Commission to set forth its reason for not reviewing a rate increase or new rate. The Commission shall give due consideration, in its decision whether or not to investigate, to the following factors:

1. the amount of traffic which is transported below going concern value, and efforts made to minimize such traffic;

2. the amount of traffic which contributes only marginally to fixed costs; and

3. the impact of the proposed rate increase on the attainment of the national energy goals and the rail transportation policy of this Act, taking into account the railroads' role as a primary source of energy transportation and the need for adequate revenues to achieve a sound rail system.

The Conferees have used the term "going concern value" in the first consideration in place "variable cost," to eliminate any confusion about what is intended. Railroads should not be carrying traffic which is losing money but in a competitive environment railroads should be attracting whatever traffic they can at the lowest rates that will attract that traffic. There should be no incentive to prevent such pricing, which is to the advantage of the shipper and the consumer.

The Conferees have added to the third consideration the rail transportation policy of this Act. The national energy goals, which include a reduction of dependence on foreign energy sources and the encouragement of fuel efficient forms of transportation within the United States, are compatible with the transportation policy of this Act. To reduce dependence on foreign energy sources this country must stimulate utilization of its abundant, idigenous coal reserves. For coal to be a viable alternative, we must have a sound rail transportation system capable of handling such coal efficiently and economically. At a minimum the rail system will need to invest over $5 billion over the next 4 years to maintain a system adequate for increased coal use. Without such an investment the national energy policy of decreasing reliance on foreign energy sources will never be achieved.

Decisions whether to investigate a rate are not presently reviewable in court. The conferees intend, and the Act specifically states, that a decision whether or not to investigate remains not reviewable.

The Conference substitute adopts the language of the Senate bill specifying three factors among those already considered by the Commission which the Commission must consider in determining the reasonableness of a rate, with changes. As in the previous section the term "going concern value" is substituted for "variable costs." In the third consideration, the word "disproportionate" is changed to "unreasonable". It requires the Commission to consider evidence of the factors listed.

The Conference substitute adopts the House provision limiting coal rates which meet a specific description. This provision deals with the celebrated and extended dispute over the freight rate for rail transportation of coal to a municipally owned utility in San Antonio, Texas. This utility decided voluntarily in 1973 prior to the oil embargo, and prior to any legislative requirements concerning use of alternate fuels, to convert an oil/gas unit then on order to coal and to build this and an additional unit on an accelerated basis, resulting in the displacement of oil and gas equivalent to more than 50 billion cubic feet of gas on an annual basis. Unfortunately the appropriate rate for the transportation of coal to these new plants has been the subject of dispute and protracted litigation. Due to the unique circumstances of the San Antonio situation, this provision imposes certain short term limitations on the rate level for the San Antonio coal movement. The purpose of this provision is not punitive and the rate specified for such a coal movement shall have no effect on any decision of the Commission or a court, and evidence of the rate or this section shall be inadmissible in any proceeding.

The Conference substitute adopts the House provision. New section 10709(h) makes it clear that the Commission may not use any of its residual powers to regulate rates, rules, classifications, and practices as

tools to interfere with the rate freedom provided by the Staggers Rail Act. The Conferees intend that a pratcical rule or classification which has the effect of resulting in an increased rate for transportation shall not be found unreasonable unless, in the absence of its affect on rate levels, it would itself be unreasonable.

Section 204—Transportation of recyclable materials

Senate bill. The Senate bill requires that rates for recyclable or recycled materials be no higher than the average revenue to variable cost ratio of all rates for railroad transportation. Any rate which exceeds that threshold shall not be required to bear further rate increases.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate bill with certain changes. The substitute excludes recyclable or recycled iron and steel from this provision. Rates which are currently above the threshold would be prohibited from increases until such time as the rate falls below the average revenue to variable cost threshold. The standard for establishing the average revenue to variable cost threshold is the standard used in the Senate bill.

Section 205—Rate regulation proceedings; adequate revenues

Senate bill. The Senate bill required the Commission to submit to Congress, within one year after the enactment of the act, a study on the desirability of using return-on-investment as a threshold standard for jurisdiction over the reasonableness of rail carrier rates. The Commission was also required to submit a report to the Congress every three years which analyzed the revenue needs of carriers and made appropriate recommendations.

House amendment. The House amendment requires the Commission to commence and conclude within 230 days of enactment a proceeding to determine whether, and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. For purposes of only this proceeding product competition is defined in the amendment. This definition is not intended to be taken into account in any other Commission or court proceeding dealing with competition from alternative sources or types of commodities. The amendment provides that on the basis of the study the Commission may find that in determining the reasonableness of a rate, product competition should be given the same or greater weight than in current proceedings or proof of product competition should be given greater or conclusive weight.

The section is not to be construed as requiring any change in the Commission's present standards concerning reasonableness and is not to influence in any way the meaning of market dominance.

The House amendment also requires the Commission to submit to Congress within three years of the effective date of the Act recommendations as to the threshold level for Commission jurisdiction over the reasonableness of a proposed rail carrier rate.

The House amendment also requires that the Commission within 180 days after the effective date of the Act establish standards for determining what constitutes adequate revenues under section 10704 of the Act and to report to the Congress, within 180 days after the effective date and annually thereafter, which carriers were earning adequate revenues.

The House amendment makes the rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980, the base rate for purposes of determining permissible rate increases.

Conference substitute. The Conference substitute adopts the provisions from the House amendment requiring the Commission to initiate a proceeding within 230 days of the effective date of the Act to determine whether and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. The substitute amends the House amendment to underscore the fact that the ICC proceeding shall not be evidence in a Commission or court proceeding regarding the scope of the market dominance concept.

The Conferees intend to exclude from any rule adopted under this subsection existing supply contracts, or for two years, whichever is less. The Conferees also intend that the Commission, in its rule-making, look at the existence of long-term contracts in determining how to apply product competition. Product competition means the availability to a consignee at a competitive delivered cost and in sufficient quantities of products or commodities which are of the same type as the commodity or product to which the rate applies without regard to whether such products or commodities are available from the same or a different origin as those to which a rate applies. An example of where product competition does not exist is a situation in which a particular automobile company manufactures bumpers at Plant A and ships them to its Plant B for assembly because it cannot use another automobile company's bumpers.

The Conference substitute amends existing Section 10704(a)(2) of Title 49 clarifying that the Commission has the authority to revise its standards and procedures for determining revenue adequacy as necessary; by directing the Commission to conclude a proceeding under Section 10704(a)(2) within 180 days after the effective date of the Act; and on the basis of standards and procedures under Section 10704(a)(2) to determine which rail carriers have adequate revenues within 180 days of the effective date of the Act and on an annual basis thereafter.

Section 206—Inflation-based increases

Senate bill. The Senate bill provides a free zone for the recovery of inflationary cost increases.

House amendment. The House amendment allows the Commission to establish a percentage rate increase or rate index for rail carriers in order to compensate for inflation. Such percentage increase or index may be applied carrier by carrier or industry wide. The percentage rate index allows Commission to establish a range within which carriers may increase rates differently for different commodities, but recovering no more than total inflation.

Conference substitute. The Conference substitute provides that the Commission may establish a percentage rate increase or index to allow carriers to cover inflation. Such an index or percentage may not be necessary, since carriers will be free to recover inflation on individual rates without challenge. In the event that carriers find they are unable to keep up with inflation, and the Commission believes that it must prescribe a general mechanism to allow carriers to cover inflation, this percentage increase or index is allowed. The provision make specific reference to the policy section of the Act which discourages the automatic pass-through of inflation through increases of general applicability.

Under this provision, the Commission is allowed to establish a range of permissible increases, and the carriers may take increases within that range. The total increase in revenue may not account for more than is necessary to cover the total of inflationary cost increases.

Section 207—Investigation and suspension of rates

Senate bill. The Senate bill requires the Commission to complete a proceeding when a suspension has occurred within five months, unless it reports to the Congress that it is unable to do so, in which case it may take an additional three months.

House amendment. The House amendment requires the Commission to act within five months if a suspension has occurred, and provides an additional 3 months if the Commission reports to the Congress that it is necessary. The House amendment also revises the standards under which the Commission may suspend a rate by adding the word "substantially" to the requirement that the Commission find that it is likely that the complainant will prevail on the merits and by adding a new standard which requires the Commission to find that because of the peculiar economic circumstances of the protestant, he is not protected by the refund provisions. The burden is on the protestant to prove that the standards are met.

The House amendment also provides for an accounting and refunds to shippers where a proposed rate increase is suspended, and to rail carriers if the proposed rate increase is suspended and later found to be reasonable.

Conference substitute. The Conference substitute adopts the House amendment with a modification with respect to refunds. The substitute makes suspension more difficult.

Section 208—Contracts

Senate bill.—The Senate provision clarifies the status of contract rate and service agreements in an effort to encourage carriers and purchasers of rail service to make widespread use of such agreements. In addressing concerns of small shippers the Senate provision also limited the percentage of equipment a rail carrier could dedicate to contract service. This limitation was designed to insure that the carriers always had sufficient equipment to meet common carrier obligations. The Senate bill limits the number of cars a carrier can dedicate to contract service to 35 percent of the carriers' capacity by major car type. A further limitation was imposed on large shippers, again to protect the small shippers' ability to obtain sufficient cars, with respect to contracts between Class I carriers and shippers which originate an average of 1,000 cars or more per year by major car type during any preceding three-year period, no more than 40 percent of that coverage could be used for contracts. The remainder of the shipper's car needs would be supplied by the carrier under the common carrier obligation as with all other non-contracting shippers. The smaller shippers, i.e. one who originates less than 1,000 cars per year (based on a 3 year average prior to the contracting period) could contract for 100 percent of the shipper's needs.

Further, the Commission may order a carrier to provide rates and services similar to those in any contract which it finds the carrier did not make available to a similarly situated shipper.

House amendment.—The House amendment permits carriers to enter into contracts with shippers. Once approved, a contract is not subject to challenge.

First, carriers may enter into contracts filed with the Commission (along with summaries to be made public) unless the Commission finds that the contract unduly impairs the ability of the carrier to fulfill its common carrier obligation to a complainant, unreasonably discriminates against a port or, in the case of agricultural commodities, the carrier has unreasonably discriminated the complainant a similar contract under similar conditions or the contract constitutes a destructive competitive practice.

Second, the Commission may begin an investigation within 30 days of the filing of a contract on its own motion or on complaint. The Commission has 30 days following the initiation of a proceeding to approve the contract. If the Commission fails to act, then the contract is [illegible]

Third, if the Commission determines that a carrier has refused to provide an agricultural shipper with a similar contract, the Commission may order the carrier to enter into such a contract with appropriate adjustments.

Fourth, once a contract has been approved by the Commission, the Commission may not require violation of the contract except to require compliance under the Commission or any court under the provisions of this subtitle. The exclusive remedy for breach of a contract entered into under this section is an action in a State or U.S. district court, unless the parties otherwise agree.

Fifth, during the first three years after passage of the Act, a carrier may enter into contracts for the transportation of agricultural commodities involving the utilization of carrier-owned or leased equipment not in excess of 40 percent of the capacity of such carriers' owned or leased equipment by major car type, except with respect to a contract with a shipper of over 1,000 cars or more per year for the prior three years in which case the carrier may contract for more than 40 percent of the average equipment utilized in the three year period. The Commission may raise these limits.

Conference substitute. The conference substitute adopts the Senate amendment with several changes. The percentage of limitation on cars for contracts for agricultural commodities, is expanded to include forest products and paper and is not limited to three years after passage of the Act. However, the Commission, as well as any other party, may initiate a proceeding to modify this percentage limitation. Unreasonable discrimination with respect to agricultural, forest product or paper shippers is defined for purposes of this section as that term is used in section 10741 of the Interstate Commerce Act. A similar provision with respect to ports from the House amendment is retained. The conferees stress that the establishment of contract rates is a significant aspect of the new freedom allowed to carriers to market rail transportation more effectively. Therefore, the grounds for disapproving contracts have been intentionally limited.

The provision establishes a separate class of rail service and thereby makes carriers entering into such contracts both common carriers and contract carriers. Once a contract is approved by the Commission or goes into effect because the Commission has not acted within the specified time limits, the service provided under the contract is exempt, subject to the specific limitation of section 11128, from all regulation and all of the requirements of the Interstate Commerce Act. However, the Commission is given the specific authority to limit the right of a rail carrier to enter into future contracts if it determines that such additional contracts will impair the ability of the rail carrier to fulfill its common carrier obligations under Section 11101 of the Act. Once contracts are approved under this section, they are to be enforced in the courts and not at the Commission.

Shippers who do not elect to enter into contracts, or are unable to do so, are assured that carriers will have the same common carrier obligations as in existing law. The percentage limitation on equipment for agricultural commodities, forest products and paper result from problems experienced in providing adequate numbers of cars for the shipments of these products and are intended to ensure that a carrier can meet its common carrier obligations. These limits are to be apply to any type of car which could practicably be used for shipping agricultural commodities, forest products or paper. However, they are not intended in any way to imply a limit on a carrier's ability to contract with respect to other types of equipment.

While the Conferees intend to encourage shippers to contract they recognize the difficulty that small shippers may have in negotiating contracts, and therefore, the Conference substitute adopts the Senate provision establishing a railroad contract rate advisory service. The Conference substitute also includes the Senate provision which gives the Commission the ability to order a carrier to provide rates and services similar to those in any contract which it finds the carriers did not make available to similarly situated agricultural shippers. Finally, the Conference substitute includes a provision which allows agricultural shippers to challenge a contract on the grounds that the proposed contract constitutes a destructive competitive practice. It should be noted that these provisions were included in recognition of the fact that smaller shippers are particularly concerned about the market power of their larger competitors once the contract rate provisions are put into effect. It is the intention of the Conferees that the Commission carefully review this aspect of the competitive situation in approving contracts.

The existing Federal antitrust laws apply to this section.

Section 209—Demand sensitive rates.

Senate bill. The Senate bill amends 49 U.S.C. 10727 to provide for the filing of a demand-sensitive tariff in response to explicit or anticipated fluctuations in demand for rail services. The tariff would apply to a maximum and minimum rate regulation. The Senate bill specifically excluded grain from this provision.

House amendment. The House amendmend repealed 49 U.S.C. 10727 because of the concerns raised by agriculture interest groups about the way demand-sensitive tariffs had been implemented. The provision was originally included in the 4R Act to provide greater car utilization by encouraging rail shippers to ship in off-peak, low demand periods. The repeal of the demand-sensitive tariff authority should not be construed by the Commission as a resolution of the car utilization problems. The Commission has other ways to abate the serious problem of the declining car utilization in the rail industry.

Conference substitute. The Conference substitute adopts the House provision. The conferees direct the Commission to explore alternative methods of improving car utilization and making railroad prices and services more responsive to market conditions instead of artificial regulatory restraints. However, the Commission is on specific notice not to contravene the policy set out by Congress which is clearly to prevent demand-sensitive rates by any means to apply to agricultural commodities.

A letter from Chairman Gaskins on the Commission's existing authority in this area is attached as an appendix.

Section 210—Phaseout of capital incentive rates

Senate bill. The Senate bill repealed 49 U.S.C. 10729, which provides that if a capital incentive rate is approved by the Commission, such rate not be found unreasonable or discriminatory for 5 years. A capital incentive rate is based on an investment by a shipper, railroad or interested third party of $1 million or more in rail-related equipment or facilities. The intent of this provision was to encourage the negotiation of rates reflecting individualized and innovative service and to create stability which would promote large investments. Regulatory complexities and ambiguities have frustrated the intent of this section. Moreover, the explicit authorization of contracts makes this section unnecessary. Capital-incentive rates filed not less than 90 days before the date of enactment would not become effective, but rates filed before that date remain effective subject to the 5-year limitation.

House amendment. The House amendment repeals the capital-incentive rate provision, but preserves all capital-incentive rates from challenge as unreasonable or discriminatory if filed prior to the effective date of this Act, subject to the 5-year limitation from the date the rate became effective, unless the parties otherwise agree. The Commission may, during the period the rate is in effect, order the rate revised to a level equal to the incremental cost of providing the transportation, if the Commission finds that the rate level in effect reduces the going concern value of the rail carrier.

Conference substitute. The Conference substitute adopts the House amendment.

Section 211—Permissive limited liability

Senate bill. The Senate bill amends 49 U.S.C. 10730 with respect to released rates. Under existing law the Commission is authorized to permit released rates in cases where rates based on a declared or released value would be just and reasonable under the circumstances surrounding the transportation. Under this section no carrier may publish rates based on the declared or agreed value without specific authority from the Commission.

Under the Senate bill, rail carriers may establish released value rates subject to the provisions and procedures set forth in chapter 107. The effect of this change is to authorize the filing of such rates without prior Commission authorization. In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage.

Rail carriers should be able to negotiate for the type of service required and the rate to be paid for that service. It is with that purpose in mind that this subsection has been added to section 10730—to permit the establishment of released rates as an additional option available to shippers and rail carriers. Full value rates will of course continue in effect for the use of those shippers and receivers which choose not to utilize released rates established and filed under this provision or agree to other terms as part of a contract for services.

House amendment. The House amendment provides that rail carriers may establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by a written declaration of the shippers or by a written agreement between the shipper and carrier, and such agreement may provide for a specified deductible for any claim against the carrier for loss or damage to the property or delay in the transportation of such property. The ability to use released rates including the deductible in an agreement, gives both the shipper and carrier greater flexibility with respect to negotiation of rates without harrassment and delay at the Commission.

The House amendment changes provisions of the Carmack Amendment, 49 U.S.C. 11707 concerning the availability of special damages, comparative negligence standards for liability and the time period when claims must be filed with the carrier and where

actions must be instituted against a carrier under the Carmack Amendment.

Conference substitute. The Conference substitute adopts the House provision with respect to released rates, including deductibles, but drops the references to the Carmack Amendment, except for venue provisions. It adds a study with respect to the need for the Carmack Amendment. At the insistence of several shipper groups, explicit statutory language prohibiting special damages was eliminated because special damages are not permitted under the Carmack Amendment.

A provision regarding the changing of the existing case law that makes the railroad almost strictly liable, unless it can establish that it was neither negligent nor not liable under certain recognized absolute defenses, was dropped and has been included in the study. While the study is being completed, carriers are not prohibited from arguing to the courts that the Carmack Amendment was intended to codify common law standards and therefore, a comparative negligence standard ought to be adopted.

The Conference substitute adopts the House amendment with respect to changes in venue for Carmack Amendment cases. Hereafter, cases may only be brought in a court having jurisdiction over the originating carrier's point of origin, against the delivering carrier in a court at the principal place of business of the person entitled to recover against the carrier or having jurisdiction over the point of destination, or against an originating, intermediate or delivering carrier in a court having jurisdiction over the point where the loss or damage is alleged to have occurred. Because existing law permits an action wherever the carrier operates, venue is virtually uncontrollable and frequently, inconvenient.

The Carmack Amendment was enacted at a different time with different factors affecting rail carriers. Among other issues, the studies should examine whether special damages are being recovered from rail carriers, and, whether a rail carrier ought to be responsible for such damages in the absence of a clear showing, by written agreement, that the carrier was made aware of certain foreseeable risks and had an opportunity to make appropriate arrangements.

Simularly, the studies should consider whether it makes sense in 1980 to hold a carrier liable for 100 percent of the damages even if the carrier was only 10 percent at fault. Current law makes a carrier totally liable unless the carrier can show that it was completely free from fault and that the shipper's negligence was the sole cause of the damages. The study should consider whether it is appropriate to follow the recent trend among the states to adopt comparative negligence standards, requiring each party to bear the costs of its own negligence. More than a majority of states have departed from prior law making liability an all or nothing alternative. The study should determine whether similar policy goals would require similar legislation with respect to common carrier obligations.

The studies should also address other issues raised by the Carmack Act, including the recovery of attorneys' fees, appropriate time limits, the feasibility of a "no-fault" system, and proper venue requirements.

Section 213—Rate discrimination

Senate bill. No provision.

House amendment. The House amendment amends section 10741 to state that differences between rates, rules, or practices which result from different services do not constitute a violation of this section. The amendment specifically exempts surcharges, approved contracts, separate rates for distinct services under 10728, rail rates applicable to different routes and customer solicitation expenses from being challenged as discriminatory. The Commission retains its existing authority to regulate rate relationships between and within ports.

Conference substitute. The Conference substitute adopts the House amendment. The Conference substitute will help ensure that, with the exception of the right of ports to complain of unjust discrimination between and within ports and the special remedies provided for certain unjustly discriminatory contracts in new section 10713, claims of unjust discrimination may not be used to hamper the development of sound economic rate and service relationships. The conferees also expect the Commission, to exercise its remaining power under section 10741 only where it is needed to prevent abuses of market power where discrimination cannot be justified by differences in demand for services or costs.

The conferees intend that the reference to separate rates or distinct rail services in this section shall not affect the *Wichita* doctrine.

Section 213—Exemptions

Senate bill. The Senate bill amended section 10505 to provide that, where any provision of the Interstate Commerce Act is not needed to protect shippers from the abuse of market power, the "limited scope" restriction in the original section 10505 would not apply. The Senate bill also removed the requirement that a proceeding be held in all cases before an exemption is granted.

The Senate bill requires the Commission to provide an exemption from regulation when it finds that regulation is not necessary to carry out the transportation policy and the transportation or service is either of limited scope or regulation is not needed to protect shippers from the abuse of market power. The Commission may not issue an exemption which will substantially lessen competition and coordination between water and rail carriers. No exemption order shall operate to relieve railroads of their common carrier liability for claims under 49 U.S.C. 11707.

House amendment. The House amendment amends section 10505 of the Interstate Commerce Act and provides that the Commission shall exempt a person or transaction from one or more provisions of the Act where it is not necessary to carry out the rail transportation policy and where (1) the transportation or service is of a limited scope or (2) the application of a provision is not needed to protect shippers or receivers where there is an absence of effective competition or (3) where there is effective competition. The House bill, like the Senate bill, removed the requirement that a proceeding be held in all cases. The Commission is charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section's standards.

The amendment places certain limits on the Commission's authority to grant exemptions. First, section 10505(e) provides contractual terms for liability and claims consistant with section 11707. This limitation does not affect the ability of a carrier to offer alternative terms nor give the Commission the authority to require either any specific level of rates or services based on Section 11707, nor does it require the filing of those terms with the Commission. Second, the exemption authority may not be used to relieve a carrier of its obligation to protect the interests of employees. Third, under section 10505(f) the exemption authority may not be used to authorize intermodal ownership otherwise prohibited by this title.

Conference substitute. The conference substitute combines the Senate and House provisions. The bill permits exemptions wherever regulation is not needed to prevent abuses of market power, regardless of the presence of effective competition. The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation. The conferees anticipate that through the exemption process the Commission will eventually reduce its exercise of authority to instances where regulation is necessary to protect against abuses of market power where other federal remedies are inadequate for this purpose. Particularly, the conferees expect that as many as possible of the Commission's restrictions on changes in prices and services by rail carriers will be removed and that the Commission will adopt a policy of reviewing carrier actions after the fact to correct abuses of market power.

For these reasons we also expect that except to the extent necessary to comply with subsections (e) and (g) of section 10505 of title 49 U.S.C. as amended by the Staggers Rail Act of 1980, an exemption order issued by the Commission prior to the effective date of the Staggers Rail Act of 1980 shall remain in full force and effect unless revoked pursuant to subsection (d) of section 10505 of title 49 U.S.C. as amended.

Section 214—Intrastate rates

Senate bill. The Senate bill amends section 11501 to reaffirm both that the Commission's power in this area is only as otherwise authorized by this title and that the States' power cannot conflict with the Federal regulatory scheme.

First, it amends section 11501 to limit the Commission's authority to prescribe a rate or effect other action which is inconsistent with its rate regulatory authority as limited by the act.

Second, it reaffirms that where the Commission has withdrawn its jurisdiction to regulate, the State could not assume such jurisdiction.

Third, it provides that to the extent States do have jurisdiction, they are to regulate in accordance with the transportation policies set forth in the act.

Finally, it shortens the time in which a failure by the State to act on an intrastate rate allows Commission action.

House amendment. The House amendment amends sections 11501, 10103 and 10501 of the Interstate Commerce Act by exempting rail carriers from the provisions of section 11501(a) and by adding provisions making the Commission's and certified States' jurisdiction over intrastate and interstate rail carrier rates, classifications, rules and practices and the remedies provided by the Act exclusive.

First, it amends section 11501(a) of the Interstate Commerce Act to exempt rail carriers from present provisions for Commission jurisdiction over intrastate carriers.

Second, it amends section 11501 by adding new provisions which provide that only State authorities whose standards and procedures have been certified by the Commission may exercise jurisdiction over intrastate rail rates, classifications, rules and practices. Intrastate rail transportation not subject to the jurisdiction of a certified State authority is subject to the jurisdiction of the Commission. In no event may a State authority exercise jurisdiction over general rate or inflation-based rate increases. Decisions of State authorities may be appealed to the Commission if not in accordance with this subtitle.

Third, it amends section 10103(a) to make explicit that where the Interstate Commerce

Act provides an exclusive remedy, such remedy is not in addition to remedies under another law or at common law.

Finally, it amends section 10501 by adding a new paragraph providing that the jurisdiction of the Commission and of certified State authorities over rail transportation, as well as the remedies provided with respect to rail rates, classifications, rules and practices are exclusive.

Conference substitute. The Conference substitute adopts the House amendment, except that the Commission's power to adjust intrastate rates is retained in the event that actions by certified states impose a burden on intrastate commerce. The conferees' intent is to ensure that the price and service flexibility and revenue adequacy goals of the Act are not undermined by state regulation of rates, practices, etc., which are not in accordance with these goals. Accordingly, the Act preempts state authority over rail rates, classifications, rules and practices. States may only regulate in these areas if they are certified under the procedures of this section.

The remedies available against rail carriers with respect to rail rates, classifications, rules and practices are exclusively those provided by the Interstate Commerce Act, as amended, and any other federal statutes which are not inconsistent with the Interstate Commerce Act. No state law or federal or state common law remedies are available.

Section 215—Business entertainment expenses

Senate bill. No provision.

House amendment. The House amendment adds a new section 10751 to subchapter III of chapter 107 of title 49 U.S.C. to provide that business solicitation or entertainment expenses incurred by rail carriers do not constitute illegal rebates or discrimination, if these expenses would be legal when incurred by a non-Commission regulated entity. The House amendment treats rail carriers in a similar manner as other businesses.

To discourage excessive solicitation or entertainment expenses, these expenses are not to be taken into account in determining the cost of service or the rate base for rate regulation purposes.

The Commission is directed to institute a rulemaking proceeding to establish standards and guidelines for authorized expenses under this section.

Conference substitute. The Conference substitute follows House amendment. It amends Section 10751 of Title 49 U.S.C., which was added by the Motor Carrier Act of 1980, by striking out "other than transportation by rail". In addition, Subsection (b) of Section 215 makes clear that Section 10751 should be construed so as to include any permissible business expense that was incurred prior to the effective date of this Act (other than expenses on which a penalty has been paid) or that is incurred on or after such date.

Section 216—Efficient marketing

Senate bill. The Senate bill amends 49 U.S.C. 10762(c)(3) to permit new or increased rates to become effective 20 days after the notice of such rate is published and filed, but delayed the effective date of this change for 60 days. The Senate bill also leaves contracts and demand-sensitive tariffs subject to the provisions of existing law that require that tariffs shall not become effective on less than 30 days notice.

House amendment. The House amendment reduced the period after which tariffs increasing rates can become effective to 10 days and the period after filing tariffs which reduce rates can become effective to 5 days after filing. The House amendment also permits the Commission to reduce the notice if cause exists. The House amendment establishes a separate filing procedure for contracts in the contract section.

Conference substitute. The Conference substitute permits tariffs increasing rates to become effective upon 20 days notice and tariffs reducing rates to become effective upon 10 days notice. The Conference substitute does not change existing law which permits the effective dates of tariffs to be reduced upon cause shown.

Section 217—Joint rates

Senate bill. The Senate bill authorizes a carrier to publish a surcharge without the concurrence of other carriers if the surcharge is applied in equal dollar amounts to all of the routes participated in by that carrier between the same points and, if an increase in joint rates, to all of its competing single-line routes between each such origin and destination. The change in revenues shall accrue solely to the carrier applying the surcharge.

The proposing carrier must give 45 days' notice to other carriers party to the joint rate.

A carrier which participates in any route subject to a surcharge may by tariff cancel the application of such surcharge to any route if such carrier demonstrates that, under the applicable joint rate without the surcharge or under a new lawful rate or division concurred in by the carrier, the surcharging carrier's revenues for its participation over such route are less than 110 percent of its variable costs.

A carrier may not apply a surcharge unless, for 1 year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by other parties to the rates.

Only the carrier proposing a surcharge shall be required to defend the surcharge, and the lawfulness of the surcharge shall be determined without regard to the amounts received and the services performed by other carriers party to the joint tariff to which the surcharge is applied.

A rail carrier may, without the concurrence of any connecting rail carrier, publish surcharges applicable to traffic originating or terminating upon any line of railroad originating and terminating less than 3 million gross ton miles of traffic per mile in the most recent calendar year for which traffic data are available if, prior to the application of any such surcharge, the through charges applicable to traffic to and from any such line do not provide the surcharging carrier revenues adequate to cover 100 percent of the reasonably expected costs (including the cost of capital) of continuing to operate the line involved. The change in revenues resulting from any such surcharge shall accrue solely to the carrier applying the surcharge.

A carrier may cancel the application of a joint rate to any through route without the concurrence of any connecting carrier unless another carrier party to the rate over that route demonstrates that the cancelling carrier's share of revenue under the canceled rate is not less than 110 percent of the cancelling carrier's variable cost of providing service over that route.

The carrier would be required to provide an estimate to class III carriers or other parties upon a showing of good cause in developing necessary data to challenge surcharges. The Commission's Special Counsel is authorized to assist Class III carriers in actions brought under this section.

House amendment. Consistent with the goal of preserving a financially stable, private sector rail system set forth in section 3 of the amendment, section 301 establishes procedures by which rail carriers which do not earn adequate revenues under existing joint rates and divisions can surcharge such rates or cancel their application to particular routes without the concurrence of other carriers. The purpose of this section is to insure that no rail carrier will be compelled to carry goods unless its share of the revenues from the joint rate, including any surcharges, is at least 110% of the carrier's variable cost of providing the particular services involved. In addition, for light density lines owned by a single carrier which carry less than 3,000,000 gross ton miles per mile of traffic, this section allows such a carrier to apply surcharges to recover in full its reasonably expected costs of providing services over such lines.

With respect to a particular route to which a surcharge has been applied under subsection (a) or to which the application of a joint rate has been cancelled, section 301 allows connecting carriers who participate in the route or shippers who demonstrate that they have no competitive alternative to the route to respond by demonstrating that the existing joint rate is sufficient to provide revenues to the surcharging or canceling carrier in excess of 110% of that carrier's variable cost. Alternatively, the connecting carrier may agree to a new division or new lawful rate or the carrier or a shipper in an affected route may petition the Commission to establish a new rate which is sufficient to produce revenues equal to 110% of the variable cost to the carrier proposing the surcharge or cancellation. Under either alternative, the surcharge would be cancelled or the application of the joint rate continued for that particular route. A surcharge to a light density line may be challenged by a shipper who has no competitive alternative to such line on the basis that the revenues generated exceed the surcharging carrier's reasonably expected costs of providing services over the particular line or that the shipper is bearing an unreasonable proportion of the reasonably expected costs. Special provisions are also included in section 301 to protect class III carriers from unfair competition as a result of action taken by another carrier under this section.

Section-by-Section Analysis

Section 301. This section amends chapter 107 of title 49 by adding a new section 10705a which provides standards and procedures for surcharging an existing joint rate for cancelling the application of a joint rate to a particular route to increase revenues for rail carriers earning inadequate revenues from existing joint rates and divisions.

Subsection (a) authorizes a carrier to apply a surcharge increasing or decreasing the joint rate for a particular movement between two points without the concurrence of other parties to the joint rate provided the surcharge is applied in equal dollar amounts to all routes for the movement under the joint rate in which the surcharging carrier participates and, if the surcharge increases the rate, to all single line routes of that carrier between the same points. A connecting carrier may cancel the application of a surcharge to a route in which it participates by demonstrating that the surcharging carrier's revenues over that route without the surcharge exceed 110 percent of the surcharging carrier's viable cost or by putting into effect a new division or a new lawful rate which provides the surcharging carrier 110 percent of its variable cost. In addition, a shipper showing that it has no competitive alternative to that route and a carrier in the affected route, may petition the Commission to cancel the application of a surcharge to a particular route by showing that the surcharging carrier's revenues with the surcharge exceed 110 percent of variable cost. The Commission must then authorize the surcharging carrier to apply a surcharge sufficient to generate revenues equal to 110 percent of the surcharging carrier's variable cost. The right of surcharge may be exercised by a particular carrier only once a year for a particular movement and only if the carrier has participated in all

generally applicable rate increases to that joint rate for one year prior to the surcharge.

Subsection (b) authorizes a surcharge applicable to traffic which originates or terminates upon a light density line, owned by a single carrier, which carries less than 3,000,000 gross ton miles of traffic per mile per year. The surcharge may be applied (in different amounts to different traffic in order to optimize market relationships if necessary) whenever the revenues under existing rates do not cover 110% of the carrier's variable cost of transporting traffic to or from the line plus 100% of the carrier's reasonably expected costs (including the cost of capital) of operating the line. A shipper located upon a light density line to which a surcharge is applied may petition the Commission for two kinds of relief: (1) if it is established that the revenues generated by the surcharge exceed 100% of the variable cost of transporting traffic to and from the line plus all the reasonably expected costs of continuing to operate the line (including normalized maintenance and the replacement cost of equipment), the Commission may reduce the surcharge to the level needed to generate such revenues; and (2) if it is established that the complaining shipper would, by virtue of the surcharge, bear an unreasonable proportion of the reasonably expected costs of operating the light density line, the Commission may reallocate the surcharge among the traffic originating or terminating upon the line.

Subsection (c) authorizes a carrier to cancel the application of a joint rate to a particular through route subject to that rate. Another carrier participating in that route or the Commission, upon petition of a shipper having no competitive alternative to the route, may prevent the cancellation upon the same demonstration or by putting into effect the same type of new rate or division necessary to cancel a surcharge under subsection (a). When a cancellation is prevented in this manner, the Commission shall consider the canceling tariff under the provisions of existing law relative to the cancellation of joint rates. If a cancellation becomes effective, the canceling carrier may establish a local or proportional rate for that movement. Any through rate of which that local or proportional rate is a part will divide as the separate factors of the through rate are made and not by prescribed divisions.

No matter when a surcharge or cancellation is challenged under this section, the issue to be decided by the Commission is whether the surcharge or cancellation met the standards of this section at the time it was filed and not at the time it is challenged.

Subsection (d) provides that revenue changes resulting from surcharges shall accrue to the surcharging carrier. Upon demonstration by an intraterritorial connecting class III carrier particularly in a surcharged route, and in the absence of any increase in the joint rate, revenues resulting from a surcharge under subsection (a) in excess of 110 percent of variable cost over that route will be divided with intraterritorial connecting class III carriers in that route on the basis of existing divisions. This section does not apply to revenues resulting from diversions to a line but only to revenue directly accruing from the surcharge.

Subsection (e) provides that, when a carrier puts into effect a new rate or division in order to prevent a surcharge or cancellation from taking effect over a particular route, other carriers can require similar concessions on other routes under the same joint rate in which they participate, subject to the limitations set forth in this subsection.

Subsections (f) through (h) set forth ancillary provisions with respect to surcharges and cancellations regarding notice, effect upon other sections of title 49, and access to information from the Commission regarding revenues and variable cost. In particular, subsection (g) provides that, except where specifically provided in this section, the Commission may not remedy a surcharge or cancellation found to violate another section of title 49 in a way which would require a carrier to provide service at less than 110 percent of variable cost (or reasonably expected costs in the case of a light density line).

Subsections (i) through (k) set forth special remedial provisions available to class III rail carriers relative to surcharges under subsection (a) or cancellations under subsection (c). These provisions allow aggrieved class III carriers to protest surcharges or cancellations which are alleged to be anticompetitive, which will unduly affect the complaining carrier's ability to earn an adequate rate of return or which create unreasonable differences in existing rates. In these limited circumstances the Commission may order relief which requires a surcharging or canceling carrier to carry traffic at less than 110 percent of variable cost if it determines that such relief is warranted by the public interest in preserving rail service or ensuring competition among rail carriers.

Subsection (l) requires the Commission, upon petition by a participating class II or III rail carrier, to prescribe a new compensatory through rate when the application of a joint rate to a through route is canceled under subsection (c).

Subsection (m) sets forth the method for determining variable cost for purposes of this section.

Subsection (n) provides that the authority to make surcharges under subsection (a) expires three years after the effective date of the Act (unless extended for one additional year by the Commission), but that surcharges made before that date will continue to be lawful.

Senate Amendment to House Amendment—No Provision

Conference substitute. The Conference substitute adopts the House substitute, with modifications. Today, most of the property transported by rail moves over through routes subject to joint rates, and the revenue derived from these movements is divided among the participating carriers according to divisions generally prescribed by the Commission. The existing joint rates and divisions do not allow some rail carriers to recover even the variable cost of providing transportation services on certain through routes. Under existing law, unless all carriers participating in the joint rate concur, these rates and divisions can be changed only by protracted proceedings before the Commission.

Two of the major problems caused by the existing joint rate system are too low rate divisions and a proliferation of uneconomic routes protected by the archaic "commercial closing" doctrine.

The Conferees intend that the conference substitute will alleviate these problems in part by assuring that a carrier, with a minimum of regulatory interference will be able, by applying surcharges or directly cancelling routes, to either earn revenues over all lines equal to or exceeding 110 percent of unadjusted ICC formula variable costs or to close routes not providing such level of earnings and, in the case of railroads earning less than adequate revenues with lines carrying less than 3,000,000 gross ton miles, to cover all the costs of operating those lines. The same holds for railroads earning adequate revenues, except only with respect to lines carrying less than 1,000,000 gross ton miles.

With regard to surcharges on light density lines, the conferees intend that such surcharges may not be imposed in a manner which would require shippers to pay for extraordinary occurrences (i.e. bridge washouts, landslides) in a short period of time. The Commission's proceeding should address this issue.

These provisions are intended to insure these results but they in no way imply an intent on the part of Conferees that a carrier's existing rights under the Act to secure improved earnings over specific routes should be limited. The Conferees recognize that a carrier cannot remain healthy only earning revenues at these levels, but believe that at this time the extraordinary provisions of this section are only needed to attain the revenue levels specified in this section and that existing remedies, assuming the Commission chooses to administer them in order to realize the revenue adequacy goals of the Act, should be adequate to remedy other joint route and division problems.

The key to the success of these provisions will be the ease with which they may be implemented by a surcharging or canceling carrier. The Conferees intend that the revenue levels guaranteed by this section take precedence wherever possible to competing claims and that only where action is essential to protect vital public interests should the Commission or the Court act to frustrate the implementation of these provisions.

Administrative feasibility is also the reason the conferees have selected formula costs for use under all provisions except where otherwise specified; and the Conferees encourage the Commission not to permit cost debates to delay the policy of this Act that carriers earn the full and reasonably expected costs of providing service on lines carrying less than 3,000,000 gross ton miles for revenue inadequate carriers and 1,000,000 gross ton miles for revenue adequate carrier. Only if carriers are able to cover all these costs can they expect to begin to invest to provide the service on which our nation's commerce depends.

In determining which carriers qualify as class III carriers, the Commission shall exclude any revenues not earned from freight operations, specifically excluding revenues from passenger service.

All of the provisions as described in the House amendment are available for class III rail carriers.

Section 218—Expedited division of revenues proceedings

Senate bill. The Senate bill amended section 10706(e)(1) of the Interstate Commerce Act by requiring the Commission to complete all evidentiary proceedings to adjust the division of joint rail rates within nine months if the proceeding is brought on complaint or within 18 months if the proceeding is initiated by the Commission. The Commission is required to take final action by the 180th day after the completion of evidentiary proceedings unless the Commission requires more time in which case it must report its reasons to Congress.

However, when the divisions proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission must give the proceeding preference over all other proceedings and must take action within the earliest practicable time. In no event may the Commission fail to act more than 100 days after the completion of the evidentiary proceedings.

House amendment. The House amendment is the same as the Senate bill except it exempts division proceedings involving joint rates participated in by Class III carriers.

Conference substitute. The Conference substitute adopts the Senate provision, except that for a three-year period the ex-

pedited divisions provision shall not apply to class carriers.

The conferees intend that the Commission will modify its regulations governing divisions proceedings to insure that prefiling requirements do not frustrate the purpose of the Congress to expedite divisions proceedings as much as possible. The conferees also expect the Commission to examine closely alternative means of dividing revenues among carriers in a manner which might better reflect market conditions than the crude, across the board divisions which now apply regardless of the specific economic conditions of the carriers involved and the markets they serve.

Section 219—Rate bureaus

Senate bill. The Senate bill modified some of the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission.

First, intrastate rates affecting interstate commerce may be set collectively in the same manner as interstate rates.

Second, the extent of carrier discussion of single line rates and interline rates related to a particular interline movement is defined and limited.

Third, sound recordings or transcripts must be kept of bureau proceedings, submitted to the ICC and made available to any other federal agency with jurisdiction.

House amendment. The House amendment modified the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission and its members are to be immune from the application of the antitrust laws.

First, no carrier may discuss, vote or agree on single line rates proposed by another carrier. The Commission may allow such discussion for general rate increases only if it finds that the implementation of the limitation is not feasible.

Second, no carrier may discuss a joint line rate unless it practicably participates in the movement. The term "practicably participates" is to be defined by the Commission.

Third, after January 1, 1984, or earlier, if the Commission decides, unless the Commission finds it is not feasible, no carrier may discuss a joint line rate where there are two routes between the same end points except with a carrier that forms part of a particular single route.

Until January 1, 1983, such carriers may discuss general increases for joint rates and broad tariff changes, if the rate bureau has a special procedure allowing shippers to comment prior to the filing of the tariff with the Commission.

Fourth, employee protective provisions are provided for rate bureau employees affected by this section.

Fifth, in any proceeding in which an antitrust violation is alleged concerning a rail carrier the party making the allegation shall have the burden of proving the violation by clear and convincing evidence. Proof of the violation may not rest on or be inferred from evidence that two or more carriers acted together with respect to an interline movement and that one of the parties took similar action with respect to a competitive route.

Seventh, transcripts or sound recordings must be kept of bureau meetings and submitted to the ICC and made available to other federal agencies with jurisdiction.

Conference substitute. The Conference substitute adopts the House amendment with modifications. The Commission shall define "practicably participate" for determining when a carrier participates in a movement. The Conferees believe that railroads, shippers, and consumers will benefit from increased rail to rail competition, and expect that the Commission will interpret the term in a manner which encourages competition while maintaining a rail system which functions efficiently.

The Conference substitute extends the date by which the Commission must eliminate general rate increases by one year, to January 1, 1984. General rate increases are also limited to inflationary cost increases. Rate bureau discussions are limited to joint movements where carriers have an actual interline movement by January 1, 1984, unless the Commission acts sooner. Car compensation, demurrage, and car allowances are not considered single-line rates.

The Conferees wish to emphasize that nothing in the new law will prevent a carrier from publishing broad territorial rate changes in a tariff.

Because of the requirement that carriers concur in changes to joint rates, carriers must talk to competitors about interline movements in which they interchange. That requirement could falsely lead to conclusions about rate agreements that were lawfully discussed. To prevent such a conclusion the Conference substitute provides procedural protections about lawful discussions and resulting rates. The Conferees intend that these protections be construed to insure that remedies for anti-competitive activities remain under existing laws.

Section 220—Long and short haul transportation

Senate bill. No provision.

House amendment. The House bill amended section 10726 by limiting the provisions of existing law to rates applicable to grains, soybeans, rice or cotton or to situations in which the Commission determines that competition exists between rail and water carriers and the provisions are necessary to prevent anti-competitive behavior. The House amendment also repealed 10726(e) which limited a rail carrier's ability to increase a rate which had been previously decreased to meet water carrier competition.

Conference substitute. The Conference substitute repeals 10726(g). The conferees repealed this subection in order to encourage flexible and innovative pricing by railroads. The conferees' decision to otherwise retain the existing section 10726 is not to be construed to indicate that the Commission is not to take steps consistent with the policy of this Act to reduce barriers to market-oriented pricing without the need for price Commission approval.

Section 221—Railroad entry

Senate bill. The Senate bill changes existing law to permit easier entry, consistent with the policy of this Act to encourage greater reliance on marketplace forces than on government regulation.

Under present law, the Commission may authorize the construction of a railroad only if it finds that the public convenience and necessity "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. The Senate bill changes the test applied by the Commission from "require or will be enhanced" to "require or permit".

When a railroad has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross another carrier. The Senate bill provides that when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

House amendment. The House amendment changes the standard under 49 U.S.C. 10901 for the construction or extension of a rail line from requiring the Commission to find that the "public convenience and necessity require or will be enhanced" by the construction or acquisition (or both) and the operation of the railroad line to requiring the Commission to find that the "public convenience and necessity permit the construction or acquisition". The House amendment permits one railroad that has been issued a certificate of public convenience and necessity to cross the property of another carrier, if the construction does not unreasonably interfere with the operation of the crossed line, the operation does not materially interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. If the carriers are unable to agree to the terms of operation or compensation, either party may submit the matters in dispute to the Commission. The House amendment requires the Commission to impose employee protection under 49 U.S.C. 11347 upon any rail carrier proposing to both construct and operate a new railroad line. If a rail carrier rearranges or adjusts its work force in anticipation of a transaction with the purpose of depriving an employee of benefits under this title, the provisions of this title apply to such employee.

Conference Substitute

The Conference substitute adopts the House amendment, but makes employee protection discretionary and drops the provision regarding deprivation of employee benefits in anticipation of a transaction. The Commission does not have authority over the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team switching, or sidetracks, if the tracks are located, or intended to be located, entirely in one state (49 U.S.C. 10907). The Committee does not intend that new subsections added to 49 U.S.C. 10901 shall expand the Commission's jurisdiction. If the construction or extension of a line of railroad would be otherwise exempt under 49 U.S.C. 10901, there should be no reason to obtain a certificate of public convenience and necessity even if the constructing railroad reaches a voluntary agreement to cross another carrier's line. Only if a dispute is submitted to the Commission would there be a need to obtain a certificate of public convenience and necessity. This certificate could be sought at the same time as the dispute is submitted to the Commission. The Conferees wish to emphasize that if a certificate would not otherwise be required under section 10907, the certificate should be issued routinely and that its purpose is (1) to assure Commission jurisdiction under 10901 (d) and (2) to assure that the crossing carrier has its right to serve a shipper sanctioned by the Commission.

Section 222—Service during periods of peak demand

Senate bill. No provision.

House amendment. The House amendment provides that a rail carrier may not be found to have violated its common-carrier obligation under 49 U.S.C. 11101 to provide transportation or service on reasonable requist if it fulfills its commitments under contracts for the shipment of goods before responding to reasonable requests for service.

Conference substitute. The Conference substitute adopts the House amendment. However, this provision does not abrogate the power of the Commission to refuse to ap-

prove contracts on the grounds that they will impair a carrier's ability to meet its common carrier obligation.

Section 223—Reciprocal switching

Senate bill. The Senate authorized the Commission to require railroads to enter into reciprocal switching where it finds such agreements to be practicable and in the public interest. In many parts of the country, reciprocal switching agreements are in effect where carriers pick up and deliver traffic for other railroads. In areas where reciprocal switching is feasible, it provides an avenue of relief for shippers where only one railroad provides service and it is inadequate. The standard "practicable and in the public interest" is the same standard the Commission has applied in considering whether to order the joint use of terminal facilities.

House amendment. The House amendment is the same as the Senate bill, but permits the Commission in its discretion to order protection for employees who are adversely affected by a grant of authority by the Commission under this section.

Conference substitute. The Conference substitute adopts the House provision. The Conferees note that the Commission should use the "practicable and in the public interest" standard even though section 11123 has been expanded to include all facilities, not just the joint use of terminals. The Conferees note that the entry and reciprocal switching provisions should not be used to allow Class I carriers to force their way into traffic originating or terminating on a class III carrier.

Section 224—Car service compensation

Senate bill. No provision.

House amendment. The House amendment repeals section 11122(b)(2) which allowed the Commission to impose incentive per diem rates.

The House amendment also provides that when shippers enter into an agreement to discuss what they will propose to charge rail carriers for the use by such rail carriers of rolling stock owned or leased by such shippers, they shall apply to the Commission for approval of the agreement. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the rail transportation policy in section 10101a of this title. The Commission may require compliance with conditions necessary to make the agreement further the rail transportation policy. If the Commission approves the agreement, and action by a party under its terms or the terms required by the Commission shall receive antitrust immunity under section 10706(a)(2).

The House amendments also provides that where the shippers who have entered into an agreement approved by the Commission and the rail carriers proposing to use the rolling stock owned or leased by the shippers cannot agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may settle the matter by submitting the issues in dispute to the Commission. The Commission shall render a binding decision on the issues based on a standard of reasonableness. The Commission's decision may consider any past precedents or the history of the negotiations and must be rendered within 90 days of the submission of the dispute to the Commission.

Conference substitute. The Conference substitute adopts the provisions of the House amendment and adds a provision which states that the law in effect prior to the effective date of this Act with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers shall remain in effect.

The conferees do not believe that the provision of an incentive element on freight equipment is the best means of attracing capital into the industry for the acquisition of rolling stock. Rather, the rental rate for such rolling stock should be sufficient to pay an adequate return on investment. The conferees do anticipate, however, that the Commission shall continue to examine means (such as flexible car hire) of making basic car hire more responsive to market forces where this is possible without subjecting carriers which are forced to use cars received in interchange to unreasonable rates.

The conferees intend that marketplace decisions govern the railroad industry and its relationship with shippers. Indeed this policy is ennunciated in the rail transportation policy. The conferees expect that antitrust immunity is granted under this section consistent with previous Commission decisions. The conferees are aware that shippers could have antitrust immunity to establish private car-hire when participating in a Commission proceeding and do not intend that this provision shall change existing law in that regard.

If the Commission allows per diem rates below basic per diem during periods of surplus car supply, the Commission should allow rates above basic per diem during periods of shortage.

Section 225—Car utilization

Senate bill. The Senate bill created a new section 10732 of the Interstate Commerce Act. This section provides that rail carriers are free to establish a special elective tariff which contains premium freight rates for special services or levels of services that may be requested by a shipper. Throughout Senate hearings on rail regulatory reform, testimony was submitted by many shippers who advised that they were prepared to pay a higher rate for a higher level or more expeditious service. This amendment will give those shippers that option and, in turn, allow the rail carriers to increase the utilization of their cars.

Essentially, this subsection allows carriers to provide a more specialized service to shippers who choose to pay the premium rate, but the common carrier obligation is not abrogated in any way. This will insure that the shipper is still guaranteed the same level of service that he receives today. This subsection is simply another option for the shipper and the rail carrier.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate provision, with an amendment.

Section 226—Car service orders for exigent circumstances

Senate bill. The Senate bill limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in two ways. First, the Commission would be restricted to emergencies "of such magnitude as to have substantial adverse effects on rail service to the nation or a substantial region of the nation". Second, the Senate bill restricted emergency orders to 30 days, but permitted the Commission to extend the order another 60 days if the Commission had a proceeding to resolve the service problems which generated the need for the emergency order on a more permanent basis. The two restrictions were adopted based on the belief that only real emergencies should trigger such orders and that in the past, the Commission has been far too willing to issue car service orders in other than emergency situations. The Senate bill removed the limitation in existing law that the Commission may order only the joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals. The Commission would be permitted to require the joint or common use of all facilities when it considers that a shortage of equipment, congestion of traffic, or qualifying emergency exists.

House amendment. The House amendment limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in instances where it finds a "shortage of equipment, congestion of traffic or other failure in traffic movement exists which creates an emergency situation resulting in substantial adverse effects of rail service in the United States or a substantial region of the United States." The House amendment requires the Commission to find a nationwide emergency or broad regional emergency that justify the extraordinary remedy of the imposition of car service orders. The House amendment permits the Commission to extend such orders beyond 30 days if the Secretary of Transportation certifies that a transportation emergency exists. The House amendment permits the Commission when it makes the prerequisite findings to require the joint use of all facilities, not just terminal and mainline tracks a reasonable distance outside those terminals. This provision will permit the Commission to effectively address genuine emergency situations in an expeditious manner without restrictions regarding the use of a railroad's facilities, including mainlines and equipment by another railroad or over that railroad. This provision specifically overrules the decision in *Atchison, Topeka and Santa Fe v. ICC*, 617 F. 2nd 485 (7th Cir., 1980). When the Commission does require one railroad to use or go over another railroad's facilities, the Commission shall require, to the maximum extent practicable, the use of employees who would have performed work in connection with the traffic subject to the action of the Commission.

Conference substitute. The Conference substitute adopts the House provision, but authorizes the full Commission after a hearing to determine that a transportation emergency exists if the original 30-day order is to be extended. The conferees emphasize that the Commission's powers under this section are extraordinary and should be exercised only in genuine emergencies. Some shipping interests have expressed concern as to the scope of this section. An important distinction must be borne in mind. Section 11123 of title 49 is being amended as to the required regional or national type emergency before the Commission can issue car service orders, as well as the duration and the scope of the car service orders.

The Conferees want to emphasize that the provisions of section 11122 of title 49 of the United States Code as to permanent rules and regulations on railroad car service are unaffected and remain intact. The importance of insuring on a day-to-day basis the efficient functioning of our unified national rail system and network remains. The Commission still retains its power to issue permanent mandatory car service rules such as those which are now in effect and which govern the movement of railroad cars throughout the country.

Section 227—Employee protection

Senate bill. No provision.

House amendment. The House amendment provided for employee protection, as described in 49 U.S.C. 11347, to be imposed in transactions involving transfers or the operation of or over a debtor's lines by another entity under section 1172(b) of the Bankruptcy Act of 1978. The provision puts employees of rail carriers which entered bankruptcy after the effective date of the Bankruptcy Act of 1978 in the same position as employees of rail carriers that entered bankruptcy prior to the Bankruptcy Act of 1978 with respect to employee protection. This provision is not intended to change existing law with respect to either the priority or the timing of payment of employee protection in a bankruptcy proceeding.

Conference substitute. The Conference substitute follows the House provision.

Section 228—Mergers and other transactions

Senate bill. The Senate bill would make no changes in the present law with respect to major rail mergers: the ICC would consider such proposals under existing standards and procedures, and the present time limit of about 31 months (which was established by the 4R Act) would be retained. However, this section makes two major changes in the present law under which the Commission is required to consider all other restructuring transactions among railroads (including the purchase or sale of assets, trackage rights, and the like). These changes are intended to encourage the rationalization and restructuring of the rail system through actions less than merger.

First, the Commission would have to decide on smaller transactions faster than under present law. Present law permits the Commission 18 months to decide all such cases regardless of their complexity or importance. For transactions having regional or national significance, this section would require the Commission to reach a decision within 10 months. For transactions which do not have regional or national transportation significance, this section would require the Commission to reach a decision within 6 months. These deadlines are, of course, maximum time limits and the Committee believes that many applications can and should be processed without taking the full amount of time allowed.

In order to meet the deadlines specified in this section, the number of factors the Commission must consider in ruling on transactions less than merger would be reduced. (The Commission now applies the same test to all transactions as to major mergers.) This section would require the Commission to balance the transportation benefits of the transaction against any anticompetitive effects. In addition, where the transaction is part of a restructuring project previously approved by the Secretary of Transportation under section 401 of the 4R Act, the Commission would be required to give substantial weight to the recommendations of the Secretary.

House amendment. The House bill contains a provision relating to the factors the Commission is required to consider when passing on major mergers. The House provision would require the Commission to consider whether the proposed transaction would have an adverse effect on competition among rail carriers.

Conference substitute. The conference substitute includes a combination of the House and Senate provisions. The conferees note that many transactions for which Commission approval is required are minor in nature and routinely approved. The Committee believes that the Commission should focus its attention on more important issues and judiciously use its statutory authority to reduce the burden on all parties (including a reduction in paperwork) where approval is routinely and consistently granted.

Section 229—Savings provisions

Senate bill. The Senate bill provided that a rail rate in existence on the date of enactment of this Act could only be challenged as being not reasonable within 270 days after enactment. Such rate would not be found not reasonable if its revenue-to-variable cost ratio did not exceed the average ratio of revenue-to-variable cost established by the Commission.

House amendment. The House amendment provided that any rate for a carrier in effect on the effective date of this Act could be challenged within 180 days of the date in a complaint filed with the Commission alleging that the carrier had market dominance under section 10709 over the particular route to which the rate applied and that the rate was not reasonable under new section 10701 (a). If a rate in effect upon enactment has not been challenged within 180 days or was challenged and found to be reasonable, the rate could not again be challenged before the Commission or any court.

The savings provisions would not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date did not exceed 500 net tons where such rate has increased tenfold in the 3-year period immediately preceding the bringing of a challenge to the increase of such rate.

In all cases under this section, the burden of proof is on the complainant.

Conference substitute. The Conference substitute adopts the House bill. This conference substitute allows a 180-day period from the effective date of the bill in which existing rate may be challenged as unreasonably high under the procedure of 11701. The Conferees do not intend this right to be construed as creating any presumption as to the reasonableness of the rates subject to challenge. The purpose of this provision is to give affected parties a final opportunity to review the reasonableness of existing rates before their opportunity to challenge those rates is curtailed. Any challenges arising under this section shall be limited by the jurisdictional standards otherwise newly adopted in the Staggers Rail Act of 1980.

Section 301—Uniform accounting system

Senate bill. No provision.

House amendment. The House amendment makes section 11142, which requires the Commission to prescribe a uniform cost and revenue accounting and reporting system applicable only to non-rail carriers. Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of the amendment.

Conference substitute. The Conference substitute is the same as the House amendment.

Section 302—Railroad cost accounting

Senate bill. No provision.

House amendment. The House amendment establishes a Railroad Accounting Standards Board, consisting of seven members and chaired by the Comptroller General of the United States. The purpose of the Board is to develop cost accounting principles which identify—variable costs which accurately represent the economic costs of rail movements.

The Board, in developing principles, is to take into account several factors concerning the regulatory purpose, the costs and benefits for rail carriers, and the least expensive way of obtaining the cost information.

The Commission is to promulgate rules to implement the principles developed by the Board.

Within 180 days after enactment, each railroad must file a request with the ICC for preliminary certification, which is to be granted if the carriers cost accounting system is in compliance with the ICC accounting principles in effect on the date of enactment. The Conferees do not envision the requirements for preliminary certification to be any more than a simple affirmation that the carrier is meeting and will continue to meet the existing requirements of the Commission.

The Commission shall grant final certification if it finds that a carrier's accounting system is in compliance with the rules promulgated by the Commission, under the principles of the Board.

Each rail carrier is to maintain a system that is in compliance with rules promulgated by the Commission, under the principles of the Board.

Rail carriers are required to make cost data available to parties to a Commission proceeding.

In order to obtain expense and revenue information for regulatory purposes, the Commission may promulgate rules which prescribe expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to rail carriers. The Commission in promulgating rules for expense and revenue accounting and reporting requirements shall ensure that such requirements are cost effective and not duplicative of the managerial and responsibility accounting requirements of carriers.

The Board shall file two reports with the Congress within 2 years after the effective date of this legislation. One report is to compare the cost of implementing the accounting standards to possible benefits. A second report is to recommend changes to the regulatory system, including maximum rate regulation, to integrate the new cost accounting standards and rules.

Conference substitute. The Conference adopted the House provision with the following changes: First, the Conference substitute makes it clear that the primary purpose of the Cost Accounting Principles Board is to promulgate sound principles to govern the determination of railroad costs rather than detailed standards. Second, the Conference substitute limits the availability of cost evidence to that which the Commission will allow under its discovery rules. Third, the Conference substitute authorizes the appropriation of $1 million per year to carry out the functions of the Cost Accounting Principles Board. Fourth, the Conference substitute limits the number of Board members to seven. Fifth, the Conference substitute requires that the Board conduct one study, recommending legislative or administrative action that may be necessary to integrate the cost accounting principles and certification process with the regulatory system, including maximum rate regulation. Sixth, the conference substitute makes certain technical changes to stress that the principles promulgated by the Board and the rules promulgated by the Commission are to emphasize the degree of economic accuracy needed for regulatory purposes and not merely the accumulation of more detailed, but not necessarily more accurate, accounting information.

The substitute clarifies the description of the type of principles to be determined in order to eliminate redundant language contained in the House bill. The Conferees intent is to provide for the most accurate possible statement of costs, both direct and indirect, associated with particular movements of goods, and the Board in developing its principles should consider the degree of reliability with which such costs can be attributed to specific movements.

The Conferees expect that while the Board develops its principles, the Commission will continue its efforts to complete the uniform revenue and cost systems which it commenced after the passage of the 4R Act so that the Board, as part of its task, will be able to evaluate that system as it is developing its principles.

The Conferees desire the Board's principles will be sufficiently sound that they will be generally applicable for both regulatory and management purposes. To this end, railroads are to be afforded maximum possible freedom consistent with the Commission's regulatory needs, to develop internal accounting and cost finding systems that are suited to the needs of the carriers themselves. The Conferees wish to emphasize, however, that the purpose of the Board's efforts is to develop a regulatory accounting system and that this section is not intended to limit the use of cost finding systems by railroads which railroads might find useful for management purposes.

The substitute allows, but does not require, the Commission to promulgate rules prescribing expense and revenue accounting

and reporting requirements. In addition to other limitations in the bill designed to minimize the burden of such rules on carriers, the bill requires that to the extent they are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings, the rules must comply with the principles established by the Railroad Accounting Principles Board.

The Committee recognizes that the Commission has exempted Class III railroads from the Uniform System of Accounts. The Committee shares the view that elaborate accounting systems imposed upon smaller railroads could produce a much greater burden on the railroad than could be justified by offsetting public benefits. Thus, the Committee has left with the Commission the discretion to exempt carriers from the burdens of a Cost Accounting System if this seems desirable. We encourage the Commission to continue the practice of granting exemptions as needed to relieve unnecessary paperwork burdens and costs on small businesses.

Section 303—Civil penalties for violations of accounting principles provisions

Senate bill. No provision.

House amendment. A carrier failing to obtain final certification of its cost accounting system is to be fined not less than $50,000. Any party to a proceeding who knowingly discloses confidential data made available by a railroad pursuant to this title may be fined up to $50,000.

Conference substitute. The Conference is the same as the House amendment.

Section 401—Feeder railroad development program

Senate bill. No provision.

House amendment. To provide shipper groups and government agencies an alternative to inadequate rail service and to preserve feeder lines prior to the total downgrading of such lines, the House amendment provides for a feeder line development program which would require a rail carrier to sell a railroad line to a financially responsible person at a price not less than the constitutional minimum, if the Commission makes a finding that the present or future public convenience and necessity required or permitted the abandonment or discontinuance of a railroad line, or if the Commission makes a finding that the transportation provided over a particular line is inadequate. Inadequate transportation is defined by five criteria. The Commission must affirmatively determine the existence of the conditions set forth in all five criteria as a prerequisite to the sale of a railroad line under this section. The burden of proving inadequacy of service is on the person filing to acquire the rail line.

The Commission may require the selling carrier to provide the acquiring carrier trackage rights if the acquiring carrier compensates the selling carrier for such trackage rights. If an acquiring rail carrier petitions the Commission for a joint rate, the Commission is required to grant such acquiring carrier a reasonable compensatory joint rate.

The carrier is exempt from sections 10901 and 10903 of the Interstate Commerce Act, except if an acquiring carrier participates in a joint rate. The feeder line development program permits an acquiring carrier to conditions which shippers must meet as a prerequisite to using the line.

Conference substitute. The Conference substitute adopts the House provision with several modifications.

First, the program is limited for the first three years to lines carrying 3,000,000 gross ton miles per year or less. After the third year any line is eligible for acquisition under the program but joint rates cannot be mandated for lines acquired carrying more than 8,000,000 gross tons per mile per year.

Second, the feeder railroad program is not intended to supplant the branch line program under existing law. Where an application for abandonment has been actually filed with the Commission, existing provisions of the Interstate Commerce Act and of the Local Rail Service Assistance Act will be available.

Third, an opportunity is given for the Commission to allow a rail carrier a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over a line in question.

Fourth, it is made clear that the Commission may require trackage rights to the acquiring carrier in order to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between non-contiguous feeder lines operated by the acquiring carrier. The Conferees recognize that one operator may acquire a number of non-contiguous branch lines thereby requiring the allocation of trackage rights in order to permit movement of power equipment between the non-contiguous lines.

Fifth, normal labor protection is afforded employees of the selling carrier and the provision requires the acquiring carrier to hire, to the maximum extent practicable, the employees who would normally have performed work in connection with a line subject to sale under the program.

The Conferees believe that the feeder line program will give shippers and communities an opportunity to insist upon adequate rail service. Where such service is not forthcoming the provision provides, through acquisition, a viable alternative to poor service or total abandonment.

Section 402—Abandonment

Senate bill. Section 202 of the Senate bill alters the existing provisions of the Interstate Commerce Act relating to abandonments of railroad lines. This section expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon abandonment applications, depending on the complexity of and the opposition to the abandonment proceeding. For example, under existing law, there is no time limit within which an investigation of an abandonment application must be concluded. Section 202(c)(3) places a time limit of 135 days upon such investigations.

Section 202 repeals existing 49 U.S.C. 10905. New section 10905 creates a mechanism that requires railroads to sell a railroad line approved for abandoment to a financially responsible party if the financially responsible party has offered to pay the acquisition cost of the line or the difference between the revenues attributable to providing that service plus a reasonable return on the value of the line. Section 202 also requires rail carriers petitioning for abandonment of a railroad line to provide interested parties an estimate of the subsidy or the minimum purchase price required to keep the line in operation, calculated in accordance with the new provisions in 49 U.S.C. 10905.

The provisions in section 202 assist shippers who are sincerely interested in improving rail service, while at the same time protecting carriers from protracted legal proceedings which are calculated merely to tediously extend the abandonment process.

House amendment. No provision.

Conference substitute. The Conference substitute adopts the Senate provision.

Section 403—Conversion of abandoned railroad rights-of-way

Senate bill. Section 305 of the Senate bill is an amendment to the original bill, S. 1946, the Railroad Transportation Policy Act of 1979. The section authorized $20 million over a 3-year period for acquisition of abandoned railroad rights-of-way for future use as bicycle paths, jogging and hiking trails and related transportation, recreation and conservation uses, as stated in section 809 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). This authorization includes matching Federal and State funds, with the Federal share being 80 percent and the State share being 20 percent.

The 4R Act authorized $30 million for fiscal year 1976, 1977 and 1978 to the Department of Interior for acquisition of abandoned railroad rights-of-way for conversion to trails related to transportation, recreation, and conservation. Based on this initial authorization $8 million was appropriated during the 95th Congress to Department of Interior Bureau of Recreation (now the Heritage and Recreational Services) for funding the Rail-to-Trail program.

The response to the Department of Interior's public notice of funding for the Rail-to-Trail program was very enthusiastic. The Department received 185 applications totaling $70 million. Because of the large response to the project, DOI felt they could be selective in the application approval. Top priority was given to applications for trails based or originating in metropolitan areas as well as trails used for commuter transportation.

Ten projects received funding from the $8 million appropriated. These 10 projects represent 121.62 miles of multiple-use trails from abandoned rail lines in 10 States. This is a small percentage of the 6,232 miles of nationwide abandonments suitable for conversion to transportation and recreational uses.

Funding authority for this project expired as of September 30, 1979. This authorization will allow for the continuation of the Rail-to-Trail program started in the 4R Act. Evidence from State governments has shown intense interest in preserving funding for this program.

House amendment. The House amendment has no provision.

Conference substitute. The Conference substitute adopt the Senate provision, but reduces the authorization to $10 million.

Section 404—Extension of redeemble preference share financing

Senate bill. The Senate bill continues the existing redeemable preference share program for two years, until September 30, 1982, and it authorizes an additional $400 million for this purpose. The Senate provision expands the scope of eligible participants under the program and provides a specific allocation of program funds for labor cost associated with improved manpower effectiveness.

House amendment. The House amendment extends the existing redeemable preference share program for two years.

Conference substitute. The Conference substitute extends the redeemable preference share program until September 30, 1982. The funding provisions are discussed in the following section.

Section 405—Financing

Senate bill. The Senate bill contains an amendment to section 511(a) of the 4-R Act. Section 511 of the 4-R Act is one of the financial assistance programs available to railroads for the acquisition, repair, or improvement of rolling stock and facilities associated with rolling stock. This amendment opens the doors of eligibility to this loan program to computerized car management systems which carriers desire to acquire, repair, or rehabilitate. Most railroads in this Nation operate sophisticated computer systems to follow their rolling stock throughout their rail network. These computers are essential to the efficient management of a railroad's car fleet. Unfortunately, as technology improves, many of the early computer systems have become obsolete. The new tech-

nology which is available would certainly pay for itself in a short period as a result of increased utilization of the car fleet. All loans under the 511 loan program are absolutely secured.

House amendment. The House amendment authorizes the Secretary to provide assistance (either alone or as a participant with other investors) to any railroad or its subsidiary to achieve significant restructuring. The assistance may be used for the purchase of securities or the rehabilitation, improvement, or acquisition of facilities (including track, maintenance, equipment and related labor protection costs) which the Secretary, based upon a restructuring plan provided to the Secretary or as part of a restructuring project supported by the Secretary under section 5(a)-(d) of the Department of Transportation Act, or both, determines will contribute to significant railroad restructuring that would not likely be achieved without Federal assistance. The assistance may also be used for purchase or rehabilitation of feeder lines. States, communities, or shippers groups that intend to purchase a feeder line are to be considered railroads for the purposes of this section.

Senate amendment. The Senate amendment extends the existing section 505 to September 30, 1982, and authorizes an additional $400 million.

A new paragraph is added to section 505 (b) to authorize the Secretary to provide a percentage not more than 20 percent of the total funds authorized for this program to employee or shipper groups formed pursuant to an employee and/or shipper stock ownership plan for purchase and/or rehabilitation of rail lines or facilities. In determining the priority by which such groups should receive funding under this program, the Secretary is directed to consider the availability of other feasible alternatives for providing rail service. It is specifically intended that those projects without a viable or feasible alternative would receive a priority in the allocation of available funds under this section.

The Senate amendment adds a new section 505(A) to the current law granting the Secretary of Transportation the authority to provide Class I rail carriers with financial assistance to cover labor costs associated with operational improvements.

The Senate bill clarifies what specific actions would be considered a form of restructuring for the purposes of the 505 program.

Conference substitute. The Conference substitute adopts the Senate provisions, but increases the authorization to $700,000,000, in section 505 funds. Conferees do not agree with any suggestion that a legitimate need for rehabilitation of track cannot exist outside a restructuring. Conferees have provided for restructuring under the Milwaukee Railroad Restructuring Act and are expanding that under this bill to include purchase of rail assets as elements of an eligible project—but not necessarily priority elements. The Congressional intent in establishing the Preference Share Program under section 505 was to provide a "bank of last resort" to put money quickly into railroads to address the deferred maintenance problem while solutions to the overall financial shortfall in the industry could be developed. Much deferred maintenance remains. This Conference does not believe that now is the time to scrap the existing program, thereby forcing the marginal carrier to seek Federal assistance on terms more appropriate for healthy railroads.

The Conference substitute earmarks in the section 505 authorization $200,000,000, originally authorized in the restructuring provisions of the House bill, for automatic transfer by the Secretary to the United States Railway Association for use by Conrail in establishing a voluntary annuity program to reduce the size of its workforce. The money is to be transferred to the account under Section 216 of the Regional Reorganization Act, notwithstanding the authorization limitation of that section.

The Conferees intend for the Finance Committee of the Association to determine if (1) any program proposed by the Corporation will in fact reduce the size of the Corporation's workforce, and (2) funding of the program will result in substantial savings to the United States as measured against the probable costs to the Government of not reducing the Corporation's workforce to the extent contemplated by the institution of a voluntary early retirement annuity program.

To facilitate the institution of such a program subsection (b)(1) of section 405 amends Section 216(b) of the Regional Rail Reorganization Act of 1973 by adding paragraph (B) which makes it clear that employees of the Corporation taking advantage of an early retirement program will be deemed to have a "current connection with the railroad industry" so as to avoid losing Railroad Retirement eligibility at the appropriate age.

Section 406—Transaction assistance

Senate bill. No provision.

House amendment. The House amendment creates a new category for financial assistance under section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210). Specifically, financial assistance would be available to purchase properties of the Milwaukee Railroad located in the State of Montana for rail banking.

Conference substitute. The Conference substitute adopts the House amendment.

Section 407—Electrification loan guarantees

Senate bill. No provision.

House amendment. The House amendment amends 211(i) of the Regional Rail Reorganization Act to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density mainlines. Loan guarantees for capital improvements for coal export facilities are provided for the Corporation and other railroads in the region receiving assistance under the 3-R Act.

Conference substitute. The Conference substitute is the same as the House amendment but the Secretary's authority to waive findings in 511(g) has been deleted. The Conferees expect that the loan guarantees for capital improvements for coal export facilities available under this section will be used to construct coal export facilities such as the proposed coal facility at the Port of Philadelphia.

Section 408—Amendment to the Regional Rail Reorganization Act of 1973

Senate bill. No provision.

House amendment. The House amendment raises the amount authorized to be loaned to any railroad in the region receiving assistance under section 211(d)(2) of the Regional Rail Reorganization Act of 1973, notwithstanding sections 211 (e)(3) and (f).

Conference substitute. The Conference substitute adopts the House provision.

Section 409—Federal assistance report

Senate bill. No provision.

House amendment. The House amendment provides direction to the Secretary of Transportation on the coordination of federal assistance and also requires the Secretary to file an annual report on federal assistance provided to the rail industry, the reasons for each loan or grant, and the results to be expected.

Conference substitute. The Conference substitute requires the study described above but does not include the directions for coordination to the Secretary.

Section 501—Monthly displacement allowance

Senate bill. No provision.

House amendment. The House amendment proposed four new formulas for monthly displacement allowance as follows:

1. *Non-operating employees:* Except for maintenance-of-way employees, non-operating employees (i.e., other than train and engine service employees) will receive an hourly guarantee, based upon the rate of pay of the position they held on September 1, 1979. This guarantee will be increased to reflect subsequent general wage increases, and will be increased whenever the employee, through the exercise of his or her seniority, becomes the qualified incumbent of a higher rated position. If, as a result of a reduction in the number of positions available, a protected employee is required to exercise seniority to a position with an hourly rate less than the guarantee, the employee will receive a monthly guarantee payment representing the hourly differential multiplied by the number of hours in the new position's straight-time work schedule for the claim month. If a protected employee is unable to retain any position, the employee will receive the guaranteed hourly rate for the number of hours the employee would have worked on a straight-time basis if he or she had retained his or her previous position.

2. *Maintenance-of-way employees:* The maintenance-of-way guarantee is based on average monthly compensation, which is total compensation received by an employee during 1974, divided by total time paid for, and multiplied by 174 or by average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. The protected employee's monthly displacement allowance is the difference between the straight-time earnings and 80 percent of the average monthly compensation, less time lost due to voluntary absences other than vacations.

If, at the close of a calendar year, the sum of the employee's annual straight-time compensation, monthly displacement allowance payments, and offsets under this title are less than the employee's average monthly compensation divided by 12, the employee would receive an additional payment for the difference. If, in the previous calendar year, an employee has received displacement allowances payments greater than his annual guarantee, the excess benefits would be recovered from current or future entitlements, exclusive of moving expense benefits.

The House amendment also conforms the guarantee formulas for employees affected by a supplemental transaction to the revised guarantee formulas for other protected employees.

3. *Operating employees:* It is proposed that operating employees (i.e., train and engine service employees) retain their current monthly guarantee subject to two important modifications. Average 1977 Conrail earnings will be calculated for each Commission classification of operating employees. These values will be upgraded by subsequent general wage increases, and will constitute maxima. These protected employees whose current monthly guarantees exceed the applicable maximum will have their gurantees reduced to the maximum. The second modification is an annual calculation in accordance with the maintenance-of-way formula described above. If a protected employee's earnings are less than the guarantee in any month, 75% of the difference will be paid. At the end of the calendar year, a comparison of guarantee and earnings on the annual basis will determine whether an additional payment will be made or whether future payments will be withheld pending recovery.

4. *Non-contract employees and employees who have been transferred:* No change is proposed in the guarantee formula currently applicable to these employees. Non-contract employees receive salaries which do not include overtime compensation. Additionally, they receive merit increases rather than general wage increases, so that their guarantees have not changed since the formation of Conrail. Consequently, they have not been

the recipients of "windfall" payments as is the case with contract employees.

Transferred employees retain their current guarantee. They have frequently purchased new homes at a price reflecting the standard of living they were assured of on the basis of the current guarantee formula. A sudden reduction in their monthly income might place them in an untenable financial position. There are approximately 350 employees who have transferred.

There are two other changes made in this section. Under subsection (b)(7), in addition to all unemployment compensation benefits and railroad earnings being set off against the employee's monthly displacement allowance (as under existing law), all outside earnings of a protected employee deprived of employment must be setoff against employee's monthly displacement allowances. This change will assure that the monthly displacement allowances of such protected employees are fully offset by other compensation.

An additional change is made by this section in proposed subsection (b)(10). It calls for employees deprived of employment, or the employees' class or craft representative, and the employer to agree on a procedure by which such employees will report their nonrailroad earnings in order that they may be setoff against monthly displacement allowances. It also calls for an agreed upon procedure by which the employer is kept apprised of the unemployment benefits currently paid to employees deprived of employment, also for the purpose of off-setting their monthly displacement allowances. These procedures are necessary to ensure that the reporting/investigative burdens are shared by the employer and the employees, rather than having the burden of investigation fall solely on the employer, as now exists.

Senate amendment. The Senate amendment is similar to the House amendment except for maintenance-of-way employee payments.

Maintenance-of-way employees often work as portable equipment operators in the summer when extensive track rehabilitation is undertaken, and as trackmen in the winter when only routine maintenance can be performed. As a result of this circumstance, maintenance-of-way employees frequently earn less than their average monthly compensation in the winter and more than their average monthly compensation in the summer. When monthly displacement allowances during the winter months are added to these earnings, the employee's actual annual compensation can well exceed his or her annual compensation guarantee.

In order to correct this situation, a separate calculation is proposed for maintenance-of-way employees. Each protected employee will be assigned a monthly guarantee equal to the employee's 1974 average hourly earnings on a straight-time basis, upgraded by subsequent general wage increases, and multiplied by 174 (i.e., the number of hours in a straight-time work schedule in the average month). If a protected employee's current monthly guarantee is less than this value, the current guarantee will be retained. If, in any month, a protected employee's earnings are less than the guarantee, a payment will be due equal to 75% of the difference. At the end of the calendar year the employee's annual guarantee will be compared to his or her annual earnings plus monthly guarantee payments and any offsets. If the annual guarantee is larger, the full difference will be paid. If the annual calculation demonstrates that all or a portion of the monthly guarantee payments represent an overpayment, the employee will be entitled to no further guarantee payments until the overpayment is recovered. In the calculation of guarantee payments on the monthly and annual basis, earnings include overtime rate on any given day.

Conference substitute. This follows the House provision. The conferees note that changes in the monthly displacement allowances formulas were necessary to eliminate expensive inequities in the current formulas. The conferees note that different formulas were provided for different classes and crafts of employees because of different procedures used to determine the basic wages of different classes and crafts of railroad employees and because the work schedules of certain employees (such as maintenance-of-way employees) are subject to irregular and seasonal fluctuations. The conferees believe the use of these different formulas is rationally related to such differences among the classes and crafts and to the need to conserve scarce government resources.

Section 502—Duration of monthly displacement allowance

Senate bill. No provision.

House amendment. The House amendment would restrict the payment of the monthly displacement allowance in two situations. First, a protected employee's entitlement to a monthly displacement allowance would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, flood, snowstorms, and similar natural occurrences. Second, the legislation would require a protected employee to claim a monthly displacement allowance within three months of entitlement unless the claim is the subject of or based upon an arbitration decision. It also would require that entitlement to claims be approved or denied within 150 days after a claim is filed for the first year following enactment and within 90 days thereafter, unless the employee and the employer agree upon other timeframes for filing and determining claims. This provision will eliminate bookkeeping problems caused by delay in filing a claim for a monthly displacement allowance, and enable the Corporation to assess more accurately expected payments for labor protection. The legislation further provides that unless denied within the timeframes by the carrier, the claim would be deemed approved.

Senate amendment. The Senate amendment contains a similar provision.

Conference substitute. The Conference substitute contains the provision in the House and Senate amendments.

Section 503—Training and transfer

Senate bill. No provision.

House amendment. The House amendment addresses restrictions on manpower utilization by permitting the Corporation and other employers with protected employees to transfer such employees in the marine crafts and unemployed Penn Truck Lines, Inc. workers to another class, and by offering retraining programs to make the inter-class transfer provisions meaningful.

The new training and transfer provisions would apply to unemployed protected employees in the marine crafts and unemployed Penn Truck Lines, Inc. employees. No bona fide vacancies exist for these employees in their class or craft. Consequently, their guarantee payments represent a considerable ongoing liability.

Training expenses would be paid for by the Corporation or other employer, which could then be reimbursed from the Regional Rail Transportation Protective Account. Moving expenses incident to transfers would be reimbursable under the provisions of section 505 (g), as is the case under existing law.

Senate amendment. The Senate amendment is similar, with two exceptions. The power to transfer unemployed protected employees is extended to employers besides the Corporation, and the multiple offer provision was not adopted.

The "multiple offer" provision establishes procedures that permit the Corporation and other employers to expedite reassignments by making simultaneous offers of a vacancy to no more than 5 employees at a time (those contacted employees junior to the least senior employee who accepts the vacancy will be furloughed or served).

Conference substitute. The Conference substitute follows the Senate bill, but retains the restriction in the House bill which allows only Conrail to transfer protected employees. However, the substitute permits Amtrak to transfer employees within their seniority districts unless Amtrak and the affected unions agree to negotiate an appropriate collective-bargaining agreement in this area.

The substitute also restricts use of the multiple offer provision to unemployed protected employees of the marine crafts and protected employees of Penn Truck Lines. Other employees would not be subject to the multiple offer provision.

Section 504—Payment, audit and report

Senate bill. No provision.

House amendment. The House amendment would redesignate section 509 of the 3R Act as section 509(a) and increase the amount of funds authorized to be appropriated under Title V by $235 million (of which up to $180 million could be spent on MDA's) to a new authorization level of $485 million making training costs incurred by the Corporation under revised section 505(d)(4)(D) reimbursable costs, direct the Secretary of Transportation to be responsible for requesting needed appropriations for expenditure by the Railroad Retirement Board, and additionally authorize the appropriation of funds for administrative expenses incurred by the Railroad Retirement Board in performing their functions under section 509. The appropriations may be allocated by the Secretary to the Board and the Association.

It is proposed that an additional $235 million be authorized to fund the revised level of benefits afforded by these amendments. Conrail projects that this sum will fund the program. If in fact the cost of the program exceeds an additional $235 million, the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that improve program auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to conduct a program audit of the payment of benefits under Title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in its workforce. In conducting the program audit, the Association should be particularly sensitive to the impact of Title V provisions upon management policies, so that the Association will be able to suggest corrective legislation quickly in the event inequities are uncovered in the program or the way that the Corporation administers the program.

The Association would be afforded access to pertinent documents for the purpose of facilitating its program audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic program audit and evaluation to the Congress and the President within 60 days after the end of each fiscal year.

Senate amendment.—The Senate amendment contains an identical provision to the House amendment.

Conference substitute. This provision is contained in the substitute.

Section 505—Railroad hiring

Senate bill. No provision.

House amendment. The House amendment provides for a right of first hire on other rail carriers for protected separated, or furloughed employees of Conrail. This right would not apply if an employee was separated for cause, or found to be less qualified than other applicants. The right would also not apply to any vacancy covered by a required or permissible voluntary affirmative action plan. This right is similar to that granted Milwaukee and Rock Island employees by recent legislation.

Conference substitute. This follows the House provision.

Section 506—Single collective-bargaining agreement

Senate bill. No provision.

House amendment. No provision.

Senate amendment. The Regional Rail Reorganization Act of 1973, as amended, was based on a recognition that Conrail could succeed only if the predecessor bankrupt roads' operations were combined into a unified system.

A major component of that integration was addressed by section 504(d) of the 3R Act which required representatives of the various classes or crafts of the bankrupt carriers and representatives of Conrail to enter into negotiations for a single collective bargaining agreement for each class and craft of employees. This section was motivated by a recognition that the near countless existing labor agreements had to be replaced by negotiated collective-bargaining agreements for each class and craft.

Such negotiations were commenced and substantial progress has been made toward the goals of the Act. As a significant example, the United Transportation Union and Conrail, after extensive bargaining, concluded an agreement having far reaching effects on labor costs of train movements while allowing the United Transportation Union members to share in the resulting savings. However, continued implementation of this collectively bargained agreement is imperiled by the findings of a U.S. Magistrate in the case of *Maloof v. United Transportation Union and Conrail*, issued March 27, 1980.

As the result of a suit brought by minority members of the union who wish to block the agreement, the U. S. Magistrate has concluded, among other things, that section 504(d) of the 3R Act does not require the negotiation of a single agreement for each class or craft. As a finding of fact, this conclusion must be considered to have a substantial likelihood of adoption by the Federal District Court. Such an adoption would, in all likelihood, be accompanied by an order effectively terminating the United Transportation Union-Conrail agreement and allowing the continuation of regional distinctions in treatment among members of the same class or craft in opposition to the conclusions of the Final System Plan, and the clearly stated policy of Congress. Revocation of the detailed and comprehensive Crew Consist Agreement, on the strength of findings by a Magistrate, not only denies its benefits to a large number of United Transportation Union members but wipes out needed savings for Conrail.

Conference substitute. The Conference substitute follows the Senate bill, with a clarifying sentence added to ensure that such a single collective bargaining agreement is negotiated systemwide. This follows the historical policy of the National Mediation Board that crafts or classes are to be certified systemwide, and negotiations conducted on a similar basis.

This section will make it absolutely clear that the intent of Congress was in 1973, has remained, and is today that Conrail is entitled to a single collective bargaining agreement with each craft or class of workers. The Magistrate's opinion was premised on what he described as an ambiguous phrase in the existing statutory language. This section should make it clear that the intent of Congress is that Conrail is entitled to a single agreement for each class and craft.

Section 507—Employee protection payments

Senate bill. No provision.

House amendment. The House amendment provided an effective date for the new formulas of the first day of the month following enactment.

Senate amendment. The Senate bill provides that the new formulas are to be effective on the first day of the month following enactment. The Corporation and other employers with protected employees were to be reimbursed effective October 1 for any protective payments not previously reimbursed.

Conference substitute. The Conference substitute adopts October 1, 1980 as the effective date.

Section 508—Technical amendments

Senate bill. No provision.

House amendment. The House amendment makes technical changes to the Regional Rail Reorganization Act of 1973 and adds the Attorney General to the Board of Directors of the United States Railway Association.

The Secretary of Transportation and the Secretary of the Treasury are authorized to delegate their responsibilities under the 3R Act, including membership on the Board of Directors of the USRA and its committees, to the following designated representatives. The Secretary of Treasury may designate any officer of the Department whose position is confirmed by the Senate. The Secretary of Transportation is authorized to designate as his representative the Deputy Secretary, the General Counsel, the Federal Railroad Administrator, or the Deputy Federal Railroad Administrator.

Subsection (d) amends the definition of "deprived of employment" in subsection 501 (6) to exclude from the definition, and thereby excludes from coverage under the protection program consistent with changes made in section 4 of this legislation, failure to work due to Acts of God. Subsection (d) also adds a definition of "compensation" to section 501 so that it is clear the word means only earnings in employment subject to the Railroad Retirement Act rather than such earnings plus earnings from non-railroad employment and compensation for personal injury claims against the employer.

Finally, subsection (e) clarifies that the arbitration provisions that apply to disputes between the Corporation and its employees regarding the interpretation of Title V provisions do not restrict the newly-created audit and reporting responsibilities of the USRA.

Senate amendment. The Senate amendment is similar to the House amendment but does not add the Attorney General to the Association's Board of Directors.

Conference substitute. The Conference substitute follows the House amendment, but deletes the provision to include the Attorney General on the USRA Board of Directors.

Section 508(f) of the House amendment alters section 403(d) of the Rail Passenger Service Act to enable Amtrak greater flexibility in contracting for compensation for providing commuter services with the states. At present, the level of compensation is fixed at the "avoidable cost" level. Conferees expect that this provision will enable Amtrak to have the flexibility to contract for the value of services rendered and not result in commuter revenues below avoidable cost.

Section 601—Expedited supplemental transaction proposals

Senate bill. No provision.

House amendment. The House bill amends section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) by providing that the Secretary of Transportation shall determine after comments from interested parties whether to propose a supplemental transaction under this section for the transfer of all rail properties of Conrail in Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that another rail carrier is financially and operationally capable of assuming Conrail's freight operations and freight service obligations in the area, that the transfer would promote the establishment and retention of a financially self-sustaining rail system in Connecticut and Rhode Island adequate to meet the needs of those states, and that the transfer would minimize job losses and associated increases in unemployment, should the Secretary develop such a proposal. After providing USRA and the ICC with an opportunity to review and comment on the proposal, the Secretary may petition the special court for an order to carry out the proposed transfer.

Notwithstanding any existing 508 agreements, a new employment agreement would be entered into between the parties to the transfer and affected employees pursuant to section 508. These agreements would involve the Corporation, but would not impose additional obligations on the Corporation, which is neither an acquiring nor a selling carrier for the purposes of section 509.

The bill would also allow further supplemental transactions under the normal procedures of section 305 to occur by deleting the six year time limit provided in section 103(19) of the Act.

Conference substitute. The Conference substitute adopts the House provision, but allows the States of Connecticut and Rhode Island to comment formally. The time period is also extended to 240 days.

If a proposal is sent to the Special Court, the Special Court shall use the procedures of existing section 305. If a transferee railroad is unwilling to accept the fair and equitable price established by the Secretary, the Secretary need not petition the Special Court. The Special Court may review the proposal to determine if it is in the public interest.

Section 701—Rock Island and Milwaukee Railroads amendments

Senate bill. No provision.

House amendment. The House amends the Rock Island Transition and Employee Assistance Act and the Milwaukee Railroad Restructuring Act in several instances. The amendment provides that any decision with respect to constitutionality of the Rock Island Transition Act or the Milwaukee Railroad Restructuring Act from the respective courts having jurisdiction over the respective railroads in bankruptcy shall be taken to the United States Court of Appeals for the Seventh Circuit. If a constitutional challenge is made to the procedure under this provision, the challenge shall be heard by the United States Court of Appeals for the Seventh Circuit because the procedure is part of the Rock Island Transition Act. Should the appeals on constitutionality involve section 106 or section 110 of the Rock Island Transition Act or sections 9 or 15 of the Milwaukee Railroad Restructuring Act, regarding the claim of administration for employee protection claims, the court shall determine the appeals in a consolidated proceeding and render a final decision no later than 60 days after the last such appeal is filed.

The House amendment clarifies the Rock Island Transition and Milwaukee Railroad Restructuring Act to state affirmatively that nothing in these Acts shall limit the right of any person to bring an action under the Tucker Act. This provision was not in the original Acts on the grounds that there continued to exist a Tucker Act remedy where Congress has not explicitly waived such a remedy. See Regional Rail Reorganization Cases, 419 U.S.102; 125 (1974). However, in reviewing Judge Garr's injunction of the Rock Island Transition Act, Justice Stevens expressed concern about the availability of such a remedy where the injunction to be lifted and were the Act subsequently to be held unconstitutional, ——— U.S. ——— (1980). This specific provision clearly establishes that the Tucker Act is available and nothing in these Acts limits the right of any person to seek redress under the Tucker Act.

The House amendment provides for a new schedule for the negotiation of an employee protection agreement between the Rock Island Railroad and the Labor organizations. If these parties are not able to come to an agreement within 5 days, the Commission is to impose a fair and equitable arrangement no less protective of the interests of employees than the protection established under section 9 of the Milwaukee Railroad Restructuring Act within 15 days after the enactment of the Staggers Rail Act. The bankruptcy court shall order the Rock Island Trustee and the Rock Island employee organizations to implement such arrangement immediately. Any order of the Commission or the bankruptcy court with respect to implementing such order shall be appealed only to the United States Court of Appeals for the Seventh Circuit within 5 days after the order of the Commission or the bankruptcy court, whichever is later, and shall be determined within 60 days after the appeal is filed. Benefits and allowances under this arrangement shall be paid by the Rock Island Railroad and shall be treated as administrative expenses of the estate of the Rock Island Railroad. By specifically stating that there is a Tucker Act remedy, the benefits and allowances will immediately become available to the qualifying Rock Island employees and the Trustee may pursue his allegations of unconstitutional action under the Tucker Act.

Under Section 7(d), (e), and (f) of the Milwaukee Railroad Restructuring Act, certain obligations to the United States were subordinated to the creditors, but not the stockholders. Hence, there is a gap between these two classes of interests. The House amendment eliminates this gap, by forgiving such subordinated obligations to the United States when the Milwaukee Railroad is either successfully reorganized as a rail carrier or when more than 50% of the railroad as it exists on the effective date of the Staggers Rail Act is purchased and 50% of its employees on that date have obtained employment with other carriers. By eliminating this gap in this way, the House amendment will encourage the Milwaukee Railroad's stockholders to seek a successful reorganization or purchase and not feel it necessary to seek liquidation at this time.

Additional funds for Transaction Assistance under the Rock Island Transition Act for the purchase of abandoned lines by non-rail carrier entities of the Rock Island Railroad and Milwaukee Railroad and for rail banking of Lines of the Milwaukee Railroad in Montana are made available. The Secretary may determine if applications for purchase filed after September 15, 1980, are appropriate. Other than the funds specifically reserved for Montana, Transition Assistance funds should be equitably distributed without State preference to non-carrier entities which have applied for funds.

Conference substitute. The Conference substitute adopts the House provision, with minor modifications and deletion of the new findings for the Rock Island Transition Act. The conferees believe that there is an obligation upon the Rock Island estate to provide employee protection as a claim of administration to its employees who were not covered by the March 4, 1980, agreement. Further, the conferees believe the Rock Island estate has benefitted from the Rock Island Transition Act by the reduction in its employee protection liability and through the Congressionally-supported March 4, 1980, agreement, the ability to lease its facilities and the use of funds to purchase its facilities, thus preserving its value as a going concern, and the expeditious consideration of Rock Island transactions at the Commission. The conferees reiterate that it is the intention of Congress that employee protection be imposed in bankruptcy proceedings involving major rail carriers, for to do otherwise would be to promote liquidations, to the detriment of the employees and the public interest.

Section 702—Loan guarantees

Senate bill. No provision.

House amendment. The House amendment provides that the Secretary of Transportation shall not later than 45 days after the effective date of this Act, take final action on any application for a section 511 loan guarantee under the Railroad Revitalization and Regulatory Reform Act to be used in connection with joint ownership, construction or rehabilitation of any facilities for a second rail carrier to serve the Powder River Basin in Wyoming and Montana. This provision is included to promote needed competition for transportation of the low-sulfur coal from the Powder River Basin that is used by a great number of utilities in many states.

The Secretary is authorized to waive findings under 511(g) with respect to such loan guarantees, and section 4(f) of the Department of Transportation Act is not applicable to such loan guarantees. However, the Secretary shall review the proposed Chicago and North Western connector and shall not approve any route which requires the use of agricultural land unless there is no feasible and prudent alternative to the use of such land and the proposed route construction plan requires all possible planning to minimize loans to such agricultural land. The Secretary shall review the use of any agricultural land in any new constructed line and shall require private land crossings for agricultural land owners whose land is divided by such line. When the Secretary requires the construction of a grade crossing, the Secretary shall require the land owner and the railroad to enter into agreements limiting the railroad's liability at such crossings.

Conference substitute. The Conference substitute adopts the House amendment, but substitutes provisions regarding standards and deadlines for judicial review instead of the Secretary's discretion to waive findings under section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210). It also makes clear that actions can be taken without prior approval of any Committee of Congress.

The standards and deadlines are borrowed from the Alaska Natural Gas Transportation Act, 15 U.S.C. 719h, and the Administrative Procedure Act, 5 U.S.C. 706. The reference to the phrase, "arbitrary, capricious, or an abuse of discretion" is an adaptation of 5 U.S.C. 706(2)(A). The reference to "in excess of statutory jurisdiction, authority or limitations, or short of statutory right" is an incorporation of the grounds for review provided in section 706 (2)(C). The Conferees wish to emphasize that the other grounds for review set forth in section 5 U.S.C. 706(2) not in this section are intentionally excluded. Judicial review is to be confined to considerations of whether the agency complied with the Constitution and acted within its authority.

Section 703—Conrail studies and emergency funding and USRA authorization

Senate bill. The Senate bill requires USRA to submit preliminary recommendations by November 15, 1980, with regard to Conrail's future structure, activities and funding. Following review by the Department of Transportation and the Commission, and comment by interested parties, USRA is required to submit to Congress by March 1, 1981, specific final recommendation with respect to (1) future projected funding requirements of Conrail; (2) future structure and activities of Conrail in the region; and (3) legislative proposals, if necessary, to implement such recommendations. The Senate provisions also require specific studies to be completed in developing preliminary and final recommendations. Conrail is required to submit recommendations to USRA by October 1, 1980; it is also free to comment on the Association's preliminary and final recommendations. The provision includes an USRA authorization of $31.5 million for fiscal year 1981 and $27.5 million for fiscal year 1982.

A separate title of the Senate bill provides emergency funding for Conrail of $329 million for fiscal year year 1981. This provision is intended to provide interim Federal funding for Conrail while Congress identifies alternative measures, including structural changes, based on the various studies and recommendations discussed above. The funding is conditioned upon a finding by the Finance Committee under section 216(b) of the Regional Rail Reorganization Act of 1973, as amended, that Conrail has taken appropriate action to eliminate losses on light density and unprofitable lines through negotiation of subsidy or trackage rights agreements, sale or lease, imposition of surcharges or abandonment of such lines. Expedited surcharge and abandonment procedures are provided for these light density and unprofitable lines. In addition, the Senate bill requires an economic analysis that will forecast the full effects upon Conrail and rail labor of alternative changes in labor agreements and related operational changes.

House amendment. The House amendment does not contain any provision on Conrail studies or emergency funding. It provides an authorization for USRA of $28.5 million for fiscal year 1981.

Conference substitute. The Conference substitute generally adopts the Senate provision with regard to Conrail studies. However, Conrail is given a larger role and will be required to submit a separate report and recommendations at the same time as USRA on the carrier's future funding requirements, future structure and activities, and legislative action which might be required. Conrail is to submit preliminary projections and recommendations to USRA by January 1, 1981. The report and recommendations of USRA and Conrail are to be submitted to Congress no later than April 1, 1981.

The Department of Transportation is to submit its recommendations by that same date, and there is a provision for comment by the Commission.

The Conference substitute adopts the Conrail emergency funding authorization of $329 million for fiscal year 1981. It retains the Senate provision for an affirmative finding by the Finance Committee that Conrail has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. However, since the rail bill contains separate surcharge and abandonment provisions, the expedited Conrail surcharge and abandonment procedures have been deleted. The Conferees stress, however, that Congress in-

tenis, as a condition of the emergency funding, that Conrail proceed to eliminate or reduce its losses on unprofitable lines and implement such cost conservation measures as are feasible to minimize the needs for additional Federal funds.

Earlier this year, in the Passenger Railroad Rebuilding Act, Congress established the goal of eliminating congestion of rail freight and rail passenger traffic along the Northeast Corridor. At that time, Congress also authorized funds to begin the diversion of freight around Baltimore. It now appears that still more freight may be diverted off the corridor by cooperation between Conrail and the Delaware and Hudson Railroad and that no authorization of appropriations is required to divert additional traffic off the corridor by the negotiations of trackage rights between Conrail and the Delaware and Hudson. Accordingly, the Conferees express their hope that these negotiations will successfully divert additional freight off the corridor and direct the United States Railway Association to monitor these negotiations and to report on their progress to the respective committees.

Section 704—USRA authorization of appropriations

Senate bill. The Senate bill contained a 2 year authorization of $31.5 million in fiscal year 1981 and $25.5 million in 1982.

House amendment. The House amendment contained a 1 year authorization for $28.5 million.

Conference substitute. The Conference substitute provides a 1 year authorization of $30 million for fiscal year 1981.

Section 705—Feeder line rehabilitation study

Senate bill. No provision.

House bill. Section 231 of the House bill created a Rail Technology and Shippers Needs Board. This Board is to consist of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, the Chairman of the Interstate Commerce Commission, and two shipper representatives from national agricultural organizations appointed by the President. The Board is given authority to conduct studies of technological means to improve rail productivity and the continuing transportation needs of urban and rural shippers.

Section 231 of the House bill also provides for a study of the revenue impact and public benefits of exempting from taxation State or local government obligations incurred in connection with the rehabilitation of railroad feeder lines. The report must include criteria as may be necessary to prevent the abuse of the special tax status given under this section.

Conference substitute. The Conference Substitute deleted the Rail Technology and Shippers Needs Board but retained the study of the impact of exempting State or local government obligations incurred in connection with the railroad feeder lines. It is anticipated that this report will include recommendations regarding the types of railroad properties and services which ought to be eligible for State or local government obligations which are exempt from taxation; ways to narrow the applicability of this special issue to ensure that such obligations will be issued only for productive rail rehabilitation or acquisition projects; and ways to ensure coordination with Federal, State and local rail programs.

Section 706—Effect on pending matters

Senate bill. No provision.

House amendment. The House bill contains a provision which states that all applications or proceedings pending before the Commission or other agencies, or any court, shall be determined as if this law had not been enacted.

Conference substitute. The conference substitute deletes the House provision, but clarifies that existing rate bureau proceedings shall be conducted under the law prior to the enactment of this Act. The House bill, as passed, contains a section determining the effect of this legislation on pending matters. The fact that the Conference substitute does not contain a similar provision is not intended to create any implication that other cases now pending at the Commission, other affected agencies, or pending in the Federal courts are not to be adjudicated or determined under existing law or the new legislation in accordance with controlling case law. The deletion of these provisions means that existing cases at the Commission, other affected agencies, or pending in the Federal courts, shall be determined as present case law requires that they be determined.

If a case is pending in Federal Court or has been remanded to the Commission, the Conferees intend that the rate ultimately determined by the Commission shall be considered the rate in effect on the date of enactment for the purposes of this Act.

Section 707—Construction of amendments

Senate bill. Same as the House bill.

House amendment. The House amendment provided that the amendments made by this Act should not be construed to modify the existing law with respect to competition and coordination as it affected the relationship between water carriers and rail carriers.

Conference substitute. The provision contained in this section, which qualifies each provision of each section of this Act, is designed to make clear that none of the provisions of the Act modifies existing law to make lawful a rate or practice that was unlawful on the day prior to enactment. Also the Conferees intend that this section allow water carriers to challenge practices that were unlawful as unfair, destructive, predatory, or otherwise undermined competition prior to enactment of this Act. In addition, of course, the Conferees do not intent to limit the right of water carriers to exercise their rights and remedies under the provision of the Interstate Commerce Act as amended by the Staggers Act of 1980 regardless of whether those rights and remedies are related to practices which are unfair, destructure, predatory or otherwise undermine competition.

The intent is that none of the amendment made by this Act is to be used to legitimize the undermining of rail-water competition. Railroad rates and practices that affect rail-water competition that are unfair, destructive, predatory, or otherwise undermine competition, and that were unlawful immediately prior to enactment of this Act shall continue to be prohibited. Similarly, no change made by this Act makes lawful any other railroad rate or competitive practice that is unfair, destructive, predatory or otherwise undermines competition.

Section 708—Surplus equipment

Senate bill. No provision.

House amendment. The House amendment makes Conrail eligible to borrow excess equipment from the Department of the Army. Now, the effected community must pay a rental fee of the fair market value, which is too high for most local communities. The amendment would set up a two-step process for obtaining the needed equipment (bridge for example). The first would be an application by Conrail to the Army for a contract to borrow the bridge; this would occur only after Conrail has determined that public safety required such action. After Conrail and the Army have concluded negotiations, Conrail would enter into a contract with the local community to pay for the transportation of the bridge to the site and for routine maintenance.

While the language of the amendment is general, it is specifically aimed at solving a problem in the city of Niles, Ohio, where the West Park Avenue Bridge going over Conrail tracks was damaged and traffic is now being rerouted through a public park. This creates a hazardous and dangerous condition for the many children in the area.

Conference substitute. Conference substitute adopts the House provision.

Section 709—Study of Alaska Railroad rates

Senate bill. No provision.

House amendment. The House amendment requires, within 6 months after the effective date of the legislation, the Commission to complete a study to determine whether certain rates charged by the Alaska Railroad would, if such rates were entered into after the enactment of the legislation, have violated Section 10701a(c)(1) of Title 49 U.S.C. as amended by the House amendment.

Conference substitute. The Conference substitutes follows the House amendment. Allegations have been made that the Alaska Railroad has been engaged in predatory pricing to the injury of its privately-owned competitors. It has also been alleged that the Alaska Railroad has the capacity to engage in such activity because it is Federally owned and subsidized, while its competitors are totally unsubsidized. Clearly, such conduct would be contrary to sound public policy.

Accordingly, an investigation by the Commission is ordered by this Act. It is expected that the Commission will conduct a careful, impartial analysis of the controversy, weighing all the facts and arguments of the interested parties, and making available its analysis and supporting data for public comment prior to rendering a final report to Congress. The Department of Transportation and other federal agencies are expected to cooperate fully with the Commission in the conduct of the investigation.

The Commission's study is to be coordinated with a study by the State of Alaska.

Section 710—Effective dates

Senate bill. No provision.

House amendment. The House amendment provides that the provisions of this Act and the amendments made by this Act shall take effect October 1, 1980, except certain sections dealing with the Conrail employee protection.

Conference substitute. The Conference substitute adopts the House amendment, but clarifies that the amendments to the Rock Island Transition and Employee Assistance Act in section 227 are effective upon enactment.

APPENDIX A

INTERSTATE COMMERCE COMMISSION,
Washington, D.C. September 16, 1980.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EXON: This is in reply to your letter of September 11 asking for my interpretation of the Commission's authority regarding demand-sensitive rates if Section 210 of H.R. 7235 (The Rail Act of 1980) were enacted. As your letter points out, Section 210 repeals the existing section of the Interstate Commerce Act which requires the Commission to maintain standards and procedures to permit the establishment of demand-sensitive rates. In my view, repeal of this section will lead the Commission to repeal its existing regulations regarding demand-sensitive rates and to refuse to initiate new rulemakings on this subject.

I hope this addresses your concerns about the Commission's interpretation of existing and pending legislation. I would, of course, be pleased to discuss this with you at any

time. If legislation is enacted, I look forward to working closely with you and other members of Congress who have devoted so much effort to bringing a rail bill to fruition.

Sincerely yours,

DARIUS W. GASKINS, Jr.,
Chairman.

APPENDIX B

CHICAGO & NORTHWESTERN TRANSPORTATION CO.,
September 26, 1980.

Hon. J. J. EXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EXON: We know you are concerned with our plans for the future of our east-west line between the Wyoming State line and the Mississippi River. Please be advised we have no intention of abandoning this line.

The construction of, and successful operation of, our proposed connector line to the Union Pacific near Joyce, Nebraska, not only will not endanger the east-west line, but will enhance its future. Revenues derived from the coal project will make this railroad stronger and better able to maintain this line, which performs a useful service for the citizens of Nebraska.

It is our purpose to maintain this line in condition to respond to service needed by your citizens. As we become stronger, we are better able to increase the quality of this line and our other lines in Nebraska. However, I would like to emphasize that we do have an ongoing program which has resulted in substantial investment. For the period from 1974 to 1979 we have invested $36,456,000 in maintenance and capital in this line. Obviously, it is our intention to continue maintenance and investment at this level or, hopefully, greater.

Sincerely,

JEROME CONLON,
Senior Vice President.

HARLEY O. STAGGERS,
JAMES J. FLORIO,
JOHN M. MURPHY,
BOB ECKHARDT,
JIM SANTINI,
BARBARA A. MIKULSKI,
ROBERT T. MATSUI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,
TOM LOEFFLER,
GARY A. LEE,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
J. JAMES EXON,
BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

PERMISSION TO CONSIDER PRIVATE CALENDAR ON THURSDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the House be permitted to consider the Private Calendar on Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5612, SMALL BUSINESS ADMINISTRATION PILOT PROGRAMS FOR BUSINESSES OWNED BY DISADVANTAGED PERSONS

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent the managers may have until midnight tonight to file a conference report on the bill (H.R. 5612) to amend section 8(a) of the Small Business Act.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. PICKLE. Mr. Speaker, reserving the right to object, will the gentleman state the conference bill number?

Mr. SMITH of Iowa. H.R. 5612.

Mr. PICKLE. Mr. Speaker, I regret very much I have to object to this request. There is a serious matter of jurisdiction between the Committee on Ways and Means and this bill on which a conference report is being asked to be filed, and I object.

The SPEAKER. Objection is heard.

COMMUNICATION FROM THE CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation; which was read and referred to the Committee on Appropriations:

WASHINGTON, D.C.,
September 24, 1980.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 23, 1980:

DIRECT CONSTRUCTION

Vancouver, Washington, Federal Building Extension.

Redding, California: Courthouse and Federal Office Building.

LEASES

East Point, Georgia: Federal Aviation Agency, 3400 Whipple Street.

Washington, D.C.: Environmental Protection Agency.

Portland, Oregon: Bonneville Power Administration/Other Agencies.

San Bernardino, California: Department of Defense, 1111 East Mill Street.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 26, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On September 25, 1980, I was served with a subpoena from the United States District Court for the District of Maryland for certain official records within my custody. The subpoena was issued upon application of the United States Attorney, signed by the Deputy Clerk of the Court.

Pursuant to the provisions of House Resolution 722, adopted on September 17, 1980, this is to notify you of the receipt of the subpoena. Also in accordance with House Resolution 722, I have this day sent a copy of the Resolution to the Court as required by Section 7 of the Resolution.

The subpoena is available for inspection by Members in my office.

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

□ 1810 GENERAL REVENUE SHARING EXTENSION ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 60 minutes.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I do not intend to take my 60 minutes tonight. It is my understanding that the General Revenue Sharing Extension Act which was to be taken up tomorrow night, because of the heavy political schedule, will probably not be taken up now until after the election.

Tomorrow night the revenue sharing program will expire. I am deeply distressed at the decision to put this over. It amounts to, with respect to local government, a real estate tax increase of roughly $4.7 billion. Of course, the States' share which was roughly a third of the total program has already been permitted to go by the boards by the Committee on Government Operations, for fiscal year 1981. There was some hope that it could be reconstituted by fiscal years 1982 and 1983 although it would be subject to appropriation rather than entitlement for those 2 years.

This program which I think was one of the most vital programs in the Federal system, in contrasting to the categorical grant program totaling, rather than $7 billion, $92 billion, is a serious loss to our total complex of Federal programs, if it is permitted to expire.

I am convinced that after the election, very little is likely to be done on the Federal revenue sharing because we have lost the accountability imposed by the election season when local government officials and Governors will be able effectively to express their great concern over the transfer of this progressive tax money into an area previously nourished entirely by regressive taxation.

Mr. Speaker, I intend to speak about this at some length later on but at this point I wish to express only my great disappointment that because of the pressures of the political season, because of the obligations that we seem to have imposed on ourselves politically tomorrow night, because of the apparent preference that the leadership has for a very large number of suspensions, small special interest issues, because of the imminence of the political program of the President relating to unemployment insurance extension, this revenue sharing program is being permitted to languish and, I fear, ultimately to expire.

Mr. Speaker, I yield back the balance of my time.

LEGISLATIVE HISTORY
P.L. 96-448

STAGGERS RAIL ACT OF 1980

P.L. 96-448, see page 94 Stat. 1895

Senate Report (Commerce, Science, and Transportation Committee) No. 96-470, Dec. 7, 1979 [To accompany S. 1946]

House Report (Interstate and Foreign Commerce Committee) No. 96-1035, May 16, 1980 [To accompany H.R. 7235]

House Conference Report No. 96-1430, Sept. 29, 1980 [To accompany S. 1946]

Cong. Record Vol. 126 (1980)

DATES OF CONSIDERATION AND PASSAGE

Senate April 1, October 1, 1980

House September 9, 30, 1980

The Senate bill was passed in lieu of the House bill after amending its language to contain much of the text of the House bill. The House Report (this page) and the House Conference Report (page 4110) are set out.

HOUSE REPORT NO. 96-1035

[page 1]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

. . . . . .

[page 33]

Purpose and Summary

The reported bill consists of eight titles. Title I provides for a rail transportation policy to allow competition and the demand for services to establish reasonable rates, to the maximum extent possible; to promote a safe and efficient rail system by allowing rail carriers to earn adequate revenues; to provide rate regulation where there is an absence of competition and rail rates provide revenues which exceed the amount necessary to maintain the system and attract capital; to require rail carriers to the maximum extent practicable to rely on individual rate increases; and to ensure the availability of accurate cost information.

Title II provides the Commission with jurisdiction to determine rate reasonableness only when there is no effective competition. When determining the reasonableness of rates, the Commission is to recognize the policy that rail carriers shall earn adequate revenues. It authorizes the use of contracts between one or more carriers and one or more

shippers to provide specified services under agreed upon rates and conditions. Rate increases are limited to 10 percent per year, above inflation, until 1983 except on surcharges, rates over which the Commission has jurisdiction and rate increases which result in a revenue-variable cost ratio of less than 150 percent. Beginning in 1983, the Commission may, on a semi-annual basis, prescribe a percentage rate increase or index, either carrier by carrier or industry-wide, in order to compensate railroads for inflationary cost increases. The Secretary may notify the Commission that a rail carrier does not meet Federal safety standards and is not operated in a safe manner. Upon receipt of such a notification, the Commission may use its existing authority to review the financial arrangements of the carrier and prohibit any financial transactions which would unreasonably impair the ability of the carrier to meet safety requirements and operate safely.

Title III permits carriers that participate in a joint rate to surcharge or cancel joint rates in order that such carrier may receive at least 110 percent of its variable costs for its share of the joint movement. This title ensures competitive ratemaking by phasing out certain activities of rate bureaus.

Title IV establishes a Railroad Cost Accounting Standards Board for the purpose of developing cost accounting principles which identify variable costs which accurately represent the economic costs of rail movements. The Commission is charged with promulgating rules to implement and enforce the principles developed by the Board.

Title V authorizes appropriations to provide financial assistance for railroad restructuring and the development of feeder railroad lines.

Title VI amends the Regional Rail Reorganization Act of 1973 by increasing the funds authorized to be appropriated for the monthly displacement allowances for protected Conrail employees, and alters the benefits for which such employees are eligible.

Title VII amends Section 305 of the Regional Rail Reorganization Act of 1973 by increasing the authority of the Secretary to develop proposals for additional restructuring through transactions supplemental to the final system plan by transferring Conrail property to another carrier(s). The Secretary may undertake the development of a proposal on his own initiative or upon the request of a state or other political subdivision, a railroad or shipper(s).

Title VIII provides that the provisions of this Act take effect on October 1, 1980. This title clarifies that the enactment of this Act is not meant to alter existing law regarding the relationship between water carriers and rail carriers.

Background and Need for Legislation

The Committee is concerned about the financial plight of the railroad industry. In 1978, the Department of Transportation in its report to Congress—"A Prospectus For Change In The Freight Railroad Industry"—concluded that the industry between 1976 and 1985 would have a capital shortfall of between 13.1 and 16.1 billion dollars. In current dollars, that shortfall is between 16 billion dollars and 20 billion dollars.

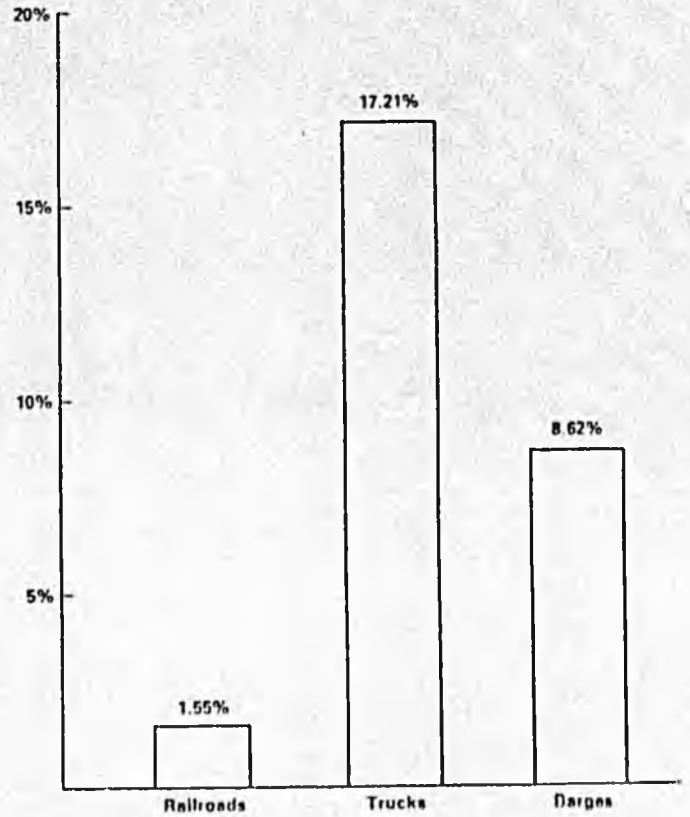
Current earnings of the railroad industry are inadequate to meet existing or anticipated capital needs. There is no reason to believe that railroads operating in the present regulatory environment will improve their earnings. The railroads rate of return on investment has not exceeded three percent since 1966 and persistent low profit levels have plagued the industry since the end of World War II. Appendix A of this report contains background materials prepared by the Committee which details some of the reasons for the industry's poor performance.

The railroad industry has been regulated since 1887. While the pervasiveness of government railroad regulation has grown over the years, the development of less regulated or unregulated transportation competition has also grown. Both motor carrier and water carrier competition have continued to take intercity transportation business away from the railroads. Today, the once dominant railroad industry accounts for but 36 percent of the inter-city ton miles of freight. In 1947 railroads had twice the market share. Between 1947 and 1977, the economy (real GNP) grew 185 percent. Industrial production during that time increased 256 percent and tons of inter-city freight increased 91 percent. The railroads, however, carried 91 percent fewer tons in 1977 than they did in 1947. The railroads decline in business has been not only in market share, but in actual tons carried.

In absolute terms, the number of tons of freight picked up regardless of distance traveled, trucks now carry almost 50 percent more tonnage than the railroads. In 1947, railroads were hauling three times as much tonnage as motor carriers.

Neither trucks nor barges are as extensively regulated as railroads. About 43 percent of truck inter-city ton miles is regulated and only about 10 percent of barge inter-city ton miles is regulated, while 100 percent of all railroad business is regulated. The following chart which shows rate return on equity for 1978 demonstrates one of the major differences caused by disparity of regulations among the transportation modes:

RATE OF RETURN ON EQUITY 1978

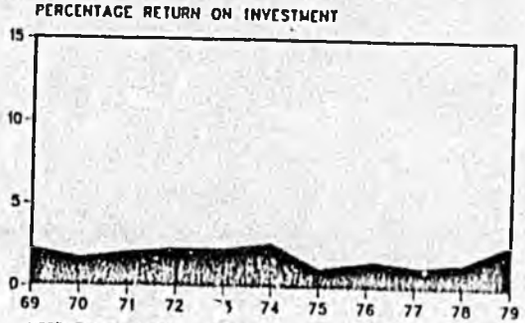


SOURCES Interstate Commerce Commission

The Committee does not dispute the findings by the Department of Transportation that the railroad industry has a huge capital shortfall between now and 1985. Failure to overcome that capital shortfall will mean a continued deterioration in the railroad service which will have the effect of driving more shippers away from railroads thereby making it more difficult for the industry itself to generate the revenue it needs. During the 1970's and in this Congress the Committee has seen the results of inadequate revenue generation within the railroad industry. Seven bankrupt railroads created the need for the establishment of Conrail. During this Congress the Committee has had to

address both the Milwaukee and Rock Island bankruptcies through special legislation. Nearly 30 percent of railroad business is today carried in whole or in part by financially weak railroad carriers. The following graph shows the low rate of return for the railroad industry over the last 10 years.

RAILWAY RETURN ON NET INVESTMENT HAS BEEN INADEQUATE



NOTE: Rates of return shown above would be lower if adjusted for tax treatment.

Source: Railroad Reports to ICC

The industry's low rate of return has caused greater and greater reliance on outside financing. The following table dramatizes both the increasing need for railroad investment and the increasing dependence on outside financing.

RAILROAD RELIANCE ON OUTSIDE FINANCING HAS INCREASED

Year	Total investment (millions)	Retained funds[1] (millions)	Retained funds as percent of total investment
1969	11,509.4	1815.6	54.0
1970	1,351.4	618.0	45.7
1971	1,177.8	784.1	66.6
1972	1,215.6	921.1	75.9
1973	1,342.1	964.1	72.8
1974	1,565.4	1,090.8	69.7
1975	1,789.7	671.7	54.3
1976	1,724.7	682.6	39.2
1977	2,290.4	762.8	33.8
1978	2,730.9	749.8	27.4

[1] Represents income before extraordinary items, plus deferred taxes and depreciation and retirement charges, less cash dividends and equity in undistributed earnings of affiliated companies.

Source: Railroad reports to the ICC.

Needless to say, increasing interest costs represent another discouragement in overcoming the capital needs shortfall facing railroads.

Railroads are 100 percent regulated under Subtitle IV of Title 49. Parts I and II of the background materials contained in the Appendix detail the extent of Federal regulation. The overall effect of that regulation has meant that railroads have been severely handicapped in their ability to compete with other modes of transportation. The Committee notes with alarm that the railroads' decline in market share seems to cut across almost all areas of freight transportation. For example, for the transport of machinery, except electrical and industrial, railroads hauled 52 percent of ton miles in 1963 but only 38 percent in 1972. With basic textiles and leather products, railroads hauled 25 percent in 1963 but only 16 percent in 1972. For drugs, paints, and other chemical products, railroads hauled 62 percent of the ton miles in 1963 but only 44 percent in 1972. For meat and dairy products, the rail ton mile haul in 1963 was 47 percent and only 28 percent in 1972. For fabricated metal products, rail hauled 41 percent in 1963 and only 23 percent in 1972. Those declines taken from the Census of Transportation of 1963 and 1972 respectively are repeated in almost every commodity group.

The decline has continued since 1972 and can best be seen by looking at traffic once very dependent upon the railroads. For example, railroads no longer dominate grain traffic. In 1973, 58 percent of the grain sold originated on rail. In 1974, that percentage was 62 percent but it has dropped to 47 percent in 1975; 49 percent in 1976 and down to 43 percent in 1977.

Fresh fruit and vegetable traffic which was moved 31 percent by rail in 1970 was only 11 percent by rail in 1977.

The Committee believes that the significant reason for the decline in railroads' business has been the inflexibility of existing regulation. Prior to the implementation of the 4R Act, every shipper would protest a rate increase as being unreasonable. In the 4R Act, Congress instituted the so-called "market dominance test" in hopes of removing most traffic from rate regulation. Unfortunately, the rules promulgated by the Commission freed up less than 30 percent of the traffic from regulation. The Commission now has underway a proceeding to exclude more traffic from regulation by redefining the rules and regulations for market dominance. In the Committee's judgement this change will be insufficient to effect enough change in railroad pricing to permit the turn around of an overly regulated industry. Consequently, the Committee bill significantly changes railroad regulation so as to create a climate in which railroads can earn enough revenue to meet their capital needs. The changes in the Committee bill are comprehensive, but are carefully tailored to protect shippers from unreasonable rates or abuses of railroad monopoly power.

The Railroad Revitalization and Regulatory Reform Act of 1976 has not provided the flexibility in rates that the industry needs to earn revenues sufficient to maintain and improve the rail system. Initially the Interstate Commerce Commission interpreted the 4R Act very narrowly, providing little rate flexibility. Although the Commission has interpreted the law more broadly of late, the 4R Act does not provide sufficient rate flexibility.

The Committee has attempted to strike the proper balance between protecting shippers who are truly subject to the market power of railroads and providing sufficient rate flexibility to the railroads to allow

them to compete effectively with other modes and earn adequate revenues. The rate provisions of the bill are designed to protect shippers who have no transportation alternative, and who are being charged rates that are too high.

The test of a transportation alternative is a sound one. If a shipper can rely on a transportation alternative, which could include another railroad, a barge, or a truck, at a transportation cost which is not substantially greater than the rail transportation cost, then competition is present. Competition will serve to hold down rates, and the railroad involved would not have market power.

Similarly, if a consignee of goods shipped by railroad can obtain the same goods or commodity elsewhere at a price which is not substantially greater than the delivered cost of the goods or commodity shipped by rail, the railroad does not possess market power over the movement. If the rail rate rises too high, the delivered cost of the goods or commodity will rise and the consignee will turn to another source, and the movement and the revenues from that movement will be lost to the railroad. In such a situation the railroad is constrained by the price of competing goods from another source.

A transportation alternative does not exist where the alternative is dependent on changes in present conditions. For example, the possibility that someone might build an Interstate Highway to a remote coal mine could not be considered to mean that an actual or present potential transportation alternative exists. On the other hand, the need to build a loading dock or facility to service another transportation mode could not be considered to eliminate the possibility of a transportation alternative.

The second test, whether a rate exceeds the "cost recovery percentage", determines whether a railroad which has market power is abusing that power. If a shipper has no transportation alternative, but the rate he is charged is very low compared with other rates, the shipper should have no recourse to a regulatory agency.

Only when the rate charged would provide revenues which more than cover costs of operating the rail system should shippers have the right to complain, and have their complaints heard by the Interstate Commerce Commission.

The Committee has designed a test, which is the "cost recovery percentage", to determine if a railroad is abusing any market power it might have. The "cost recovery percentage" is the level at which a rate exceeds the level necessary to cover costs, based on the existing pattern of rates.

Because of the existence of competition, all rates cannot pay an equal percentage of "fixed costs". As in other industries, some rates will contribute more to fixed costs than others. The Committee understands the necessity of such differential pricing, and has designed a regulatory system which allows for such pricing decisions. In the absence of the regulatory flexibility which permits differential pricing, all shippers would be harmed. If traffic which moved at low rates were forced to pay higher rates, the traffic would disappear to other modes. When the traffic moved to another mode, the contribution to fixed cost made by that traffic would also disappear. The result is that the remaining commodities would have to make up for the fixed cost

formerly paid by the traffic which moved to another mode, resulting in higher rates for the remaining traffic.

The Committee believes that the test in the bill is a sound one, and one that provides shippers with adequate protections.

Because the bill would allow contracts and other rate-making opportunities, the Committee has eliminated capital incentive rates. They were designed in the 4R Act to allow certainty in making investments in rail equipment and plant by establishing rates which would remain in existence for five years. With the certainty provided by contracts, such rates are no longer necessary.

Presently existing capital incentive rates, of which there are only a few, will remain in existence until the expiration of the five year period. Since investments have been made in reliance on the rates it would be unfair now to open those rates to challenge.

Along with the changes in rate-making contained in the bill it has been necessary to remove some of the prohibitions in present law on discrimination. The Committee believes that different costs and different services may justify different rates. Practices that would have been discriminatory under existing law are allowed and encouraged under this bill. Such flexibility is essential if rail carriers are to have the ability to compete effectively within the industry and with other modes. Existing discrimination provisions have attempted to keep shippers and regions equal, but have resulted in deteriorating rail service and rates unrelated to the competitive circumstances of different markets.

Although the bill allows significant rate flexibility to rail carriers, the Committee is concerned that the impact of any rate increases be minimized. To that end the bill limits any rate increases on traffic that presently travels at rates above the average to no more than 10 percent per year in addition to inflation for three years. The impact on shippers who would otherwise pay higher rates is thus minimized.

The bill eliminates general rate increases on all traffic after January 1, 1983. The Committee believes that the industry should rely to the maximum extent possible on individual rate increases rather than rate increases of broad general applicability. Pricing decisions which are related to the individual movements involved are critical to the competitive success of the industry.

At the same time the Committee recognizes that the railroad industry must deal with literally millions of rates often in times of high inflation. To cover costs the industry may have to rely, to some extent, on rate increases of general applicability. After the abolition of general rate increases the bill allows the Commission, in its discretion, to provide for increases of general applicability, but no higher than necessary to recover inflation-based cost increases.

Under existing law carriers have been reluctant to enter demand sensitive rates for fear of violating the discrimination provisions of subchapter IV of title 49. The Committee specifically provides for demand sensitive rates in this legislation.

Demand sensitive rates are desirable because they distribute the flow of traffic from peak periods to periods of lighter density. They are consistent with the interest of this legislation to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.

The demand sensitive rates have been further augmented by giving shippers an opportunity to plan their costs. This is done by providing that carriers must enter into agreed upon charges within the range of rates set in the tariff up to 12 months in advance. Thus, a futures market for rail transportation services will be created which will benefit shippers and railroads alike.

Today 70 percent of the property transported by rail moves over through routes subject to joint rates and the revenue derived from these movements is divided among the participating carriers according to divisions generally prescribed by the Commission. The existing joint rates and divisions do not allow some rail carriers to recover even the variable costs of providing transportation services on certain through routes. Conrail, in particular, is required to rely on federal subsidies amounting to hundreds of millions of dollars because it is unable to price its portion of joint services in a manner reflecting market forces. Under existing law, unless all carriers participating in the joint rate concur, these rates and divisions can be changed only by protracted proceedings before the Commission.

A rapid change in the present law might, on the other hand, disrupt the national rail system. Consistent with the goals of preserving a financially stable, private sector rail system set forth in section 3 of the bill, section 301 establishes a moderate procedure by which rail carriers that do not earn adequate revenues under existing joint rates and divisions can surcharge such rates or cancel their application to particular routes without the concurrence of other carriers. The purpose of this section is to insure that no rail carrier will be compelled to carry goods unless its share of the revenues from the joint rate, including any surcharges, is at least 110 percent of the carrier's variable costs of providing the particular services involved. In addition, for lines owned by a carrier with an annual traffic density of less than three million gross ton miles per mile, per year, this section is intended to allow such a carrier to recover its reasonably expected costs of providing services over such lines.

This section is designed to reduce to a minimum delays that might result in a carrier being forced to carry traffic below 110 percent of the variable costs of any movement or 100 percent of the reasonably expected costs of continuing service on a line with less than three million gross ton miles per mile of traffic per year. The Committee expects that the Commission will not permit needless litigation to hamper the goal of eliminating all burdens on commerce imposed by the operation of services below this cost level.

This section allows connecting carriers who participate in a particular route to which a surcharge has been applied or to which the application of the joint rate has been cancelled to respond by demonstrating that the joint rate without a surcharge is sufficient to provide revenues to the surcharging or cancelling carrier in excess of 110 percent of variable costs. Alternatively, the connecting carrier can agree to a new division or new lawful rate which would be sufficient to produce revenues in excess of 110 percent of variable costs to the carrier proposing the surcharge or cancellation.

A shipper would also have the ability to cancel a surcharge for a particular route if there were no route remaining for the particular

movement of goods subject to the surcharge which was not subject to the surcharge.

Although the surcharges itself would be subject to rate regulation only if the surcharge and the surcharging carrier's share of the revenues exceeded a maximum reasonable level under the rate provisions of the bill, any subsequent rate increase would be subject to rate regulation, with the surcharge considered as part of the rate. Similarly a new higher lawful rate offered by a connecting carrier to bring a carrier up to 110 percent of variable cost would be subject to regulation under the bill.

In the case of surcharges designed to cover the reasonably expected cost of operating lines carrying less than three million gross ton miles per mile annually, a carrier or shipper's remedy is to protest the rate on the grounds that the surcharge exceeds 110 percent of the variable costs of carrying the traffic to the line and 100 percent of the reasonably expected costs of continuing service over the line.

Because the Committee has chosen to use average cost figures in most cases to reduce litigation and because the Committee wishes to ensure that where traffic is not involuntarily moved below a carrier's actual variable costs, the bill uses 110 percent of unadjusted Rail Form A costs to ensure that the use of cost averages does not force the operation of money losing services. It is unlikely that a rate at 110 percent of variable costs could ever be unreasonable.

The Committee believes that this section provides necessary relief to rail carriers presently required to carry freight under inadequate joint rates or divisions with a minimum intrusion upon the joint rate structure as a whole. The section is not intended to preclude any other steps a carrier might take under existing law with regard to joint rates or through routes.

The Committee believes that if railroads are given freedom to set rates in a competitive marketplace, they should not be allowed to continue collective ratemaking. Discussion of single line rates is eliminated immediately and discussion of joint line rates, except by carriers who participate in a single route, is eliminated by January 1, 1981. Only if the Commission finds that it is unable to use its broad authority under the provisions of the Act to promulgate rules which will allow carriers to establish rates without collective ratemaking procedures presently in place, may the Commission, after a hearing on the record, find that it cannot promulgate such rules.

The reported bill makes 49 U.S.C. 11142, which prescribed a uniform cost and revenue accounting and reporting system, applicable to non-rail carriers. The Committee recognizes that, while the intent of the 4R Act to encourage modern cost accounting and financial analysis remains valid today, Section 11142, as implemented by the ICC, has not yielded meaningful and detailed cost information, as intended by Congress. Rather, the variable cost determinants developed by the Commission are based on historic data and nationwide averages and do not reflect the differences among regions, rail carriers or particular movements.

The Committee believes it is critically important that a cost accounting structure that insures the consistency and integrity of railroad cost information be established. The Committee believes there is a serious shortage of accurate cost information available for spe

cific movements of commodities by rail. The reported bill establishes a Railroad Accounting Standards Board which is to promulgate regulatory cost determination principles that shall be applicable to the entire railroad industry. The principles shall ensure that, to the maximum extent possible, railroads identify economically accurate costs. The principles shall identify the variable costs the Board deems to be associated with particular movements of goods or other costs that the Board believes most accurately represent the economic cost of particular movements.

Although each railroad is required to have their accounting system certified by the ICC to be in compliance with these standards, it is the Committee's intention that each railroad would have discretion within the standards to utilize its own accounting system.

It is the Committee's intention that the Railroad Accounting Standards Board is to be independent of the Executive Branch and not a functional part of the ICC or the General Accounting Office (GAO). It is the Committee's belief that the success of the Board is contingent upon its efforts to draw not only upon existing expertise residing in the Commission, but also upon persons in the private and public sectors that are expert in their knowledge of the railroad industry, cost accounting, regulatory accounting, and the purposes of the Act.

Since the enactment of the 4R Act, the ICC has expended considerable time, effort and funds towards the development of a uniform accounting system for railroads. To the extent the Board feels it is advisable, it may draw upon the expertise of the ICC.

It is the intention of the Committee that the Board's functions are to be solely related to regulatory proceedings and not to general purpose financial reporting, as followed by carriers in preparing their financial statements or other financial data included in reports to shareholders.

Most importantly, the Committee intends that the Board shall as objectively as possible determine which variable and other direct and indirect costs of movements are needed to meet the cost based tests of this Act.

The Committee has observed the deteriorating conditions of America's branch lines. An enormous amount of time, effort, and expense has been expended contesting abandonments. Few challenges have been successful. More often than not contested abandonments which have been denied serve only to slow the rate of decline of the rail line.

The Committee has carefully formulated a program which will directly benefit shippers and receivers of commodities moving on branch lines. Under this program a carrier desiring to abandon a rail line must attempt to find a purchaser of the line prior to filing for an abandonment. The abandoning carrier is required to sell the rail properties for net liquidation value, but in any event, at not less than a constitutional minimum amount. The Committee has mandated that not less than $73,750,000 of the $1,475 million recommended authorization shall be available for the purchase or rehabilitation of feeder lines.

This program has the advantage of avoiding expensive protracted litigation. It provides the carrier desiring to abandon a line a vehicle for prompt abandonment. It creates a method for transferring the rail properties prior to their downgrading. The financial assistance will go

directly to those who have the greatest incentive for maintaining the quality of the line and the service—the shippers on the line and the State assisting those shippers.

The need for an alternate abandonment program is illustrated by a case before the Commission, *Bloomer Shippers Association* v. *Illinois Central Gulf*. In *Bloomer*, a convincing case was made that the line was economically viable while it was capable of carrying jumbo hopper cars. The line was not maintained and was consequently downgraded to the point that it could no longer carry jumbo hopper cars. Since jumbo hopper cars were essential to the profitable hauling of agricultural commodities on this line and the line was used primarily for the hauling of agricultural commodities, it ceased to be profitable when it could no longer carry jumbo hopper cars and the railroad filed for abandonment.

A line such as the Bloomer line is an excellent candidate for assistance under this program because the line is potentially capable of sustaining itself once it is rehabilitated, and it is essential to the shippers in the area.

The Committee is aware of the need, on a larger scale, for restructuring assistance to aid in the development of a more efficient rail system. The Committee notes the recent bankruptcies of the Milwaukee Road and the Rock Island, and the service disruptions that have been caused by the forced restructuring of those systems. These forced restructurings have also been costly to the taxpayers. For example, directed service over the Rock Island has cost the Federal Government at least $70 million. The Committee believes rational, planned restructuring is far preferable to crisis restructuring.

The restructing program seeks to facilitate railroad restructuring through a five year program authorizing $1.475 billion in financial assistance. Restructuring would involve a consolidation and reduction of duplicate tracks and facilities, discontinuance of uneconomic service, rationalization of routes and terminal facilities, and improvement in operating efficiencies. The elimination of excess capacity would enable railroads to reduce their maintenance and property tax expenditures and increase their liquidity by the sale of nonproductive property and facilities. By discontinuing uneconomic service and rationalizing routes and terminal facilities, railroads would manage their remaining assets more efficiently, thereby improving cash flow.

This restructuring program is intended to promote restructuring by requiring applicant railroads to undertake significant restructuring as a condition to Federal assistance. The proposed low cost Federal assistance should overcome the railroads' reluctance to restructure their systems. This is but another tool available to the Secretary to fashion appropriate assistance to the needs of particular carriers, and thus assist in rebuilding the railroad system.

Title V of the Regional Rail Reorganization Act of 1973, as amended, authorized a $250 million fund to protect employees whose compensation, fringe benefits, working conditions or rights and privileges were adversely affected by the reorganization of bankrupt railroads into the Consolidated Rail Corporation (Conrail).

The fund to reimburse Conrail and seven other railroads for benefits paid to about 36,500 protected employees has been depleted. The depletion of the fund is primarily due to the selection of an income

guarantee equal to an employee's 1974 compensation, when many employees worked more than normal amounts of overtime, and because fewer Conrail employees have separated than had been projected.

Conrail has a continuing legal responsibility to make labor protection payments under Title V of the 3-R Act. Based on discussions with the management of Conrail and representatives of the affected protected employees and a 1979 General Accounting Office study advocating substantial changes in the program, the Department of Transportation recommended that legislation providing additional federal funding be contingent upon a more reasonable level of protection for employees and a monitoring procedure. Accordingly, the Administration recommended legislation to authorize $235 million to fully fund a modified employee protection program. It is the Committee's understanding that the management of Conrail and the Administration consider the $235 million authorization to be adequate, and have made a commitment, which is reflected in the bill, that the Corporation and other affected railroads will bear Title V protection costs for its employees in excess of the $235 million.

The United States Railway Association is directed to undertake auditing and reporting responsibilities for the payment of benefits under Title V and the evaluation of the effectiveness for the provisions of Title V in providing a reasonable level of protection to protected employees and enabling Conrail to improve the management of its workforce.

The Supplemental Transactions provision in the 3-R Act is a difficult and cumbersome one. Where Supplemental Transactions are necessary to maintain or improve rail service to a part of the region, a process should be available which is a fair and expeditious one.

In some cases, Supplemental Transactions will improve the financial performance of the Corporation. The Committee is aware that the Corporation believes that in some areas it would be able to reduce its operating losses if it did not have to continue service to the area. If proposed transferees are available, and the standards for a transfer under the Act are met, transfers in such areas should be encouraged.

The Committee believes that the Secretary should use his powers under this section to preserve and enhance rail service wherever possible in the region.

Oversight Findings

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee has made oversight findings and recommendations set forth in this report.

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

Cost Estimate

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made regarding the cost of this legislation:

$1,475 billion is authorized under Title V for fiscal years 1980 through 1984, to remain available until expended, to the Secre-

tary for the purpose of providing financial assistance for railroad restructuring and feeder line development programs. The bill extends the existing railroad rehabilitation program for two years, which allows $110 million in currently authorized but unappropriated funds to become available for appropriation.

$235 million is authorized under Title VI for Conrail labor protection payments by the Railroad Retirement Board under the Regional Rail Reorganization Act of 1973, as amended.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 16, 1980.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 7235, the Rail Act of 1980.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Robert D. Reischauer
(For Alice M. Rivlin, Director).

Congressional Budget Office—Cost Estimate

1. Bill number: H.R. 7235.
2. Bill title: The Rail Act of 1980.
3. Bill status: As ordered reported by the House Committee on Interstate and Foreign Commerce, May 15, 1980.
4. Bill purpose: Titles I–IV of the bill amend several aspects of the laws regulating freight railroad transportation. They reduce substantially the Interstate Commerce Commission's (ICC) authority to regulate maximum rates for rail freight traffic; however, section 11 prescribes a 10 percent limit on rate increases above inflation adjustments during a transition period ending December 1, 1982. The ratemaking freedom that the bill allows is also subject to challenge by shippers protesting rate increases. Upon challenge from shippers, rail carriers proposing rate increases must demonstrate either that alternative transportation is or could be made available for the commodity in question or that the proposed rate does not exceed a revenue-variable cost standard specified in the bill.

The bill allows the establishment of contracts between rail carriers and shippers for services under set rates and conditions; limits the activities of railroad rate bureaus, and allows the ICC to increase the rates charged for the use of any type of freight car in an attempt to attract investment to alleviate perceived equipment shortages. Among its remaining regulatory provisions, the bill allows the ICC to review and prohibit certain financial transactions by railroads that maintain facilities or operations in an unhealthy or unsafe manner, as determined by the Department of Transportation (DOT). It also requires the ICC to investigate the transfer of funds from railroad subsidiaries to parent companies, especially in cases where this practice impairs a rail carrier's ability to maintain safe operations.

To guide ICC actions, the bill creates a Railroad Accounting Standards Board to establish railroad cost accounting standards. The Board is to be chaired by the Comptroller General and is to complete its work by October 1, 1983.

Title V creates a new financial assistance program for railroads, authorizing $1.475 billion for loans and equity investment, and it extends the current railroad rehabilitation assistance program for two years, making available for appropriation $110 million in unused authorizations and extending the availability of any appropriations that remain unobligated at the end of the current fiscal year. Approximately $200 million in appropriations are now unobligated.

Title VI modifies the monthly allowances paid to displaced Conrail employees and increases the amount of funds authorized to be appropriated under Title V of the Regional Rail Reorganization Act of 1973 by $235 million.

5. Cost estimate: The following table summarizes the total spending authorized or resulting directly from provisions of this bill.

[In millions of dollars]

	Millions
Estimated budget authority/authorization level:	
Fiscal year:	
1980	$77
1981	1,620
1982	17
1983	14
1984	7
1985	7
Estimated outlays:	
Fiscal year:	
1980	77
1981	80
1982	185
1983	327
1984	357
1985	310

Financial assistance for railroads

The largest component of the above costs is the $1.475 billion authorized for a new financial assistance program for railroads. In addition, the bill extends the railroad rehabilitation assistance program two years, making $110 million in currently authorized but unappropriated funds available for appropriation. The projected budget impact of these authorizations is shown in the following table.

	Millions
Authorization level:	
Fiscal year:	
1980	------
1981	$1,585
1982	------
1983	------
1984	------
1985	------
Estimated outlays:	
Fiscal year:	
1980	---
1981	64
1982	168
1983	333
1984	350
1985	303

These costs will fall in budget function 400.

The bill also creates a Railroad Accounting Standards Board, to serve through fiscal year 1983, but it does not authorize funds for the Board's activities. CBO estimates that the Board will require approximately one million dollars for each of its three years for staff, consultants, and payment for members' time and expenses. Costs could be somewhat lower if the Board chooses to utilize the cost accounting work that the ICC has been, and is currently, conducting.

Conrail employee protection expenses

The changes made by Title VI will result in additional future federal liabilities through an extension of an existing entitlement and will require subsequent appropriation action to provide the necessary funding. The figures shown as "Estimated Budget Authority" represent an estimate of the funds necessary to cover the outlays that will result from enactment of this bill.

	Millions
Estimated budget authority:	
Fiscal year:	
1980	$77
1981	35
1982	17
1983	14
1984	7
1985	7
Estimated outlays:	
Fiscal year:	
1980	77
1981	35
1982	17
1983	14
1984	7
1985	7

These costs will fall in budget function 600.

6. Basis of estimate: Most of this bill's provisions become effective on October 1, 1980. The Conrail labor protection provisions in Title VI become effective upon enactment, which is assumed for the purpose of this estimate to be August 1, 1980.

CBO assumes that all of the $1.475 billion new authorization for financial assistance to railroads will be appropriated and obligated over a period of five years, consistent with the President's funding request for this program, and that the $110 million rail rehabilitation authorization will be appropriated and obligated in fiscal years 1981 and 1982. Outlays from the full $1.585 billion authorization are estimated on the basis of the rail rehabilitation program's historical spending pattern.

The bill also makes available for obligation any funds appropriated to the rail rehabilitation program that remain unobligated at the end of fiscal year 1980. Existing law prohibits the expenditure of the funds appropriated to this program that remain unobligated at the end of fiscal year 1980. At this time, $202.7 million in rail rehabilitation appropriations remain unobligated; however, DOT expects to obligate all these funds in the current fiscal year and CBO assumes that this will occur.

Additional, though inestimable, federal costs could come from the analytical and administrative activities that the bill requires of the ICC and DOT. The bill's rulemaking and other regulatory provi-

sions authorize no new federal spending, though they may be expected to help improve the financial situation of U.S. railroads and, thus, reduce the requests by these railroads for federal assistance over the long term.

The $250 million originally authorized for Conrail labor protection payments was exhausted in late January 1980. Since that time, Conrail has been paying approximately $5.5 million per month in monthly displacement allowances (MDA) that would be reimbursed under this bill. Assuming an August 1, 1980, effective date will require $33 million in reimbursement payments. In addition, it is estimated that MDAs will average $2.0 million per month in August - September. The total estimated MDA payments in 1980 are therefore $47.0 million. These payments are expected to decline to $17.8 million in fiscal year 1981.

In addition to the MDA payments, certain training and separation payments would result from the enactment of this bill. These payments are estimated by the Administration to total $57.2 million. The timing of these payments is very uncertain. In their January budget submission, the Administration assumed an enactment date earlier than the one now expected for this bill, and they estimated that the full $57.2 million would be spent in fiscal year 1980. Assuming an August 1, 1980 effective date, CBO estimates that $10 million of the separation and training costs would fall in fiscal year 1980 and $17.2 million would fall in fiscal year 1981.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 12, 1980, CBO prepared a cost estimate for S. 2530, the Employee Protection and Railroad Financing Modification Act of 1980, which authorizes appropriations for Conrail labor protection expenses and railroad financial assistance. CBO prepared a cost estimate on December 5, 1979, for S. 1946, the Railroad Transportation Policy Act of 1979, which amends freight railroad regulation laws.

9. Estimate prepared by: Chuck Seagrave and Allen Kraus.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the reported bill:

The Committee believes that the enactment of this legislation, through the encouragement of more competitive, flexible, and efficient rail operations, and the elimination of unnecessary economic regulation, will have a significant anti-inflationary impact on prices and costs in the operation of the national economy.

The Committee notes that there are a number of provisions which will have specific anti-inflationary effects.

In particular, the Committee believes the increased pricing flexibility will make it easier for railroads to cover their costs and achieve an adequate revenue level. This, in turn, will minimize the future need

for large Federal subsidies to railroads. Currently, Federal loan assistance to freight railroads is considerable. The end result of this greater price freedom, the Committee believes, will be anti-inflationary.

In contrast, the Committee believes adoption of proposed amendments that would have limited pricing flexibility—amendments the Committee rejected—could have had net inflationary effects. The Congressional Budget Office came to a similar conclusion with regard to the effect of a proposed amendment to S. 1946, the Railroad Transportation Policy Act of 1979, passed by the Senate.

The Committee believes that the bill, by increasing the flexibility of rail carriers to cover their costs on joint routes, will be anti-inflationary. The Committee is aware of the particular problem of Conrail in this regard. The Federal Government has already spent $3.3 billion on Conrail. By making it easier for Conrail to cover its costs, this bill will reduce the need for future Federal subsidies for this rail carrier, reducing Federal outlays, with a substantial anti-inflationary effect.

The Committee believes there are other provisions which will have strong anti-inflationary effects through the encouragement of greater intramodal competition. Competition, by serving as an incentive to increased efficiency and lower costs, is anti-inflationary. The Committee expects that the increased price competition that will result from enactment of this legislation will have strong anti-inflationary effects and result in a large savings to shippers and consumers.

COMMITTEE CONSIDERATION

The Subcommitte on Transportation and Commerce held hearings on April 24, May 31, July 2, August 7, September 27, October 16, October 23, October 25, October 30, and November 1, 1979. Hearings were also held by the Subcommittee on March 31, 1980 and April 2, 1980. Topics of the hearings included rail deregulation and its relationship to the movement of agricultural commodities, Interstate Commerce Commission regulatory reform initiatives and shipper reactions to such initiatives, joint rates and through routes, rate bureaus, shipper concerns, car service, and mergers.

The Subcommittee heard testimony from the following witnesses: On April 24, 1979, the Subcommittee heard testimony from The Honorable Brock Adams, Secretary, U.S. Department of Transportation; The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; and William H. Dempsey, President and Chief Executive Officer of the Association of American Railroads.

On July 2, 1979, the Subcommittee heard testimony from Peter Goldmark, Executive Director of the Port Authority of New York and New Jersey; John Mladinov, Assistant Commissioner for Planning and Divisions, New York State Department of Transportation; Louis Rossi, New York State Railroad Administrator of the New York State Department of Transportation; Anthony D. Glieldman, Commissioner of Ports and Terminals for the City of New York; Michael Hurbert, Executive Director of the Institute for Longshore and Maritime Studies, Mr. George Pezold, General Counsel, Freight Users Association-Long Island Division; George Mulford, Vice President of Marketing, Revere Sugar Company; O. Carey, Presi-

dent and Chairman, New York Dock Railroad; Vincent Staunton, Vice President, Sea Land Service, Inc.; Carmine Ragucci, President, Holland Hook Marine Terminals; Edward G. Jordan, President and Chief Executive Officer, Consolidated Rail Corporation; James A. Hagen, Senior Vice President of Marketing and Sales, Consolidated Rail Corporation; Richard Steiner, Vice President of Marketing and Sales, Consolidated Rail Corporation; and John L. Sweeney, Senior Vice President, Consolidated Rail Corporation.

On August 7, 1979, the Subcommittee heard testimony from The Honorable John Rita, Mayor of Blue Island, Illinois; The Honorable Harold Gouwens, Village President of South Holland, Illinois; Robert D. Fritz, Regional Legislative Director of the Brotherhood of Railway and Airline Clerks; Donald Lindsey, Chairman of the State Legislative Board, Brotherhood of Locomotive Engineers; John McGinness, State Legislative Director, United Transportation Union; David Henderson, Executive Director, Eastern Country Elevator Transportation Association; G. F. Mohan, Director of Pricing, Illinois Central Gulf Railroad Company; John E. Harvey, Director of Corporate Transportation, Archer Daniels Midland Company; John D. Mitros, Executive Vice President, Chicago, Rock Island and Pacific Railroad Company; Robert L. Lightball, Manager of Commerce and Research, A. E. Staley Company; and Donald Burquist.

On September 27, 1979, the Subcommittee heard testimony from The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; James V. Springrose, Vice President of Transportation, Cargill, Incorporated; John Norton, Director of Transportation and Distribution, DuPont Company; E. Morgan Massey, President, A. T. Massey Coal Company, Incorporated; Laurence J. Stern, Manager of Transportation, Sunkist Growers, Inc.; and Michael Levine, Vice President of Transportation, Western Grower's Association.

On October 16, 1979, the Subcommittee heard testimony from Alexander L. Morton, Director of the Office of Policy and Analysis, Interstate Commerce Commission; Joseph Ostrow, Vice President of Market Development, Western Pacific Railroad Company; James L. Tapley, Vice President of Law, SouthErn Railway Company; and Edward G. Jordan, Chairman and Chief Executive Officer, Consolidated Rail Corporation.

On October 23, 1979, the Subcommittee heard testimony from Donald L. Flexner, Deputy Assistant Attorney General, Department of Justice; Otis W. Cobb, Senior Assistant Vice President of Pricing, Burlington Northern, Inc.; Joseph D. Feeney, General Counsel, Western Railroad Association; David Wilson, Assistant Director of the Bureau of Competition, Federal Trade Commission; James Fourmaris, Traffic Manager, Sweetheart Plastics; and Conrad Romanick, Manager of Traffic Economics and Government Relations, Dow Chemical, U.S.A.

On October 25, 1979, the Subcommittee heard testimony from John Oberdorfer, Patton, Boggs and Blow; John H. Norton, Director of Transportation and Distribution, E. I. Dupont de Nemours & Company; Roland A. Ouellette, Director of Transportation Affairs, General Motors Company; Leo Cisneros, Director of Physical Distribution, Firestone Tire and Rubber Company; R. Kupman, Executive Vice President, H. K. Webster Co., Inc.; Ellis T. Cox, Executive Vice

President, Potomac Electric Power Company; Marvin Miller, President, Clayton Container Corporation; and Edwin Wheeler, President, The Fertilizer Institute.

On October 30, 1979, the Subcommittee heard testimony from Alexander L. Morton, Director of the Office of Policy and Analysis, Interstate Commerce Commission; James Compton, Vice President, North American Car Company; John Rees, Chairman of the Board, National Rail Utilization Corporation; Richard Briggs, Executive Vice President, American Association of Railroads; and Carl N. Taylor, President—Rail Division, ITEL Corporation.

On November 6, 1979, the Subcommittee heard testimony from The Honorable A. Daniel O'Neal, Chairman, Interstate Commerce Commission; Donald L. Flexner, Deputy Assistant Attorney General, Department of Justice; John P. Fishwick, President and Chief Executive Officer, The Norfolk and Western Railway Company; and Robert A. Gallamore, Deputy Administrator, Federal Railroad Administration.

On March 31, 1980, the Subcommittee heard testimony from The Honorable William B. Johnston, Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation; William H. Dempsey, President, Association of American Railroads; Thomas McFarland, Counsel for Illinois Feed and Grain; Reesler Miller, National Grain and Feed Association; Charles Smith, State Railroad Administrator, Maryland Department of Transportation; William Druhan, Secretary, National Conference of State Railway Officials; Donald Boyes, President, National Industrial Traffic League; Edward L. Merrigan, Counsel for National Association of Recycling Industries, Inc.; and J. R. Snyder, Chairman of the Legislative Committee, Railway Labor Executives Association.

On April 2, 1980, the Subcommittee heard testimony from The Honorable Bob Eckhardt, U.S. House of Representatives; The Honorable Darius W. Gaskins, Jr., Chairman, Interstate Commerce Commission; Brock Adams, Counsel for TRAIN; John P. Fishwick, President and Chief Executive Officer, Norfolk and Western Railway Company; Thomas H. Boggs, Jr., Counsel for the Committee of Railroad Shippers, Patton, Boggs, and Blow; James J. Baylor of A. T. Massey Coal Co., Inc., on behalf of the National Coal Association; Craig McNeese of Houston Light and Power Company on behalf of Western Coal Traffic League; Ellis Cox of Potomac Electric and Power Company on behalf of Edison Electric Institute; Conrad Romanick, Manager of Traffic Economics and Government Relations, Dow Chemical, U.S.A.; Howard Croft, President, American Short Line Railroad Association; and Paul Rodgers, Administrative Director and General Counsel, National Association of Regulatory Utility Commissioners.

The Subcommittee met in open Markup Session on April 24, 1980, and April 29, 1980, considered a Staff Working Draft No. 3, and, with a quorum present, by voice vote ordered a clean bill reported to the full Committee on Interstate and Foreign Commerce. H.R. 7235 was introduced by Mr. Florio, Mr. Madigan, Ms. Mikulski, Mr. Santini, Mr. Matsui, Mr. Lee and Mr. Broyhill.

The full Committee met in open markup session on May 15, 1980, and by a Roll Call Vote of 35-6 ordered H.R. 7235, with an amendment

striking all after the enacting clause and inserting a new text incorporating the amendments adopted by the Committee, reported to the Full House.

SECTION-BY-SECTION ANALYSIS OF H.R. 7235

SECTION 1—SHORT TITLE

Section 1 states that this bill may be cited as the "Rail Act of 1980".

SECTION 2—FINDINGS

The Committee finds that the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to maintain a national railroad network as an essential part of the national transportation system. Today, most transportation is competitive and many of the Government regulations affecting railroads have become unnecessary and inefficient. Railroad industry earnings are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements. By 1985, the railroad industry will experience a capital shortfall of between $16 million and $20 million. The industry's failure to achieve increased earnings will result in either further deterioration of the rail system or the need for additional Federal subsidy. Modernization of economic regulation of railroads, with greater reliance on the marketplace, is essential to achieve maximum utilization of railroads, to save energy and to combat inflation.

SECTION 3—GOALS

The goals of this Act are to assist the industry in the rehabilitation of the rail system in order to remain viable in the private sector of the economy; to reform Federal regulation to preserve a safe, adequate, economical, efficient, and financially stable rail system; to provide a regulatory process that balances the needs of carriers, shippers, and the public.

TITLE I—RAIL TRANSPORTATION POLICY

Section 101. Rail Transportation Policy

Section 101 adds a new section 10101(a) to the Interstate Commerce Act. The new section specifies that the rail transportation policy should guide the Commission in its duties in regulation of the railroads.

The Committee has articulated a rail transportation policy because the existing national transportation policy provision of the act relates to all modes of transportation and has had the effect of encouraging regulation which was prejudicial to the development of a strong and efficient railroad system. The existing national transportation policy—an outgrowth of the 1940 Transportation Act—was enacted at a time when railroads were the dominant transportation mode in the United States. At that time, the transportation policy was set forth in a way which placed both water carriers and motor carriers in a protective regulatory position. For many years, policies such as umbrella ratemaking and arbitrary rail rate equalizations were used to disadvantage railroads.

The railroad industry's declining share of the intercity freight market and low rate of return on investment necessitate a policy for rebuilding a financially strong railroad system. This new section directs the Commission to encourage primary reliance on the marketplace rather than regulation, to limit regulation of railroads to those areas where there is an absence of effective competition and to permit rates which provide revenues necessary to maintain the rail system and to attract capital.

The affirmative rail transportation policy under the section 10101 (a) is intended to ensure the development of a sound rail transportation system by moving the industry toward more aggressive competition, pricing innovation, and adequate revenues. The new rail transportation policy provides safeguards against predatory pricing and practices which constitute unfair competition. The Commission should, however, encourage competition by and within the railroad industry. It should also encourage coordination between rail carriers and other modes in order to provide the shipping public with efficient and reliable transportation service.

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

Section 201. Regulation of Railroad Rates in the Absence of Effective Competition

Section 201 provides that a rail carrier may establish any rate for transportation or other service unless the Commission determines under section 202 of the bill that there is no effective competition with respect to a particular transportation service provided by a rail carrier, in which case the rate must be reasonable. In a proceeding to determine the reasonableness of a rate, the burden is on the shipper to prove such rate is not reasonable unless the rail carrier does not have a cost accounting system finally certified by the Commission under Title IV of the bill or the rail carrier has adequate revenues as determined by the Commission under section 10701(a)(2). In determining whether a rate is reasonable, the Commission shall recognize the policy that efficient carriers shall earn adequate revenues.

This provision sets forth for the first time a standard for the Commission to use in determining if a rate is reasonable, and that standard goes to assuring that railroads can continue to operate as private enterprises. The bill requires the Commission to recognize the policy that efficient rail carriers shall earn adequate revenues. Previous admonitions by the Congress that the Commission assist carriers in earning adequate revenue levels (49 USC 10701) have not achieved their goals. As a result, the Committee is establishing a more straight forward mandate. This is a clear directive to ensure financially sound railroads, and the Commission is not to misuse the term "reasonable" to circumvent this directive. The Committee recognizes the prevalence of competition in rail markets and therefore this reasonableness standard will be used only in those instances where there is no effective competition and where the Commission retains jurisdiction over maximum rates.

Sec. 202. Determination of the Absence of Effective Competition

This section establishes the conditions under which the Commission may find that there is effective competition with respect to transportation to which a rate applies.

It first defines several terms, which are "fixed and variable cost", "cost recovery percentage" and "revenue-variable cost percentage".

When a rate is challenged as not reasonable, the Commission has 90 days to determine whether there is effective competition.

When a shipper challenges the lawfulness of a rate the railroad shall have the burden of proving that there is effective competition. To satisfy the burden of proof the railroad must show that there is an actual or present potential transportation alternative or that the rate results in a revenue to variable cost percentage for such transportation which is equal to or less than the cost recovery percentage. If the railroad makes either of these showings, the Commission has no jurisdiction to determine the lawfulness of a rate.

Transportation alternatives are presumed to exist if comparable traffic has been shipped recently in similar quantities by the shipper or a similarly situated shipper by another mode of transportation at a transportation cost which is not substantially greater than the cost of the transportation by rail. An alternative is presumed to exist also if the consignee can obtain sufficient quantities of the commodity from another source at a delivered cost which is not substantially greater than the delivered cost by rail.

The Committee wants to stress two things. First, with regard to the consignee obtaining the commodity from another source, greater emphasis must be placed on geographic (i.e., product) competition as an important control on pricing behavior than under existing law. The Commission has in some cases looked at geographic competition in its decisionmaking, and this bill would require them to do so routinely. Second, in assessing whether a transportation alternative is substantially more costly, it is important to take service into account. In stressing this, the Committee directs the Commission, in those instances where a motor carrier rate is significantly higher then the rail rate for a given shipment, to determine whether the service provided by the motor carrier is also of a substantially higher level. If so, the the Commission should weigh carefully the improved service against the higher cost to determine if the cost of the alternative is, in fact, substantially greater, or if the disparate costs approximately reflect the different services being offered.

An actual or present potential transportation alternative would not exist where the alternative depended on a theoretical alternative which could not possibly be made available at the time the rate was challenged. The Committee does not expect the Commission to look at the possibility of constructing other modes of transportation or substantial investments in facilities for other modes of transportation, such as the construction of an interstate highway, to find that a transportation alternative exists.

A finding of a transportation alternative must be based on a feasible alternative at the time of the Commission proceeding. However, the absence of a facility which is in the control of the shipper would not preclude the finding of a teransportation alternative. For example,

simply because a shipper lacked a short access road for trucks would not prohibit the Commission from finding that a transportation alternative existed.

The finding of a transportation alternative is a factual question, aside from the presumptions contained in the bill. The Committee expects the Commission to look carefully at the factual situation involved to determine if the shipper has a realistic transportation alternative.

Conceptually, the "cost recovery ratio" is a limit on revenue to variable cost ratios below which the Commission does not have jurisdiction over rate changes. If all traffic moved at revenue to variable cost ratios which were less than or equal to this limit, industry revenues would just suffice to cover industry fixed plus variable costs.

The ratio would be calculated as follows:

A representative, valid and reliable sample of carload movements such as the 1 percent waybill sample would be obtained from each railroad. This sample indicates a number of characteristics and the revenue associated with each movement. The variable costs for each movement would be determined by a costing method such as Rail Form A. This permits an estimation of a revenue to variable cost ratio for each movement whose percentage values would then be rank ordered from the highest to the lowest without regard to the commodity or any other movement characteristic associated with the costed sample. This would result in an estimation of fixed plus variable costs for the sample as a whole. The next step would be to determine which revenue to variable cost ratio, if used as an upper limit, would permit revenues to cover estimated fixed and variable costs for the sample in question. The ratio would be the "cost recovery percentage".

The Committee stresses that the cost recovery percentage is not to be used by the Commission as a *de facto* rate ceiling, or even a presumption about rate reasonableness. It is only the point at which the Commission is authorized to consider the question of reasonableness at all if there is no actual or present potential transportation alternative. In looking at the reasonableness of a rate, the Commission will find guidance in other provisions of this bill which focus on the need for adequate rail revenues and for a healthy rail system capable of surviving in the private sector.

Section 203. Investigation and Suspension of Rates

Section 203(a) shortens the period within which the Commission must complete an investigation or suspension proceeding concerning a rate, classification, rule or practice to 4 months from 7 months under existing law. The Commission is permitted an additional 3 months to complete the proceeding if it reports to Congress, as it is under existing law. Rates, classifications, rule or practices which are the subject of investigation or suspension proceeding, or both, which are not concluded by the 7th month could not be thereafter investigated or suspended and would be deemed to be conclusively reasonable.

Subsection (b) adopts a more stringent standard for suspension than under existing law and places the burden on the protestant to prove the standards are met.

The Committee intends that the Commission construe these requirements narrowly, and that suspension would occur in only the most extraordinary cases.

Subsection (e) provides for refunds and an accounting to shippers where a proposed increase rate is suspended (and to rail carriers if the proposed rate increase is suspended and later found to be reasonable) unless the suspended rate was a general rate increase. If a portion of a proposed rate decrease is suspended and the decrease is subsequently found reasonable, the rail carrier may in its discretion refund any portion of the suspended decrease, if the refund is available, to each shipper who participated in the rate in accordance with the relative amount of such traffic transported at such rate.

Section 204. Contracts

Section 204 authorizes rail carriers and the purchasers of rail services to enter into contracts for specific services at specified rates and conditions. Prior to the November 9, 1978, Commission decision authorizing contracts between railroads and shippers, the use of contracts had been held to be unlawful under the Interstate Commerce Act, because of the common carrier obligation to provide transportation to all shippers upon reasonable request at a reasonable rate. The Commission's decision, while establishing a significant alternative for shippers and carriers who desire to plan the allocation and availability of their resources, had a number of restrictions and uncertainties and has resulted in the limited use of contracts.

The Committee bill authorizes contracts subject only to the requirement that the contract not unduly impair the carrier's common carrier obligation and the contract option provisions in subsection (f). The Committee believes contracts serve both shippers' and rail carriers' interests by reducing uncertainty about market and service conditions. It is the Committee's intention that contracts be utilized particularly by those shippers who allege they are essentially captive. Contracts will permit the shipper and carriers to maintain long-term rate stability and assure quality service.

The contract with a summary containing non-confidential information shall be filed with the Commission. The Commission may begin a proceeding to review the contract on its own initiative or upon complaint within 30 days after the date of filing and shall, within 30 days thereafter, determine whether the contract unduly impairs the carrier's common carrier obligation. The Committee believes that the common carrier obligation must be retained to prevent railroads from having the ability to serve only their most profitable business. If railroads were to contract only with shippers of the most profitable traffic, and there were no common carrier obligation, the burden of poor service and perhaps higher rates would fall on the shipper with low volume or low value traffic. The Committee believes that the retention of a common carrier obligation under contract rate making is necessary to protect the smaller shipper with little bargaining power and minimal traffic volumes to offer the railroad. While the Commission has jurisdiction over contracts to ensure no impairment of the common carrier obligation and to enforce the provisions in subsection (b), all other actions to interprete or enforce a particular contract will be in the appropriate court of law.

Subsection (f) affords all shippers within a fifty mile distance of a shipper entering into a contract with a rail carrier an opportunity to enter a similar contract. Such contract is not required to extend beyond the expiration date of the original contract even though eligible shippers may take up to one year to opt into the contract.

A rail carrier, under this subsection, may recover additional costs accruing from difference between the original and subsequent contracts. The additional costs should be only those additional costs directly related to differences between the original and subsequent contracts, although the carrier should be able to retain the same percentage of profits on the various contracts. It is not the intention of the Committee to permit the use of this subsection to become a barrier to the use of contract carriage. It should become an incentive to greater contract utilization in order to increase efficiency for both the carrier and the shipper.

The Committee believes that contracts should be treated as they are elsewhere in the economy. Absent an undue impairment of the common carrier obligation, the Commission is without jurisdiction to reject a contract, and enforcement of a contract must be in the courts. It is not intended that other provisions of the subtitle provide the Commission with the authority to reject a contract. Rail carriers and shippers should be free to negotiate and enter into contracts without concern about whether the Commission will disapprove a contract without concern about whether the Commission will disapprove a contract except for impairing the carrier's ability to fulfill the common carrier obligation. If anti-competitive behavior is alleged, under this section, the antitrust laws are the appropriate and only remedy available.

Section 205. Demand Sensitive Rates

Under Section 205 railroad carriers may file tariffs showing the maximum rates and the minimum rates which will be charged for the service involved. These maximum and minimum rates will set a ceiling and floor for rates to be charged for particular movements. Rates will then fluctuate between that ceiling and floor depending upon the demand for service. The maximum must be reasonable and the minimum must be compensatory.

In addition to providing for maximum and minimum rates, this section requires that carriers using demand sensitive rates shall publish a tariff for such demand sensitive rates at least 180 days prior to their application. Once the rates are in effect the carrier must quote a price within the range of the rates set in the tariff and agree to the charges with the shipper for the specific movement up to twelve months in advance.

Section 206. Phaseout of Capital Incentive Rates

Section 206 phases out capital incentive rates. These rates were authorized under the 4R Act and required a capital investment of at least $1 million by a rail carrier, individually or collectively, with a shipper, or a third party. In return for the rail carrier making this substantial investment, these rates could not be suspended or set aside for 5 years.

However, there are only a few of these rates in existence. There has been substantial litigation concerning them. The Committee does not

believe this provision is needed any longer in light of the pricing and contract freedom provided by this bill.

This section provides that existing capital incentive rates are to remain in effect according to their terms, but for no longer than five years after the date a rate became effective, unless the parties otherwise agree. The five year provision is in keeping with the commitment made by Congress in the 4R Act. The Committee feels fundamental fairness requires adhering to this commitment.

Section 207. Permissive Limited Liability Rates

As a general rule, carriers are held liable under common law and subtitle IV of title 49 for the full actual loss, damage, or injury to property they carry. In 1916, the Interstate Commerce Act was modified by the Cummins Amendment to permit the Commission to authorize released rates in cases where rates based on a declared or released value would be "just and reasonable under the circumstances surrounding the transportation". Under this section, no carrier may publish rates based on the declared or agreed value without specific authority from the Commission. Specific criteria, established in an early released rate case and still generally followed, require a detailed showing before released rates are authorized. Even where there is no opposition, the Commission has been hesitant to authorize released rates.

In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost or damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage. This can be accomplished by allowing the filing of released rates in the same manner as other rate changes.

Section 207 amends section 10730 to provide that rail carriers may voluntarily establish rates which limit the liability of the rail carriers to a value established in writing by the shipper or by a written agreemen between the shipper and carrier. Such declaration or agreement may provide for a specified amount to be deducted from any claim against the carriers for loss, or damage or delay. By eliminating the "just and reasonable under the circumstance surrounding the transportation" standard and the necessity for commission approval, the provision will assure greater flexibility for those shippers and carriers who seek rate adjustments because of a willingness to limit liability or to use deductibles.

Section 208. Rate Discrimination

This section amends 49 U.S.C. 10741 to state that rates, rules, or practices which are economically justified by differences in costs or market demand do not constitute a violation of this section. The new subsection (f) is intended to narrow the scope of Section 10741 by exempting surcharges, contract rates, separate rates for distinct services, rail rates applicable to different routes between the same end points and customer solicitation expenses. The Committee considers "end points" to mean specific origins and destinations and broad geographic areas encompassing origins and destinations contained within particular or general tariffs.

Subsections (e) and (f) narrow Section 10741 by permitting discrimination among "different services". The term "different services"

is intended to recognize any differences that would normally be recognized in unregulated service industries as constituting a basis for price differences which would not have an adverse effect on competition. Moreover customer solicitation expenses are exempt from discrimination restrictions in order to encourage railroads to increase rail market penetration.

Section 209. Exemption

Section 209 clarifies and broadens the Commission's existing exemption authority under Section 205 (49 U.S.C. 10505) of the 4R Act. Existing law provides that the Commission may exempt only persons or matter of a limited scope, when it finds, after a proceeding, that the application of a provision in Subtitle IV of Title 49 is not necessary to carry out the national transportation policy, is unreasonably burdensome and serves no useful public purpose. Notwithstanding these limitations, after considerable initial delay, the Commission exempted the carriage of fresh fruits and vegetables from all provisions of Subtitle IV, exempted several small mergers, and is proposing to exempt trailer-on-flat car traffic, from several provisions of Subtitle IV. The Committee has followed the Commission's exemptions closely and believes the Commission has proceeded on a sound basis given the existing statutory restrictions, easing unnecessary regulatory restraints and providing an improved competitive transportation environment.

Section 209 provides that the Commission may, in its discretion, initiate a proceeding and provides that a person or transaction may be exempted from one or more provisions of Subtitle IV where it is not necessary to carry out the rail transportation policy and the transportation or service is of a limited scope or the application of a provision is not needed to protect shippers from the abuse of market power. Section 209 is an important cornerstone of the Rail Act and the Commission is charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section's standards.

Section 10505(c) permits the Commission, in its discretion, to limit the period of time the exemption is effective for, and 10505(d) provides that the Commission may revoke an exemption in part or in whole when the application of a section (s) is necessary to carry out the rail transportation policy.

The Committee has, however, placed three minor prospective limitations on the Commission's authority to exempt persons or transactions. First, Section 10505(e) provides that exemption orders shall require carriers to provide contractual terms for liability and claims consistent with section 11707. This limitation does not affect the ability of a carrier to offer alternative terms nor give the Commission the authority to require either any specific level of rates or services based on Section 11707, nor does it require the filing of those terms with the Commission. Second, the exemption authority may not be used to relieve a carrier of its obligation to protect the interests of employees. Third, under Section 10505(f) the exemption authority may not be used to authorize intermodal ownership otherwise prohibited by this title. This should not, however, be construed as a prohibition of the Commission's authority to approve intermodal ownership consistent with Section 11344.

Section 210. Intrastate Rates

Under existing law, intrastate traffic is initially under a different regulatory regime than interstate traffic. For example, requests for rate increases may be denied by state commissions using standards other than those applied by the Commission. While these requests may eventually be appealed to the Commission and ultimately granted, the time lag involved may still result in a loss of revenue. This disparate treatment of intrastate and interstate traffic is reflected in the difference between the average revenue to varible cost ratios for each type of traffic: 1.20 for intrastate traffic and 1.36 for interstate traffic in 1977. If the intrastate ratio had been equal to the interstate ratio that year, the railroads would have earned $400 million in additional revenues.

The purpose of this provision is to avoid the current time lag and loss of revenues frequently involved in the current practice of requiring railroads to go to state commissions first.

Section 211. Transition Rate Adjustments and Inflation-Based Rate Increases

Section 211 limits rate increases until December 31, 1982, to 10 percent per year, in addition to inflation. This provision is not applicable to surcharges, rates above the cost recovery percentages under Section 202 or any rate increase which results in a revenue-variable cost percentage of less than 150 percent. After 1982, on a semiannual basis, the Commission may prescribe a percentage rate increase or index for rail carriers to compensate for inflationary cost increases. Within 60 days after the Commission prescribes such percentage rate increase or index, rail carriers intending to be excluded from such percentage rate increase or index, shall notify the Commission, and all carriers participating in a particular route must agree to be excluded for the exclusion to be effective. The percentage rate index may include percentage increases within a specified range to allow carriers to recover a total percentage increase specified by the Commission as necessary to compensate for inflationary cost increases. The use of a range reflects the ability of certain commodities to absorb more or less than the specified percentage, but within the range.

Since the carriers' ability to set rates collectively is restricted elsewhere in the bill, carriers would not be able to meet in a rate bureau setting to determine in an expeditious manner at what point in the range they would choose to set particular rates. The Commission would be free under this section to specify a rate within the range which would apply to all rates, unless carriers opted out from the percentage increase completely or chose another point in the range. The opting out or choosing of another point in the range would have to be done in individual negotiations by carriers participating in particular routes if the Commission is able to promulgate rules under section 303(c) of this Act.

This section is an important provision of the bill benefiting shippers in that it provides a limitation on rates until December 31, 1982, at which time the cost recovery percentage will provide true captive shippers protection from market abuse.

Section 212. Customer Solicitation Expenses

This section provides that business solicitation or entertainment expenses incurred by rail carriers do not constitute illegal rebates or discrimination, if these expenses would be legal when incurred by a non-ICC regulated entity. This amendment treats rail carriers in a similar manner as other businesses. The Committee emphasizes that rebates remain illegal.

To discourage excessive solicitation or entertainment expenses, these expenses are not to be taken into account in determining the cost of service or the rate base for rate regulation purposes.

Finally, the Commission is directed to institute a rulemaking proceeding to establish standard and guidelines for authorized expenses under this section.

Section 213. Safe Railroad Reinvestment Requirements

Section 213 provides that the Secretary of Transportation may, after inspecting the track, physical facilities and operations of a rail carrier, notify the Commission that such carrier does not meet the safety requirements under Federal safety statutes, not limited to railroad safety satutes, and is not maintained and operated in a manner which protects the health and safety of the public and railroad employees. After notification, the Commission may, to the extent of its authority under section 11301, review the financial transactions of such carrier and prohibit any financial transactions of such carrier and prohibit any financial tonsctions which would unreasonably impair such carrier's ability to comply with applicable Federal safety statutes and operate in a manner which protects the health and safety of the public and railroad employees. Under section 11301, the Commission may approve the issuance of securities when the issuance complies with specified statutory standards, condition its approval, or deny approval, and may change previously imposed conditions or uses of such securities upon a showing of good cause. The Commission may exercise its authority under this section until such time as the Commission determines the safety deficiencies have been remedied.

As the Commission is not generally responsible for railroad safety, it is intended that the Commission shall rely upon evidence submitted by the Federal Railroad Administration's Office of Safety and affidavits by the carrier to assure that such deficiencies have been remedied. While the Commission's authority under this section ceases when the deficiencies are remedied, should the Commission be notified that such a deficiencies have resumed or other deficiencies are found by the Secretary, after inspection, to exist, the Commission's authority would be reinstated. Whenever it exercises its authority the Commission should take all steps necessary to avoid impairing a carrier's ability to obtain financing.

The Commission believes that the section provides a necessary check against the outflow of funds from the railroad industry when a transaction unreasonably impairs a carrier's ability to comply with Federal safety statutes to the detriment of railroad employees and the public at large. The Committee is acutely aware that several carriers which continue to have vast deferred maintenance resulting in frequent derailments and unsafe operating practices, have engaged in financial transactions involving major outflows of funds where such funds

ought to have been invested in rail plant and equipment. While the Secretary's and Commission's authority is discretionary, the Committee expects that the Secretary and Commission, when either finds a regular pattern of flagrant failures by a particular carrier to comply with Federal safety statutes and failure to maintain and operate in manner which protects the health and safety of the public and railroad employees, shall exercise such discretion.

Subsection (c) requires the Commission to submit an annual report to Congress setting forth findings with respect to whether rail carriers that are subsidiaries of other companies are involved in financial transactions which result in the direct or indirect transfer of funds or assets, including tax benefits, from the rail carrier to its parent company and which impair the ability of the carrier to meet the safety requirements of applicable Federal statutes and operate in a manner which protects the health and safety of the public and railroad employees.

TITLE III—RAILROAD INTER-CARRIER PRACTICES

Section 301. Compensatory Joint Rate Relief

This section amends chapter 107 of title 49 by adding a new section 10705a which provides standards and procedures for surcharging an existing joint rate or for cancelling the application of a joint rate to a particular route to increase revenues for rail carriers earning inadequate revenues from existing joint rates and divisions. The section is directed at eliminating losses from movements that are now below 110 percent of Rail Form A costs and forcing traffic on all lines that are not fully self-supporting to bear the burden of supporting those lines.

Subsection (a) authorizes a carrier to apply a surcharge increasing or decreasing the joint rate for a particular movement between two points without the concurrence of other parties to the joint rate provided the surcharge is applied in equal dollar amounts to all routes for the movement under the joint rate in which the carrier participates and, if the surcharge increases the rate, to all single line routes of that carrier between the same points. The purpose of this route equalization provision is to force connecting carriers to show that a movement over a route is meeting the minimum economic test that would justify continuing the use of the route.

A connecting carrier may cancel the surcharge on a route in which it participates after demonstrating that the surcharging carrier's revenues over the route without the surcharge exceed 110 percent of the surcharging carrier's variable costs after putting into effect a new division or new lawful rate which provides the surcharging carrier 110 percent of its variable costs. If no connecting carrier makes the demonstration required to cancel the surcharge before its effective date, a shipper may cancel the application of the surcharge to only one route after showing that it has no alternative route via any carrier or carriers to which the surcharge does not apply and that the surcharging carrier's revenues exceed 110 percent of the variable costs. The right of surcharge may be exercised by a particular carrier only once a year for a particular movement and only if that carrier has participated in all generally applicable rate increases to that joint rate for one year prior to the surcharge.

Subsection (b) authorizes a surcharge applicable to traffic which originates or terminates upon a line, owned by a single carrier, which carried less than 3 million gross ton miles of traffic per mile per year. The surcharge may be applied if the revenues under existing rates do not cover 110 percent of the variable costs of transporting traffic to or from the line plus 100 percent of the reasonable expected costs of operating and maintaining the line, up to 110 percent of the variable costs of transporting the traffic to or from the line plus 100 percent of the reasonably expected costs of operating and maintaining the line. The burden imposed by the surcharge must be reasonably apportioned among the shippers using the line. In deciding whether the apportionment is reasonable, the Commission shall consider that some traffic can bear rate increases more easily than other traffic.

Subsection (c) authorizes a carrier to cancel the application of a joint rate to a particular through route subject to that rate. Another carrier participation in that route may prevent the cancellation by making the same demonstration or by putting into effect the same type of new rate or division necessary to cancel a surcharge under subsection (a). If a cancellation becomes effective, the cancelling carrier may establish a local or proportional rate for that movement which will be subject to regulation in the same manner as any other rate. Any through rate of which that local or proportional rate is a part will divide as the separate factors of the through rate are made and not by prescribed divisions.

Subsection (d) provides that revenue changes resulting from surcharges shall accrue to the surcharging carrier so long as the revenues do not exceed 110 percent of the surcharging carrier's variable costs over a particular route. Upon demonstration by an intraterritorial connecting carrier that revenues from a surcharge exceed 110 percent of the surcharging carrier's variable costs, revenues in excess of 110 percent of variable costs will be divided with intraterritorial connecting carriers on the basis of existing divisions.

Subsection (e) provides that, when a carrier puts into effect a new rate or division in order to prevent a surcharge or cancellation from taking effect over a particular route, other carriers can require similar concessions in other routes under the same joint rates in which they participate, subject to the limitations set forth in subsection (e).

Subsections (f), (g), (h), and (k) set forth ancillary provisions with respect to surcharges and cancellations regarding notice, effect upon other sections of title 49, and proof of variable costs. Variable costs for a Class I carrier are to be determined through the use of unadjusted Rail Form A costs for that carrier in order to ensure there will be no litigation over costs. Costs for other carriers must of necessity be based on regional averages unless other cost evidence is available.

Subsection (i) is intended to grant class III carriers, i.e., those carriers with less than $10 million revenues, a special remedy for actions under this section which would have an adverse effect on competition. The Committee seeks through this subsection to avoid the need and burden of complex litigation that might arise out of the need for class III carriers to resort to the antitrust laws, although an available alternative, if they feel a carrier is engaging in anti-competitive activities. As a remedy for anti-competitive actions the Commission may prescribe new joint rates divisions which shall not

provide the surcharging or cancelling carrier with less than 110 percent of its variable costs unless the public interest requires lower earnings to avoid an adverse effect on competition.

Subsection (j) grants a class III carrier the right to seek the reduction of a surcharging carriers earnings over a route to 110 percent of its variable costs or such lower level as is required by the public interest in preserving service over that route. The Class III carrier may only seek this remedy if it has no other rail route with any carrier over which it may move the traffic to which the surcharge or cancellation applies, and if there is an actual risk of diverting that traffic to other modes or the shipper will suffer a significant loss of market share if the relief is not provided or the surcharge or cancellation will unduly impair a carrier's ability to earn an adequate rate of return.

Subsection (l) provides that the authority to apply new surcharges under subsection (a) expires three years after the effective date of the Act, unless extended for one additional year by the Commission, but that surcharges made before that date will continue to be lawful. The Committee expects to thoroughly reevaluate whether additional steps to provide carriers the means to earn adequate revenues from joint rates are needed before the expiration of subsection (a).

Section 302. Rate Bureaus

Section 302 places new limitations on the activities of rate bureaus. The first limitation is that carriers are not permitted to discuss, to participate in agreements related to, or to vote on single line rates after the effective date of the Act. The second limitation is that only carriers that "practicably participate in the movement" may vote on the setting of a joint rate. A carrier that "practicably participates" is one that actually carried traffic during the preceding twelve months or has agreed to carry traffic tendered to it during the twelve months following the setting of the rate.

The third limitation requires that only those carriers that participate in a particular joint rate movement may vote on the rate. This limitation becomes effective January 1, 1984, unless the Commission reports to Congress that such rate-making is unworkable. The Commission's report must be filed with the Congress by January 1, 1983, if it determines it is unable to promulgate rules to implement the restriction. Congress may disapprove the Commission's report. The Committee expects the Commission to use its broad authority under this title to promulgate rules which will allow it to comply with the January 1, 1984, deadline, and which will allow rail carriers to maintain their competitive position in the transportation industry. Rate bureaus would continue their publication and filing functions as they do now, with explicit antitrust immunity.

Section 303. Repeal of Long and Short Haul Prohibitions

This section repeals the arbitrary restrictions on long haul-short haul rates which originally provided a mechanical way for preventing railroad price manipulation designed to drive water carrier competition out of the market. Today railroads no longer have such a dominant position in the transportation market and the long haul-short haul prohibition stands in the way of effective back haul car utilization. The Committee has repealed this provision except for water car-

riers who can show that there is competition and the application of this provision is necessary to prevent anti-competitive behavior. The Committee does not intend for shippers to have standing under this section.

In existing law 10726 (c) uses an arbitrary test for discouraging rail rate flexibility where a rail carrier lowers a rate for the transportation of property in competition with a water carrier. Specifically a rail carrier which has lowered its rate cannot raise it again unless the Commission finds that the rate increase is for some reason other than the elimination of a water carrier. This provision is a good example of how railroads have been hamstrung by regulation. Subsection (c) has such a chilling effect on rate reduction that rail carriers prefer to lose customers rather than lower rates in order to meet water carrier competition. The Committee has specifically repealed this provision in order to encourage flexible and innovative pricing by railroads.

Residual retention of the long haul-short haul restrictions, under section 802 of the Committee bill, is provided only because the jurisdiction of the Committee is limited to railroads. The Committee expects that every effort should be made by railroads and the Commission to encourage efficient back haul business and innovative competitive pricing.

Section 304. Railroad Entry

Section 304 amends 49 U.S.C. 10901 to change the standard for the construction or extension of a railroad line. It authorizes a railroad which has been issued a certificate of public convenience and necessity to construct or extend a line to cross another carrier's property if the construction does not unreasonably interfere with the operations of the crossed line, the operation of such line does not materially interfere with the operation of the crossed line and the owner of the crossed line compensates the owner of the crossed line.

The new railroad transportation policy established by this bill emphasizes the need for increased intramodal and intermodal competition, and section 304 deals with intramodal competition among railroads. Under present law, railroads may not construct new rail lines or extend their lines without the approval of the Interstate Commerce Commission. As Congress moves toward significantly less regulation of the services offered by railroads, the Congress should encourage, rather than discourage, competition among railroads. Competition among railroads, or at least the realistic threat of competition, can serve as an important safeguard against inadequate service or unreasonable prices.

Under present law, the Commission may authorize the construction of a rail carrier only if it finds that the public convenience and necessity "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should have to apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. Section 304 of this legislation will change the test applied by the Commission from "require or will be enhanced" to "require or permit". By making this change, the Commission would be required to apply the same standards to entry applications as to abandonment application.

Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross its property. The prevailing opinion is that, where the Commission has issued a certificate of public convenience and necessity, another regulated rail carrier cannot block construction. However, the issue has not been clearly settled. Thus, section 304 provides that, when a railroad has been issued a certificate of public convenience and necessity no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

Section 304(e) provides that the carrier proposing to construct and operate a railroad line shall provide for the protection of the interests of railroad employees who may be adversely affected protection no less protective and beneficial to the interests of the employees then under section 11347. The Committee intends that the entering carrier shall be responsible for adversely affected employees of its own railroad as well as those employees of all other railroads.

Section 304(f) provides that after the construction of a line pursuant to this section, if a railroad carrier rearranges or adjusts its work work forces in anticipation of a transaction with the purpose or effect of depriving employees of benefits otherwise provided under this title, employee protection under 11347 shall apply.

Section 305. Service During Periods of Peak Demand

49 U.S.C. 11101 sets forth the common carrier responsibility that a common carrier "shall provide the transportation or services on reasonable request". Section 305 stipulates that a rail carrier will not be found to have violated its common carrier obligation to provide the "transportation or service upon reasonable request" if it enters into a contract for the shipment of goods.

Section 306. Reciprocal Switching

This section empowers the Commission to approve reciprocal switching agreements and joint service agreements upon the request of a carrier or shipper. In geographic areas where reciprocal switching is feasible, it provides competition to the benefit of shippers served. While the Commission now has the power to order the joint use of terminal facilities, its power to order reciprocal switching is less clear. In particular, reciprocal switching has been limited to situations where competition between rail carriers is not threatened. The Committee intends for the Commission to permit and encourage reciprocal switching as a way to encourage greater competition. Likewise joint service agreements should be encouraged in order to improve shipper service and efficiency.

The standard the Commission should use in approving agreements under this section should be where the requested action is "practicable and in the public interest".

The Commission may order protection for employees who are adversely affected by a grant of authority from the Commission which allows reciprocal switching.

Section 307. Car Service Compensation

Section 307(a) repeals the provision in existing law for incentive per diem on equipment. The Committee does not believe that the provision of an incentive element on freight equipment is the best means of attracting capital into the industry.

The rental rate for equipment should be sufficient to pay an adequate return on investment. An artificial element to stimulate investment imposed by the Commission is not the proper method of attracting capital.

In section 307(b), the Committee has added a sentence to the existing per diem section which requires the Commission to increase the basic per diem rate if the inadequacy of the per diem rate is the primary cause of a shortage of equipment.

Section 307(c) amends 49 U.S.C. 11122 by providing that carriers or other entities may file with the Commission a request to negotiate with respect to car compensations rates for rolling stock owned by other than a rail carrier or demurrage charges. Within 30 days after the Commission has received the request to negotiate, the parties shall begin to negotiate in good faith. If no agreement is reached by the 180th day of negotiations, any party directly involved in the negotiations may require the matter to be settled by the Commission. The Commission shall, within 90 days after submission of the matter to the Commission, render a binding decision, based on a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations.

The negotiations under sections 11122(c)(1)(A) and 11122(c)(1)(B) would be immunized from the antitrust laws if transcripts or sound recordings of the negotiations are submitted to the ICC. Such sound recordings or transcripts are to be kept confidential. No party participating in discussions under section 11122(c)(1)(A) shall be deprived of the right of independent action if such party refrains from executing any agreement reached in discussions or meetings under this section.

Section 308. Car Service Order for Exigent Circumstances

49 U.S.C. 11123(a) currently gives the ICC emergency powers when there is a "shortage of equipment, congestion of traffic, or other emergency requiring immediate action" in a "section of the United States". Section 308 limits this provision to instances where a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation resulting in substantial adverse effects on rail service in the United States or a substantial region of the United States. The Commission may, for 30 days or less, suspend any car service rule or practice; take action during the emergency to promote the public interest regardless of car or equipment ownership on terms of compensation established between carriers when that action will best meet the emergency and serve the public interest; and give directions for priorities in embargoes or movements of traffic under permits.

The Commission may extend the order beyond 30 days only on certification by the Secretary of Transportation that a transportation emergency exists. The ICC is also directed to require the use during such emergencies of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

Section 309. Employee Protection

Section 309 provides for the imposition of employee protection under section 11347 for transfers or the operation of or over the debtor's lines by another entity under Section 1172(b) and abandonments pursuant to section 1170 of the Bankruptcy Act of 1978. The provision puts employees of a railroad filing for bankruptcy under the new act on par with employees of rail carriers which petitioned for bankruptcy before October 1, 1978.

TITLE IV—RAILROAD COST DETERMINATIONS

Section 401. Uniform Accounting System

This provision makes section 11142, which requires the Commission to prescribe a uniform cost and revenue accounting and reporting system applicable only to non-rail carriers. Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title IV of this bill.

Section 402. Railroad Cost Accounting

This section creates a Railroad Accounting Standard Board, consisting of the following members—

Comptroller General (GAO) Chairman,
Representative of the accounting profession;
Representative of the railroad industry;
Representative of major rail shippers;
Representative of the ICC;
Representative of small rail shippers; and
Representative of the economic profession.

The term of each member appointed to the Board is three years and the rate of compensation of Board members is established in the bill. The Board may draw upon personnel from the Federal government or private industry to serve as members of the Board, staff or on advisory committees and task forces.

The Board shall exist for three years. Within two years, it shall issue regulatory cost determination principles which shall identify economically accurate costs. The principles are to apply to the entire railroad industry to ensure consistency in railroad cost accounting practices.

The Board, in developing principles, is to take into account the specific regulatory purpose for which the costs are required; the degree of accuracy of the cost information necessary to meet regulatory purposes; the existing and future capability of rail carriers to provide such information and the relative benefits and costs of requiring carriers to develop additional capability to provide such information; the least expensive method of obtaining the costs at the appropriate degree of economic accuracy; and the means to maintain the

confidentiality of the costs while meeting the need for the information in regulatory proceedings.

After issuance of the principles by the Board, the Commission is to promulgate rules to implement and enforce the principles. The Commission, in promulgating rules to implement this section is to insure that the rules are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes.

Within 180 days after enactment, each rail carrier is required to file with the ICC a request for preliminary certification, which is to be granted by the Commission if it determines that the carrier's cost accounting system is in compliance with the ICC accounting standards in effect on the date of enactment of this legislation.

No later than 9 months after the promulgation of rules under Section 11163 of this title, each carrier must request final certification of its cost accounting system. Within 90 days after a carrier files a request for final certification, the Commission shall grant final certification if it finds that a carrier's most accounting system is in compliance with the rules promulgated by the Commission, under the standards issued by the Board.

If a request for final certification is denied, the rail carrier is to revise its cost accounting system and file a request for certification within 90 days after the date of such denial. If the Commission denies final certification upon the second request, the Commission is to prescribe a cost accounting system which can be adopted within a reasonable period and is in compliance with the purposes of this section.

Each rail carrier is to maintain a system that is in compliance with the rules promulgated under Section 11163 of this title. It is the Committee's intent that each railroad shall have discretion to develop its own accounting system so long as it complies with the principles and rules promulgated in accordance with this title.

Rail carriers are required to make cost data available to shippers, states, communities and other interested parties that are party to a Commission proceeding.

In order to obtain expense and revenue information for regulatory purposes, the Commission may promulgate rules which prescribe expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to rail carriers. The Commission, in promulgating rules for expense and revenue accounting and reporting requirements, shall ensure that such requirements are cost effective and not duplicative of the managerial and responsibility accounting requirements of carriers.

The Board shall file two reports with the Congress within 2 years after the effective date of this legislation. One report is to compare the cost of implementing the accounting standards to possible benefits. A second report is to recommend changes to the regulatory system, including maximum rate regulation, to integrate the new cost accounting standards and rules.

Section 403. Civil Penalties for Violations of Accounting Standard Provisions

A carrier failing to obtain final certification of its cost accounting system is to be fined not less than $50,000. Any party to a proceeding who knowingly discloses confidential data made available by a railroad pursuant to this title may be fined up to $50,000.

TITLE V—RAILROAD MODERNIZATION AND RESTRUCTURING ASSISANCE

Section 501. Coordination of Federal Assistance

Section 501 gives the Secretary guidance in carrying out restructuring assistance and the development of improved feeder lines. These guidelines include increasing efficiency by emphasizing higher density operations, improving asset utilization, and encouraging a self-supporting shipper-operated or State-operated rail program.

The Secretary must report to Congress within 90 days after the end of each fiscal year regarding the effectiveness of each federal grant or loan provided to the railroad industry.

The Secretary shall promulgate regulations defining feeder line for purposes of title V of this Act.

Section 502. Feeder Railroad Development Program

Section 502 amends the existing law regarding a railroad abandonment proceeding by requiring the rail carrier owning a line which has been approved for abandonment by the Interstate Commerce Commission to sell such line at net liquidation value to a purchaser who will continue to provide rail service if such a purchaser can be found. Net liquidation value shall not be less than the amount necessary to satisfy constitutional minimum requirements.

The Commission is empowered to require the abandoning rail carrier to provide the acquiring carrier trackage rights to a reasonable interchange point and to provide the abandoning carrier with appropriate compensation. The connecting carriers are required to enter into joint rates with purchasing carriers. Although an acquiring carrier is not required to employ all employees who worked on a line prior to its transfer to the acquiring carrier, it is anticipated that the Commission will, to the maximum extent practicable, require the acquiring carrier to use the employees who would normally have been employed on such rail line. An acquiring carrier may be exempt from any or all of the provisions of subchapter IV of title 49 of the U.S. Code until it is receiving a rate of return on the purchased line equal to that established by the Commission under 49 U.S.C. 10704.

This section also requires that a carrier desiring to abandon a line must attempt to find a potential purchaser of such line prior to identifying a line as subject to abandonment. The Commission may find that a rail carrier applying a surcharge under 49 U.S.C. 10705 is de facto abandoning the surcharged line and require the abandoning carrier to attempt to find a purchaser for the line. If the Commission deter-

mines that an abandoning carrier has not made a reasonable effort to find a potential purchaser, the Commission shall not issue a certificate to abandon the line.

Section 503. Restructuring Assistance

Section 503 adds a new section 518 at the end of title V of the 4-R Act (45 U.S.C. Section 821 *et seq.*) Section 518 supplements the existing Redeemable Preference Share Program of section 505 (45 U.S.C. Section 825) with a low cost program to assist railroads which engage in restructuring.

Section 518(a) authorizes the Secretary to provide assistance (either alone or as a participant with other investors) to any railroad or its subsidiary to achieve significant restructuring. The assistance may be used for the purchase of securities or the rehabilitation, improvement, or acquisition of facilities (including track, maintenance, equipment and related labor protection costs) which the Secretary, based upon a restructuring plan provided to the Secretary under section 518(b) or as part of a restructuring project supported by the Secretary under section 5(n)-(d) of the Department of Transportation Act, or both, determines will contribute to significant railroad restructuring that would not likely be achieved without federal assistance. The assistance may also be used for purchase or rehabilitation of feeder lines. It is the Committee's intent that states, communities, or shipper groups that intend to purchase a feeder line under the provisions of section 502 are to be considered railroads for the purposes of this section.

Section 518(b) authorizes the Secretary to provide assistance to railroads by making loans, including the purchase of trustee certificates from bankrupt railroads, but only if the restructuring is necessary for the establishment of a self-sustaining railroad. Where the Secretary determines that an equity financing is essential to a restructuring, the Secretary may purchase Senior Preferred Stock.

Section 518(c) requires that debt instruments (including trustee certificates) provide that beginning on the fifth anniversary of the date of original issuance interest shall accrue at a rate equal to ¾ of the cost of borrowing to the United States (determined by the Secretary of the Treasury as closely as possible to the date that financing agreement is executed). Beginning on the sixth anniversary of the date of original issuance, interest and principal shall be payable in equal annual installments such that on a date not later than the 20th anniversary of the date of original issuance, all principal and all accrued interest will have been repaid. If the Secretary cannot find that a railroad has the ability to repay an unsecured loan, the Secretary may also provide debt financing by securing the United States through a lien and a priority of payment which are senior to those of all present and prospective unsecured creditors but junior to those of all present and prospective secured creditors and claimants having a priority of payment over secured creditors.

Section 518(d) provides that, with the approval of the reorganization court, the Secretary and the trustee may agree to convert trustee certificates into Senior Preferred Stock if the Secretary makes the determination required under section 518(b).

Section 518(e) establishes that Senior Preferred Stock is—

(1) mandatorily redeemable over a maximum twenty year period beginning no later than the sixth anniversary of the date of

original issuance, and requiring payment of cumulative dividends beginning on such sixth anniversary at a rate equal to one-half the cost of borrowing to the United States (determined by the Secretary of the Treasury as closely as possible to the date a financing agreement is executed) and based upon the average outstanding par value (which declines as redemption payments are made) for the preceding year; dividends and redemption payments being mandatory to the extent permitted by state law;

(2) optionally redeemable and returning outstanding par plus any cumulated and due dividends;

(3) nonvoting with an initial par value of $10,000;

(4) senior only to all other equity securities of the issuer; and

(5) issued by the corporation owning all of the facilities to be rehabilitated or improved or which is acquiring property with Federal assistance, which corporation has a capital structure at the time of issuance consisting solely of equity, thus permitting control of subsequent debt displacements of security.

Section 518(*f*) requires the railroad and/or its subsidiary receiving assistance to agree to terms which the Secretary believes will assure that significant restructuring will occur and that all assistance will be repaid and used as intended.

Section 518(*g*) provides that should a railroad or its subsidiary default on a financing agreement, the Secretary may appoint two members to the board of directors of the signatory railroad, the subsidiary, or both, at the option of the Secretary. The Secretary also has all remedies provided for contractually in the financing agreement and those inherent in law and equity.

Section 518(*h*) requires each railroad or subsidiary which applies for assistance under section 518(*a*)(1)(B)(*i*) to present the Secretary with a restructuring plan for the railroad approved by the railroad's board of directors, which would assist the Secretary in determining the project's potential for further restructuring and the railroad's or its subsidiary's ability to repay the assistance.

Section 504. Authorization of Appropriations

Section 501 adds section 519 to title V of the 4-R Act. This section authorizes such sums as are necessary, not to exceed $1,475 million for fiscal years 1980 through 1984, for the purpose of providing financial assistance under section 518 of the 4-R Act. At less 5 percent shall be available for the purchase or rehabilitation of feeder lines.

Section 505. Extension of Redeemable Preference Share Financing

Section 505 amends the 4-R Act to extend redeemable preference share financing from September 30, 1980, to September 30, 1982.

Section 506. Technical and Conforming Amendments

Section 506 makes a number of technical and conforming amendments.

TITLE VI—CONRAIL TITLE V LABOR PROTECTION

Section 601. Monthly Displacement Allowance

A protected employee shall be paid a monthly displacement allowance as follows:

(*1*) *Non-operating Employees.*—Non-operating employees (i.e., other than train and engine service employees) will receive an hourly guarantee, based upon the rate of the position they held on September 1, 1979. This guarantee will be increased to reflect subsequent general wage increases, and will be increased whenever the employee, in the exercise of his or her seniority, is able to secure a higher rated position. If, as a result of a reduction in the number of positions available, a protected employee is required to exercise seniority to a position with an hourly rate less than the guarantee, he or she will receive a monthly guarantee payment representing the hourly differential multiplied by the number of hours in the new position's straight time work schedule for the claim month. If a protected employee is unable to retain any position, he or she will receive the guaranteed hourly rate for the number of hours the employee would have worked on a straight time basis if he or she had retained his or her previous position.

(*2*) *Maintenance-of-Way Employees.*—Maintenance-of-Way employees often work as portable equipment operators in the summer when extensive track rehabilitation is undertaken, and as trackmen in the winter when only routine maintenance can be performed. If the above described non-operating formula were applied to them, they would receive automatic "windfall" payments for the winter months during which they customarily occupy positions which pay less.

To avoid these "windfall" payments, a separate calculation is proposed for maintenance-of-way employees. Each protected employee will be afforded his average monthly compensation, which is defined as the compensation received for the 12 months preceding January 1, 1978, and dividing it by 12. If, in any month, a protected employee's earnings are less than the guarantee, a payment will be due equal to 75 percent of the difference. At the end of the calendar year the employees' annual guarantee will be compared to his or her annual earnings plus monthly guarantee payments. If the annual guarantee is larger, the full difference will be paid. If the annual calculation demonstrates that all or a portion of the monthly guarantee payments represent an overpayment, the employee will be entitled to no further guarantee payments until the overpayment is recovered.

(*3*) *Operating Employees.*—Operating employees (i.e., train and engine service employees) retain their current monthly guarantee subject to two important modifications. Average 1977 Conrail earnings will be calculated for each ICC classification of operating employees. These values will be upgraded by subsequent general wage increases, and will constitute maxima. Those protected employees whose current monthly guarantees exceed the applicable maximum will have their guarantees reduced to the maximum. The second modification is an annual calculation in accordance with the maintenance-of-way formula described above. If a protected employee's earnings are less than the guarantee in any month, 75 percent of the difference will be paid. At the end of the calendar year, a comparison of guarantee and earnings on an annual basis will determine whether an additional payment will be made or whether future payments will be withheld pending recovery.

(4) *Non-contract Employees and Employees Who Have Been Transferred.*—No change is proposed in the guarantee formula currently applicable to these employees. Non-contract employees receive salaries which do not include overtime compensation. Additionally, they receive merit increases rather than general wage increases, so that their guarantees have not changed since the formation of Conrail. Consequently, they have not been the recipients of "windfall" payments as is the case with collective bargaining employees.

Transferred employees have frequently purchased new homes at a price reflecting the standard of living they thought they were assured of on the basis of the current guarantee formula. A sudden reduction in their monthly income might place them in an untenable financial position. There are approximately 350 employees who have transferred.

There are two other changes made in this section. All unemployment compensation benefits received by any protected employee and any compensation received by any protected employee for non-railroad employment must be set off against his MDA. This change will ensure that the MDAs of all protected employees, not merely those who are deprived of employment, will be reduced by unemployment compensation benefits received and non-railroad earnings.

An additional change is made by this section. It calls for the employee, or his class or craft representative, and the employer to agree on a procedure by which the employee will report his non-railroad earnings in order that they may be set off against his MDA. It also calls for an agreed upon procedure by which the employer is kept apprised of the unemployment benefits currently paid to the employee, also for the purpose of off-setting his MDA. These procedures are necessary to ensure that the reporting/investigative burdens are shared by the employer and the employees, rather than having the burden of investigation fall solely on the employer, as now exists.

Sec. 602. Duration of Monthly Displacement Allowance

Under current law, an employee who had 5 or more years of service as of January 2, 1974, is eligible to receive MDAs until the employee reaches age 65. An employee who had fewer than five years of service as of January 2, 1974, is eligible to receive MDAs for a period equal to the number of years he or she has been an employee. MDAs terminate in the event a protected employee dies, retires, resigns, or is dismissed for cause. MDAs are suspended for the period of disciplinary suspension for cause; failure to work due to illness, disability, or voluntary furlough; and failure to take or keep a position available through the exercise of seniority rights.

This legislation would restrict the payment of the MDA in two situations. First, a protected employee's entitlement to an MDA would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, floods, snowstorms, and similar occurrences. Second, the legislation would require a protected employee to claim an MDA within three months of entitlement and would require that entitlement to claims be resolved within 150 days after a claim is filed. This provision will eliminate bookkeeping problems caused by procrastination in filing a claim for an MDA, and enable the Corporation to assess more accurately expected payments for labor protection.

In addition, this legislation would clarify that the period of protection for a protected employee with less than 5 years of service begins to run from the beginning of the first month for which the employee receives an MDA.

Sec. 603. Training and Transfer

Subsection 505(d) of the current law sets out transfer procedures by which the Corporation may require a protected employee deprived of employment to transfer to a bona fide vacancy within the employee's class or craft.

This legislation addresses restrictions on manpower utilization by including employees in the marine crafts and unemployed Penn Truck Lines, Inc. truck drivers in the provisions permitting transfer of adversely affected employees to another class, and by offering retraining programs to make the interclass transfer provisions meaningful.

Sec. 604. Payment, Audit and Report

Under existing law, the Corporation (and where applicable the Association, replacement operators, or acquiring railroads) is responsible for making payments under this title to protected employees. The Corporation then certifies these paid amounts to the Railroad Retirement Board, which reimburses the Corporation in full up to a total amount of $250 million. The Railroad Retirement Board has no statutory authority to audit or evaluate the employee protection program.

To a significant extent, the effectiveness of the employee protection program reflects the degree of success the Corporation is having in improving management of its workforce. However, under existing law, no one is formally charged with the task of evaluating the program with a view toward improving either the program or encouraging the Corporation to improve the management of its workforce. It is important, therefore, to ensure that some agency or body has statutory authority to both audit the program and evaluate the effectiveness of the employee protection program. As Conrail's Government banker and monitor, the Association is in a unique position to accept this responsibility.

This section would redesignate section 509 of the 3-R Act as section 509(a) and increase the amount of funds authorized to be appropriated under title V by $235 million to a new authorization level of $485 million, make training and retraining costs incurred by the Corporation under revised section 505(d)(d)(D) reimbursable costs, and confirm existing practice whereby title V funds are used to reimburse the Railroad Retirement Board's unemployment insurance account for unemployment compensation paid to protected employees.

An additional $235 million is authorized to fund the substantially reduced level of benefits afforded by these amendments. This sum would fund the program during a transition period, after which the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that impose auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to conduct a program audit of the payment of benefits under title V and evaluate

the effectiveness of the provisions of title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in its workforce. The Association would be afforded access to pertinent documents for the purpose of facilitating its audit and evaluation functions. Section 5099(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Section 605. Technical Amendments

This section makes technical changes to the table of contents of the Regional Rail Reorganization Act of 1973.

It permits the Secretary of Transportation and the Secretary of the Treasury to delegate their responsibilities under the 3-R Act, including membership on the Board of Directors of the United States Railway Association and its committees, to a representative.

It amends the definition of "deprived of employment" in subsection 501(6) to exclude from the definition, and thereby exclude from coverage under the protection program consistent with changes made in this title, failure to work due to occurrence beyond the control of the Corporation, the replacement operator or the acquiring railroad. It also adds a definition of "compensation" to section 501 so that it is clear the work means only earnings in employment subject to the Railroad Retirement Act rather than such earnings plus earnings from non-railroad employment and compensation for personal injury claims against the employer.

Section 606. Effect on Other Laws

Nothing in this title is intended to affect any law, regulation, court order, or obligation relating to equal employment opportunity.

TITLE VII—SUPPLEMENTAL TRANSACTIONS

Section 701. Supplemental Transactions

Section 701 repeals the provisions of section 305 of the Regional Rail Reorganization Act and substitutes a new supplemental transaction provision designed to permit supplemental transactions to improve rail service in the Conrail region under a wider range of circumstances than might be permitted under existing section 305.

Section (a)(1) of section 305 provides that if the Secretary determines, upon petition or his own initiative, that a transaction supplemental to the Final System Plan would promote the establishment and retention of financially self-sustaining rail service in the region, the Secretary shall, upon making the other determinations required by subsection (a)(2) develop a supplemental transaction proposal.

Under subsection (5)(A), the Secretary may develop a proposal only if he determines that restructuring of rail properties would preserve and enhance rail service in the region, a proposed transferee carrier would be financially and operationally capable of assuming the obligations of the transferer carrier on a self-sustaining basis, and, unless the Corporation is facing imminent insolvency, the transaction will either not have any adverse affect on the Corporation's financial and operating performance, or will result in a net financial benefit for the Federal Government.

The Secretary may propose a transaction on the basis of the net financial benefit test only if the transaction is to be consummated before the certificates of value are to be redeemed under section 306(c) of the 3-R Act or the government and the transferors of property to the Corporation reach agreement as to the amount owed the transferors by the government. For purposes of the net financial benefits test, federal funds provided to Conrail shall be considered as funds which would not have to be provided if operating losses would be reduced by transferring property from the Corporation.

If the Finance Committee of the Association is willing to forgive any of the obligations of the Corporation, the Secretary may take into account the present value of these obligations when making his findings under subsection (a).

Each proposal developed by the Secretary must contain a full and complete description of all essential elements and must be published in the Federal Register and submitted to the Association and the Commission for their review.

If the Secretary does not make a proposal requested by the State, the Secretary shall explain why in a notice published in the Federal Register.

The price to be paid the Corporation for properties transferred under a proposal shall be the constitutional minimum value except that if the transfer is to be consummated prior to the settlement of reorganization claims, the price may be the difference between the constitutional minimum value of the transactions and the value of the net financial benefit of the transaction to the government. Any forgiveness of Conrail's obligations to the United States shall be considered compensation for the purposes of this section.

Subsections (b), (c), (d) and (e) outline the procedure for review of a proposal. The proposal is to be reviewed by the Commission and the Association, which both have an advisory role, and the Special Court, which shall have the duty of determining whether the proposal meets the standards of subsection (a)(2) and (a)(6). The subsections sets delinite time limits for all review proceedings.

The time limits must be met unless a proposed transferee or transferor (other than the Corporation) fails to notify the Secretary that the proposed transaction is acceptable. Such a transferee or transferor's failure to accept the proposal terminates the proceeding and no further judicial or administrative proceedings can be held regarding the transaction.

If the transferee and transferor (other than Conrail) accept the transaction the Special Court must determine whether the transaction complies with subsections (a)(2) and (a)(6). If the transaction does not meet the requirements of subsection (a)(2), the transaction must be rejected. If it does not meet the requirements of subsection (a)(6), the Secretary is given the opportunity to submit a modified proposal for further review.

The Corporation, as the only potential involuntary transferee, is guaranteed the right to appear in any proceeding before the Special Court regarding the transfer of any of its properties. Other parties, after petition to the court, would be allowed to appear.

Review of the Special Court's decision shall be permitted in accordance with section 209(a)(3) of the 3-R Act.

Within five years after a transaction involving properties of the Corporation, the Federal Government shall have the right of first refusal to acquire those properties if they are to be sold by the transferee.

The section also requires the Secretary to develop a proposal for the transfer of all rail properties of the Corporation in Connecticut and Rhode Island within 180 days of the date of enactment, if the Secretary makes the findings under this section. The Committee is aware of the rail situation in Connecticut and Rhode Island, and concerned that rail service be maintained to the maximum extent possible. The Secretary must afford interested parties an opportunity to comment before developing a proposal, and must determine whether he can make the findings under this section which would allow him to transfer property.

Other rail carriers have expressed interest in the property of the Corporation in Connecticut and Rhode Island. The Committee is interested in reserving rail service in both states to the maximu extent possible, and, if such a transfer proposal is feasible, believes that all property should be transferred to a carrier which will operate the service without Federal subsidy.

Section 701(c) provides that in any supplemental transaction under section 305 of the 3-R Act, the acquired railroad shall offer employment and employment protection and benefits to the employees of the aquired railroad as well as to its own employees who are adversely affected by the acquisition as may be agreed upon by the employees' representations prior to the acquisition. Unless and until such agreements are reached, the acquiring rail carrier shall not enter into purchase agreements pursuant to section 305 of the 3-R Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

Section 801. Effective Dates.

Section 801(a) provides that the provisions of this Act, and the amendments of existing law made by this Act, take effect on October 1, 1980, unless otherwise specifically provided. By such specific provision, Title VI is effective on the date of enactment of this Act, except section 601.

Section 801(b) provides that any applications, actions, or proceedings pending before the Department of Transportation, Interstate Commerce Commission, or any court on the effective date of this Act are to be adjudicated without regard to the provisions of this Act. The Committee intends that all such proceedings be determined based on the existing law. This provision is not meant to impair the ability of the Commission or the Department to institute a new proceeding where appropriate, and consider the record of an existing or terminated proceeding.

Section 802 Effect of Amendments

Section 802 merely clarifies that enactment of this act is not meant to alter existing law regarding the relationship between water carriers and rail carriers, with respect to competition and coordination, or to make lawful an unfair, destructive, or predatory competitive practice. The Committee intends that this Act shall not affect existing law regarding standing of water carriers to seek relief for violations of the Interstate Commerce Act.

APPENDIX

The Rail Act of 1980

Background Materials

Part I—Annotated Chronology of Federal Railroad Laws (Economic)

Commerce Act (*February 4, 1887, 24 Stat. 379*).—This is the basic Interstate Commerce Act. It covered all rail or rail/water common carriage except for intra-state carriage. Provided for:

- tariff publication;
- 10 days' notice;
- unlawful to receive more or less than published;
- rates must be just and reasonable;
- no discrimination permitted;
- long haul must be charged more than short haul;
- free or reduced rates for government or charity;
- Commission created (five members);
- Commission power to hear complaints;
- carriers required to afford facilities for interchange of traffic without discrimination;
- pooling and divisions of revenue prohibited;
- through rates must be published;
- no carrier required to let another carrier use its tracks but interchange is required;
- Commission may require annual reports and uniform system of accounts and has authority to inquire into carriers management;
- Commission to issue orders and seek their enforcement in court; and
- until 1935 Commission submitted an annual report of its own to the Secretary of Interior for transmission to Congress (In 1935 the law was changed permitting the Commission to report directly to Congress).

Act of March 2, 1889 (*25 Stat. 856*).—Related primarily to tariff publication: (1) posting of schedules and tariffs; (2) reductions require three rather than 10 days, and (3) joint rates brought under anti-discrimination requirement. It also gave the Commission subpoena power and the right to have any U.S. District Attorney act to enforce the law.

Elkins Act (*February 19, 1903, 32 Stat. 847*).—Made rebates to shippers unlawful.

Hepburn Act (*June 29, 1906, 34 Stat. 584*).—The Hepburn Act was a major extension and updating of the original Interstate Commerce Act. It expanded the Commission from five to seven members, added pipelines except water or natural gas, added express companies, sleeping car companies and most other railroad-related facilities within the scope of the Act.

Specifically the Act made railroads "common carriers" and spelled out "common carrier duties" including (1) the duty to furnish cars, (2) the duty to provide sidings, etc., (3) the duty of strict liability for lading, (4) changed time for publication of both increases and decreases to 30 days, (5) required schedules to show joint and combination rates, (6) gave Commission authority to prescribe a rate or practice where it found an existing one to be unjust or unreasonable, (7) gave authority to Commission to prescribe joint rates and fix divisions, (8) required additional annual report data including accident causes, (9) established the commodities clause, i.e., carrier cannot haul its own product, and (10) permitted Commission to award damages.

Mann-Elkins Act (June 18, 1910, 36 Stat. 539).—The Mann-Elkins Act was a water carrier protection act and gave the Commission new powers which had the effect of shifting the burden of justifying rate changes onto the railroads. Specifically the Act (1) tightened up the discrimination provisions of long haul-short haul, (2) prohibited predatory pricing against water carriers, (3) added a duty to provide reasonable facilities and rates for through routes, (4) required confidentiality of bill of lading data, (5) made unreasonable regulations and practices for handling and transporting property unlawful, and (6) gave the Commission the power to suspend a rate increase pending hearings up to ten months.

Panama Canal Act (August 24, 1912, 37 Stat. 566).—The Panama Canal Act gave the Commission jurisdiction over rail/water movements but more significantly, it prohibited railroads from owning water carriers in competition with rail routes. The Act successfully headed off transportation companies.

Valuation Act (March 4, 1913, 37 Stat. 701).—The Valuation Act gave the Commission the responsibility for ascertaining the value of all property owned or used by every common carrier.

Cummins Amendment (March 4, 1915, 38 Stat. 1196).—This law related to strict liability for lading, set time limits for filing and permits rates based on value.

Second Cummins Amendment (August 9, 1916, 39 Stat. 441).—Further clarification of fact that carrier could limit liability where rates had been authorized based on value. The act also defined "ordinary livestock."

Esch Car Service Act (May 29, 1917, 40 Stat. 101).—The term "car service" was defined to include movement, distribution and returns of cars. Each carrier was given a mandate to have reasonable car service practices and unreasonable practices were made unlawful. The Commission ws given authority to require carriers to file their car service rules. The Commission was also given emergency authority to require movement or distribution of cars.

Commission Division Act (August 9, 1917, 40 Stat. 270).—Froze the filing of rate increases until after January, 1920 and enlarged the Commission to nine members with no more than five from the same political party.

Transportation Act of 1920 (February 28, 1920, 41 Stat. 474).—The Transportation Act of 1920 was an ambitious attempt to give the Commission a more positive role in structuring an optimum railroad system for the country. The 1920 Act introduced the requirement for

a carrier to obtain a certificate of convenience and necessity in order to extend its lines, begin new lines, or abandon old lines. The Act reinforced the duty carriers had to provide cars and equipment and the power the Commission had to force such action. It authorizes the Commission to prescribe minimum as well as maximum rail rates and to prescribe minimum and maximum rates for joint rail-water movements. The time in which a rate could be suspended was cut back to 120 days and for the first time the Interstate Commerce Act was amended to include a provision recognizing the need for rates to match revenue needs. The Commission was given authority over joint use of facilities consolidations and mergers. In addition, pooling of freight and proceeds were permitted and the Commission was given authority to adjust divisions of revenue where there were joint rates, taking into consideration the carrier's financial situation and the public interest.

The 1920 Act also enlarged the size of the Commission to 11 members and placed restrictions on inter-locking directorates and various insider stock activities.

Act of June 7, 1924 (43 Stat. 633).—The Act simply related to the time for bringing actions for recovery of overcharges before the Commission

Act of July 3, 1926 (44 Stat. 835).—The Act simply extended strict liability for lading to property re-consigned or diverted in accordance with tariffs.

Mayfield-Newton Act (March 4, 1927, 44 Stat. 1446).—The 1927 Act clarified that with respect to strict liability for lading, an action could be brought against the carrier in the district or state where the carrier operated. It also permitted the Commission to provide reduced rates for transportation of property in case of earthquake, fire, flood famine, drought, epidemic, pestilence or other disaster. The period in which a proposed rate could be suspended was changed from 120 days to 7 months.

Maples Amendment (April 23, 1930, 46 Stat. 251).—The 1930 amendment to the Interstate Commerce Act simply extended the time for filing a claim with respect to the strict liability for lading from 4 months to 9 months.

Emergency Rail Transportation Act (June 16, 1933, 48 Stat. 211).—The Emergency Transportation Act of 1933 placed a moratorium upon job reductions resulting from carriers trying to economize during the Depression by consolidating operations. No consolidations or operations took place under the Act. The Act also removed the standard for balancing revenue needs and rates (contained in the 1920 Act) and substituted that the Commission should give the "due consideration . . . to the need for adequate and efficient service at lowest cost consistent with furnishing such service . . ."

Act of June 27, 1934 (48 Stat. 1264).—The Act was another effort to use the railroad system for combatting the effects of the Depression. Specifically, it gave the Commission authority to permit reduced rates for transportation of commodities specified by the Commission with the object of improving nationwide housing standards and improving employment and stimulating industry.

Motor Carrier Act (August 9, 1935, 49 Stat. 543).—The Act brought motor carrier regulation under the Interstate Commerce Act. Of lesser note, it authorized the Commission to report directly to Congress

rather than through the Secretary of Interior and laid the foundation for port equalization rates.

Transportation Act of 1940 (September 18, 1940, 54 Stat. 899).—The Transportation Act of 1940 made a number of technical changes in the Interstate Commerce Act. Most noteworthy among those changes was its encouragement of umbrella ratemaking whereby the rates set for one mode took into account the effect such rates would have on competing modes. Additional time was permitted for the filing of claims under strict liability for lading. The joint ownership or use of spurs, industrial teams, switching or side-tracks was liberalized, and a duty was imposed on railroads to establish through routes with connecting common carriers by water. The Commission was also given authority to transmit its recommendations for legislation directly to Congress. Furthermore, the 1940 Act authorized the Commission to divide itself into divisions so as to better do its work.

Reed-Bulwinkle Act (June 17, 1948, 62 Stat. 472).—The Act reversed Supreme Court decision and made collective rate making permissible for railroads. Specifically it added Section 5(b) to the Act whereby it placed a duty upon the Commission (upon application of carriers with a grant of anti-trust immunity or upon its own motion) to approve agreements between carriers if it finds them to be in the furtherance of the National Transportation Policy. This is the so-called rate bureau provision. The Reed-Bulwinkle Act also made it possible for carriers under Section 20(b)(1) i.e. 49 U.S.C. 11361, to change mortgages or provisions of loans except equipment trusts certificates. Such changes require the approval of the Commission.

Act of August 2, 1949 (63 Stat. 486).—The Act made a public hearing discretionary where the Commission was deciding the joint use of facilities. It also gave the Commission discretion where the Commission was considering mergers, consolidations or trackage rights. The Act also raised the Commissioners' salaries to $15,000.

Act of July 11, 1957 (71 Stat. 292).—The Act amended Section 1 (1) (49 U.S.C. 10726(a)(2) to permit carriers to charge the same rate over a circuitous route to meet the charges of carriers of the same type operating over a more direct route. In addition, the Act required section 22 government rates to be submitted to the Commission in writing unless national security was involved.

Transportation Act of 1958 (August 12, 1958, 72 Stat. 568).—The Act gave the Commission greater authority with respect to intrastate rates, particularly when the issue was one of discrimination. The 1958 Act also represented the first departure from "umbrella rate-making" since the Commission's construction of the 1940 Act. Finally the 1958 Act permitted more speedy approval of discontinuance of rail passenger service.

Act of September 27, 1962 (76 Stat. 645).—The Act made the long-short haul discrimination provisions not applicable to express companies.

Act of May 26, 1966 (80 Stat. 168).—The Act introduced the concept of incentive compensation for ownership of freight cars. Out of this authority grew the incentive per diem provisions of the Commission.

Act of January 2, 1974 (87 Stat. 1021).—The Act gave the Commission the authority to provide emergency directed service, i. e. 49 U.S.C. 11125.

4–R Act (February 5, 1976, 90 Stat. 31).—The 4–R Act represented a major overhaul of the Interstate Commerce Act. Procedures at the Commission were speeded up by the imposition of statutory time limits. Rate making was excluded unless there was "market dominance" and minimum rates were permitted if they "contributed to going concern value" of the carrier. Car service charges (demurrage and per-diem) were to be adjusted by the Commission to better reflect equipment costs and national needs. The adequacy of revenue standard was placed at a level permitting an economic profit on capital. Umbrella rate-making was once again stamped out and a number of innovative pricing options were introduced including peak-demand pricing. Merger procedures were expedited and labor protection added by statute to consolidations or abandonments.

Rail Transportation Improvement Act (October 19, 1976, 90 Stat. 2614).—The Act primarily cleaned up technical mistakes of the 4–R Act.

Department of Energy Organization Act (August 4, 1977, 91 Stat. 565).—The Act removed transportation of oil by pipeline from Commission jurisdiction and put it under the Department of Energy.

Part 2.—Statutory Development of Rail Regulation 1887–1979

The purpose of this section of the Background Materials is to discuss the regulation of railroads by the Interstate Commerce Commission in the context of the following matters:

Scope of Regulation
Common Carrier Duties
Rate Standards
Rate Procedures
Freight Car Jurisdiction
Trackage Jurisdiction
Relationships among Railroads
Revenue Divisions
Corporate Requirements
ICC Organization
ICC Procedures

It is not the purpose of this discussion to include each and every addition to the law which expanded or changed the authority of the Commission to regulate railroads. To the extent practicable, however, the evolution of the law will be noted. Part I of these Background Papers shows in a nonfunctional way the expanding regulatory framework through the enactment of laws between 1887 and the present.

SCOPE OF REGULATION

The 1887 Act applied to any common carrier engaged in the transportation of passengers or property by railroad or partly by railroad and partly by water in the United States or between the United States and a foreign country. The 1887 Act excluded transportation of passengers or property shipped wholly within a state. It also defined "railroad" to include all bridges and ferries operated in connection with any railroad and all lines operated under lease or agreement.

In 1906 the transportation of oil or other commodities by pipeline except for water and natural gas was brought within the jurisdiction

of the Interstate Commerce Commission. It remained within the Commission's jurisdiction until passage of the Department of Energy Act on August 4, 1977.

In 1906 the term "common carrier" was defined to include express companies and sleeping car companies. The term "railroad" was further defined so as to include all the facilities used by a railroad in connection with transportation.

The scope of regulatory authority over railroads by the Commission continues to be all-inclusive.

COMMON CARRIER DUTIES

The 1906 Act was the first specific reference to common carrier duties, and specifically provided that carriers had a duty to furnish upon reasonable request, car service for the movement of interstate traffic tendered to it to the best of its ability and without discrimination. In 1917, and again in 1920, car service was defined so as to include movement, distribution, exchange, interchange and return of cars. Also the term "car service" was broadened to include locomotives and other vehicles used by a railroad for transportation purposes.

In 1917 the law was made clear that every carrier had a duty to establish, observe, and enforce just and reasonable rules and practices with respect to car service, and all unjust and unreasonable rules and practices were declared unlawful. In 1920 the duty was further expanded to make certain that the equipment was safe and that there was an adequate supply.

Strict liability for lading was imposed upon railroads by the 1906 Act. In other words, carriers were responsible for any damage under Commission regulations, although a shipper's right for actions in a court of law were preserved. In 1915 the law was further amended with respect to hidden damage, and carriers were prohibited from limiting the time period for filing claims to less than 90 days or from limiting suits to less than two years. In 1916 liability of carriers was clarified so that some limitation was placed upon the liability—at least to the extent that the rate had been set based upon a certain value.

By 1930 the time for filing claims for damage to shipments was extended from four to nine months, and the 1940 Act included joint carriage between rail and water under the strict liability for lading regulations.

Confidentiality of lading data was required in 1940. It became unlawful for a carrier to disclose to anyone the nature of shipments except where required to do so in a court of law.

Reasonable practices and regulations by carriers in connection with shipments were required by law beginning in 1940. It become unlawful for carriers to require unjust or unreasonable classification, regulations, or practices. Not until the 4-R Act in 1976 was the reasonableness of demurrage charges put into the law. At that time the 4-R Act required that demurrage charges be computed and established in a manner which would fulfill national needs for freight car utilization and maintenance of an adequate freight car fleet. Prior to that time demurrage charges were held very low because of the necessity for railroad carriers to be "reasonable". Consequently, many shippers found rail cars to be cheap storage.

The publication of tariffs became a disclosure requirement from the time of the original Interstate Commerce Act in 1887. Every carrier was required to print and keep for public inspection schedules showing rates for transportation, places between which transportation was offered, classification of freight, terminal charges, and other rules and regulations felt necessary by the Commission. The schedules also had to be filed with the Commission. That requirement has continued to date.

No rate increases were permitted under the original act unless the carrier gave ten days public notice. In 1889 the law was amended to permit reductions in rates after three days notice. In 1906 the law was again changed requiring 30 days notice for either an increase or decrease in rates. Those requirements have remained virtually unchanged to date.

The 1906 Act required carriers to publish joint and combination rates with other railroads or water carriers. That Act also prohibited railroads from making any refund or rebate or exchanging any privileges or facilities not in accord with the tariff. This was a further modification of the original act which made it unlawful for a carrier to charge more or less than its published tariff.

RATE STANDARDS

The original act provided for "just and reasonable charges" for transportation of persons or property. That standard remained intact through the 4-R Act. The 4-R Act permitted a carrier to lower rates to "going concern value" even if the lowered rate was less than average variable cost. The 4-R Act also limited the Commission's jurisdiction over what constituted a just and reasonable maximum rate to those areas where the Commission found that the carrier had "market dominance" over the involved service. Market dominance was defined to mean the absence of effective competition. Recently the Commission's interpretation of market dominance has excluded any rates which are less than 160 percent of revenue to variable cost.

The relationship of rates to revenue needs of the carrier was introduced into the rate-making process in the 1920 Act. The 1920 Act directed the Commission to establish rates so that carriers as a whole (or as a whole in each rate group) would under honest, efficient and economical management and reasonable expenditures, earn an aggregate annual net railway income equal to a fair return on aggregate values of railroad property. The onset of the depression in the early 30's led to legislation which changed this standard. Specifically, the Emergency Transportation Act of 1933 changed the standard to "the need for adequate and efficient service at lowest cost consistent with furnishing such service and the need of revenue sufficient to enable carriers to provide such service." The imposition of this new standard with respect to revenue needs began a process which permitted the Commission to give revenue needs a very low priority in the matter of rate-making. The 4-R Act changed this provision of law to a standard for revenue need closer to the standard in the 1920 Act. The Commission was directed to determine an "adequate rate of return" for the railroad industry. (The Commission has found under this last provision that an adequate rate of return is somewhat above 11 percent—compared to the reality of less than 2 percent for the industry at present.)

Umbrella rate-making—whereby the Commission would hold the level of rates up for one mode in order to protect another mode—grew during the 30's, 40's, and 50's. In 1958 the law was amended to prohibit umbrella rate-making by requiring that "rates shall not be held up to prohibit traffic of any other mode, giving due consideration to the National Transportation Policy". Unfortunately, the restriction of giving due consideration to the National Transportation Policy meant that umbrella rate-making continued even though the Commission was less adamant in following that practice. The 4-R Act put an end to umbrella rate-making.

Preference to one shipper over another was prohibited from the time of the original Act. Many distortions in rates have evolved as a result of the anti-discrimination requirements, i.e., a movement toward equalization of rates regardless of the economic and physical circumstances.

The long- and short-haul discrimination provision contained in the original Act was further strengthened in 1910 to apply whenever rail routes paralleled water routes.

The 4-R Act began to move away from rigidity in rates caused by anti-discrimination requirements when the seasonal rates provision was enacted. Specifically, the Commission was permitted to establish seasonal, regional, or peak demand rates for rail services.

Intrastate rates were not regulated by the original act. The 1920 Act, however, gave the Commission authority over intrastate rates which resulted in undue or unreasonable advantage, preference or prejudice between persons or localities in intrastate commerce or presented an undue burden on interstate commerce.

Free or reduced rates for the government were contained in the original act, and in 1942 reduced dates were permitted for transportation of property in case of earthquake, flood, fire, famine, epidemic, pestilence, or other disaster. In 1957 the law was changed to require the publication of government rates unless disclosure would endanger national security.

The 4-R Act permitted rate differentiation in other categories as well as seasonal and peak demand categories. A separate rate was permitted for separate and distinct services. A special rate was permitted to encourage capital investment in equipment, e.g., Big John grain hoppers.

RATE PROCEDURES

The original Act in 1887 provided for a complaint procedure before the Commission. Any person, organization, or body politic complaining of anything done or omitted to be done by any common carrier was allowed to petition the Commission for redress. Once the complaint was filed, the Commission notified the carrier, which could right the wrong. If the carrier corrected the wrong, that was the end of the matter. If the carrier did not, the Commission had a duty to investigate the complaint. No complaint could be dismissed because of the absence of direct damage to a complainant. In 1910, the complaint procedure was broadened to permit a complaint to be brought by another common carrier.

In 1906, the law was amended to permit the Commission to prescribe just and reasonable rates, if necessary, and to permit the Com-

mission to issue a cease and desist order against any carrier. The Commission was also permitted to prescribe divisions of joint rates.

In 1910, suspension and investigation power was given to the Commission. Upon its own motion or a complaint pending a hearing, the ICC was permitted to suspend the operation of a rate schedule or defer its use for up to 120 days; and if the hearing could not be completed within 120 days, the suspension could be extended an additional six months. The 1920 Act cut back suspensions in that an extension of time was limited to 30 days, rather than six months. However, in 1927, the period of time during which the Commission could suspend a proposed rate increased from 120 days to seven months with no further extension. Not until the 4R Act was the suspension power reduced. The 4R Act provided that the Commission may not suspend an increase on the grounds that it exceeds a just and reasonable maximum if the carrier does not have market dominance. In addition, there was a 7 percent zone of freedom permitted for a two-year period following January 1, 1976.

The 4R Act also placed the burden of proof on the complainant to establish that the proposed rate change will cause substantial injury to the complainant and that it is likely that the complainant will prevail on the merits. However, the carrier still has the burden of proof to show that the proposed rate is just and reasonable.

Collective ratemaking—the practice of carriers getting together to establish rates—was a custom long followed and not prohibited by the Interstate Commerce Act. In the mid-1940's, the Supreme Court found the practice to violate the antitrust laws. As a result of that decision, the Reed Bullwinkle Act was passed (over President Truman's veto) placing a duty on the Commission to approve agreements between carriers if it finds them to be in the furtherance of national transportation policy. Once the Commission approved a rate agreement—which it did readily—the carriers were not subject to antitrust law violations. In the 4-R Act, permissible rate bureau activity was slightly narrowed. Railroads were required to apply to the Commission for approval of rate bureau agreements. The Commission was given broad authority to investigate such agreements and required to review such agreements every three years.

FREIGHT CAR JURISDICTION

In 1906, the original Act was amended to place upon carriers the duty to furnish freight cars. In 1917, this duty was further defined by making certain that car service included movement, distribution, exchange, interchange, and return of cars. Also, every carrier had to establish, observe, and enforce just and reasonable rules and practices with respect to car service, and failure to do so was made unlawful.

The 1917 Act also permitted the Commission to establish reasonable rules, practices, and regulations with respect to car service, including classification of cars, compensation to be paid for the use of non-owned cars, and penalties for non-observance of the rules.

It was not until 1965 that the law was changed to require that the Commission in fixing such compensation for the use of freight cars should give consideration to the national level of ownership of such type of car and determine whether such compensation should be com-

puted solely on the basis of ownership expense or whether it should include an incentive element of compensation. This latter provision led the Commission to establish the incentive per diem car hire pr[illegible]on.

The 4–R Act further modified the Commission's role in determining car hire charges by requiring that basic per diem charges be fixed on basis of car ownership costs. This has resulted in per diem charges being adjusted to more adequately reflect the cost of the car.

The 1917 Act also gave the Commission the power to take immediate action in an emergency with respect to supply of cars, with or without hearing or notice, either upon complaint or its own motion to suspend operation of any or all regulations with respect to car service for such time as determined by the Commission, and to make such just and reasonable directions to best serve the interest of the public and commerce of the people. The Commission was given the authority to issue directions as to car service through agents. Failure of a carrier to comply with direct order with respect to car service was made subject to penalties. The 1940 Act made it unlawful for anyone to bribe anybody else in order to obtain cars.

The 1920 Act made direct reference to coal cars. Specifically, the law made it a duty of every carrier to make just and reasonable distribution of coal cars among coal mines served by it whether located on its lines or customarily dependent upon it for car supply. The 4–R Act somewhat modified this requirement by permitting a distinction to be made between unit trains and non-unit train shipments.

TRACKAGE JURISDICTION

The 1920 Act—which in many ways was an attempt to make the railroad industry into an effective cartel—prohibited any carrier from extending or constructing new lines unless it first obtained from the Commission a certificate of present or future public convenience and necessity. The 1940 Act made it clear that the Act permitted contracts between carriers without Commission approval for joint ownership or joint use of spur, industrial team, switching or sidetracks. The 4–R Act changes the substantive test from whether "the present and future public convenience and necessity require" to "the present and future public convenience and necessity require or will be enhanced" by such construction or operation. It also deleted the authority of the Commission to require a carrier to extend its line or provide safe and adequate facilities. It also specifically exempted from regulation the "acquisition" as well as the construction and operation of spur, industrial team, switching or sidetracks.

Abandonment of track was brought under Commission jurisdiction by the 1920 Act. Specifically it required a certificate from the Commission that the present or future public convenience and necessity permitted such an abandonment. The 4–R Act sets specific time frames in which the Commission must consider an abandonment of line or discontinuance of service and established the branch line subsidy program which, in effect, permits intervention by a state to directly or indirectly subsidize a line in lieu of abandonment.

Switch connections were required by the 1906 Act by requiring a common carrier to provide upon reasonable terms a switch connection

or private sidetrack where such is reasonably practical and will furnish sufficient business to justify it. The common carrier is also required to furnish cars without discrimination, and refusal to do either gives the Commission jurisdiction over a complaint and the power to order that such switch be installed.

Joint use of facilities was provided for under the 1920 Act. Whenever the Commission was of the opinion, after a hearing, that acquisition of control of one carrier by another, not involving consolidation of such carriers into a single system, was in the public interest, it could approve such control if consistent with its plan for creation of a limited number of balanced railroad systems. The Emergency Transportation Act of 1933 modified the standard to make joint use lawful, with the authorization of the Commission, for any carrier, or two or more carriers jointly, to lease or contract to operate the properties or any part thereof of another, whether or not it was consistent with the Commission's plan for creation of a limited number of balanced railroad systems.

The 1940 Act, in modifying the merger standards, also made it possible for the Commission to stipulate conditions for the approval of joint use. The 4–R Act modified those conditions by expanding the notice and comment procedures and labor protection standards. It also established time frames for applications and Commission action.

Terminal areas, permitting interchange of traffic, were regulated under the original 1887 Act. However, no carrier was required to give the use of its tracks to a competing carrier. The 1920 Act empowered the Commission to require a carrier to permit another carrier to use its terminal facilities upon payment of just and reasonable compensation.

RELATIONSHIPS AMONG RAILROADS

Emergency routing powers were given to the Commission by the 1917 Act. The Commission was given the power to take immediate action in emergency with respect to supply of cars. In 1974 it was made explicit that the Commission could authorize or direct one railroad to operate properties of another if essential services were threatened to be terminated. This directed service power, which is limited to 240 days, is presently being used by the Commission with respect to the Rock Island. The Commission's attempts to use its more general emergency service powers were not successful in the Rock Island case since the court held the authority 49 U.S.C. 11123 was not broad enough to permit the Commission to direct other carriers to provide service on parts of the Rock Island. Consequently, the Commission used its 1974 authority under 49 U.S.C. 11125 but with the concurrence of carriers who planned to acquire parts of the Rock Island that it should be without compensation. Normally, under 49 U.S.C. 1112. the Commission has to pay the carrier providing the service.

Joint routes and rates were first required under the 1906 Act which gave the carrier the duty to furnish transportation and establish through routes having just and reasonable rates. Where the carriers could not agree the Commission was given authority to establish through routes and joint rates and to fix the division of revenue between the carriers involved. The 1910 Act added the requirement

that the carriers had a duty to provide reasonable facilities for operating through routes and reasonable rules for exchange of cars.

The 1920 Act provided that divisions could not unduly prefer or prejudice any participating carrier. In 1940 the duty to establish through routes with connecting common carriers by water was added.

Cancellation of joint routes was made more difficult by the 1940 Act by placing the burden of proof on the carrier proposing such cancellation to show that it was consistent with the public interest. The 4–R Act relaxed that burden somewhat by mandating that the Commission in considering proposed cancellations of through routes should compare distance, time, and expense over involved routes and recognize the reduction in energy consumption in overall impact on shippers and carriers affected.

The Commission was given authority to prescribe just and reasonable rates with respect to joint routes and rates in 1910. All orders of the Commission under this provision were originally limited to two years, but the 1920 Act and the 1940 Act expanded the Commission's power in this area by permitting it to establish through routes and prescribe joint rates if it found that the through route proposed is needed.

Interchange discrimination was prohibited from 1887, but under the original act no carrier was required to give the use of its tracks to a competing carrier. The 1920 Act permitted the Commission to require one carrier to use another carrier's facilities upon payment of just and reasonable compensation.

The Commission was given power over consolidations and mergers in the 1920 Act, and the standard for approval was if such consolidation was consistent with the plan to create a limited number of balanced systems. The 1940 Act had introduced certain conditions for approval of mergers. Those conditions were to be added when the Commission found them to be in the public interest. The Commission found labor protection to be in the public interest as well as conditions designed to benefit the economic interests of carriers not involved in the merger or consolidation. The 4-R Act put time limits on the Commission in its consideration of merger consolidation cases. It also codified the need for labor protection and discouraged inclusion of weak carriers as conditions for mergers.

The 4-R Act also established an expedited merger procedure in which the Secretary of Transportation was to play a promotional role.[1] The regulations prescribed by the Department of Transportation in order to get the Secretary involved in this expedited merger procedure tend to present such a burden that the expedited procedure has not been used.

Pooling proceeds between carriers was prohibited under the 1887 Act. The 1920 Act permitted the Commission to approve pooling of freight or proceeds of other carriers. The 1940 Act extended the Commission's authority to approve pooling between railroads and water carriers.

REVENUE DIVISIONS

Division of revenues was originally left to the carriers themselves. In the 1910 Act, the Commission was given the authority to prescribe just and reasonable divisions when the carriers failed to agree. The

4–R Act established new time frames for the conduct of proceedings before the Commission for the adjustment of divisions.

The problem with joint rates centers around the determination of fair and equitable revenue divisions. A division of a joint rate is the share of the revenue each railroad receives for its portion of the through route. Clearly, the optimal method for determining divisions is by the voluntary agreement of the railroads. The ICC has had authority since 1906 to prescribe divisions of joint rates when carriers are unable to agree among themselves.

The Transportation Act of 1920 gave the ICC the authority to set divisions on its own initiative, as well as upon complaint. The provision for intervention, even in the absence of a disagreement among carriers, recognized that the public interest in the division of rates takes precedence over private contractual rights.

Under the 1920 Act, the ICC was authorized to consider not only what is just, reasonable and equitable between carriers, but also the financial needs of particular carriers. Divisions became one means for distributing earnings to weaker roads considered essential to the rail system.

In 1922, the Commission granted the New England railroads a blanket increase in freight divisions with all connecting lines due to the special operating handicaps and serious financial difficulties of the New England railroads. In 1923, the Supreme Court affirmed the ICC ruling by holding that the Commission had the power to grant a larger division, if the financial need of the weaker roads and the public interest required it, providing that an adequate share was left to the other carrier to avoid a "confiscatory result". This was the first time the Commission prescribed divisions on a territorial basis. By 1922, the rate structure was so complex that group divisions were considered a practical necessity.

Regional groupings are used to resolve interterritorial division disputes. These cases apply to all or a major portion of the interterritorial interline traffic, i.e., traffic that is carried by two or more carriers across regional boundaries. Interterritorial divisions cases are enormously complex, lengthy, and costly. In the Official-Southern divisions case (also referred to as the North/South Divisions Case) the revenues, as settled, totaled nearly one-half billion dollars. (The case lasted from 1952 to 1965.)

The 4-R Act ordered the Commission to establish procedures to expedite division cases. Evidentiary proceedings must be completed within one year after a complaint is filed (two years if brought by ICC initiative), and the Commission must act within 270 days after completion of evidentiary proceedings. The statute has a clause allowing the Commission longer if it needs it. Of course, ICC decisions may still be appealed. (Typically, divisions cases used to take from three to ten years to resolve.)

In response to the 4–R Act directive, in 1976 the ICC adopted administrative procedures in order to expedite divisions cases. Carriers participating in a divisions dispute are required to present evidence on several factors but the Commission may use its discretion with regard to the weight it gives to each of these factors (if it considers them at all). The Commission must consider all statutory criteria, but it is not

required to give equal weight to each item or to justify the factors it considers or weights used.

The major objections raised by railroads with respect to the Commission's approach to divisions cases is their substantial reliance on cost based factors, rather than giving adequate consideration to the other statutory criteria, i.e., efficiency, revenue needs, the public interest, and whether a line is an originating, intermediate, or delivery carrier.

In trying to determine an equitable revenue split between the two carriers, each carrier's costs of providing the service has effectively become the Commission's overriding concern.

The Commission has tended to cost out segments of the traffic using Rail Form A. Form A costs are based on historical averages and do not accurately reflect carriers' fully allocated costs. The Commission requires that costing studies be based on Form A, if more reliable methods are not available. Modifications to Form A may be used, but other methods are only acceptable to the extent that they present more accurate cost data.

Ultimately, the joint rates issue is reduced to the century-old battle between the Northeastern and Southern railroads: Are the higher costs of the Northeastern railroads a function of the transportation and economic characteristics of the Northeast or are they a function of carrier productivity? The answer is probably some combination of both reasons. (In the 1930's and 1940's, the situation was reversed. The Northeastern carriers were financially better off than carriers in less industrially developed regions).

CORPORATE REQUIREMENTS

Accounts and reports were required from the carriers under the original act, and the Commission was given the discretion to require all common carriers to conform to a uniform system of accounts. The 4-R Act required the Commission to create a uniform cost and revenue accounting and reporting system for all railroads in lieu of the former discretionary power of the Commission to prescribe a uniform system of accounts. The new accounting system required by the 4-R Act has yet to be implemented. Proposed regulations by the Commission have come under criticism in that they may be requiring information for information's sake.

Railroad securities were brought under the Commission's jurisdiction by the 1920 Act. The Commission continues to have primary jurisdiction in this area although in some instances the Securities and Exchange Commission has concurrent jurisdiction. The 1920 Act also subject interlocking directorates to approval by the Commission.

The commodities clause was added to the act in 1906. Under the commodities clause, it is unlawful for any railroad company to transport interstate any article or commodity, other than timber and products thereof, manufactured, mined, or produced by it or under its authority or in which it has an interest except as may be necessary in the conduct of its business as a common carrier. The original purpose of the commodities clause was to prevent discrimination against non-carrier shippers. The creation of holding companies and subsidiaries has made it possible for railroads to carry such commodities at the same rate charged other shippers.

The discrimination requirement of the original act tended to preclude credit preferences among shippers. The 1920 Act made explicit the fact that the Commission had jurisdiction over the extension of credit. Specifically that act provided that no carrier shall deliver or relinquish possession of freight without payment of charges except under Commission rules.

The Panama Canal Act of 1912 prohibited railroads from owning water carriers and, except for trucking companies grandfathered in by the 1935 Motor Carrier Act, railroads may not own trucking companies.

ICC ORGANIZATION

The original Commission was composed of five members. In 1906 its membership was enlarged to seven. In 1917 its membership was enlarged to nine. In 1920 the Commission membership became eleven members, and continues at that level today although not all Commission positions have been filled.

ICC PROCEDURES

The procedures of the Commission have changed little over time. Basically the Commission may investigate on its own or upon a complaint. Over the years the Commission was given the power to issue orders and to prescribe rates or practices.

BACKGROUND

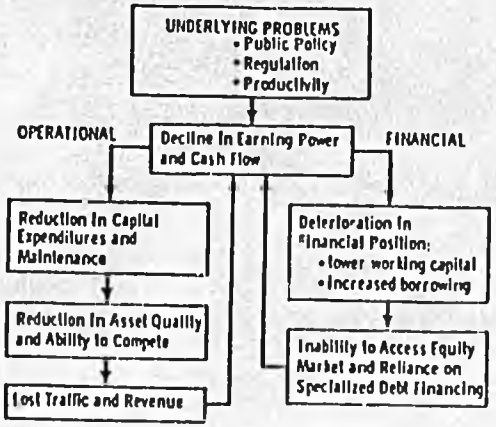
The 4-R Act in Secs. 501 and 901 required the Department of Transportation to report to the Congress on the capital needs of the railroad industry. That report—*A Prospectus for Change in the Freight Railroad Industry*—was submitted to Congress in October of 1978. In 1978 dollars the report concluded that the railroad industry, exclusive of the Long Island Railroad and Conrail, would have a capital shortfall of between $13.1 and $16.1 billion between 1976 and 1985. In current dollars that shortfall is between $16 and $20 billion.

When compared to forecasts prepared by the First National City Bank and the ICC in Ex Parte 271, the DOT projections do not appear unrealistic. The First National City Bank prepared a study in connection with the development of the Final System Plan by USRA. Some of the charts contained in this section of the Background Materials are from the First National City Bank analysis which understates capital needs—as does the DOT Report—because of the unexpected increase in the rate of inflation and interest costs.

All of the analysis done of the railroad industry, either by itself or by government or private sources, has concluded that for the period 1976 through 1985 the industry would have a significant capital shortfall. The simple fact of the matter is that the railroad industry is a capital-intensive industry which for several decades has had inadequate earnings to maintain its plant and facilities at a level necessary to achieve improved services. The following flow chart illustrates how this inadequacy of capital tends to feed upon itself, causing further deterioration of the system:

CHART 3-A

Rail Industry Decline



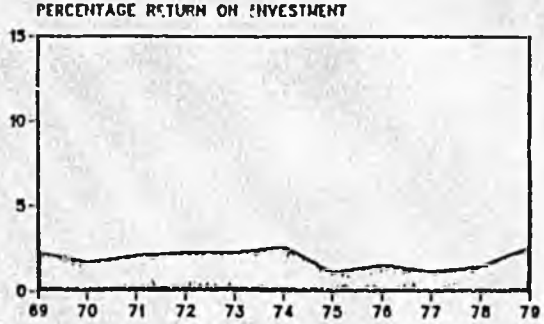
Low earnings and cash flow levels have led railroads to cut back on needed capital expenditures and to reduce maintenance on existing plant facilities and rolling stock. The subsequent reduction in asset quality has resulted in a deterioration in the railroad's ability to offer quality service and compete with other transportation modes. The accompanying loss of profitable traffic has impacted revenues and ultimately earnings, completing the cycle.

On the financial side, due to the insufficient earnings and cash flow, railroads have sought to fund expenditures by drawing down working capital and by increasing the level of debt financing. The result has been a deterioration in both liquidity and capital adequacy. The combination of poor earnings prospects and poor asset quality has effectively closed the equity market to railroads and led to further reliance on specialized debt financing such as equipment trust certificates, at increasing interest costs. The ensuing negative impact on earnings and capital structure have perpetuated the downward financial spiral.

The 4-R Act required the Commission to determine an adequate rate of return for the railroad industry. The Commission has determined that the industry should be achieving an 11 percent rate of return. The following graphs, covering the last decade shows that railroads have consistently been far below that rate of return.

CHART 3-B

RAILWAY RETURN ON NET INVESTMENT HAS BEEN INADEQUATE



NOTE: Rates of return shown above would be lower if adjusted for tax treatment.

Source: Railroad Reports to ICC

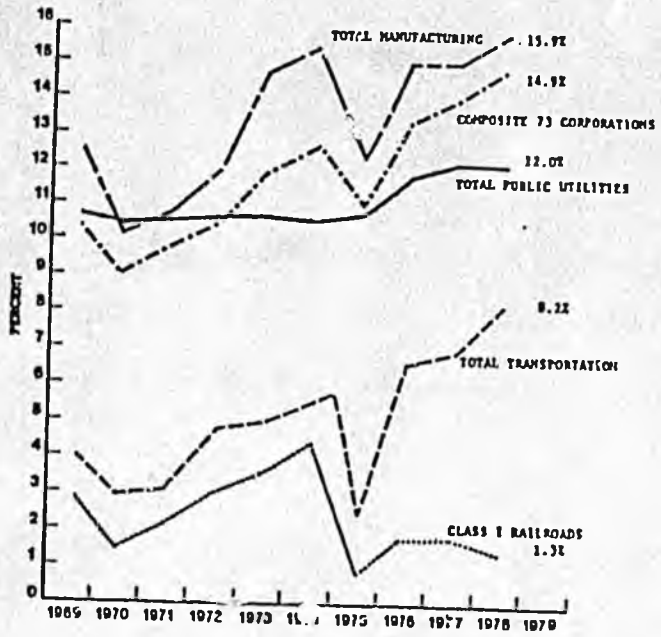
In its analysis First National City Bank noted:

> There is no better measure of overall financial conditions than the rate of return on investment. The low return on investment is the most apparent symptom of rail industry decline. (P. 68, First National City Bank analysis.)

One way to better understand the significance of rail rate of return is to compare it with the rate of return on net worth for leading corporations. The following graph shows that difference:

CHART 3-C

RATE OF RETURN ON NET WORTH
LEADING CORPORATIONS



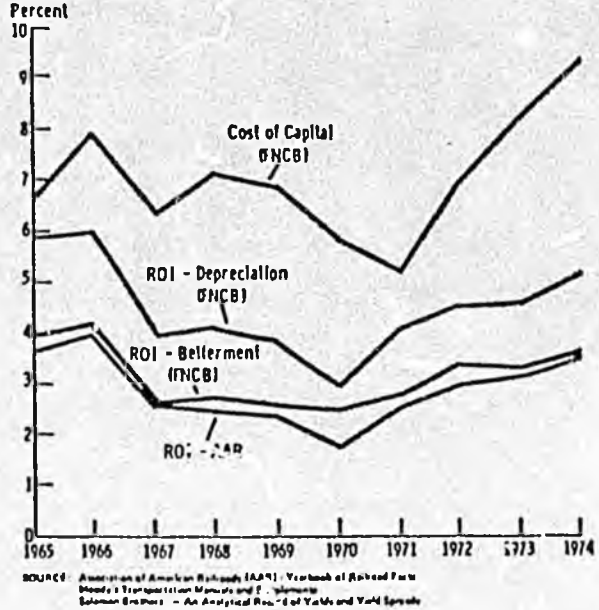
Source: Citibank

It is often argued by some that the rate of return used for the railroad industry is distorted because the industry uses a betterment accounting method which permits expense of certain capital expenditures on track rather than depreciation. Even taking into account that difference, the rate of return for the railroad industry is still dismal. The following chart covering the period 1965 to 1974 shows that there is little difference between the determination of rate of return using the depreciation method or the betterment method.

CHART 3-D

Class I Railroads Rate of Return and Cost of Capital

1965 - 1974



SOURCE: American Association of American Railroads (AAR): Yearbook of Railroad Facts
Moody's Transportation Manuals and Supplements
Salomon Brothers — An Analytical Record of Yields and Yield Spreads

BANKRUPTCIES

The inevitable result of costs exceeding profits is bankruptcy. The railroad industry since 1967 has seen eleven major bankrupteies. The seven major bankrupteies in the Northeast which led to the formation of Conrail have resulted in a direct cost to the government already in excess of $3 billion. That direct cost will become considerably larger once the government settles the litigation involving the valuation of the property taken over by Conrail and Amtrak.

To date it is at best uncertain whether or not that direct federal investment will lead Conrail to become a healthy corporation. Clearly, absent improved business opportunities, Conrail will continue to suffer financial losses.

The Midwest bankrupteies involving the Milwaukee and the Rock Island continue to cost the government money even though one railroad is being liquidated and the other substantially reduced in size.

PRODUCTIVITY AND EFFICIENCY GAINS

In a regulated industry like railroad, both productivity and efficiency are somewhat limited by public policy which is frequently directed towards social and political objectives rather than economic goals. Within this framework of regulatory control, the railroad industry has an exemplary record of productive and efficient operations, particularly when evaluated in light of continuing inflation, and a serious and persistent shortage of capital.

It is in the railroads' best interests to seek productivity gains, and they have done so despite such institutional obstacles as inadequate returns on investment, and regulatory restrictions. Productivity increases have been achieved through abandonment of light-density lines, upgrading of facilities, consolidations, pricing initiatives, and innovative collective bargaining.[1] Ensuing productivity gains have helped restrain rate increases to the level where they have been consistently below escalations in operating costs. (See chart 3-K.)

As an indication of substantial productivity improvements made by the railroads, Chart 3-E shows trends in eight single-factor productivity indicators for the period 1967-1978. Each factor is related to rail freight revenue ton-miles.

As shown in the first two columns, the railroads in recent years have been able to handle more freight traffic with fewer employees working less total hours.

CHART 3-E

SINGLE-FACTOR PODUCTIVITY INDICATORS IN FREIGHT SERVICE

	Freight revenue ton-miles per—								
Year	Employee (millions)	Employee-hour	Average route miles operated in freight service (millions)	Active locomotive (millions)	Serviceable freight car (thousands)	Freight car-mile	Freight train-mile (thousands)	Freight train-hour (thousands)
1967	1.4	339	3.4	42.3	457	24.3	1.2	31.9
1968	1.4	390	3.5	43.2	490	24.7	1.2	33.4
1969	1.5	411	3.6	44.6	512	25.3	1.3	33.7
1970	1.5	416	3.7	44.3	511	25.6	1.3	36.1
1971	1.5	405	3.6	41.9	496	25.3	1.2	35.2
1972	1.5	437	3.7	42.0	527	25.6	1.2	34.4
1973	1.7	496	4.1	44.6	575	27.2	1.3	35.4
1974	1.7	495	4.1	43.5	581	27.7	1.3	35.0
1975	1.6	476	3.7	40.4	533	27.1	1.3	37.5
1976	1.7	512	4.1	42.3	577	27.8	1.3	37.7
1977	1.8	538	4.2	43.2	609	28.1	1.3	38.3
1978	1.9	577	4.5	44.6	640	29.5	2.0	38.5

Source: Railroad reports to the ICC.

The table also reflects similar improvements in traffic density and utilization of equipment. The significant improvement in freightcar utilization is due not only to larger cars, heavier loadings, and faster trains, but also to industry-wide innovations in introducing such operating techniques as unit trains, piggyback trains, run-through trains and systems improvements, such as centralized car location and automated distribution systems.

[1] A 1970 study by the BLS indicated that rail productivity, based on output per employee-hour registered a 12.2 percent gain in 1978 over 1977, the largest increase of any industry included in the study.

The issue of economical service parallels that of productivity in that: (1) it is in the best interest of railroads to increase efficiency—i.e., hold down costs and eliminate waste and redundancy, (2) many of the factors which affect costs (operating and capital) are only partially within the control of railroad management, and (3) within their restrictive environment, railroads have a creditable record of efficiency.

Railroads have an obvious motivation to increase efficiency. Lower costs per unit of service restrain the need for, and level of, rate increases, thereby improving the industry's competitive position. It is in the spirit of efficiency that railroads have rationalized the physical plant, ameliorated restrictive work rules, introduced more automated equipment, and consolidated operations.

In the past several decades, a persistent problem in the railroad industry has been the acceleration of operating costs in the face of diversion of remunerative traffic. Such cost increases are an obstacle to economic efficiency. That the railroads have responded positively is supported by the productivity indicators shown in the preceding table.

Railroad resources are being put to increasingly productive use and costs, where controllable, are being restrained through railroad action. The productivity record of the rail industry is one of significant accomplishment.

CURRENT RAILROAD FINANCES

Despite the modest improvement in railroad earnings indicated by preliminary 1979 financial reports, the fact is the industry's level of profitability remains unquestionably inadequate. There is no evidence that the industry's pervasive revenue need has been alleviated by short-term gains of moderate dimensions.

This is clearly demonstrated by the 1979 rate of return on net investment (ROI) of 2.68 percent which represents a continuation of the persistent low profit levels that have plagued the railroads in recent years. (See Chart 3-B earlier in this Part.) This low ROI is far below any reasonable measure of adequacy, including the 11 percent cost of capital recently proposed by the Commission as essential to viability. The railroad's rate of return has not exceeded 3 percent since 1966.

During the past decade, various major capital need studies (some already referred to) have provided comprehensive analyses of investments that are required to provide a viable rail transportation system.

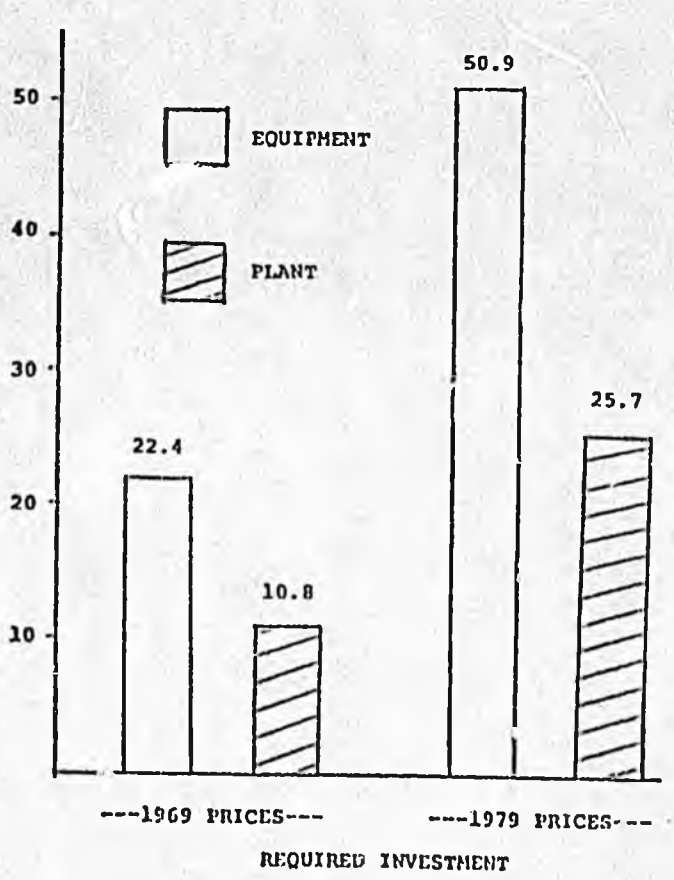
The first study done by industry itself was the 1970 Astro Report. It projected a 10-year investment need of $33.2 billion. When adjusted for inflation by updating to 1979 cost levels, the 10-year needs soar to $76.6 billion.

In 1974, the Astro methodology was used to provide an update of Astro I forecast. These forecasts should be viewed against the fact that the industry spent only $20 billion during the 1969 to 1979 period for capital needs. Chart 3-F and 3-G show the Astro I and Astro II estimates adjusted to reflect inflation.

CHART 3-F

ASTRO I

PROJECTED TEN-YEAR INVESTMENT REQUIREMENTS

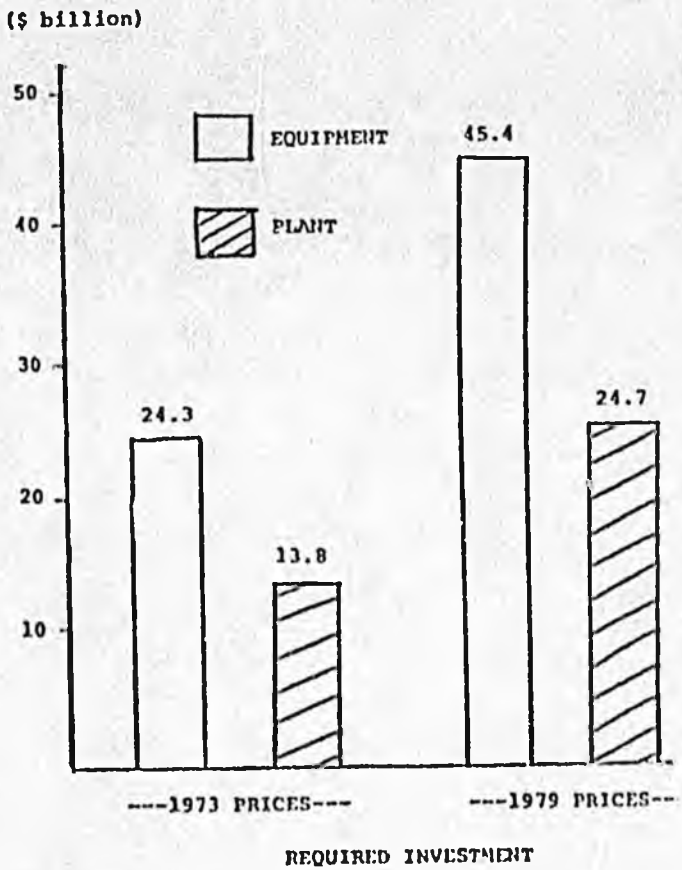


SOURCE: ASTRO I, AAR.

CHART 3-G

ASTRO II

PROJECTED TEN-YEAR INVESTMENT REQUIREMENTS



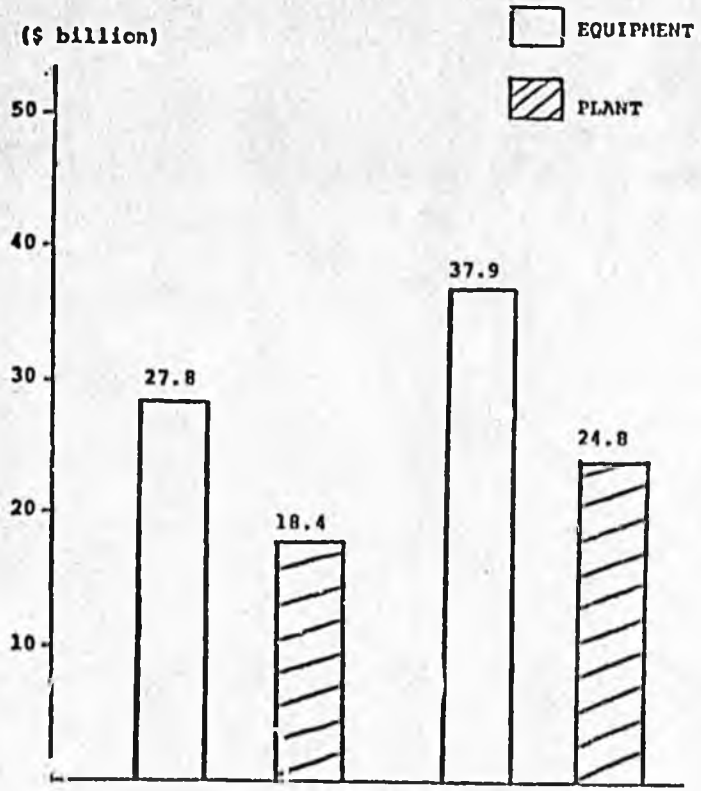
SOURCE: ASTRO II, AAR.

The Interstate Commerce Commission in Ex Parte 271 showed more modest needs than the industry studies but nevertheless they were more than three times greater than the current rate of railroad investment in capital needs. Chart 3-H below shows the ICC capital needs estimate adjusted to 1979 prices:

CHART 3-H

ICC EX PARTE 271 ESTIMATES

OF TEN-YEAR RAIL CAPITAL NEEDS



REQUIRED INVESTMENT

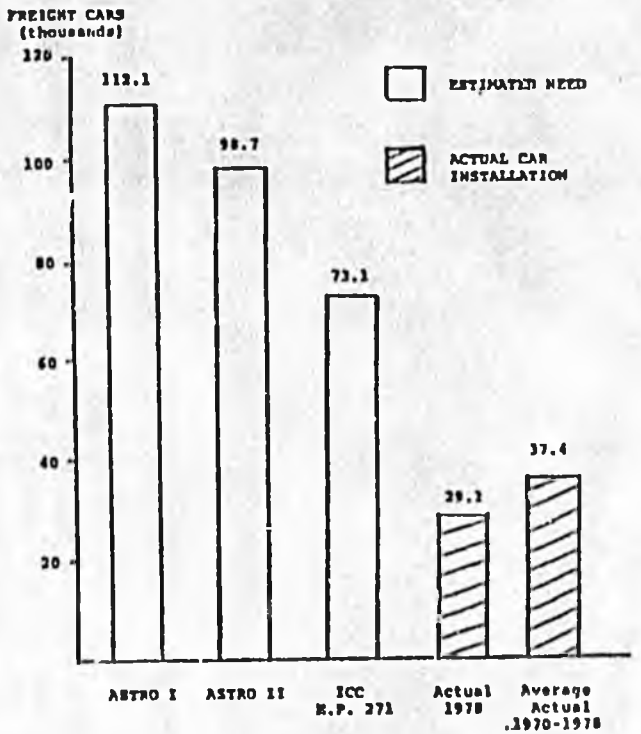
---- 1975 PRICES ---- ---- 1979 PRICES ----

SOURCE: ICC, AAR.

Freight cars and locomotives are by far the largest components of the industry's capital requirements. Chart 3-I shows the estimated freight car installation requirements identified by the Astro studies and the ICC Report. As these figures show, the lowest of these estimates is nearly twice the average installation rate of the years 1970 to 1978.

CHART 3-I

COMPARISON OF REQUIRED AND ACTUAL
ANNUAL FREIGHT CAR FLEET EXPANSION *



* Class I Railroads only.
SOURCE: ASTRO I, ASTRO II, ICC, AAR.

The industry shortfall with respect to needed locomotive installations is even more dramatic. Class I railroads average 931 units per year installed over the 5-year period 1974 to 1978. The lowest of the five study estimates—the Commission's projections—is 74 percent higher than the average rate of installations over that period. The other four estimates are approximately double the current installation rate. Chart 3-J shows these differences:

CHART 3-J

COMPARISON OF ACTUAL LOCOMOTIVE INSTALLATIONS WITH STUDY REQUIREMENTS

Study	Average annual installations indicated	Average annual cost, May 1979 prices (millions)
1. Astro	2,002	1,183
2. Astro II	1,978	1,125
3. ICC ex parte 271 [1]	1,621	1,040
Actual installations [2]		
1978	1,312	[3] 775
1977	992	[3] 586
Average, 1974–78	931	[3] 550

[1] Includes USRA, FSP projection for Conrail.
[2] Excludes Amtrak and Auto-Train. Installations include all locomotives, new and rebuilt, whether acquired by purchase or lease.
[3] Estimated by average new and rebuilt locomotive cost as of May 1979.

Succinctly stated, the upkeep and modernization of railroad plant and equipment continues to deteriorate at an alarming rate. The shortfall of money in the railroad industry will become increasingly acute as a result of inflation and higher interest rates. That shortfall either has to be made up from improved performance by the railroad industry or government subsidy. Improved railroad performance will be contingent upon a number of factors, including greater regulatory freedom and the state of the economy generally.

COST INCREASES

The points discussed in preceding sections of Part 3 are graphically borne out by the patterns shown in Chart 3-K. Between 1969 and 1978, rail costs increased 147 percent while the BLS index of rail freight rates increased only 113 percent. The BLS index, which records changes in rail rates, does not capture the volume of traffic moving under those rates. The volume of traffic is, however, incorporated in the revenue per ton mile measurement. Revenue per ton mile shows a much smaller increase; it increased only 76 percent over this same period. That degree of prolonged disparity between cost and revenue would severely impair the financial strength of any industry. Since the rail industry entered this period with limited financial resources, the adverse effects have been exacerbated.

The conclusions to be drawn from this analysis are clear:

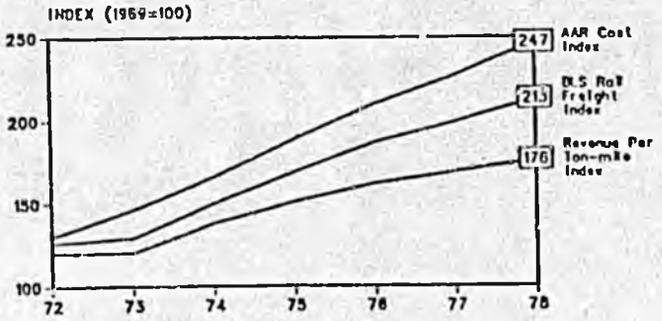
The rail industry is essential to economic growth.

The strength of the rail industry is clearly linked to flexible management response to perennially changing market conditions.

Reduction of the scope and intensity of regulation is essential to improve financial performance of the rail industry.

CHART 3-K

COST INCREASES HAVE OUTPACED RATE INCREASES



Source: Railroad Reports to ICC, Bureau of Labor Statistics, AAR

EFFECTS OF INFLATION ON RAIL EARNINGS

The pernicious effects of inflation have been particularly acute for the rail industry. Chart 3-L shows clearly the inexorable erosion of net return on investment (NROI). When adjusted for the effects of inflation, the 1978 NROI is 62 percent below the 1969 level. Moreover, even on a nominal basis, without recognition of the deteriorated purchasing power of the dollar, the 1978 NROI is still 35 percent below 1969 earnings. This prolonged decline is disturbing to the rail industry and should be alarming to the shipping community served by that industry. As noted previously in this report, the rail industry has maintained consistently high levels of investment throughout this period. The dilution of rail earnings, in terms of purchasing power is also shown in Chart 3-M. 1978 earnings would have to triple to equal the purchasing power of 1969 earnings.

CHART 3-L

RAILWAY REAL (CONSTANT DOLLAR) EARNINGS HAVE DECLINED

(Dollar amounts in millions)

Year	NROI in current dollars	Implicit price deflator for GNP	"Real" NROI
			$
1969	$655	100	$653
1970	486	105	466
1971	595	11[illegible]	519
1972	654	115	561
1973	650	1[illegible]7	51[illegible]
1974	678	116	579
1975	351	147	23[illegible]
1976	452	154	29[illegible]
1977	341	163	21[illegible]
1978	427	175	24[illegible]

Source: Railroad reports to the ICC

CHART 3-M

INFLATION HAS DISSIPATED RAILWAY EARNINGS

Year	Income before extraordinary items (millions)	Implicit price deflator for total GNP (1969 = 100)	Income before extraordinary items required to equal purchasing power of 1969 income (millions)
1969	$514.2	100	$514.2
1970	226.6	105	539.9
1971	246.7	111	570.8
1972	318.9	115	591.3
1973	359.3	122	627.3
1974	730.2	134	689.0
1975	144.2	147	755.9
1976	355.0	154	791.9
1977	325.6	163	838.1
1978	306.8	175	900.0

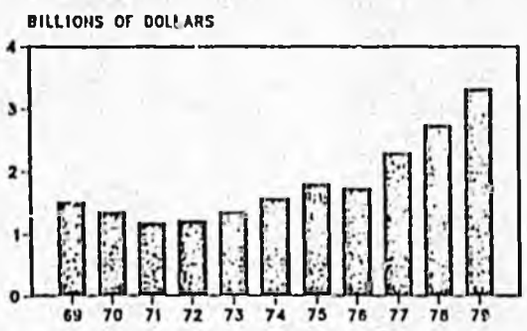
Source: Railroad reports to the ICC.

It seems clear that investment cannot be sustained indefinitely in the context of initially meager and consistently eroding earnings.

The rail industry continues to move more revenue ton-miles each year. However, it is crucial to note that, in terms of 1972 constant dollars, the industry now realizes approximately half the revenue per ton-mile it earned during the Great Depression.

Over the last decade, the railroad has spent progressively more on capital investments (See Chart 3-N). However, that expenditure of funds has been far less than was needed to provide the needed capital investment for the maintenance or improvement of service. It is also important to note that because of low earnings, increasingly greater amounts of the money necessary for the capital investment have come from outside financing. Chart 3-O illustrates the greater dependence

ANNUAL RAILWAY CAPITAL INVESTMENT HAS INCREASED STEADILY

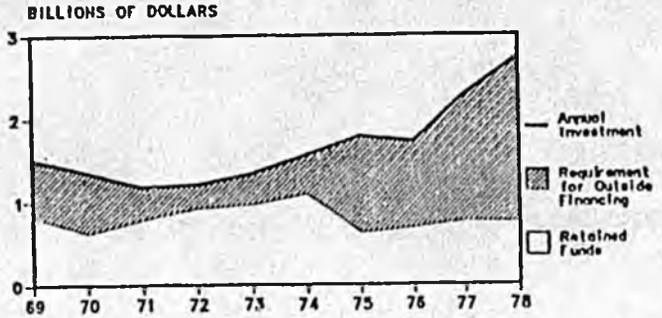


Source: Railroad reports to ICC.

upon outside financing and Chart 3-P shows how retained funds have been a smaller and smaller percentage of annual capital investm Over the long run, this fact alone will assure a continued decline ... the railroad industry.

CHART 3-O

RELIANCE ON OUTSIDE FINANCING HAS INCREASED



•Represents income before extraordinary items, plus deferred taxes and depreciation and retirement charges, less cash dividends and equity in undistributed earnings of affiliated companies.

Source: Railroad Reports to ICC

CHART 3-P

RAILROAD RELIANCE ON OUTSIDE FINANCING HAS INCREASED

Year	Total investment (millions)	Retained funds[1] (millions)	Retained funds as percent of total investment
1969	$1,509.4	$815.6	54.0
1970	1,351.4	618.0	45.7
1971	1,377.6	784.1	56.5
1972	1,215.6	923.1	75.9
1973	1,342.1	964.1	71.8
1974	1,565.4	1,090.8	69.7
1975	1,789.7	621.2	34.3
1976	1,728.7	682.6	39.7
1977	2,290.4	767.8	33.6
1978	2,738.2	769.8	27.4

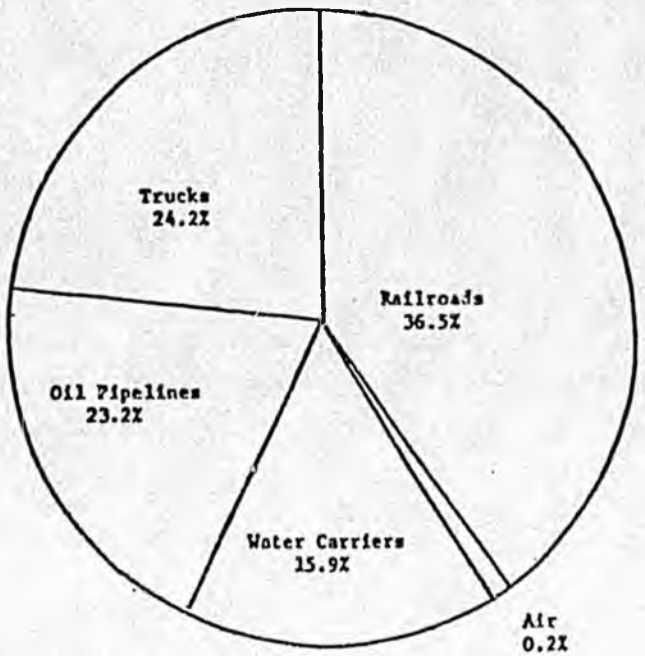
[1] Represents income before extraordinary items, plus deferred taxes and depreciation and retirement charges, less cash dividends and equity in undistributed earnings of affiliated companies.

Source: Railroad reports to the ICC.

PART 4—THE RAILROAD MARKET AND PRICING

In 1979, Class I railroads in the United States generated $25.7 billion in operating revenue, equaling 1.1 percent of the Gross National Product. The railroads handled 927 billion ton-miles of freight in 1979, 36.5 per cent of the nation's total freight traffic. The nation's total freight traffic is divided by mode on a ton-mile basis as follows:

Intercity Ton-Miles



While the railroads' share of intercity ton-miles continues to be impressive, it nevertheless is about half of what it was in 1917. For example, between 1917 and 1977, the economy (real GNP) was growing 185 per cent. Industrial production during that time increased 250 per cent and tons of intercity freight increased 91 per cent. The railroads, however, carried 9 per cent fewer tons in 1977 than they did in 1917.

In absolute terms (the number of tons of freight picked up regardless of distance travelled) trucks now carry almost 50 per cent more tonnage than the railroads. In 1917, railroads were hauling almost three times as much tonnage as the motor carriers.

Ton-mile performance data (1 ton-mile is equivalent to one ton carried one mile) which reflect the distance travelled as well as tonnage carried tell basically the same story. With real GNP growing 185 per

cent and total intercity ton miles by 129 per cent between 1947 and 1977, truck traffic soared 5½ times, pipeline traffic increased by 433 per cent, and barge lines moved eight times more. From the increased traffic available, railroads were able to increase their ton-miles by only 25 per cent. Trucks increased their ton-miles by 450 per cent, oil pipelines by 433 percent, and inland barge by 700 per cent. Thus, in an economy that has almost tripled in size during the last 30 years, America's railroads have seen their tonnage carried fall by nearly 10 per cent and their ton-miles of freight moved increased by less than 1 per cent per year.

The railroads decline in market share seems to cut across almost all areas of freight transportation. For example, for the transport of machinery, except electrical and industrial, railroads hauled 52 per cent of ton-miles in 1963, but only 38 per cent in 1972. With basic textiles and leather products, railroads hauled 25 per cent in 1963, but only 16 per cent in 1972. For drugs, paints, and other chemical products, railroads hauled 62 per cent of the ton-miles in 1963, but only 44 per cent in 1972. For meat and dairy products, the rail ton-mile haul in 1963 was 47 per cent and only 28 per cent in 1972. For fabricated metal products, rail hauled 41 per cent in 1963 and only 23 per cent in 1972. Those declines taken from the Census of Transportation of 1963 and 1972, are repeated in almost every commodity group.

The decline has continued since 1972 and can best be seen by looking at traffic once very dependent upon the rail. For example, railroads no longer dominate grain traffic. In 1973, 58 per cent of the grain sold originated on rail. In 1974, that percentage was 62 per cent, but it dropped to 47 per cent in 1975; 49 per cent in 1976 and down to 43 per cent in 1977.

Fresh fruit and vegetable traffic which went 31 per cent by rail in 1970 was only 11 per cent by rail in 1977.

The reasons for the decline in rail traffice are primarily caused by three factors:

The interdependence of the railroad system whereby service by financially strong carriers is adversely affected by dependence on financially weak carriers;

Inflexible pricing ability resulting from regulation, thereby making it difficult to be price competitive in order to keep or retain traffic; and

A shortage of capital, previously discussed in part 3.

RAILROAD INTERDEPENDENCE

The top 20 railroads in the country account for over 92 per cent of the revenue going into the railroad industry. The top six railroads account for over half of the revenue in the industry. Chart 4-A shows the ranking of Class I carriers by freight revenue for 1978.

CHART 4-A

RANKING OF CLASS I CARRIERS BY REVENUE

[Class I carriers, 1978]

Carrier	Freight revenue (thousands)	Percent of total	Cumulative percentage
CR	$2,812,500	13.90	13.90
BN	1,912,480	9.45	23.35
SP	1,616,085	7.99	31.34
AT&SF	1,491,298	7.37	38.71
UP	1,465,557	7.24	45.95
MP	1,160,083	5.73	51.68
SOU Sys	1,120,735	5.54	57.22
N & W	959,040	4.74	61.96
SCL	881,002	4.35	66.31
L & N	802,559	3.97	70.28
B & O	792,569	3.92	74
ICG	688,215	3.40	77
C & O	636,056	3.14	80.74
CNW	583,388	2.88	83.62
CMSTP & P	395,447	1.95	85.57
SLSF	375,992	1.86	87.43
CRI & P	365,249	1.81	89.24
SOO	245,559	1.21	90.45
SLSW	223,230	1.11	91.56
D & RGW	211,301	1.05	92.61
Top 20	18,741,345	92.61	
Others	1,494,720	7.39	7.39
Total	20,236,065	100.00	100.00

Source: Railroad reports to the ICC.

ConRail, which heads the list of carriers, accounting for nearly 14 per cent of the total revenue, is hardly a healthy carrier. It was formed in April of 1976, out of the estates of six bankrupt railroads in the Northeast. Because railroads depend upon one another in order to either receive freight for delivery or transfer freight for delivery, ConRail's performance affects every other railroad. When ConRail's share of the total rail business is added to the share of the total rail business handled by other bankrupt or financially weak carriers, over 30 per cent of the "rail business" is being handled by financially weak rail carriers. This adversely affects all rail carriers because about 70 per cent of all rail traffic is interchanged between two or more railroads. Chart 4–B shows the extent of the interdependence within the railroad industry.

CHART 4-B

RAILROADS ARE AN INTERDEPENDENT INDUSTRY

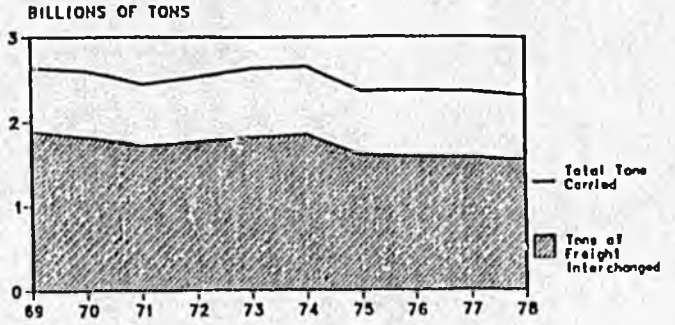
Year	Tons of freight interchanged (thousands)	Total tons carried (thousands)	Interchanged tonnage as a percent of total
1969	1,891,897	2,632,512	71.9
1970	1,878,636	2,600,324	70.2
1971	1,710,275	2,442,758	70.3
1972	1,767,576	2,527,556	69.9
1973	1,822,241	2,632,299	69.2
1974	1,856,572	2,652,010	70.0
1975	1,606,429	2,357,849	68.1
1976	1,590,825	2,369,247	67.1
1977	1,578,500	2,352,475	67.1
1978	1,555,753	2,310,103	67.3

Source: Railroad reports to the ICC.

Chart 4–C illustrates the interdependence of railroads as well as the decline in total tons carried by railroads.

CHART 4-C

RAILROADS ARE AN INTERDEPENDENT INDUSTRY



Source: ICC, AAR

The slight decline in the per cent of interchange between carriers is accounted for by the consolidation of six bankrupt carriers in ConRail and the per cent of interchange can be expected to slightly decline if railroads merge into fewer companies. Nevertheless, railroads will continue to be interdependent. This interdependence will mean that service will be no better than the quality of service offered by the weakest carrier in the interchange.

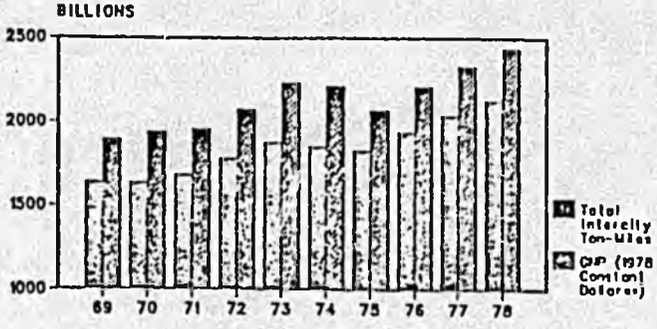
THE EFFECT OF RAILROAD RATE REGULATION

Transportation is a derived demand. In other words, transportation needs tend to increase roughly in the same proportion as the Gross National Product. Chart 4–D shows this relationship.

The demand for railroad service has lagged behind transportation demand and appears to be lagging further and further behind. Chart 4-E shows a continual decline in railroad demand as compared to total transportation demand over the last ten years. The only exception has been [illegible]ing the oil crisis of 1973-1974.

CHART 4-D

TRANSPORTATION IS A DERIVED DEMAND



*Deflated by use of GNP implicit price deflator.

Source: Department of Commerce, Railroad Reports to ICC

CHART 4-E

RAILROAD DEMAND HAS LAGGED BEHIND TRANSPORT DEMAND

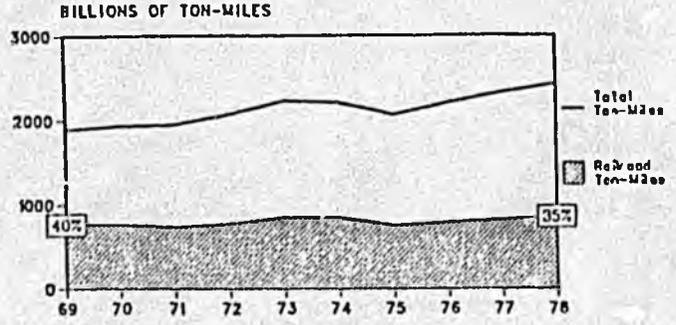
Year	Total intercity ton-miles (billions)	Railroad ton-miles (billions)	Railroad tons (millions)
1969	1,895	768	1,073
1970	1,936	765	1,085
1971	1,954	740	1,091
1972	2,073	777	1,148
1973	2,232	852	1,237
1974	2,232	851	1,231
1975	2,066	754	1,095
1976	2,209	794	1,107
1977	2,311	826	1,150
1978	2,417	858	1,189
Index			
1969	100	100	100
1970	102	100	101
1971	103	96	94
1972	109	101	98
1973	118	111	104
1974	117	111	104
1975	109	98	95
1976	117	103	96
1977	122	108	95
1978	129	112	94
Average annual change	3.7	1.1	(0.7)

Source: Railroad reports to the ICC and Transportation Association of America.

Chart 4-F graphically shows the lack of growth in rail ton-miles. As a matter of fact, the railroads' share of ton-miles has dropped from 40 per cent in 1969 to 35 per cent in 1978.

CHART 4-F

THE RAIL SHARE OF TOTAL INTERCITY FREIGHT TRAFFIC HAS DECREASED



Source: Railroad Reports to ICC

The degree to which railroads are regulated adversely affects their ability to compete with other modes of transportation. About 2/10's of one per cent of the traffic on the Great Lakes is regulated, 3.7 per cent of the traffic using domestic deep sea ports is regulated; 16.3 per cent of the river and canal traffic is regulated; 44 per cent of truck ton-miles is regulated; 84 per cent of pipeline ton-miles are regulated; and 100 per cent of railroad ton-miles are regulated. Needless to say, the extent of regulation over rails is greater than over any other mode of transportation. Rate regulation has significantly weakened the railroads' ability to be price competitive in capturing or retaining traffic.

Before the enactment of the 4-R Act in 1976, every shipper could file a complaint with the Commission that a rate was not "just and reasonable." Whether or not the Commission upheld his complaint, the shipper was able to almost completely thwart individual rate increases and because of this, there was a natural reluctance by railroads to drop prices in order to meet competition. The 4-R Act attempted to alleviate the pervasive chilling effect that rate regulation had on railroad pricing responsiveness in competitive markets. It did so by preserving rate regulation only where the rail carrier was market dominant. In 1977, the Interstate Commerce Commission announced three standards to be used in market dominance determinations:

Revenue to variable cost ratio test;
70 per cent rail market share test; and
Substantial shipper investment in rail related facilities.

This initial market dominance test did little to free up pricing on a movement-by-movement basis because from 45 to 97 per cent of the representative commodities making up the bulk of railroad business fell within the area of regulation. Chart 4-G shows how specific commodities fared under the Commission's original test.

CHART 4–G

ESTIMATED PERCENTAGE OF RAIL MOVEMENTS EXCEEDING MARKET DOMINANCE CRITERIA, 1977[1]

Representative commodity[2]	Market share >.70 percent[3]	Revenue/cost >1.6[4]	Substantial investment test[5]	Range of commodities susceptible to market dominance[6]
Wheat	77	43	12	77-100
Fresh vegetables	24	----	----	24-25
Iron ore	68	58	55	68-100
Bituminous coal	55	22	25	55-100
Construction aggregates	22	6	13	22-41
Industrial sand	22	21	4	22-47
Wheat milling products	24	7	15	24-46
Canned vegetables and fruit	24	7	3	24-34
Wood chips	45	8	----	45-53
Lumber	45	26	1	45-72
Pulpboard	74	28	22	74-100
Organic chemicals	31	51	83	83-100
Petroleum refinery products	6	44	85	85-100
Cement	41	24	20	41-85
Coke	11	17	30	30-58
Manufactured iron and steel	58	58	----	58-100
Auto parts	82	52	----	82-100
Iron scrap	84	31	6	84-100
Total commodities	45	27	25	45-97

[1] This analysis is taken from the report on the "Impact of the 4–R Act Railroad Rate-making Provisions" done by the ICC in 1977. Revenue/cost ratios at 1977 levels are from the report of A. T. Kearney for the ICC, "A study to perform an in-depth analysis of market dominance and its relationship to other provisions of the 4–R Act," April 1979.

[2] The major commodities used in this comparison are representative of the commodity groups reported in the weekly railroad reports—the CS54. These commodities represent approximately 53 percent of all rail tonnage moved. (From 1977 5-percent waybill statistics.)

[3] This market share analysis is based on the 1972 Census of Transportation augmented by a special study done for DOT by Jack Faucett Associates to include both commodities. The market share test in the market dominance category is based solely on intercity freight tonnage moved.

[4] According to Section 202 of the 4–R Act, rail movements with revenue/cost ratio exceeding 1.6 are subject to the Market Dominance provision.

[5] The substantial investment test performed by A. T. Kearney was based upon a shipper receiving loads in private cars and receiving multiple car shipments (greater than 5). This test is an arbitrary estimate of substantial investment by a shipper and may, for example, understate investment for manufactured iron and steel products and auto parts.

[6] The range in percentage of traffic subject to market dominance was determined for the 3 individual market dominance tests. For example, the upper and lower bound for wheat traffic is from 77 percent (from market share test assuming all traffic failing the revenue/cost and substantial investment test is included, i.e. the 77 percent) to 100 percent (77 percent market share test) plus 43 percent (revenue cost test) plus 12 percent (substantial investment test) equals 100 plus percent.

Chart 4–H shows the results of market dominance cases from 1976 through 1979. Of the 48 cases brought, 21 were cases in which the Commission permitted suspension of rates during the adjudication of the case.

CHART 4–H

RESULTS OF MARKET DOMINANCE CASES (1976–79)

Commodity	Suspensions				No suspensions			
	Number of cases	Number of cases ruling— Market share test	Revenue/cost test	Sub. inv. test	Number of cases	Number of cases ruling— Market share test	Revenue/cost test	Number of cases
Chemicals	5	5	5	5	3	2	2	---- 1
Coal	6	5	4	3	13	8	2	---- 6
General merchandise	4	3	1	1	7	5	2	----
Minerals and ores	2	2	1	----	1	1	1	----
Iron and steel	2	1	1	1	----	----	----	----
Other	2	2	----	----	3	3	----	----
Total	21	18	12	[1]3	27	19	7	6

	Suspended[1] (percent)	Not suspended (percent)
Market share test	45	59
Revenue/cost test	30	22
Substandard investment test	25	19

[1] This column refers to the percentage of each particular market dominance test to the total number of tests applied in all the cases. For example, in the 21 cases in which rates were suspended, 40 different market dominance tests were used to protect the rates in question. Of these 40 tests, 18 (45 percent) were of the market share test, 12 (30 percent) were the revenue/cost test, and 10 (25 percent) were the substantial investment test.

Not only was the Commission's original market dominance test only a slight relaxation in rate regulation, but also the Commission's suspension power continued to further thwart ratemaking on an individual commodity or movement basis. The Commission, once a complaint has been filed or on its own motion, can investigate a rate and, during its investigation, it can suspend the use of that rate. Both the investigation process and the suspension process have tended to discourage flexible price adjustments. This lack of pricing flexibility and selectivity has undoubtedly contributed to the railroad's inability to price competitively, while at the same time assuring an inadequate return on investment.

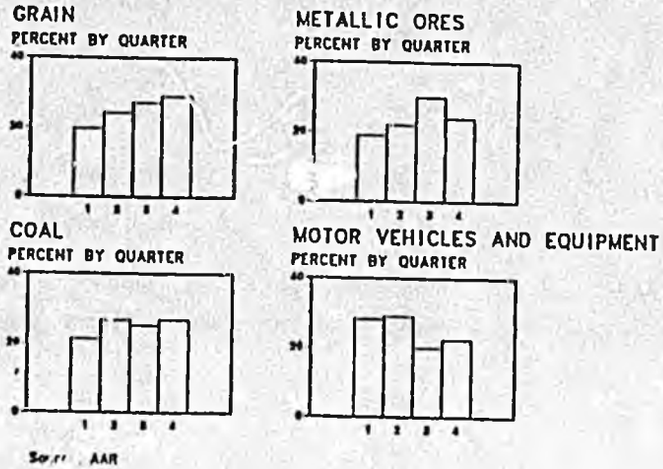
THE NEED FOR FLEXIBLE PRICING

As shown in Chart 4–I, demand for rail traffic is affected not only by competition from other modes, but also by market fluctuations and seasonality.

The demand fluctuations between commodities vary from year to year as well as on a seasonal basis. The year to year fluctuations of railroad demand among commodities simply shows that we have a dynamic economy. No harm would come from this phenomenon were it not for the fact that railroad rates, being completely regulated, cannot be selectively adjusted—quickly—so as to pick up revenue in one area in order to compensate for slack in another area.

COAST 6-E

DEMAND FOR RAIL TRAFFIC IS AFFECTED BY MARKET FLUCTUATIONS AND SEASONALITY: PERCENTAGE OF CARLOADINGS BY QUARTER IN 1975



Source: AAR

RAILROAD DEMAND FLUCTUATES AMONG COMMODITIES

[Millions of tons originated]

	STCC	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
Commodity:											
Farm products	01	319.3	334.2	321.8	375.8	356.1	342.2	334	435.4	421.9	428.7
Metallic ores	10	126	126.7	110.4	110.0	125.1	126.5	106.4	97.9	83.2	112.5
Coal	11	383.0	404.6	360.6	375.0	376.1	390.8	407.6	407.5	414.9	383.1
Nonmetallic minerals	14	171.4	161.3	157.8	164.7	170.5	171.0	150.6	135.6	139.6	134.7
Food and kindred products	20	107.7	110.1	106.4	106.1	106.0	107.3	100.2	101.9	98.7	95.4
Lumber and wood products	24	99.9	101.9	104.7	110.0	108.9	105.3	88.6	99.6	99.3	95.1
Pulp, paper and allied products	26	42.5	42.5	42.2	44.3	46.5	48.2	40.6	44.2	44.9	41.6
Chemicals and allied products	28	92.1	91.6	90.8	95.2	97.1	101.4	91.4	100.7	101.2	106.7
Petroleum and coal products	29	36.6	36.3	34.2	48.0	52.6	53.0	45.8	46.4	46.2	44.4
Stone, clay and glass products	32	77.9	73.1	69.9	73.5	72.6	68.0	56.8	57.3	59.9	59.9
Primary metal products	33	87.1	82.2	72.1	60.5	71.4	70.3	51.4	53.1	55.2	60.1
Transportation equipment	37	28.8	24.2	29.5	31.4	34.3	29.8	27.3	32.6	33.1	32.2
Waste & scrap material	40	41.8	39.8	37.5	39.8	44.7	48.1	38.2	27.5	36.1	37.8
Index:											
Farm products	01	100	112	107	105	133	119	113	113	102	108
Metallic ores	10	100	100	87	87	99	100	84	77	66	89
Coal	11	100	106	94	98	98	102	106	106	108	100
Nonmetallic minerals	14	100	94	92	96	99	100	88	79	81	79
Food and kindred products	20	100	102	99	99	98	100	93	95	92	89
Lumber and wood products	24	100	102	105	110	109	105	89	100	99	95
Pulp, paper and allied products	26	100	100	99	104	109	113	96	104	106	97
Chemicals and allied products	28	100	99	98	103	106	110	99	109	113	116
Petroleum and coal products	29	100	105	99	139	152	153	132	134	134	128
Stone, clay and glass products	32	100	94	89	94	93	87	73	74	77	77
Primary metal products	33	100	94	83	70	82	81	59	61	63	69
Transportation equipment	37	100	84	102	109	119	103	95	113	117	112
Waste and scrap material	40	100	95	90	95	107	115	91	90	86	90

Source: Railroad reports to the ICC.

Railroads have attempted to compensate for the lack of rate flexibility by relying on general rate increases in order to keep going. At present, general rate increase requests by the railroad industry have become almost a matter of course at the Interstate Commerce Commission. Most general rate increases have been approved by the Commission in an effort to increase railroad revenue. Unfortunately, the general rate increase is a poor substitute for pricing in a competitive market having fluctuating transportation demands.

Railroads attempt to minimize loss of business as a result of general rate increases by flagging out particularly sensitive traffic. The progressive decline in rail's share of intercity transportation of freight is clear evidence of the industry's inability to keep freight from being diverted to a competitive mode by flagging out or not passing on a general rate increase to competitive customers.

CONCLUSIONS

The rail market has not diminished because the demand for intercity freight traffic has diminished. The demand for intercity freight traffic has tripled since 1947. The demand for rail service appears to have declined because of a combination of factors rising out of the railroad's interdependence upon one another; the chilling effect of regulation on price competition and a capital need shortfall which creates a vicious cycle of deteriorating plant causing poor service and loss of shippers causing loss of revenue which further erodes the funds necessary to stem the deterioration of plant and facilities.

PART 5—RAILROAD RATES AND COAL

RAILROAD RATES

Railroad rates are simply the price that a railroad charges for carrying freight from one place to another. In that respect—but only in that respect—railroad rates are no different than charges made for any other service or prices charged for any product in a grocery store.

In all other respects, railroad rates are far different from charges for services or prices for products. The first difference is that railroad rates are regulated. The railroad industry has in effect had price controls ever since the Interstate Commerce Act was enacted in 1887. With price controls, there is the inevitable requirement of filing, publication, and formal procedure for any price change.

The other major difference between railroad rates and prices or charges used in other businesses is the sheer number of rates which must be listed, published, and billed. It has been estimated that as many as a trillion rates are filed within the Interstate Commerce Commission. The neighborhood supermarket, on the other hand is probably working with no more than 400 to 500 different items to price. The railroad industry is working with different rates or charges between virtually every city and town in America and those rates have further differences based on the commodity to be shipped and a

number of other variables, including how it is to be shipped, in what, when, and hundreds of other peculiarities or conditions ranging from car cleaning to special servicing. The sheer number of rates on file at the Commission is mind-boggling. It is also a direct product of long-term comprehensive price regulation. The complexity of railroad rates arising out of the sheer number of rates and requirements for filing and publication is further complicated because of the process used in establishing or changing rates. Approximately 70 per cent of all traffic on the railroads is interchanged and thereby travelling under a joint rate. A joint rate is one which is agreed upon by two or more rail carriers. Each carrier must agree to the rate and once the rate is fixed, no carrier can change the rate unless all other participants in the movement to which the rate applies agree. As a practical matter, then, collective ratemaking became inevitable if for no other reason than to deal with an unwieldy ratemaking system.

The rate bureau is the mechanism used by the industry for collective ratemaking. The Commission, acting pursuant to the Reed-Bullwinkle Act (1948), reviews rate bureau agreements entered into by the carriers and approves, rejects, or modifies such agreements. Once the Commission approves an agreement, practices permitted under the agreement are given immunity from the anti-trust laws. This immunity protects both carriers and shippers with respect to their rate bureau activities.

Because rate bureaus are the machinery used to keep the unwieldy railroad pricing system afloat, they often become the focal point for railroad ratemaking reform. The 4-R Act placed some restrictions on the type of agreements that the Commission could approve under Section 5(a) of the Interstate Commerce Act, i.e., the Reed-Bullwinkle Act provision. Those restrictions included the right for a carrier with a single line rate to institute independent action on his single line rate even if carriers in a parallel joint line rate did not agree. There is—and always has been—some independent action whereby certain carriers would publish single line rates that differed from parallel joint line rates. For the most part, however, the changes in rate bureaus under the 4-R Act did not affect the basic workings of a rate bureau in the railroad pricing system.

In the last decade, the railroad industry has relied primarily upon general rate increases in order to increase their revenue. In that environment, the rate bureau serves as a meeting place for determining hold-downs or flag-outs for certain commodities or movements affected by a general rate increase. (The reason for a hold-down or flag-out is that the particular movement or commodity group could not safely absorb a rate increase, i.e., the traffic would go to another mode rather than pay the increase). Of course, the rate bureaus also dealt with new rates which are constantly being added to the trillions of published rates already filed with the Commission.

As an offshoot of its price-setting function, the rate bureau publishes rates which are made available to the shipper. The rate publishing function is generally accepted and useful to both carriers and shippers. In short, the current system of rate bureau rate publication facilitates public knowledge of any rate change.

When one analyzes most criticisms made of rate bureaus, it becomes apparent that the criticism is not of the rate bureau as such but rather

is a criticism of the tangled web which makes up the railroad pricing system generally. The tangled web of railroad prices becomes a multilayer of tangled webs because, once in place, joint rates become virtually immune to selective or individual changes. As previously pointed out, each carrier who participates in a joint rate has a veto power over any change in that rate. This rigidity in the rate is disadvantageous to the shipper in that the rate is unlikely to change even to meet competition. And it is disadvantageous to each railroad because it fails to result in pricing which more adequately reflects charges that have a relationship to value of service. In short, the rate procedure itself, rather than the marketplace, controls the price decisions, even if circuitous routes result, thereby eroding efficiency.

THE DISTRIBUTION OF RAILROAD PRICES

Railroad pricing is completely regulated under the Interstate Commerce Act, which mandated that rates must be "just and reasonable." As previously pointed out, the 4-R Act began to move the "just and reasonable" determination away from the specific determination of reasonableness in every case to a system which presumed reasonableness where there was competition among providers of the transportation. The "market dominance tests," as now proposed by the Commission, would deem all traffic which yielded to the railroad revenue equal to less than 150 per cent of the variable cost to be reasonable without any Commission review. Traffic having a revenue to variable cost ratio between 150 and 180, would be presumed to be competitive and the shipper would have a burden of showing that such rates were unreasonable. Variable cost has thus become an important consideration in determining the reasonableness of railroad rates. Variable cost represents the cost of the railroad for a particular movement, e.g., fuel, labor costs. It does not include the fixed costs to the railroad. The Commission has determined that for railroads to receive an adequate rate of return, all traffic carried by the railroad would have to be charged at a rate which produced revenue equal to about 150 per cent of the variable cost (at present, the average ratio of revenue to variable cost for all traffic on the railroad is about 127 per cent).

There are two major reasons why all traffic on the railroads cannot be charged a rate which produces revenue equal to precisely 150 per cent of the cost of the particular movement. First, competition from other transportation modes is available to most shippers. The very price competitive nature of transportation services results in the rate being held down. Second, certain commodities or shipments simply cannot remain in the marketplace if the rate becomes too high for the product.

Since it is impossible for everything moving on the railroad to be charged exactly the same price, railroads have used differential pricing, which is used by most businesses—whether or not regulated.

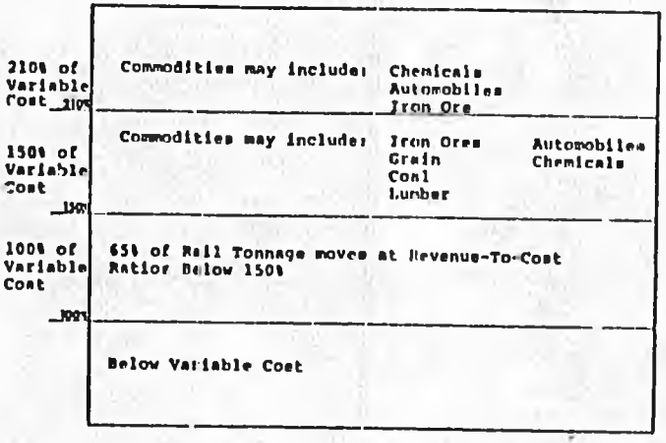
In differential pricing, the seller in effect allocates a larger portion of his overhead to certain transactions than others in order to be competitive. For example, an automobile manufacturer may allocate $3,000 of the cost of overhead to the price charged for its luxury car while allocating only $300 of overhead for the price charged for its

economy car. Since more economy cars are sold than luxury cars, the aggregate contribution of revenue to the overhead or fixed expenses of the car's manufacturing company may be greater from the sales of the economy car than from the sale of the luxury car. The purchaser of luxury car would have to pay considerably more for his car were it not for the contribution to fixed expenses by purchasers of economy cars. Differential pricing tends to optimize the advantage for all users of the service or purchasers of the goods.

Differential pricing in a regulated industry can become distorted because regulatory forces become controlling rather than market forces. In other words, rates can be kept down on certain commodities even though that commodity could absorb the higher rate if only market forces were controlling. In the railroad industry, the long-term effect of rate regulation has been to minimize the beneficial effects that can accrue from differential pricing. Nevertheless, differential pricing is used and a considerable contribution is made to the fixed cost and overhead of the railroad industry from the movement of goods which are in competitive transportation markets. Over two-thirds of the revenues received by the railroads come from traffic which is moving at less than 150 percent of revenue to variable cost—the fully allocated cost the Commission has found is needed for the industry to receive an adequate return on investment. The following chart shows the approximate distribution of railroad rates with respect to the revenue to variable cost ratio.

Chart 5A

Distribution of railroad revenue, related to variable costs



All products in the marketplace reflect a cost for transportation. The percent of final price of products accounted for by transportation charges is relatively small. Chart 5–B below shows that percent for various products.

CHART 5–B.—*Percent of final price of products accounted for by transportation charges*

Product	*Percent*
Building paper and board	13.4
Wheat	8.1
Agricultural chemicals	7.6
Malt liquors	5.9
Wheat flour milling products	5.3
Iron and steel pipe	5.2
Manufactured iron and steel	4.8
Canned fruits and vegetables	4.1
Semifinished steel	4.0
Pig iron	3.8
Plastics products	3.8
Farm machinery	3.5
Plastic materials	3.5
Rubber	3.5
Fresh meat	2.9
Sugar	2.8
Lumber	2.5
Aluminum shapes	2.3
Cotton	2.2
Primary copper products	1.7
Textile products	1.2
Automobiles	.9

Source: Interstate Commerce Commission.

When the price of transportation affects the marketability of a product, that fact alone causes a reduction in the transportation price if the transportation company is receiving any contribution to its fixed cost from having the business.

COAL AND RAILROADS

Coal is the number one commodity carried by the railroads. In 1978, despite the UMW strike, it represented the following for the nation's major railroads:

19.3 per cent of total carloadings (4.4 million coal loadings)
13.5 per cent of gross freight revenues ($2.8 billion)

For major railroads, coal had the following impact:

Norfolk and Western—60.6 per cent of originated tonnage and 35.5 per cent of revenues;

Chessie System—57.6 per cent of originated tonnage and 32.3 per cent of revenues;

Burlington Northern—43.5 per cent of originated tonnage and 23.7 per cent of revenues;

Family Lines—30.5 per cent of originated tonnage and 18.0 per cent of revenues;

Southern Railway System—27.8 per cent of originated tonnage and 12.6 per cent of revenues.

ConRail—23.1 per cent of originated tonnage and 10.9 per cent of revenues;

Those six railroads now account for 74.9 per cent of total railroad coal revenues and 79.6 per cent of total railroad coal carloadings originated. For the railroad industry as a whole, coal accounted for 33 per cent of tonnage; 22 per cent of all carloadings, and 16 per cent of total rail revenues.

In view of the nation's efforts to become less dependent on foreign oil through the use of more coal, railroad coal rates have been carefully examined. Nationwide, railroad coal rates averaged about 1.96

cents per ton mile in 1979. One way to determine whether that rate is too high or too low is to compare it with other shipments on the railroads. As a factual matter, coal generates less revenue per ton mile than the average revenue per ton mile generated in the industry (1.96 cents per ton mile vs. nearly 3.5 cents per ton mile). Chart 5-C illustrated the low revenue level from coal as compared to total traffic and other bulk commodities.

As a matter of fact, in current dollars, rail rates for coal have lagged far behind coal prices. Chart 5-D shows how the market has been accepting a higher price for delivered coal even though the rail rate has increased very little from 1931.

CHART 5-C

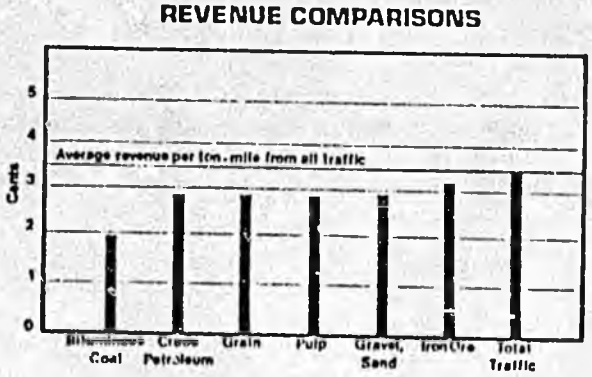
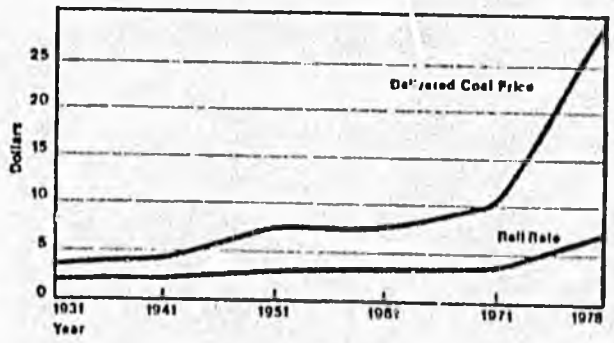


CHART 5-D



In the 1960's, oil was cheap and plentiful and coal was not the fuel of choice for many reasons. Coal prices dropped somewhat—and rail coal rates dropped with them, even further. Chart 5-E shows that by 1967, coal had dropped to $2.56 a ton (in 1959 dollars) and by 1978, has still not increased to the rate that it was in 1959.

CHART 5-E

COAL RATES

[Per ton]

Year	Average realization rates (f.o.b. mine)	Average rail rates	Total
Current dollars:			
1959	$4.27	$3.45	$8.22
1967	3.62	3.00	6.62
1978	177.46	57.32	179.72
1978/1959 (percent)	−2.1	−13.0	−2.3
1967/1959 (percent)	+369.6	+112.1	+751.6
1978/1959 (percent)	+341.8	+144.8	+799.9
Constant 1959 dollars: [1]			
1959	$4.27	$3.45	$8.22
1967	3.95	2.56	6.52
1978	19.96	53.25	173.21
1978/1959 (percent)	−17.2	−25.8	−20.7
1967/1959 (percent)	+108.8	−5.8	+650.7
1978/1959 (percent)	+152.7	+27.0	+102.6
Constant 1967 dollars: [1]			
1967	$4.62	$3.00	$7.62
1978	111.67	53.81	165.48
1978/1967 (percent)	+152.6	+27.0	+101.1

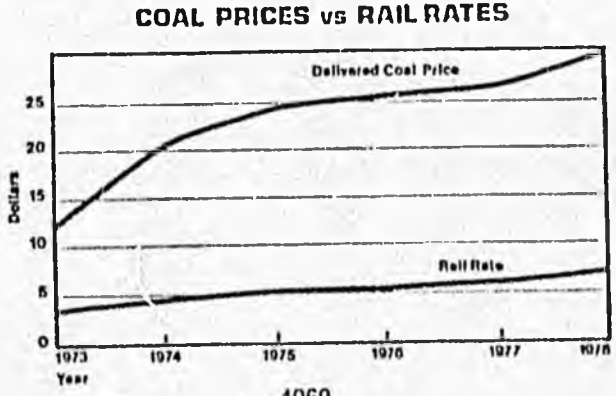
[1] Deflated by implicit price deflator, GNP.

Source: Col. 1, Department of Energy. Col. 2, Freight Commodity Statistics, ICC.

As shown in Chart 5-E, in 1967, the rail rates accounted for 40 per cent of the delivered price of coal. By 1978, the rail proportion of the cost had shrunk to less than 25 per cent. In constant 1959 dollars, rail coal rates have decreased, on the average, 5.8 per cent since 1959, while coal prices at the mine mouth have increased by over 108 per cent.

Chart 5-F shows the tremendous spread between rail rates and delivered coal prices from 1973—the beginning of oil price escalation.

CHART 5-F



Misunderstandings about rail coal rates have come about for several reasons. First, in order to get clean burning coal, longer hauls are necessary than those of the past. For this reason, a relatively low "per ton mile" rate translates into a substantial "delivered" rate. For example, a controversial "high" rate to San Antonio of $19.04 per ton delivered was produced by a rate of 1.15 cents per ton mile. This rate is well below the national average of all coal rates—but it is applied to a haul of 1,650 miles. On a revenue to variable cost basis, the San Antonio coal haul is less than 174 per cent. In other words, it is well below the mean point of 200 per cent for that ⅓ of rail traffic which is producing more than 150 per cent of revenue to variable costs. Over the long term, this will mean a further deterioration of the railroad system because of inadequate earnings. In the short term, it represents the need for the railroad industry to expend money simply to get coal traffic. All of the principal coal-hauling railroads are investing heavily in new equipment and improved track to handle the anticipated increases in coal traffic. It is estimated that 4,200 replacement coal cars will be needed each year at a cost of $127 million. Replacement needs for locomotives would be 210 each year at a cost of $123 million. In the last five years, open top hopper orders have totaled 83,373—an average of nearly 16,700 a year. Consequently, while coal traffic may be generating revenues slightly above fully allocated costs for all traffic, it is in the short term causing an increased cash outlay by the railroad industry.

COAL RATES AND ELECTRIC BILLS

Railroad transportation represents about 25 per cent of the average of the delivered price of coal to electric utilities. A ton of coal can produce about 2,182 kilowatt hours which would have a resale consumer price of $87.28. Rail transportation—at 2 cents per ton mile over a 400 mile route (the national average haul)—represents about $7.90 per ton or 9 per cent of the retail price of electricity produced from coal.

The average residential user consumes about 737 kilowatt hours per month. Thus, if rail transportation were absolutely free, it would save the consumer $8.60 per month.

PART 6.—GOVERNMENT TREATMENT OF RAILROADS

GENERAL DISCUSSION

While significant transportation legislation has been passed in recent years, the problems besetting the rail industry remain. Perhaps the key is the fact that two forces have remained largely unchanged:

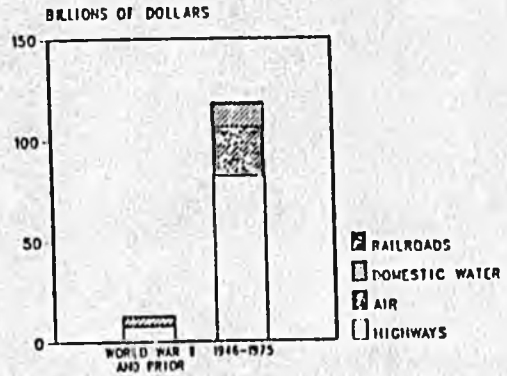
Direct Federal aid to transportation has remained heavily oriented toward the truck, water and air modes for decades.

Interstate rail traffic is almost totally regulated whereas competing modes are much less constrained by regulation.

As shown on Chart 6-A, railroads received only one percent of direct Federal aid to transportation during the 1916–1975 period. The chief source of competition, truck transportation, received 60 percent of the direct Federal aid over the same period.

CHART 6-A

RAILROADS RECEIVE RELATIVELY LITTLE DIRECT FEDERAL AID TO TRANSPORTATION



NOTE: Expenditures relate to both freight and passenger operation.

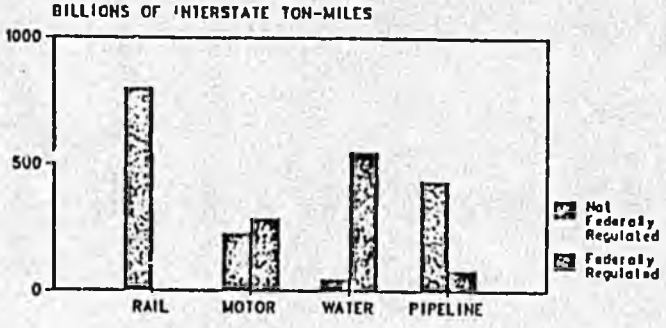
Source: Department of Transportation,
Study of Federal Aid to Rail Transportation,
January 1977.

This imbalance of aid leads to problems which are further exacerbated by the heavy burden of regulation. As Chart 6-B shows, virtually all interstate rail traffic is federally regulated while substantial proportions of competing modes are not federally regulated. The regulation of a few rail commodities has recently been relaxed, but the pattern of disparate treatment of the modes remains.

The Federal regulations of rail described in Chart 6-B refers to the regulatory purview of the Interstate Commerce Commission. However the following Federal agencies also exert control over various aspects of the rail industry.

CHART 6-B

RAILROADS ARE MUCH MORE HEAVILY REGULATED THAN OTHER TRANSPORTATION MODES



Source: ICC, 92nd Annual Report

Council on Wage and Price Stability;
Environmental Protection Agency;
Securities and Exchange Commission;
Federal Railroad Administration, DOT;
Enternal Revenue Service;
Federal Communications Commission;
Federal Trade Commission;
National Transportation Safety Board;
Railroad Retirement Board;
Equal Employment Opportunity Commission;
National Bureau of Standards; and
U.S. Department of Labor.

In addition to the constraints imposed by Federal regulations, the rail industry is also faced with multiple and diverse regulations at the state level. As Chart 6-C indicates, fifty states have individual regulatory jurisdiction over railroads. In some instances, such as Minnesota, the rail industry is regulated by more than one state agency. The scope of state regulation encompasses entry, operating authority, abandonment, rates, accounting, service safety, construction, security issues, mergers, acquisitions, insurance and reporting. It should be noted that each of these areas is also regulated at the Federal level.

CHART 6-C

REGULATION OF RAILROADS



SOURCE: 1978 Annual Report on Utility and Carrier Regulation NARUC.

FOOTNOTES TO CHART 6-C

1/ Annual reports are required to be filed showing interstate operations.
2/ Bidings.
3/ Interstate.
4/ Does not apply to authorization of Amtrak.
5/ Public crossings.
6/ Residents, facilitators, collisions, main track blockages in excess of two hours.
7/ Not subject to State regulation.
8/ Michigan Department of State Highways and Transportation.
9/ Stations and tracks.
10/ All grade crossing accidents; all railroad accidents and bridge failures resulting in loss of life or serious injury and accidents resulting in loss of property of $750 or greater.
11/ Under a reorganization plan submitted to the Legislature on September 10, 1970, all purchase and railroad regulatory and safety functions formerly performed by the New Jersey Board of Public Utilities are the responsibility of the New Jersey Department of Transportation effective January 1, 1970.
12/ Abandonments of stations and agencies only; line abandonments by other authority.
13/ Certain structures.
14/ No railroads operating under PUC jurisdiction in State of Hawaii. The PUC does have authority to regulate railroads. The only railroad now operating in Hawaii is being operated on private property--a sugar plantation.
15/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Administration Building, Montpelier, Vermont 05602.
16/ Interstate spur trackage of less than three miles in length or over which the ICC has not exercised its jurisdiction.
17/ Safety jurisdiction repealed in 1978.
18/ Annual statement required - Section 6509.11.
19/ Abandonments of stations and agencies, abandonments of car spur, industrial, town, switching or side track which has been used directly by the shipping public.

The constraints imposed by regulation have been considerable. Not the least of these constraints has been the impact on the railroads' ability to recover costs. It has been estimated that the combined effect of Federal and state regulatory lag in adjusting rates to cover inflation has generated losses of over $1 billion per year over the past two to three years.

Changes in transportation legislation and regulation have responded to both the problems of the rail industry and the increasing competitiveness of the transportation marketplace. However, these changes have proved insufficient to fully address the needs of the industry and its shippers.

TRANSPORTATION EXPENDITURES ACCORDING TO THE CONGRESSIONAL BUDGET OFFICE

The following eight tables summarize federal transportation expenditures by mode for fiscal years 1978 and 1979. Also included are estimates of expenditures by the private sector and by state and local governments for 1978. With only a few exceptions, these data represent cash outlays rather than obligations. For rapidly growing capital-intensive programs such as mass transit, there can often be a significant difference between obligations and outlays.

Tables 1 through 6 cover the major modes of transportation: highways, air, water, railroads, mass transit, and pipelines, respectively. Table 7 presents federal expenditures that could not be easily assigned to a single mode, the Office of the Secretary of Transportation and the Interstate Commerce Commission, for example. Table 8 summarizes federal expenditures for 1978, comparing them with private expenditures and with private plus government expenditures combined.

In examining these tables, several limitations should be kept in mind. First, although federal expenditures are calculated from the federal budget in a relatively straightforward way, private, state, and local expenditures are estimated from a variety of sources. The estimates of expenditures by state and local governments are particularly uncertain because of the wide range in the quality of data provided by the different governments and because of the difficulty in separating federal transfer payments from true state and local expenditures.

Second, opinions vary about the exact definition of federal expenditures. Several modes, international shipping and passenger and freight railroads, for example, receive significant federal aid in the form of loan guarantees. These do not usually represent a federal cash outlay unless the loans default. In the attached tables, loan guarantees are not included in the estimate of federal expenditures, but are included at the bottom as important, supplementary aid. Tax expenditures, however, are included in federal expenditures since they represent federal revenues foregone. The largest federal transportation expenditure, the deductibility of state and local fuel taxes for non-

business purposes, has since been repealed, but was in effect in 1978 and 1979.

Third, opinions also vary over whether or not user charges should be netted out of federal expenditures. Government expenditures for two modes, highways and air transportation, are financed in large part by user charges. At the federal level, the Highway Trust Fund and the Airport and Airway Trust Fund are the financing mechanisms used. Because of these user charges, federal and state and local government expenditures are presented on both a gross basis and a net basis after subtracting the user charges from gross expenditures. Private expenditures have been adjusted accordingly to maintain the same total level of private plus public expenditures.

Finally, user charges also raise questions of the proper allocation of costs and tax receipts among the various submodes. A recent study by the Federal Aviation Administration [1] indicates that general aviation (primarily private business planes) paid only about 14 percent of their share of Federal Aviation Administration expenditures in 1978. In contrast, commercial air carriers, largely through the 8 percent excise tax on passenger tickets, covered their share of Federal Aviation Administration expenses. There is no comparable, up-to-date study of federal highway expenditures, although the Department of Transportation is currently conducting a major highway cost allocation study. Findings are not yet available from this study although studies completed in the 1960's indicated that the heaviest classes of trucks did not fully pay their way.

The summary of expenditures shown in Table 8 is necessarily more aggregated than that of the earlier tables because of data limitations. This aggregation may mask substantial variations among the segments of the industries shown. For example, the water mode includes several quite different submodes, including commercial inland waterway users, deep-draft vessels and recreational boating. The final two columns that compare federal expenditures to private expenditures and to total expenditures, represent averages. If reliable data were available by submode, the results for some segments of the industry could differ substantially from the reported value, with the inland waterway industry probably showing a ratio of federal expenditures to private about three times that shown for water transportation as a whole, and the other submodes showing ratios substantially less than the average. A similar problem arises when considering federal railroad expenditures. As shown in Table 8, federal expenditures for rail passenger service (Amtrak and the Northeast Corridor project) are 2½ times private expenditures while federal expenditures for the rail freight industry are only about 4 percent the size of private expenditures. Even here, if freight expenditures were broken into aid to Conrail and other rail aid, the results would show a much lower ratio between federal and private expenditures for non-Conrail railroads—probably around 1 percent.

[1] Federal Aviation Administration, *Financing the Airport and Airway System: Cost Allocation and Recovery*, November 1978.

TABLE 1.—HIGHWAY MODE EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures:[1]		
Passenger transportation:		
Automobiles and trucks	228,868	NA
School buses	2,740	NA
Intercity buses	1,119	NA
Taxi and other	2,226	NA
Subtotal, passenger	235,037	NA
Freight transportation:		
Intercity truck:		
ICC-regulated	36,500	NA
Non-ICC-regulated	43,059	NA
Local truck	67,630	NA
Rail	295	NA
Subtotal, freight	147,484	NA
Total, private	382,441	NA
State and local government:[2]		
Gross expenditures	22,849	NA
User fees	16,617	NA
Net expenditures	6,176	NA
Federal Government:[3]		
Federal Highway Administration (Department of Transportation):		
Federal-aid highways[4]	5,876	6,875
Other FHWA[5]	193	247
National Highway Traffic Safety Administration (Department of Transportation)	210	247
Bureau of Indian Affairs (Department of Interior):		
Road maintenance	11	13
Indian road system	76	78
Bureau of Land Management (Department of Interior): Access roads	9	5
National Park Service (Department of Interior)	46	47
Forest Service (Department of Agriculture):		
Forest roads and trails	383	387
Less user fees[6]	270	246
Net expenditures	114	101
Economic Development Administration[7] (Department of Commerce)	695	793
Small Business Administration	14	57
Appalachian Region Commission	185	192
Tax expenditure—deduction of State and local gasoline tax as nonbusiness expense	970	350
Gross Federal expenditures	1,299	8,693
Highway trust fund receipts[8]	1,567	8,646
Net Federal expenditures	732	647

[1] Calendar year.
[2] Fiscal year. Excludes Federal expenditures except for about $850,000,000 in general revenue sharing. Estimates of user fees includes interest earned but exclude effect of bond proceeds and debt repayment.
[3] Fiscal year. In addition, for 1978, about $850,000,000 of general revenue sharing funds were used for highways. These funds are included in State and local expenditures. No estimate is available for 1979.
[4] Excludes use of Interstate transfers for highways (included in mass transit data) but includes use of urban system program funds for transit.
[5] Excludes Dingell-Cap and territorial highways since they are outside the continental United States, excludes miscellaneous trust funds supported by user fees, and rural highway public transportation demonstration program (included in transit). These programs totaled $16,900,000 and $15,600,000 in 1978 and 1979 respectively.
[6] Excludes roads built with revenues from Oregon and California grant lands and other grant lands.
[7] Includes 10 percent of National Forest receipts set aside as permanent appropriation for roads, and timber purchaser roads and other roads built by the Forest Service but financed by private business.
[8] Includes $683,000,000 and $763,000,000 for 1978 and 1979 respectively for local public works program. Some of these funds may be included in State and local spending.
[9] Includes interest earned on cash balance in trust fund.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. State and local government expenditures from Federal Highway Administration, Highway Statistics 1978, table III-10. Federal expenditures from The Budget of the United States Government for fiscal year 1980 and 1981 and from supporting documents.

TABLE 2.—AIR TRANSPORTATION EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures:[1]		
Passenger transportation:		
General aviation:		
Aircraft	1,716	NA
Operating costs	3,917	NA
Commercial aviation:		
Domestic	12,098	NA
International	6,399	NA
Subtotal, passenger	27,130	NA
Freight transportation:		
Domestic	1,729	NA
International	925	NA
Subtotal, freight	2,654	NA
Total, private expenditures	29,784	NA
State and local government:[2]		
Gross expenditures	1,348	NA
User fees	1,250	NA
Net expenditures	98	NA
Federal expenditures:[3]		
Federal Aviation Administration (Department of Transportation):		
Capital	630	657
Operating[4]	1,657	1,723
Other	465	650
Civil Aeronautics Board:		
Operating subsidies	95	98
Other	7	6
National Aeronautics and Space Administration[5]	328	264
Department of Commerce[6]	38	38
Department of State: U.S. participation in International Civil Aviation Organization[7]	*	8
Total, Federal expenditures	3,127	3,237
Airport and airway trust fund receipts[8]	1,545	1,809
Net Federal expenditures	1,582	1,428
New loan guarantees	41	8

[1] Calendar year.
[2] Fiscal year.
[3] Net of user fees for operation and maintenance of Washington Metropolitan airports.
[4] Costs and obligations. In addition, part of the Department of Defense research and development expenditures has eventual benefits for civil aviation.
[5] Economic Development Administration ($13,000,000 and $10,000,000 in 1978 and 1979 respectively,[1] and National Oceanic and Atmospheric Administration (for charts and weather service).
[6] Obligations.
[7] Includes interest earned on cash balance in trust fund.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. State and local government expenditures from Bureau of the Census, Government Finances in 1978-79. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 2.—WATER TRANSPORTATION EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures:[1]		
Passenger transportation:		
Recreational boating	6,690	NA
Commercial domestic	29	NA
Commercial international	2	NA
Total, passenger	6,991	NA
Freight transportation:		
International	7,303	NA
Coastal and intercoastal	1,512	NA
Inland waterways	1,316	NA
Great Lakes	493	NA
Total, freight	10,624	NA
Total, private	17,615	NA
State and local government (1977)	768	NA
Federal Government:[2]		
Coast Guard (Department of Transportation):[3]		
Operating expenses	657	726
Capital expenses[4]	137	132
Other[5]	46	45
Saint Lawrence Seaway (Department of Transportation)[6]	(3)	(3)
Corps of Engineers (Department of Defense)		
Construction[7]	446	573
Operations and maintenance	485	529
Maritime Administration (Department of Commerce):		
Ship construction subsidy	157	201
Operating differential subsidy	303	301
Other[8]	46	138
National Oceanic and Atmospheric Administration (Department of Commerce)	12	13
Economic Development Administration (Department of Commerce)	30	37
Small Business Administration	16	12
Tax expenditure—Deferral of tax on shipping companies	80	75
Total Federal expenditures	2,407	2,845
Loan guarantees (Maritime Administration)[9]	1,284	459

[1] Calendar year.
[2] Fiscal year.
[3] Excludes defense related activities such as retired pay and reserve training and also excludes operating expenses for enforcement of laws and treaties, marine science and polar ice operations, and military readiness.
[4] Includes acquisition, construction and improvements for all programs and alteration of bridges.
[5] Research, development, test and evaluation, State boating safety grants, and pollution fund. Excludes miscellaneous small trust funds.
[6] Includes revenues of $10,000,000 and $11,000,000 in 1978 and 1979 respectively. Excludes any interest on over $110,000,000 in Federal funds used in original construction of seaway.
[7] Does not include navigation share of multi purpose power projects.
[8] Research and development, operations, and training, and net outlays for Federal ship financing fund, and other smaller funds.
[9] At the end of 1979, there were $6,700,000,000 in loan guarantees and commitments outstanding.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Recreational boating estimate from National Marine Manufacturers Association. State and local government expenditures from Bureau of the Census, Government Finances in 1976-1977. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 4.—RAILROAD EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures:[1]		
Rail freight	20,993	NA
Loading and unloading freight cars	1,531	NA
Rail passenger	368	NA
Total, private	22,892	NA
State and local government expenditures[2]	NA	NA
Federal Government expenditures:[3]		
Federal Railroad Administration (Department of Transportation):		
Amtrak	216	228
Northeast corridor	204	199
Rail freight[4]	120	155
Other[5]	87	97
United States Railway Association:		
ConRail and other railroads[6]	809	738
Administration	19	21
Railroad Retirement Board:		
"Windfall" payment to railroad retirement trust fund	250	313
Regional rail transportation protection (labor grants)	90	72
Economic Development Administration: Department of Commerce	10	10
Tax expenditures—5-year amortization on rolling stock	(40)	(45)
Total Federal expenditures	2,250	2,367
Loan guarantees[7]	160	323

[1] Calendar year.
[2] No comprehensive data available. Expenditures are believed to be small, about $100,000,000.
[3] Fiscal year.
[4] Rail service assistance, railroad rehabilitation and improvement financing (includes redeemable preference shares), and Alaska Railroad (net of revenues of $29,000,000 and $25,000,000 in 1978 and 1979 respectively).
[5] Administration, railroad safety and research and development.
[6] Off-budget loans represent $69,000,000 and $30,000,000 in 1978 and 1979 respectively. Some of these loans are to railroads other than ConRail.
[7] These represent new loan guarantees and have not been adjusted for any loan guarantees canceled during the year. At the end of 1979 a total of over $1,600,000 in loan guarantees were outstanding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Rail passenger expenditures from "Railroad Fact Book," Association of American Railroads. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 5.—TRANSIT EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures[1]	2,761	NA
State and local governments[2]	2,155	NA
Federal expenditures:[3]		
Urban Mass Transportation Administration (Department of Transportation)		
Capital[4]	1,260	1,567
Operating	618	767
Other[5]	155	128
Washington Metropolitan Area Transportation Authority[6]	169	84
Total, Federal expenditures	2,102	2,546

[1] Calendar year.
[2] State and local operating assistance for 1978 as estimated by American Public Transit Association. Net State and local capital assistance for 1977 estimated by subtracting Federal capital outlays from total State and local capital expenditures as estimated by the Bureau of the Census.
[3] Fiscal year.
[4] Includes highway use of Interstate transfer grants but excludes transit use of urban system highway funds (included in highways).
[5] Research and development, planning, administration, and rural highway public transportation demonstration.
[6] $49,000,000 and $61,000,000 in 1978 and 1979 respectively represents Federal share of debt service on $97,000,000 in bonds guaranteed by the Federal Government. Rest of expenditures are for capital.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from American Public Transit Association (includes commuter railroad and local portion of intercity bus). State and local expenditures see footnote 2. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 6.—PIPELINE EXPENDITURES FOR 1978 AND 1979

[In millions of dollars]

	1978	1979
Private expenditures: [1]		
Oil pipeline:		
Regulated	4,907	NA
Nonregulated	545	NA
Natural gas pipeline	2,560	NA
Total, private expenditures	8,012	NA
State and local government [2]	NA	NA
Federal Government: [3]		
Department of Transportation: Pipeline safety grants	2	2
Federal Energy Regulatory Commission [4]	15	20
Total, Federal expenditures	17	22

[1] Calendar year.
[2] Assumed to be zero.
[3] Fiscal year.
[4] Estimate based on obligations.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Oil pipeline expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Natural gas pipeline expenditures are estimated by Interstate Natural Gas Association of America. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 7.—MULTIMODAL OR UNALLOCATED FEDERAL TRANSPORTATION EXPENDITURES FOR FISCAL YEARS 1978 AND 1979

[In millions of dollars]

	1978	1979
Department of Transportation:		
Office of the Secretary	42	53
Research and Special Projects Administration [1]	4	12
Other [2]	(4)	2
Interstate Commerce Commission	65	67
National Transportation Safety Board	16	15
National Transportation Policy Study Commission	2	2
Total	124	157

[1] Excludes grants for gas pipeline safety.
[2] Working fund for Transportation Systems Center and, for 1979 only, Office of the Inspector General.

Note: Totals may not add due to rounding.

Source: Compiled by Congressional Budget Office. Private expenditures from Transportation Facts and Trends, Transportation Association of America, Quarterly Supplement, January 1980. Federal expenditures from The Budget of the United States Government for fiscal years 1980 and 1981 and from supporting documents.

TABLE 8.—COMPARISON OF FEDERAL, STATE, AND LOCAL GOVERNMENT, AND PRIVATE TRANSPORTATION EXPENDITURES FOR 1978

[In millions of dollars]

Mode	Expenditures				Federal as percent of private	Federal as percent of total
	Federal [1]	State and local	Private	Total		
Highway:						
Gross	8,799	22,743	358,277	389,799	2.5	2.1
Net of user charges	712	6,126	382,441	389,299	.2	.2
Air:						
Gross	3,127	3,348	26,989	31,464	11.6	9.9
Net of user charges	1,582	98	29,784	31,464	5.3	5.0
Water	2,067	768	17,615	20,790	11.7	9.9
Railroads (total) [2]	2,250	NA	22,892	25,142	9.7	8.8
Freight [3]	1,813	NA	22,524	24,337	8.1	7.5
Passenger [4]	4970	NA	368	1,288	250.8	31.4
Mass transit	2,182	2,155	2,763	7,100	79.0	30.7
Pipeline	17	NA	8,012	8,029	.2	.2
Total:						
Gross [5]	18,406	27,014	436,548	481,968	4.2	3.8
Net of user charges [6]	9,291	9,147	463,503	481,948	2.0	1.9

[1] Does not include estimate of interest subsidy associated with direct loans and loan guarantees.
[2] Excludes State and local capital expenditures, believed to be small (about $100,000,000).
[3] Excludes unallocated Federal railroad expenditures of $617,000,000, primarily payments to the Railroad Retirement Board.
[4] All Federal expenditures (see table 6) except for passenger-related outlays, FRA railroad safety, research and development and administrative expenses and Federal payments to the Railroad Retirement Board.
[5] Federal Railroad Administration expenditures for Amtrak and the Northeast Corridor. Excludes interest subsidy provided by Federal loan guarantees.
[6] Includes unallocated Federal expenditures of $174,000,000 (see table 7).

Source: Congressional Budget Office from tables 1 through 7.

Part 7—Employment Levels and Employee Protection in the Railroad Industry

General Employment Levels

Chart 7-A shows differences in levels of employment for the six major employee classifications as reported monthly to the Interstate Commerce Commission by Class I Line Haul Carriers. The "Percent Difference" column represents a change in the level of employment from a year earlier but does not measure unemployment.

CHART 7-A

TOTAL EMPLOYMENT—CLASS I LINE HAUL RAILROADS

Employee classification	February 1980	February 1979	Difference	Percent difference
I Executives, officials, and staff assistants	17,582	17,003	+579	+3.41
II Professional, clerical and general	90,452	90,558	−106	−.11
III Maintenance of way and structures	74,765	76,386	−1,621	−2.12
IV Maintenance of equipment and stores	104,285	107,319	−3,034	−2.83
V Transportation (other than train, engine, and yard)	20,995	21,169	−174	−.82
VI Transportation (a) (yardmasters, switch tenders and hostlers)	8,383	8,452	−69	−.82
Transportation (b) (train and engine)	140,118	141,291	−1,161	−.81
Total, all employees	460,610	466,778	−6,168	−1.32

Chart 7-B shows railroad employment on a State by State basis.

RAILROAD EMPLOYMENT BY STATES—1977

The following tabulation of railroad employment by states for 1977 covers not only the 482,731 employees of Class I line-haul railroads but also the 48,470 employees of Class II roads and the switching and terminal companies. The 17,060 employees of Amtrak and the 698 Auto-Train employees are not included.

Total employment figures for 1978 are not yet available.

The total 1978 railroad payroll in each state may be approximated by multiplying the number of employees for 1977 by $20,314, the average annual earnings of railroad employees in the United States in 1978.

Chart 7-B

Alabama	8,000	Montana	6,600
Alaska	1,000	Nebraska	13,000
Arizona	3,300	Nevada	1,000
Arkansas	6,800	New Hampshire	400
California	31,500	New Jersey	8,100
Colorado	6,300	New Mexico	2,800
Connecticut	3,400	New York	20,000
Delaware	1,100	North Carolina	6,100
Dist. of Col.	3,700	North Dakota	3,100
Florida	11,500	Ohio	33,000
Georgia	12,200	Oklahoma	4,000
Hawaii	.....	Oregon	7,000
Idaho	3,600	Pennsylvania	44,500
Illinois	47,000	Rhode Island	700
Indiana	15,900	South Carolina	4,100
Iowa	9,000	South Dakota	1,300
Kansas	14,100	Tennessee	10,500
Kentucky	15,200	Texas	29,100
Louisiana	7,000	Utah	4,000
Maine	2,300	Vermont	800
Maryland	8,400	Virginia	15,000
Massachusetts	5,100	Washington	10,200
Michigan	10,500	West Virginia	8,100
Minnesota	15,300	Wisconsin	9,000
Mississippi	4,300	Wyoming	3,000
Missouri	17,400		
		Total	531,200

Chart 7-C shows employment, payroll, and earnings in the rail industry from 1920 through 1978.

EMPLOYMENT, PAYROLL AND EARNINGS

The average number of employees for all Class I railroads decreased by 2 percent from 1977, mainly reflecting the reclassification of 14 roads, layoffs due to coal strikes and an extended railroad strike involving the Norfolk & Western.

Amtrak employment continued to climb, increasing by 10 percent over 1977. Most of these workers were formerly employed by Conrail and its predecessor companies in the operation of the Northeast Corridor properties which Amtrak has assumed.

Excluding Amtrak and Auto-Train, employment has declined 20.1 percent over the past decade while earnings per employee increased by 135 percent resulting in an 87.4 percent increase in annual payrolls.

CHART 7-C

	Number of employees (1)	Number of employees (2)	Compensation[1] (thousands)	Earnings per employee[2] Per year	Per hour
1920	.....	1,660,850	$2,896,564	$1,743	$0.67
1929	.....	967,943	1,853,503	1,896	.75
1944	.....	1,413,677	3,853,345	2,726	.98
1947	.....	1,351,961	4,350,329	3,218	1.20
1951	.....	1,726,000	5,336,194	4,102	1.79
1955	.....	1,058,716	4,993,662	4,719	1.99
1963	.....	680,035	4,629,566	6,806	2.82
1964	.....	663,034	4,697,884	7,084	2.90
1965	.....	639,861	4,793,066	7,490	3.06
1966	.....	630,815	4,857,211	7,734	3.17
1967	.....	610,151	4,911,661	8,045	3.36
1968	.....	590,536	5,110,196	8,654	3.54
1969	.....	578,277	5,367,754	9,274	3.79
1970[3]	.....	564,282	5,711,200	10,086	4.14
1971[3]	544,427	544,233	5,999,968	11,021	4.60
1972	527,235	526,961	6,424,920	12,213	5.03
1973	530,422	529,153	7,048,383	13,327	5.54
1974	533,227	525,177	7,475,634	14,235	5.94
1975	494,348	487,209	7,474,750	15,324	6.39
1976[4]	496,491	482,882	8,278,413	17,144	7.09
1977	501,389	482,731	8,939,411	18,518	7.66
1978[4]	491,251	471,516	9,578,331	20,314	8.40

[1] Includes employees of Amtrak beginning in 1971; Auto-Train for years 1972–77.
[2] Excludes Amtrak and Auto-Train.
[3] Adjusted to include retroactive wage increases.
[4] Preliminary figures. Compensation excludes estimates of retroactive wage increases not paid until 1979.

Chart 7-D shows employment and annual income by Class for 1978.

EMPLOYMENT AND ANNUAL WAGES BY CLASS—1978

Wages of train and engine service employees accounted for 35 cents of the average wage dollar paid in 1978 by Class I railroads, excluding Amtrak and Auto-Train. Wages of maintenance workers also took 35 cents, office and general personnel got 18 cents, off-train transportation employees received 7 cents, while salaries of executives, officials and staff assistants amounted to 5 cents of the payroll dollar.

CHART 7-D

Employee group	Average number of employees	Total payroll (thousands)	Average annual earnings
Executive, officials and staff	16,491	$508,675	$30,846
Professional, clerical and general	94,474	1,708,663	18,084
Maintenance of way and structures	86,233	1,488,587	17,263
Maintenance of equipment and stores	102,406	1,869,809	18,259
Transportation, other than train, engine and yard	22,478	431,318	19,231
Yardmasters, switch tenders and hostlers	8,264	178,530	21,603
Train and engine service	141,270	3,392,749	24,015
Total	471,516	9,578,331	20,314

Note: Preliminary figures. Compensation includes estimates of retroactive wage increases not paid until 1979.

EMPLOYEES PROTECTION

The Transportation Act of 1920 gave the Interstate Commerce Commission jurisdiction over railroad acquisitions, mergers, consolidations, and abandonments. In passing upon applications, the Commission was required to modify the terms and conditions of the applications to pro-

mote the public interest. In the same Act, the Commission was given the mandate to develop a rationalized and efficient railroad system. For a variety of reasons that mandate was never fully implemented and in the 1930's the national depression again focused attention on the need for rationalization of the railroad system. However, there was great concern that the nation could not take any more unemployment than it already had. Therefore, the Emergency Transportation Act of 1933, in essence placed a moratorium on job reductions resulting from railroads trying to economize during the depression by consolidating operations. In effect, all railroad jobs were protected and railroads had to fill those jobs even if they became vacant because of death, resignation, or retirement of an employee. No consolidations of operations took place under the 1933 Act, and more and more railroads hovered on the brink of bankruptcy or in fact were bankrupt.

WASHINGTON JOB PROTECTION AGREEMENT

In order to allow implementation of consolidations, mergers, or pooling of equipment or facilities, most railroad carriers and the rail unions signed the Washington Job Protection Agreement on May 21, 1936. Its premise was a simple one: the carriers' actions would result in reduced labor costs. These savings should be shared with labor to ameliorate the effects of those actions. Certain levels of protection for affected employees were agreed upon including seven major areas of protection:

1. A requirement that any railroad contemplating coordination, which is defined as joint action by two or more carriers to unify, consolidate, merge or pool total or portions of railroad facilities owned or operated by those railroads, post a notice to employees ninety days in advance, containing a full statement of the proposed coordination action including an estimate of the number of employees of each class that would be affected by the intended change.

2. A five-year protective period for employees involved in a particular coordination who are continued in service.

3. Wage protection during the protected period in the form of displacement allowances based upon test period earnings.[1]

4. Coordination allowances for those deprived of employment equaling sixty percent of average monthly compensation for a period of six months to five years depending on length of service.[2]

[1] Displacement Allowance—Washington Agreement: Each displacement allowance will be based on an average monthly allowance derived by computing the average monthly compensation and time paid over the last 12 months that the services of the employees were provided, immediately preceding the date of displacement. In determining a month's applicability, any service provided in a month makes that month eligible for inclusion in calculation. The monthly average calculated will be considered the minimum pay that the displaced employee shall earn. If any smaller amount is earned, the difference in displacement allowance will be paid. The maximum length of time for a displacement allowance is 5 years.

[2] Coordination Allowance—Washington Agreement: The coordination allowance will be based on 60 percent of the average monthly income the employee earned in the immediately preceding 12 months. The length of time for payment of the coordination allowance is determined and limited by the following schedule:

Less than 1 year: One lump sum payment equivalent to 60 days pay at the straight time daily rate of the last position held by the employee.
1 year and less than 2: 6 months.
2 years and less than 3: 12 months.
3 years and less than 5: 18 months.
5 years and less than 10: 36 months.
10 years and less than 15: 48 months.
15 years and over: 60 months.

5. An option to elect separation pay in lieu of the coordination allowance.[1]

6. Maintenance of benefits.

7. Reimbursement for relocation expenses, including losses from home sale.

There were two important limitations contained in the Washington Job Protection Agreement. First, eligibility for benefits was expressly "restricted to those changes in employment in the railroad industry solely due to and resulting from such coordination". Second, coordination was defined to mean "joint action by two or more carriers whereby they unify, consolidate, merge, or pool in whole or in part their separate railroad facilities or any of the operations or services previously performed by them through such separate facilities."

The Washington Job Protection Agreement soon became the standard for the Commission to use in approving mergers or consolidations. By 1939, the Supreme Court upheld the imposition of labor protection by the Interstate Commerce Commission using its "public interest standard" contained in the 1920 Transportation Act for a lease application between two bankrupt railroads. (*United States v. Lowden, Trustee of the Estate of the Chicago, Rock Island and Pacific Railway Company*, 308 U.S. 225,[1] 1939.) Shortly thereafter the Supreme Court upheld the imposition of "public interest" protective conditions in abandonments in *ICC v. Railway Labor Association*, 315 U.S. 373[2] (1942).

Meanwhile, Congress in the Transportation Act of 1940 added section 5(2)(f) to the Interstate Commerce Act.[3] It required as a condition to the grant of a merger, consolidation or acquisition, that labor protection be imposed for a period of four years from the effective date of the transaction. In the *Railway Labor Association* case, the Supreme Court noted that the effect of the 1940 amendments was to make mandatory the protection of workers, which had been discretionary under the Washington Job Protection Agreement. Thereafter, the ICC utilizing the Washington Job Protection Agreement as a basis, developed a series of "standard" employee protections which were more or less routinely adopted.

THE OKLAHOMA CONDITIONS

In May of 1944, the Interstate Commerce Commission issued an order that is referred to as the "Oklahoma Conditions". The *Oklahoma Railway Trustees Abandonment*, 257 ICC 177 (1944), was the first "standard" set of protective conditions. It included:

1. A monthly displacement allowance, if the employee was displaced into a worse position with the carrier as a result of the approved transaction, which generally insured the employee of monthly

[1] Separation Allowance—Washington Agreement: If the separation allowance is chosen, lump sum payments will be paid according to the following schedule:
Less than 1 year: Five days pay at rate of last position occupied for each month in which services were performed.
1 year and less than 2: 3 months pay.
2 years and less than 3: 6 months pay.
3 years and less than 5: 9 months pay.
5 years and less than 10: 12 months pay.
10 years and less than 15: 12 months pay.
15 years and over: 12 months pay.

[3] See amended text of section 5(2)(f) as contained in the discussion of The 4 R Act Amendments.

1. 60 S.Ct. 248, 84 L.Ed. 208.
2. 62 S.Ct. 717, 86 L.Ed. 904.

compensation no less than his average monthly compensation during the twelve months prior to his displacement;

2. A monthly dismissal allowance, if the employee was deprived of all employment by the carrier as a result of the transaction, which generally insured the employee a monthly compensation (after allowing for compensation from other sources) no less than his average monthly compensation during the twelve months prior to such deprivation of employment;

3. Protection of fringe benefits;

4. Reimbursement of certain moving expenses and wage loss if the employee is required to change his place of employment as a result of the transaction;

5. Arbitration of disputes; and

6. Reimbursement of certain losses on sale of his home by an employee forced to move to a new residence as a result of the transaction.

The protective period during which those protections could apply was limited to four years from the effective date of the Commission's order approving the transaction, but not to exceed the period for which the particular employee was employed by the carrier prior to that date.

Two features of the Washington Job Protection Agreement were not included in the *Oklahoma Conditions*: (1) Ninety day notice of an intention coordination, and, if the plan of coordination would result in the displacement of employees or a rearrangement of forces, the assignment of employees would be settled by an implementing agreement between the carriers and unions involved, or by arbitration if they could not agree; and (2) an authorization to dismiss employees who elect to receive a lump sum payment in lieu of all other protections.

The *Oklahoma Conditions* were imposed as recently as 1978 in trackage rights and lease cases: *Mendocino Coast Railway—Lease Operate*, 354 ICC 732 (1978); *Norfolk and Western Railway Company—Trackage Rights—BN*, 354 ICC 605 (1978).

THE NEW ORLEANS PASSENGER TERMINAL CASE

The next important case setting forth "standard" conditions arose in *New Orleans Union Passenger Terminal Case*, 282 ICC 271 (1952).

The conditions were a blend of the *Oklahoma Conditions* and the Washington Job Protection Agreement with minor changes. In particular a provision was added requiring any income derived from employment in other than the railroad industry shall be offset against the coordination allowance being paid by a specific proportion. Thereafter in the *Southern Railway Company—Control—Central of Georgia Railway Company*, 317 ICC 557 (1962), clarified 317 ICC 729 (1963) and 331 ICC 151, 161 (1967), minor changes were made to the *New Orleans Conditions* and to the *Oklahoma Conditions*.

Abandonments, while not covered by section 5(2)(f), received labor protection conditions first adopted in *Chicago, R&O Railroad Company. Abandonment*, 257 ICC 700 (1944). These conditions were in substance identical to the *Oklahoma Conditions*.

THE 4-R ACT AMENDMENTS

Congress by a 4-R Act amendment added a sentence to section 5(2)(f). The amended 5(2)(f) read as follows:

"As a condition of its approval, under this paragraph (2), of any transaction involving a carrier or carriers subject to the provisions of this part, the Commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected. Its de order of approval the Commission shall include terms and conditions providing that during the period of four years from the effective date of such order such transaction will not result in employees of the carrier or carrier by railroads affected by such order being in a worse position with respect to their employment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. *Such arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision and those established pursuant to Section 405 of the Rail Passenger Service Act (45 U.S.C. 563).* Notwithstanding any other provision of this Act, an agreement pertaining to protection of the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees." (New 4R Act material in italic)

Abandonments were given similar treatment by section 802 of the 4-R Act. Both were recodified as 49 USC 11347.

The Rail Passenger Service Act of 1970, referred to by the 4-R Act Amendments, had in section 405 provided a statutory outline for protective employee conditions. Benefits could be no less than those provided by section 5(2)(f) of the Interstate Commerce Act. The Secretary of Labor was required to certify that Amtrak's labor protection agreements met this standard. In fact, the conditions Amtrak negotiated went far beyond those that the ICC had opposed in four significant aspects:

1. The maximum protective period was extended from four to six years from the date on which a protected employee was displaced.

2. Monthly compensation guarantees created by displacement and dismissal allowances were escalated with general wage increases.

3. Once an employee came forward alleging that he had been affected by a transaction, the burden was on the carrier to show the employee had not been affected.

4. Priority rights to employment in other crafts or classes in training or retraining rights were established.

The Amtrak Conditions also provided that twenty days notice of an intended transaction was required but that implementation could take place even without an agreement. Duplication or pyramiding of benefits were prohibited.

The ICC first considered the effect of the 4-R Act Amendments in *Mo Pac-Merger-T&P, C&EI*, 318 ICC 414 (1976). It concluded, "that Congress did not intend to have the Commission significantly change its policy in this area." (At page 427). It conditioned approval upon the *New Orleans Conditions* as modified by the *Amtrak Conditions*.

NEW YORK DOCK CONDITIONS

New York Dock Railways' application to acquire the Brooklyn Eastern District Terminal was a small merger case, yet the ICC chose this as the vehicle to address the minimum labor protective conditions required in mergers, consolidations, and acquisitions. New York Dock Railway—Control—Brooklyn Eastern District, 360 ICC 60 (1979). Labor organizations had petitioned that the labor protective conditions imposed in this case become the minimum standard in all subsequent mergers, acquisitions, or controls. The determination that New York Dock's protective conditions were a matter of general transportation importance occurred after the initial decision approving the application had imposed the New Orleans Conditions as modified by the Amtrak Conditions. In reviewing the newly fashioned New York Dock Conditions, the Court of Appeals used these words to describe them: "In overall effect, the single 'New York Dock Conditions' can be fairly characterized as significantly more protective of the interests of railway labor than any previously imposed single set of employee protective conditions." *New York Dock Railway Company* v. *U.S.*, F. 2d, (Second Cir. 1979).

The ICC imposed the most beneficial protective conditions of both *New Orleans* and *Amtrak* and made three major changes not contained in either:

1. It accepted the Railway Labor Executives Association's substitute definition of "transaction" for the Washington Job Protection Agreement's "coordination". Transaction was defined to mean: "any action taken pursuant to authorizations of the Commission on which the protective provisions were imposed."

2. It required that no change in operations, services, facilities or equipment shall occur "until after notice, negotiations, agreement or binding arbitration."

3. It deleted the Amtrak provision that prevented an employee from selecting only the best portions of *New York Dock* and the best portions contained in other contractual agreements. Duplication of benefits was no longer clearly prohibited.

These three changes raise issues of interpretation and application that have not yet been resolved.

Appeals were rejected in *New York Dock Railway* v. *U.S.*, F. 2d (Second Cir. 1979). The Court held the ICC acted within its discretion in fashioning protective benefits beyond the minimum required by law. The Court, however, noted problems arose because of the definition of transaction as well as the language concerning benefit selection.

As recently as December 14, 1979, the ICC has held that these are minimum protective conditions it will impose and chose not to clarify the language mentioned by the Court. On that occasion it reopened the *Missouri Pacific Railroad Company—Merger—T&P, C&EI*, Financial Docket Number 27773, reversed itself and imposed *New York Dock Conditions*. Similar conditions were required in abandonments: *Oregon Shortline Railroad Company—Abandonment—Goshen*, 360 ICC 91 (1979).

THE MILWAUKEE AND ROCK ISLAND CONDITIONS

Failing railroads and the resulting effect on employment which would not necessarily be covered by either existing collective bargaining agreements or the Interstate Commerce Act focused more attention on job protection for railroad employees. The first example was the law granting almost complete income protection for Conrail's employees with an alternative of severance pay. Since the 250 million dollars appropriated for Conrail's employees proved inadequate, a more tailored approach was developed for the Milwaukee employees. This is set forth in the Milwaukee Railroad Restructuring Act of 1979. It provided federal assistance to pay benefits to Milwaukee employees who were adversely affected by the restructuring in the following areas:

1. 80 percent of base income protection for up to 3 years
2. Supplemental unemployment benefits
3. Moving expenses and sale-of-home benefits
4. Separation allowance
5. Preferential hiring within the industry
6. Retraining

The basic protection plan of the law was spelled out in an agreement between the Milwaukee Road and the labor organizations representing its employees on December 14, 1979.

The circumstances of the Rock Island bankruptcy were different from those of the Milwaukee, but the impact on employees was similar, and an agreement was reached on March 4, 1980, between various railroads and the labor organizations representing Rock Island employees to provide for preferential hiring of Rock Island employees and monetary protection patterned after the Milwaukee Act with certain exceptions. The agreement also covers Milwaukee employees hired by carriers acquiring segments of its lines. The following describes the major components of the agreement:

1. Carriers acquiring Rock Island or Milwaukee trackage will give preference in hiring to employees of the 2 lines to fill its needs.

2. Employees so hired will have monetary protection of 80 percent of base income for up to 3 years.

3. The labor agreements of the acquiring carrier will apply to the acquired lines.

4. Issues involving seniority of new hires will be resolved by agreement or if necessary by arbitration.

5. Moving expenses are not provided.

6. Separation pay is not an option.

7. Employees not hired have no protection provided by the acquiring carrier.

8. The protection of the agreement is the total protection available to the hired employees. It satisfies the requirements of the Interstate Commerce Act.

Legislation to provide protection similar to that in the Milwaukee law for employees of Rock Island who are not hired by a purchasing carrier is pending. The March 4, 1980, hiring agreement is already being carried out on several carriers which have been granted temporary operating authority on Rock Island lines by the ICC.

* * * * * * * * *

ADDITIONAL VIEWS OF HON. TOBY MOFFETT

I fully support title VII of the Rail Act of 1980 relating to supplemental transactions. Of particular interest to me is the provision within title VII to carry out the orderly transfer of Conrail properties in my own State of Connecticut and in Rhode Island.

In both of these States, Conrail has classified all of the lines it runs as branch lines, and the boxcar operations, which make up a majority of the freight traffic in Connecticut and Rhode Island, are losing operations for Conrail. In addition, a recent U.S.R.A./New England regional commission study found, based on 1977 data, that Conrail would have reduced its deficit by $9 million by not operating in Connecticut, Rhode Island, and southeastern Massachusetts.

For these reasons, it is appropriate that this legislation develop a procedure for transfer of Conrail lines in the two States. This bill provides that within 180 days of its enactment, the Secretary must hold a hearing to entertain proposals for acquisition of Connecticut and Rhode Island Conrail properties. In that same 180-day period, the Secretary must evaluate the proposals to see if any meet the criteria set out in this bill. If there are any such proposals, the Secretary is charged with developing them.

Key to this proposal and transfer procedure are the criteria set out in the act. Any railroad coming forward with a proposal must demonstrate that it can take over all the lines in Connecticut and Rhode Island, that it can do so with no Federal subsidy and that it has the financial capability to run the lines.

I am satisfied that these provisions will give us the procedural tools needed to accomplish an expedited transfer of rail lines in Connecticut and Rhode Island. I commend the staff and members both of the subcommittee and full committee for their support and cooperation in adopting this section of the bill.

TOBY MOFFETT.

[page 207]

SEPARATE VIEWS OF HON. JOHN E. DINGELL AND BOB ECKHARDT

The Rail Act of 1980, H.R. 7235, falls short of providing an equitable framework for regulatory reform of the Nation's railroad system.

One of the most objectionable sections in H.R. 7235 is Section 301, which is captioned "joint rate relief" and is intended to solve indirectly a problem which the major railroads are unwilling to settle directly, *viz.*, equitable divisions of joint rates on through routes among the participating railroads. Instead of resolving this problem directly and rationally, this section would resolve the issue by the strategems of either loading additional charges on shippers where they have no competitive alternatives or by eliminating competitive routes with selected connecting railroads. Either way, this section as written into the bill would sanction the exploitation of monopoly traffic by large railroads among shippers and among connection railroads, and a "big stick" approach to resolving of equities as between large and small railroads.

Surcharges.—The present pattern of regulated joint rates in the nation embodies two concepts, *viz.*, reasonableness and non-discrimination. With these safeguards in place, the existing rate structure has been constructed so as to guarantee all shippers relatively reasonable rates, in the sense that the same amount of money buys an equivalent amount of transportation for the same product throughout the country. And it has also protected one railroad customer from another who might otherwise be given preferential rates and the consequent competitive advantage in a given marketplace.

The surcharge provision of this section would change all that. If one railroad is accorded inequitably low divisions by its connections, that can be "rectified" by the imposition of surcharges on its shippers by that railroad. Even if the total charges then collected from the surcharged shipper are thus raised to an unreasonable level, he is remediless to obtain protection under the law. This is because Section 301 specifies that in the case of a surcharge the Commission will be precluded from even examining whether the total freight charges incurred are unreasonable. Thus, Section 301 is a curious solution indeed. It provides that a carrier who is treated inequitably by its railroad brother may remedy that injustice by imposing an unreasonable rate upon its shipper customer. This would be like passing a law to license anyone who is swindled out of a sum of money to go out and swindle someone else out of an equivalent amount with impunity. Even the frequently maligned concept of "an eye for an eye" conceives that the eye taken should be that of the protagonist and not that of an innocent bystander.

And this is not even the worst feature of the surcharge provision as written into Section 301. It provides rather clearly that a shipper may object to a surcharge if the surcharging carrier's present revenue

[page 208]

division is 110 percent or more of its variable cost. This conjures up an image of rationality, because when the carrier is receiving less than the 110 percent "trigger" it is obviously not being overcompensated for its services. But what has been missed by a quick reading of this provision is that there is no "cap" on the surcharge. For example, if the putative surcharging carrier's cost is $100 and its present revenue division is $109, then it falls within the trigger provision in Section 301. But what if that railroad publishes a surcharge of $101, bringing its share of the revenue up to $210, *i.e.*, $100 above 110 percent of its variable cost? Section 301, purposefully or not, would leave the shipper with no protection whatsoever against such unlimited exploitation. So long as the "trigger" of 109 percent of costs is met by the existing division of revenue, the surcharging carrier is given an unlimited carte blanche to make an excessive surcharge, and the shipper is bereft of even a right to complain about it under Section 301. This is a clear loophole in the bill which exists and will be abused by the larger railroads.

Two other discrepancies as to surcharges in Section 301 are also worth noting. The limited right to protest surcharges is given only to "shippers". Many of those most injured by Conrail's recent rounds of illegal surcharges were receivers and not shippers. Nor are communities, associations, ports, *etc.*, accorded any right to object to

excessive surcharges. Also, the protection accorded shippers under Section 301 is stated to be that the "shipper . . . may cancel the application of such surcharge". The publication and cancellation of railroad tariffs, including surcharges, is in the hands of railroads, not shippers. There is no practical way that a shipper can "cancel" a surcharge. It is not his tariff and the publishing agent works for the railroads, not the shippers.

Section 301 would also create a whole new category of second class citizens, shippers and receivers located on branch lines. Those shippers have already been subjected to poorer car supply and more sporadic service than shippers on main lines. Now the machinery for the *coup de grace* would be handed to the railroads whereby they could surcharge branch lines where their divisions do not equal 110 percent of variable cost plus "100 percent of such carrier's reasonably expected costs of continuing to operate such line." Note that this is a much higher standard which branch lines must meet to avoid surcharges than would be applicable to main lines. There is no reason for this. It has been hard enough for shippers on branch lines to stay alive without putting up a new and inequitable obstacle for them to meet.

Cancellation of routes with connections.—Section 301 would remove the present test which the cancelling carrier must meet, *i.e.*, that it is in the public interest, and instead place a burden on the injured connecting carrier to show that the cancelling carrier's revenue division equals or exceeds 110 percent of its own costs or that the cancelling carrier earns a lower division/cost ratio over another route not being cancelled. The cancelling carrier is proposing to take an anticompetitive action by cancelling its route with a targeted connecting carrier. Yet it is the victim who would be saddled with the burden of proof in order to avert the anticompetitive action. And the proof which it is mandated that the victimized carrier must produce is the cost of

[page 209]

the cancelling carrier, a matter peculiarly within the control of the cancelling carrier to produce.

Thus, while Section 301 purports to provide a semblance of protection for the connecting carriers, in reality it is so contrived as to leave them virtually helpless. To add to the anticompetitive potential of Section 301, the Bill would also cripple the anti-discrimination provision of the Interstate Commerce Act by providing in Section 208 that any discrimination practiced through cancellation of joint routes shall not be subject to the protection of the Interstate Commerce Act.

Typically, it is anticipated that this new "right" to selectively cancel joint routes with connections would be used by a large railroad, such as Conrail, against certain smaller railroads. Section 301 even facilitates this by turning the relative inefficiency of a particular large carrier against its more efficient connections. For subsection (i), Section 301, provides that the costs against which the 110 percent test shall be measured is the system average cost of the cancelling carrier and not the average cost of all carriers operating in the same railroad region. This means that even though when measured against the regional average cost the cancelling carrier's present division is 125 percent of such cost, such carrier can still cancel the joint route if its

own costs are so inefficient as to produce a revenue/cost ratio of 109 percent. It would canonize inefficiency and reward it at the expense of the more efficient connecting railroad.

The bias in Section 301 against smaller railroads is also obvious from the nature of the limited protection it offers to connecting railroads when faced with a prospective route cancellation. It would allow a connecting railroad to preclude the cancellation if it could increase the cancelling carrier's revenue division to 110 percent. But, in the case of a relatively small railroad with a haul of 200 miles or less (such as the Green Bay and Western and the Detroit and Toledo Shore) out of a transcontinental movement of 3,000 miles, there is no way that they could make up the full slack in Conrail's transcontinental divisions, even if they gave up their entire division and took nothing. On the other hand, a major railroad with a long haul of 1,500 or 2,000 miles could readily give up some of its division and frustrate the cancellation.

During consideration of the bill, the Committee adopted an amendment offered by Mr. Lee which would allow Class III short line railroads the right to bring a complaint to the Commission provided that the surcharge or rate cancellation has an adverse effect on competition or where a surcharge or rate cancellation affects the sole remaining route available to the Class III carrier and either alternative transportation is available or a shipper dependent upon the Class III carrier will suffer significant market loss or the surcharge is likely to impair a carrier's ability to earn an adequate rate of return.

The Lee Amendment provides inadequate protection to Class III short line railroads and completely fails to extend its very limited protections to medium sized Class II short line carriers. There are only 18 Class II railroads in the nation and none of them are large enough to be a serious threat to the viability of any major railroad. Yet they typically are important as regional railroads, such as the Maine Central, Green Bay and Western, and the Detroit and Toledo Shore, and

[page 210]

as such are vital to their areas of the nation. To the extent that they handle a substantial amount of business in long haul services, they provide significant options to accommodate the nation's freight and their earnings therefrom are vital to the support of these regional roads. The vital importance of these essential carriers must be considered as a framework for stronger protection for Class III short line carriers is constructed. The failure to adequately protect the economic viability of all short line railroads is a serious flaw in the bill.

JOHN D. DINGELL.
BOB ECKHARDT.

[page 211]

SEPARATE VIEWS TO THE REPORT OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE ON H.R. 7235, THE RAIL ACT OF 1980

Some of us dissented from the majority of the committee on the vote to report this bill. Others felt that the bill, having a number of desir-

able features, should be reported within the May 15 deadline and that it could be perfected on the floor. But all of us felt that the oppressive rate treatment of captive shippers by a dominant carrier allowed by Section 202 of the bill permits abuse of monopoly power.

We are filing our views in disagreement with the ratemaking provisions of this legislation because we believe that they create many more problems than they solve. We certainly share the Committee majority's concern about reforming federal railroad regulation to assist ailing rail carriers. However, the formulation embraced by this legislation will, we believe, not accomplish that purpose. Instead, the bill deregulates rates in many cases where competition is not available to protect shippers and consumers from excessive rate increases. This easy access to higher rates removes the carriers' incentives to increase the efficiency of their operations.

Moreover, the Rail Act will allow shipping rates to rise indiscriminately for both those railroads who need additional revenues and for those who do not. The legislation will impose dramatic rate increases on shippers who have no alternative means of transporting their goods, thereby placing an enormous inflationary load on American consumers who are already overburdened by an annual inflation rate of 18 percent. The adverse effects of this legislation will be felt in all regions of the country and by consumers of all types of commodities, particularly bulk commodities such as grain, coal, steel, automobile parts, and chemicals which are particularly suited for rail transport.

In addition, the Rail Act will significantly add to the current rate of energy inflation. Domestic coal supplies present one of the most important alternatives available to reduce the economy's dependence on imported energy and to check the inflationary spiral threatening our nation. Yet this bill will allow coal-hauling railroads to exploit their market power almost unchecked, converting potential consumer savings from our domestic energy supply into monopoly profits.

The legislation reported by the Committee will result in severe economic consequences because it will virtually eliminate rate regulation in markets controlled by a railroad monopoly or cartel. In 1976, Congress deregulated rates in competitive markets, overturning more than half a century of regulatory policies. The Congress, however, retained rate regulation in noncompetitive markets on the ground that "where effective competition does not exist, regulation to protect against abuse of market power must be and is retained." The Rail Act of 1980, however, proceeds to deregulate rates in most of these areas where marketplace forces are inadequate to protect shippers from excessive rates.

[page 212]

It is argued that this second deregulation effort will result in consumer benefits in the same manner as is presumed to flow from truck and airline deregulation. But the proponents of this argument fail to note that deregulation of competitive railroad markets was already accomplished in 1976 and that they are now proposing deregulation in many monopoly markets. Moreover, the railroad, trucking, and airline industries are far from parallel because of physical differences. The fact that railroad cars can run only on expensive tracks owned by individual railroads means that barriers to entry are formidable

and that the railroads, unlike motor and air carriers, frequently do not face effective competition. Further, because rail is the only feasible means for many commodities to travel, there is often no truck, barge or pipeline alternative to noncompetitive rail transport.

Supporters of this provision have sought to justify it on the basis of the weak financial condition of certain rail carriers. But we believe this bill does not address the railroads' admitted difficulties in a way that is likely to be productive either for the railroads or for the shippers and consumers of the goods moved by rail.

The legislation does not differentiate between those railroads which are financially healthy and those in need of assistance. By failing to direct the added revenues to marginal carriers, windfall profits will accrue to many carriers that are and have been generating handsome profits under the current regulatory system. This approach will impose unnecessary burdens on many domestic industries shipping by rail which are already in serious financial distress. It is wholly unwise and unfair to place needless costs on severely troubled industries, such as automobiles and steel, and to cause great increases in food prices, utility rates, housing costs and costs of other goods and services essential to our domestic economy while providing ever increasing profits to the wealthier railroads.

Moreover, the bill encourages railroads to raise rates on captive traffic rather than to minimize unnecessary costs or to increase freight traffic through more effective pricing and marketing strategies. As a result, the inefficiencies inherent in the present rail transportation system will continue well into the future and the costs of these inefficiencies will become added deadweight in the national economy.

Obstacles to ICC rate review in noncompetitive markets

The heart of our objections lies in Section 202 of the proposed legislation, which repeals the "market dominance" test of existing law and establishes a new jurisdictional test. The "market dominance" test was established under the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), and this test limits rate review to circumstances where there is "an absence of effective competition from other carriers or modes . . . for the transportation to which a rate applies." (49 U.S.C.A. § 10709).

Thus, under current law, before the Interstate Commerce Commission may find that a proposed rate is unjust or unreasonable, it must first determine that the proponent railroad has "market dominance" over the service to which the rate applies. If market dominance is found, the ICC applies its "just and reasonable" standard to the challenged rate. If market dominance is not found, the Commission lacks jurisdiction to scrutinize the reasonableness of the proposed rate.

[page 213]

The Rail Act of 1980 goes farther than the 4-R Act, unwisely we believe. It removes ICC rate protection against exorbitant rate increases in noncompetitive markets by substituting a new jurisdictional test for the "market dominance" criterion. Under the Committee bill, two onerous requirements must be met before the ICC can exercise any review over a rate or rate increase.

The first test is based on the revenue-to-variable cost (rate-to-variable cost) ratio of the traffic. If a rate yields a ratio less than the

"cost recovery percentage" defined by the bill, then the ICC may not review it. During Committee discussion, the proponents of this provision stated that the "cost recovery percentage" would be approximately 200 percent. Hence, any rate which yields revenues of less than two times the variable cost of providing the transportation could not be reviewed.

To understand how onerous this test is for shippers and consumers, one must understand that although the 4-R Act did not set any particular rate level as a jurisdictional threshold, the ICC in applying the law has established a threshold of 160 percent of variable cost as one of its presumptions of "market dominance." In short, Section 202 raises by 40 percentage points the level established by the ICC as an appropriate standard for providing rate review.

The economic result of this change is staggering. Under the 160 percent ICC-determined level of presumed "market dominance, a carrier is already 10 percent to 15 percent above the level at which it is receiving a reasonable profit on the haulage in question. That is, the rate for that haul is already substantially subsidizing its other (competitive) traffic. This represents, on average, a return on equity after taxes of 21.96 percent (40.67 percent before taxes), and an after-tax return on net investment of 16.08 percent. In comparison, using the bill's threshold level of 200 percent, a carrier would earn after-tax returns on equity of 45.39 percent (83.99 percent before taxes), and an after-tax return on net investment of 30.1 percent. (See Appendix A.)

It should be emphasized that the 200 percent level is a threshold. It is the lowest level at which ICC review can even be had. Thus, many rates could be expected to rise significantly above the 200 percent level before they would be found "unreasonable."

This "cost recovery percentage," however, is only the first barrier to rate review. Even if a rate exceeds this extremely high level, a shipper is denied the protection of ICC rate review unless an "actual or present potential transportation alternative" does not exist.

In contrast to the 4-R Act, the proposed legislation bars ICC rate review if so-called "geographic competition" is found to exist. Thus, the Commission cannot scrutinize the reasonableness of a rate if a shipper is able to obtain the commodity from another source at a delivered cost which is not substantially greater than the cost of the rail transported commodity. This test is extremely complicated to administer, thereby undercutting regulatory reform objectives. Moreover, this test imposes severe obstacles to review of rate increases, even for rates which yield more than two times the variable cost of providing the transportation. Under this criterion, it is possible that importing foreign goods could be a viable transportation alternative—precluding ICC review.

As an illustration of this potential, we cite the case of Central Power & Light of Corpus Christi, which is actively considering the purchase of coal from South Africa for future coal-fired powerplants rather than buying domestic coal. In this instance, rail rates on coal shipments from Colorado have been allowed to increase to such an extent that the delivered price of South African coal is lower than the delivered price of Colorado coal.[3]

[1] Variable costs are expenses, such as fuel costs, which fluctuate with the volume of traffic handled.

Conflicts with other railroad policies

It is clear from the discussion above that the rate provisions do not provide adequate protection to the captive shipper. Moreover, they undercut effective implementation of other rail policies, such as increased rail-to-rail competition and long-term contracts, which have been described as providing additional protection in noncompetitive market situations.

Ironically, the Committee voted to report this bill and remove review of rates subject to monopoly abuse on the very day that two of the largest competing western railroads announced their intention to merge. The merger announcement on May 15 by the Santa Fe and the Southern Pacific, which serve essentially the same markets from Southern California through Louisiana, coupled with proposed and consummated mergers of other major eastern and western rail carriers, greatly diminish the potential for competitive restraints on rates.

Proponents of the rate-making provisions also argue that adequate protection will be afforded to captive shippers by section 201, the contract rate provision. Section 201 would provide, for the first time, clear statutory authority for shippers and carriers to enter into long-term rail rate and service agreements. Such contracts would be of immense value to the railroads, of course, for they would be assured of long-term sources of revenues. In addition, these contracts could be used to secure future financing. Shippers, for their part, would know over the long term the cost and quality of their rail service. For these reasons, both carriers and shippers have long emphasized the value of a contract provision such as Section 201.

Unfortunately, the maximum rate provisions will most probably render the contract provision a nullity as a protection to the captive shipper. With respect to such traffic, there are few incentives for a carrier with monopoly power to enter into a contract that might restrict its rate when it knows it can raise rates by 10% per year in addition to inflation.

Adverse impacts on national economic and energy policies

During the Committee's deliberations and the extensive study of coal rates by the Subcommittee on Oversight and Investigations,[1] there has been considerable discussion about the definition of captive (noncompetitive) traffic. The Committee's bill, H.R. 7235, concludes that most rail transportation is competitive, and its rate regulation provisions are based on this finding.

We strongly disagree with this premise. Bulk commodities such as steel, grain, coal, lumber and building materials and automobile parts are almost totally dependent on the rail transportation system. Most chemicals and hazardous materials are captive to rail because safety considerations preclude transport by trucks.[2]

The question of appropriate rates for the transportation of coal has received particular attention in the last several years. In a number of

[1] See ch. V. and VI, "Railroad Coal Rates and Public Participation: Oversight of ICC Decisionmaking," Report by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, 96th Congress, 2d session, Committee Print 96-IFC 40, pp. 99-101.

[2] See "Railroad Coal Rates and Public Participation: Oversight of ICC Decisionmaking," Report by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, 96th Congress, 2d session, Committee Print 96-IFC 40, pp. 89-91.

recent cases, the ICC has set the maximum reasonable level for coal rates at between 165 percent and 175 percent of variable cost. The Subcommittee on Oversight and Investigations has found that the current treatment of those rates by the ICC places an unreasonable share of the subsidy to meet carrier revenue needs on coal. Moreover, the Department of Energy has urged that the high rate levels involved in these cases jeopardize attainment of national energy goals.

While there is good reason to believe that the ICC-established coal transportation rates are too high, H.R. 7235 would result in staggering increases in these already highly profitable rates by prohibiting ICC review until after such rates exceed 200 percent of variable cost. The increased cost of coal transportation to public utilities and other major coal consumers such as the steel industry will approximate $385 million per year or more than $3 billion by 1990 at a minimum (at 1977 traffic levels.) It is little comfort that the bill would phase this mammoth increase in by limiting increases in the first few years to 10 percent plus inflation—that could still come to 25 percent per year.

The impact on consumers from these rate increases will be drastic. In essence, there will be an unjustified transfer of money from the electric consumers and purchasers of manufactured goods to the railroads—including many wealthy carriers. Given the rapidly escalating prices for energy and the central role that energy plays in overall inflation, the deregulation of coal freight rates under H.R. 7235 will be particularly harmful to the consumer. The Consumer Energy Council has stated, "The impact on the consumer of an unregulated railroad industry trying to solve all of its financial problems by extracting maximum advantage from its monopoly control over coal hauling would be staggering."

Captive rail shippers of many other vital commodities would also be adversely affected. For example, while the President just last week expressed "deep concern" about the automobile industry's "serious problems" and pledged a "new cooperative spirit" to assist that industry, this bill will cause the auto industry to pay additional rail transportation costs of $225 million per year. The cost to the steel industry, which faces tremendous competition from abroad, could exceed $230 million per year. And grain shippers can expect an additional rail transportation cost in excess of $110 million per year.

Thus, a conservative estimate demonstrates that the ratemaking provisions of the Rail Act will impose an inflationary burden on the American economy of one billion nine hundred and forty-three thousand dollars per year.

[1] Thus, according to the ranking minority member of the Interstate and Foreign Commerce Committee, the ranking minority member of the Subcommittee on Oversight and Investigations, and two other minority members of the full committee, "chemicals have no feasible alternative." Separate Views to Report of the Subcommittee on Oversight and Investigations referred to in note 2

Effect of House bill on captive traffic by major industry groups[1]

[Added Yearly Freight Charges]

Industry:	In millions
Coal	$383
Steel	233
Automobiles	225
Lumber	190
Chemicals	170
Paper	150
Grains	142
Fertilizers	111
Others	321
Total	1,993

[1] Figures were derived by extracting traffic by industry category from the underlying data in the T. A. Kearney Report prepared for the ICC ("A Study to Perform an In Depth Analysis of Market Dominance and Its Relationship to Other Provisions of the 4–R Act"). This was further categorized by selecting rates with a revenue to variable cost ratio of 140 percent to 200 percent. Then a calculation was made of the revenues necessary to bring all rates up to the 200 percent "cost recovery percentage" level.

Conclusions

The economic and energy consequences of this legislation make it imperative that H.R. 7235 be amended to continue rate review where competition is lacking.

To achieve the goals we all seek and to do so in a manner equitable to all parties, we prefer the Senate bill's approach to maximum rate regulation. The Senate system sets a threshold equal to the average rate level which the rail industry must earn in order to enjoy adequate revenues. Rates below this level would not be subject to rate regulation. Above that threshold, carriers would be entitled to recover their inflation costs without any possibility of shipper challenge nor to implement additional rate increases without the possibility of suspension. Depending on the amount of the increase, the carrier or the shipper would have the burden of showing the reasonableness or unreasonableness of a rate or rate increases.

We believe that the House of Representatives should carefully review the momentous and dangerous decision made by the Committee to move deregulation beyond the area covered in the 4–R Act (the area where there is competition) into the area where railroads enjoy a virtual monopoly position. This is an invitation to the railroads to abuse their market power. The impact on shippers and receivers of major commodities and the inflationary impact on consumers, as well as the implications for our coal utilization efforts, will be staggering unless H.R. 7235 is corrected.

[page 217]

APPENDIX A

Revenue/variable cost ratios [1]	Return on net investment after taxes [2]	Return on equity after taxes [3]	Return on net investment before taxes	Return equity before taxes
140 percent	9.06	10.26	14.3	19.05
150 percent	12.57	16.11	20.8	29.83
160 percent	16.08	21.96	27.3	40.67
170 percent	19.59	27.81	33.8	51.5
180 percent	23.1	33.66	40.3	62.33
190 percent	26.6	39.51	46.8	73.16
195 percent	28.36	42.43	50.05	78.58
200 percent	30.11	45.36	53.3	83.99
205 percent	31.87	48.28	56.55	89.4
210 percent	33.62	51.21	59.8	94.81
220 percent	37.13	57.06	66.3	105.64

[1] Variable costs including cost of capital based on embedded interest rates.
[2] Based on statutory tax rate.
[3] Computed on basis of 40/60 percent debt/equity ratio and embedded debt rate of 7.25 percent (Ex parte No. 361 finding). Before tax return times 0.54

Source: Underlying work papers ICC Statement ICI-77.

Bob Eckhardt.
Tony Moffett.
Albert Gore, Jr.
Tom Loeffler.
John Dingell.
James M. Collins.
John M. Murphy.
Mickey Leland.

[page 218]

SEPARATE VIEWS OF HON. JOHN M. MURPHY

This bill, popularly known as the rail de-regulation bill, represents an effort to improve the condition of our nation's railroads, but Section 301 of the bill dealing with joint rates is self-defeating, in my view, and threatens irretrievable harm to small and medium-sized railroads and the shippers, receivers, States, communities and ports they serve. I propose to offer amendments which I believe are better calculated to achieve the stated goals of this bill while protecting against the mischief I foresee if it should become law in its present form.

De-regulation is no panacea for the transportation industry, and de-regulation which may be appropriate elsewhere can be devastating in the case of railroads. Unlike aircraft, trucks and ships which can move when and where they will, rail cars can move only where there are tracks to carry them. Since 70 percent of all rail traffic is interlined, according to the testimony of the Chairman of the Interstate Commerce Commission at the hearings on this legislation, railroads are uniquely interdependent and must cooperate if we are to have an efficient national rail network in the private sector which it is the stated purpose of this bill to foster.

I

Historically, connecting carriers on a through route have published tariffs prescribing joint rates for particular movements, and have di-

vided the revenues on the basis of various factors, such as cost, length of haul and so forth, by agreement, or where they fail to agree, as prescribed by the I.C.C.

Section 301 of this bill, however, for the first time would permit a carrier unilaterally to impose a surcharge on a joint rate or to cancel a joint rate on a through route, free of the prohibitions against unreasonable discrimination which it has from the beginning been a principal purpose of the original Interstate Commerce Act to prevent. Section 301 provides only limited recourse to the I.C.C. by other participating carriers and shippers and no recourse at all for receivers, States, communities or ports which may be adversely affected.

The stated purpose of this drastic departure is to improve the depressed earnings of the rail industry in general and Conrail in particular, and to obviate the need for further federal subsidies—an objective which every member of this House will applaud.

But the unilateral surcharges and join rate cancellations which Section 301 proposes are the wrong remedy, in my view. As Mr. Fishwick, the President of the Norfolk and Western, pointed out at the hearings on this bill, the effect will be to foist ConRail's inflated costs on the rest of the already depressed rail industry and on captive customers and communities who have no transportation alternative.

[page 219]

ConRail is not necessarily to blame for its excessive costs. It inherited dilapidated track, deteriorated equipment and high labor costs from its bankrupt predecessors.

But Section 301 provides no incentive for Conrail to cut its inflated costs which are the crux of the problem. So long as Conrail can show that under its existing division of a joint rate, it is not receiving 110 percent of its variable costs, unilateral surcharges and joint rate cancellations cannot be disturbed, even if they result in unreasonable discrimination against its connecting carriers or the shippers, receivers, States, communities or ports affected. There should be some incentive for efficiency if the massive public investment in Conrail is ever to be recouped.

It is said that a railroad should not be required to carry traffic at rates below its break-even point. Section 301 would authorized surcharges far beyond that point; 110 percent of variable cost is a floor, but not a ceiling. In any case, I cannot agree to a proposed solution which fails to provide any incentive to reduce costs and instead permits a carrier to resort to unilateral self-help to increase its share of limited revenues at the expense of its connections.

Conrail's large line-haul connections, many of which recently reported large profits last year, may be able to absorb some of Conrail's inflated costs through reduced divisions or through higher joint rates when the traffic will not be driven away. But small or mid-sized railroads will not be able to absorb Conrail's excessive costs. Conrail's extra-territorial connections, therefore, would have the power, by absorbing Conrail's surcharge and rate cancellations selectively, to determine which traffic would be retained and which would be driven away, and therefore which of the small and midsized carriers would survive.

Moreover, Conrail has had a solution to its problem of excessive costs via divisions cases under existing law for the four years last past, since it came into being. Last year, I am informed Conrail reported a loss

of $192 million and it handled 5 million cars. It would have had a modest profit with additional revenue of $40 per car. I am further informed, moreover, that Conrail originated and terminated 60 percent of the traffic on its own lines where rate increases would not require the concurrence of connecting carriers.

As to the remaining 40 percent of Conrail's traffic which is interlined, the amendment which I propose to offer would substitute for the unilateral surcharges and joint rate cancellations which section 301 of the House bill would authorize, the provisions for "Expeditious Divisions of Revenue" contained in section 107 of the Senate bill, S. 1946. Under my amendment, the Interstate Commerce Commission must complete evidentiary proceedings to adjust the division of joint rates between the participating carriers within 9 months after a complaint is filed, and when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic involved, the Commission must give the proceeding preference over all other proceedings and take final action within 180 days after the evidentiary proceedings have been completed.

Conrail could thus obtain compensatory joint rate relief within 1 year, under my amendment, for the 40 percent of its traffic which is

[page 220]

interlined where an impartial public tribunal, the I.C.C., finds the relief is justified. The same would be true of any other carrier. I believe this approach is far preferable to the unprecedented, unilateral self-help which section 301 would authorize in its present form.

The text of my amendment is attached, together with a list of the carriers, organizations, corporations and trade unions which have expressed their support.

In a divisions case, under 49 U.S.C. § 10705(b), "the Commission shall consider—

(1) the efficiency with which the carriers concerned are operated;

(2) the amount of revenue required by the carriers to pay their operating expenses and taxes and receive a fair return on the property held and used for transportation;

(3) the importance of the transportation to the public;

(4) whether a particular participating carrier is an originating, intermediate, or delivering line; and

(5) other circumstances that ordinarily, without regard to the mileage traveled, entitle one carrier to a different proportion of a rate than another carrier".

If Conrail's difficulties still persist after expeditious division proceedings, its problems will have been defined on the record made before the Commission and the Congress can then tailor a remedy to fit the actual facts. This seems a wiser course than giving carte blanche, not only to Conrail, but also the big line-haul railroads.

I should add that the record shows an immediate increase in rates available to the rail industry of $1.5 billion resulting from surcharges under section 301. The ripple effect throughout the economy will be many times greater. The House should realize that it is being asked to approve a highly inflationary piece of legislation.

Finally, the rail industry is characterized by high fixed costs which can only be amortized by handling a large volume of the traffic. The surcharges and higher joint rates envisioned by section 301 of this bill will inevitably tend to drive away some traffic. The big line-haul carriers may be able in many cases to absorb such a loss of business, but the small and mid-sized carriers often may not survive such a loss of volume. In those cases, the shippers, receivers and communities they serve will become victims as well.

A copy of my amendment is attached together with a list of the carriers, shipper organizations, ports and labor unions which have expressed their support.

II

In a commendable effort to afford a measure of protection to short line and terminal railroads, the Committee adopted an amendment to section 301 offered by the gentleman from New York (Mr. Lee) to give Class III short line and terminal carriers access to the Commission on a showing that a surcharge or rate cancellation "will have an adverse effect on competition" or where a surcharge or cancellation affects the sole remaining route available to the Class III carrier for that traffic and either alternative transportation is available, or a shipper dependent upon the Class III carrier will suffer significant market loss, or the surcharge is likely to unduly impair a carrier's ability to earn an adequate rate of return.

[page 221]

While welcome indeed, so far as it goes, the Committee amendment would not protect midsized Class II and small Class I carriers similarly situated. Moreover, I am not at all sure what is meant by "an adverse effect on competition" or "anti-competitive."

Accordingly, I plan to support an antitrust amendment to section 301, borrowing from the familiar language of the Clayton Act, to provide that it shall be unlawful for any carrier to apply a surcharge or to cancel the application of a joint rate to a through route where the purpose or effect of such surcharge or cancellation may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country or to injure, destroy or prevent competition with any person. This antitrust amendment should further prescribe the traditional antitrust remedies of treble damages and injunctive relief.

If rail rates are to be deregulated, then the discipline of competition is needed to protect the public interests. Accordingly, the usual applicability of the antitrust laws should be reaffirmed to preserve a free market and to prevent restraint of trade and abuse of monopoly power.

III

As I have already noted, it has long been a principal purpose of the Interstate Commerce Act to prevent unreasonable discrimination in rail rates and predatory competitive practices—a purpose restated only 4 years ago in section 202(1) of the 4R Act of 1976 which brought Conrail into being.

This provision is rooted in the Constitution, for the framers plainly believed that "in order to form a more perfect union", there should be no impediment to the free flow of commerce among the original

thirteen States on the Atlantic Coast, or the new States they envisioned in the hinterlands. Accordingly, Congress was given power "to regulate commerce * * * among the several States.' Further the framers imposed certain prohibitions on the exercise of Federal and State power to assure the free flow of commerce among the States, including the provision that "No Tax or Duty shall be laid on articles exported among the several States";' "No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another;' and the Export-Import Clause: "No State shall, without the consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the Net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress".' Congress followed these provisions of the Constitution in forbidding unreasonable discrimination in interstate rail rates. Indeed, this bill would eliminate State regulation of intrastate rail rates in the interest of uniformity.

' Art. I, § 8, cl. 3
' Art. I, § 9, cl. 6
' Art. I, § 10, cl. 2
' Art. I, § 9, cl. 5

[page 222]

Section 208(f) of this bill, however, would exempt from this long-standing prohibition against unreasonable rate discrimination, the unilateral surcharges which Section 301 would authorize for at least 3 years. The primary purpose of that portion of Section 301, as I have said, is to enable Conrail to recoup its excessive costs at the expense of its connections or to drive away the business if its connections cannot afford to absorb Conrail's excessive costs.

I do not believe however that Conrail's difficulties can or should be alleviated by authorizing surcharges which are unreasonably discriminatory, in utter disregard of the long-standing ban on unreasonable discrimination which was reaffirmed by the Congress only four short years ago.

At the appropriate time, therefore, I propose to offer an amendment which would simply preserve the long-standing prohibition against unreasonable discrimination to the extraordinary surcharges proposed by this bill. I do not believe that this House seriously intends to legalize unreasonable discrimination.

IV

Finally, I plan to offer an amendment to give full force and effect to the amendment requiring the Commission to guarantee the equalization of rates within the same port which I proposed and Congress adopted as Section 202(f)(4) of the 4R Act of 1976, now recodified at 49 U.S.C. § 10711.

As I have just noted, Article I, Section 9, Clause 6 of the Constitution provides that "No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another", and my amendment to the 4R Act was designed to require continued conformity to that Constitutional command.

As Chairman of the Committee on Merchant Marine and Fisheries, I have held hearings on port problems—including rail service—at ports all around the continental United States. At every port except the Port of New York which I represent, rail rates are equalized because there is competitive rail service. In the Port of New York, however, where Conrail has a virtual monopoly, rail rates are not uniform and surcharges prevail to New York points in the Port, particularly to the new container port at Howland Hook in my district, where ironically, the rail facilities were constructed with a $2,000,000 grant from the Federal Government. The result is to discriminate against the U.S.-flag ocean carriers which are committed to Howland Hook, and in favor of their foreign-flag competitors who use the facilities on the New Jersey shore and enjoy lower rail rates.

The Commission, however, has been advised by its Rail Services Planning Office to treat my recent amendment to the 4R Act as of "questionable substantive effect". This too is ironic, since the Commission, as recently as 1978 in the *Soft Forms* case, 357 I.C.C. 502, 570-571, recognized that "The tradition of rate uniformity began shortly after the first rail lines into New York were constructed."

My amendment would simply place on the Commission the affirmative duty to see to it that existing law is enforced and port parity is ensured.

[page 223]

AMENDMENT OFFERED BY MR. MURPHY

On page 26 strike line 3 and all that follows through page 32 line 16 and insert in lieu thereof the following:

SEC. 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) the Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for the transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceeding preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

LIST OF SUPPORTERS OF AMENDMENT TO SUBSTITUTE SECTION 107 OF SENATE BILL FOR SECTION 201 OF THE HOUSE BILL

National Industrial Traffic League
American Farm Bureau Federation
Soo Line Railroad Co.
National Coal Association
Edison Electrical Institute
Gulf Ports Association (15 ports from Florida to Texas)
Delaware and Hudson Railway Co.
Chemical Manufacturers Association
Florida East Coast Railway Co.
Grain and Feed Association of Illinois (1104 grain elevator operators)
Southern Hardwood Traffic Association
National Small Shipments Traffic Conference
Greenbay and Western Railroad
SCM Corporation, Cleveland, Ohio
Western Coal Traffic League
Packaging Corporation of America
Sandersville Railroad Co.
Trans-Kentucky Transportation Systems, Inc.
Drug and Toilet Preparation Traffic Conference
New York Dock Railway
Corinth and Counce Railroad
Hartford and Slocum Railroad
McCloud River Railway
Ahnapee and Western Railway
Alden Corrugated Container Corp.

[page 224]

J. & J. Corrugated Box Corp.
Farm and Industrial Equipment Institute
Apalachicola Northern Railroad
Winifrede Railroad
Middletown and Hummeltown Railroad
Association of Independent Corrugated Converters
Wilamina and Grande Ronde Railroad Co.
Octarara Railroad Co.
Eastern Industrial Traffic League
International Longshoremen's Association
Port of New York, New York
Port of Boston, Massachusetts
Port of Philadelphia, Pa.
Port of Norfolk, Va.
Port of Wilmington, N.C.
Port of Charleston, S.C.
Port of Savannah, Ga.
Port of Jacksonville, Fla.
Gulf Ports Association
Port of Brownsville, Tex.
Port of Corpus Christi, Tex.
Port of Freeport, Tex.
Port of Houston, Tex.

Port of Point Comfort, Tex.
Port of Galveston, Tex.
Port of Port Arthur, Tex.
Port of Beaumont, Tex.
Port of Orange, Tex.
Port of Lake Charles, Tex.
Port of New Orleans, La.
Port of Gulfport, Miss.
Port of Biloxi, Miss.
Port of Pascagoula, Miss.
Port of Mobile, Ala.
Port of Pennsacola, Fla.
Port of Panama City, Fla.
Port of Port Manatee, Fla.
Port of Tampa, Fla.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 20, 1980.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, Washington, D.C.

DEAR MR. CHAIRMAN. Enclosed please find separate views we wish to submit to accompany the Committee Report on the Rail Act of 1980.

Thank you for your consideration in this matter and with kind regards, we are

Sincerely,

JOHN M. MURPHY.
ANDREW MAGUIRE.
BOB ECKHARDT.
RICHARD SHELBY.
NORMAN F. LENT.
JAMES H. SCHEUER.

[page 225]

SEPARATE VIEWS, EXCLUSIVE FEDERAL JURISDICTION OVER INTRASTATE RATES

Section 210 of H.R. 7235 would give the ICC exclusive jurisdiction to prescribe intrastate rates for rail carriers which are otherwise subject to the ICC's interstate jurisdiction. In one stroke, the majority of the Committee would sweep aside established principles of Federal-State relationships and would mandate an unprecedented degree of intrusion of Federal authority into the primary jurisdiction of the States.

The States have exercised jurisdiction over intrastate railroad rates for over 100 years and have provided a forum for addressing the concerns of small shippers and all consumers. The State agencies are more accessible and convenient to consumers than is the ICC.

The Interstate Commerce Act presently provides a rational and practical system for accommodating the interests of shippers, rail carriers, the States and the Federal Government. First of all, the ICC can nullify State regulation of a rail carrier (including a rate) if the

Commission finds that the State's action unreasonably discriminates against or burdens interstate commerce. Secondly, the ICC is given exclusive jurisdiction over an intrastate rate which has been filed with a State agency for the purpose of adjusting the rate to the level of the interstate rate on similar traffic, if the State agency does not act within 120 days.

The basic argument given by the majority in favor of ousting the States from their traditional jurisdiction is that States are likely to hold down intrastate rates as opposed to interstate rates, thereby requiring interstate shippers to foot the bill for the railroads. Putting aside the question whether State regulatory agencies are in fact likely to do this—and the related issue of whether this means simply that State agencies are more sensitive than the ICC to the real balance of equities in ratemaking—there is a fundamental fallacy in this argument. The fallacy is that there is a perfectly adequate remedy for this potential problem under current law.

Moreover, if State regulatory agencies were in fact doing what the proponents of exclusive Federal jurisdiction allege, there would be a flood of ICC cases filed by the railroads seeking to raise intrastate rates to interstate levels. In fact, during 1979, only 12 such cases were filed and the ICC granted the relief requested in 11 of these.

One of the basic purposes of H.R. 7235 is to assist in the rehabilitation and financing of the Nation's rail systems. If there were clear evidence that continued primary State jurisdiction over intrastate rail rates were having a seriously deleterious effect on the financial stability of the Nation's railroads there might be some justification for the action of the Committee's Majority. Evidence presented to the Committee by the National Association of Regulatory Utility Commissioners, composed of State agencies engaged in regulation of rail rates

[page 226]

and safety, demonstrates that continued State jurisdiction over intrastate rail rates is of no major economic significance to the railroad industry. The intrastate increases from the 11 cases decided by the ICC in 1979 generated less than $10 million in additional carrier revenues, which is negligible compared to the over $3 billion in general rail rate increases granted by the ICC in 1979.

The majority's recommendation is an ill-conceived attempt to sweep aside a Federal-State relationship which is functioning effectively in the public interest. There has been no showing of the need for exclusive Federal jurisdiction over intrastate rail rates. The majority's recommendation fails to comply with constitutional principles of our Federal system, and indeed there is a serious question as to the authority of Congress to enact Section 210.

The National Association of Regulatory Utility Commissioners urged the Committee to delete Section 210 from the bill and a motion to do was narrowly defeated by a vote of 20 to 17. We urge the House to delete this section from the bill.

PHIL GRAMM.
DAVE STOCKMAN.
RICHARD SHELBY.
JIM SANTINI.
BOB ECKHARDT.
DAVID E. SATTERFIELD.

SEPARATE VIEWS OF TOM LOEFFLER

The separate views set forth above which I join in with my colleagues describe in general terms the critical defects in the provisions in the bill reported by the Committee dealing with rate regulation by the Interstate Commerce Commission. As the representative of a district whose citizens have already been sorely, and I believe unjustly, burdened by excessive increases in freight rates for the rail transportation of coal, I would like to stress the inequities which would result under the Committee's bill with a very concrete example.

Several years ago, our municipally-owned utility in San Antonio constructed its first coal fired electric generating station which now supplies approximately 50 percent of the city's electrical power requirements. Since the city began moving coal to this new facility in 1976, the railroads have sought and obtained from the Interstate Commerce Commission increases in the applicable freight rates totalling over 84 percent. As a result of these increases, the annual transportation bill has risen from roughly $32 million to roughly $60 million.

The rates which the city is currently paying for the transportation of its coal are extremely profitable to the railroads involved. These rates cover not only all the costs to the carriers of providing the service plus a full return on all their involved investments equal to the current cost of capital, but also contain a further increment which the I.C.C. has allowed to cross-subsidize the movement of less profitable commodities.

Under the jurisdictional standard established in the Committee's bill, San Antonio would be exposed to huge additional rate increases on its coal traffic. The cost recovery percentage standard, which is projected to be approximately 200 percent of variable costs, far exceeds the ratio for the railroads' current and extremely profitable rate of roughly 174 percent. As a result, the annual transportation costs to San Antonio could be increased by roughly $14 million per year. It must be emphasized that every dollar of this increase would be additional profit on a coal movement which already earns the carriers approximately $21 million per year over and above their variable costs of service.

The additional transportation costs to San Antonio over the life of its plant could exceed $380 million. The carrier primarily involved, the Burlington Northern, is recognized to be a financially solid and profitable railroad at the present time. Equally important, however, the BN will reap tremendous profits from the additional volumes of coal which it will be hauling in the coming years.

Even after the San Antonio rate exceeded the cost recovery percentage, the second prong of the bill's dual jurisdictional test might well preclude it from obtaining I.C.C. rate review. This second requirement, that there be no actual or "present potential" transportation

[page 228]

alternative is very vague and could result in rate review being denied on the basis of such circumstances as the possible future construction of coal slurry lines or the availability of foreign coals.

San Antonio is, of course, only one of thousands of shippers who are captive to the railroads and who are essentially defenseless to predatory rate demands by the railroads in th absence of I.C.C. rate regulations. I am firmly opposed to the bill reported by the Committee because of its failure to afford any meaningful protection to such shippers, and I urge each of my colleagues in the House of Representatives to consider carefully the impact the bill would have on captive shippers and to vote against the measure unless it is amended in a manner which would offer such shippers adequate rate protection.

TOM LOEFFLER.

HOUSE CONFERENCE REPORT NO. 96-1430

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[page 79]

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 1946) to reform the economic regulation of railroads, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY AND DESCRIPTION

SECTION 1—SHORT TITLE

Section 1 states that this bill may be cited as the "Staggers Rail Act of 1980".

SECTION II—FINDINGS

The Conferees find that historically the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly

power by railroads and to maintain a national railroad network as an essential part of the national transportation system. However, today, most transportation is competitive and many of the Government regulations affecting railroads have become unnecessary and inefficient. Nearly two-thirds of intercity freight is transported by modes of transportation other than railroads. Earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements. By 1985, the railroad industry will experience a capital shortfall of between $16 billion and $20 billion. The industry's failure to achieve increased earnings will result in either further deterioration of the rail system or the need for additional Federal subsidy. Modernization of economic regulation of railroads, with greater reliance on the marketplace, is essential to achieve maximum utilization of railroads, to save energy and to combat inflation.

[page 80]

SECTION III—GOALS

The specific goals of this Act are to assist the industry in the rehabilitation and financing of the rail system; to reform Federal Regulation to preserve a safe, adequate, economical, efficient and financially stable rail system, to assist the rail system to remain viable in the private sector of the economy; and to provide a regulatory process that balances the needs of carriers, shippers, and the public. The overall purpose of the Act is to provide, through financial assistance and freedom from unnecessary regulation, the opportunity for railroads to obtain adequate earnings to restore, maintain and improve their physical facilities while achieving the financial stability of the national rail system.

Title I—Rail Transportation Policy

Title I of the Conference substitute sets forth the congressional declaration of policy for railroads by adding a new section 10101a to the Interstate Commerce Act. The new section establishes a specific rail transportation policy to guide the Commission in its duties in regulation of the railroad industry. The Conferees intend that this policy include the encouragement and promotion of the transportation of coal by rail in accordance with the objective of energy independence at rates which do not exceed a reasonable maximum where there is an absence of effective competition.

Title II—Railroad Rates and Inter-Carrier Practices

Title II is related to the key areas of the Interstate Commerce Act which involve railroad rates and inter-carrier practices. In general, the title assures railroads substantially more rate freedom than is afforded them under existing law. It continues the policy started under the Railroad Revitalization and Regulatory Reform Act of 1976 of substantially eliminating rate regulation of railroads where there is effective competition. The title also affirmatively encourages railroads to use new marketing practices by permitting contracts between carriers and shippers; permissive limited liability rates; business entertainment expenses; efficient marketing

through faster implementation of rates, and premium charges to encourage better car utilization

A number of provisions are included to foster greater competition by simplifying coordination, minor mergers procedures, entry and reciprocal switching agreements. Moreover, the Commission is given the mandate to place greater emphasis on the need for carriers to have adequate revenue levels. Among other tools given the Commission for this purpose is the ability to determine the effects of inflation and to assure carriers the opportunity to recover inflation.

Specifically, Title II provides the Interstate Commerce Commission with jurisdiction to determine rate reasonableness only when a rail carrier has market dominance and the rate exceeds the applicable revenue-variable cost percentage threshold. The revenue-variable cost percentage is a level below which the Commission has no jurisdiction over the reasonableness of maximum rates. This codifies and refines the practice followed by the Commission for determining market dominance on, among other matters, the relationship of revenue to variable cost.

[page 81]

For four years beginning October 1, 1980 and until October 1, 1984, there is a rate flexibility zone of 6 percent, subject to a cumulative total of 18 percent, in addition to inflation. If an portion of the 6 percent rate increase is not implemented in a year in which it is authorized, it may be carried over to the succeeding year. However, within the four year period no carrier can take an increase within the flexibility zone in excess of 12 percent in any one except that in the first year the zone is limited to 6 percent. If any portion of the 18 percent cumulative rate increase is not taken by October 1, 1984, it may be carried over to the next two succeeding years, with the limitation of an annual increase of 10 percent between October 1, 1984 and October 1, 1986.

Effective October 1, 1984, and in succeeding years thereafter, a carrier may annually implement a 4 percent increase, which may not be carried over in subsequent years.

The 4 percent zone is not available to increase single-line rates of carriers with adequate revenues. The Commission is to promulgate regulations in connection with joint-line movements involving both carriers with adequate revenues and carriers with inadequate revenues.

When determining the reasonableness of rates, the Commission is to recognize the policy that rail carriers shall earn adequate revenues. This title also authorizes carriers to increase a rate to cover cost increases due to inflation.

The rate of a carrier in effect upon enactment of this Act may be challenged before the Commission during the 180-day period following enactment on the basis that the carrier has market dominance over the transportation to which the rate applies. If the rate is not challenged during the 180-day period, or is found to be lawful, the rate may not be challenged thereafter. This provision does not apply to rates for volumes of traffic in the past year of under 500 net tons and which has increased tenfold in the three years prior to the challenge. The burden of proof under this section is with the complainant.

In order to encourage more effective marketing by railroads the notice period for rate increases is lowered from 30 days to 20 days and from 30 days to 10 days for rate decreases.

The Commission is required to maintain, and revise as necessary, standards and procedures for determining revenue adequacy. On the basis of the standards, the Commission is to determine within 180 days of the effective date of this Act and annually, thereafter, which carriers are earning adequate revenues.

The Commission may prescribe, on a quarterly basis, a percentage rate increase or rate index for rail carriers to compensate for inflationary cost increases. Within 60 days after the Commission prescribes such percentage rate increase or index, rail carriers intending to be excluded from such percentage rate increase or index, shall notify the Commission, and all carriers participating in a particular route must agree to be excluded for the exclusion to be effective. The percentage rate index may include percentage increases within a specified range to allow carriers to recover a total increase specified by the Commission as necessary to compensate for inflationary cost increases.

The Commission must complete an investigation or suspension proceeding concerning a rate, classification, rule or practice within

[page 82]

5 months, or 8 months if it reports to Congress. The Commission may not suspend a proposed rate, classification, rule or practice if a protestant is likely to prevail on the merits, substantial injury will result without the suspension, and because of the peculiar economic circumstances of the protestant precluded protection of the protestant by means of a refund if the rate is later found unreasonable by the Commission.

This title authorizes one or more carriers to enter into contracts with one or more shippers unless the Commission finds that the proposed contract unduly impairs the ability of the contract carrier(s) to meet their common carrier obligation or unreasonable discriminates against a port. In the case of agricultural commodities (including forest products and paper), a complaint may be filed on the grounds that a carrier has unreasonably discriminated by refusing to provide the complainant a similar contract under similar conditions or that the proposed contract constitutes a destructive competitive practice.

Once a contract has been approved, the Commission cannot require a carrier to violate its terms except under the Commission's emergency powers. The exclusive remedy for a breach of contract is an action in a State or U.S. district court unless the parties otherwise agree.

Demand sensitive rates under Section 10724 of title 49 U.S.C. are repealed.

Capital incentive rates under Section 10729 of title 49 U.S.C. are repealed except that capital incentive rates prior to enactment of this Act shall remain in effect no longer than five years, unless the parties otherwise agree.

To provide both shippers and railroads with greater rate-service options the Act permits the establishment of lesser liability requirements than presently assured by law. Such liability limitations are available only if the shipper agrees to them.

To permit use of the new provisions available to both shippers and railroads, Section 10741 of title 49 U.S.C. is amended by exempting certain services from the rate discrimination provision in current law. Exempted are certain contracts, surcharges and cancellations, separate rates for distinct services, rail rates applicable to different routes or business expenses authorized under section 10751 of this title. These exemptions do not affect existing prohibitions against discrimination between ports or within the same port.

The bill authorizes a carrier to surcharge or cancel a joint rate when the existing joint rate does not provide the carrier with 110 percent of its variable cost. Other carriers may prevent the surcharge or cancellation from becoming effective, however, by adjusting the division of revenues of proposing a new rate which brings the surcharging or cancelling carrier's revenues up to 110 percent. Alternatively, a shipper or carrier can reduce to the 110 pecent level a surcharge which would provide the surcharging carrier with revenues greater than 110 percent of variable cost, and can prevent a joint rate from being cancelled by providing a surcharge in lieu of cancellation which would bring the revenues of the cancelling carrier to 110 percent of its variable cost. Such a reduced surcharge or surcharge in lieu of cancellation of a joint rate is to be imposed

[page 83]

by the Commission in conformity with the petition of the protesting shipper or carrier.

In addition a class III railroad may obtain review by the Commission of either a surcharge or cancellation if the surcharge or cancellation will have an adverse effect on the ability of a class III railroad to compete effectively, or if it will affect the class III railroad's last available route for a particular movement and produce certain adverse results for the class III railroad, or it it will adversely affect the competitive position of a shipper or receiver located on the class III railroad. In making its review, the Commission shall act to prevent anticompetitive surcharges or cancellations which affect class III railroads, and the Commission is given authority to preserve service on the route participated in by the class III railroad. The Commission may rescind the surcharge or cancellation and may require the surcharging or cancelling carrier to carry the traffic at less than 110 percent of its variable costs if necessary to preserve competition or service by the class III railroad which is required by the public interest.

The conferees note that nothing in the bill's protections reduces the availability of the Federal antitrust laws to protect against improper use of the surcharge or cancellation provisions. A rail rate to which a surcharge is applied shall constitute a rate increase for the purpose of section 10701a and 10709 of title 49, United States Code. An expedited division of revenue procedure is also established.

A similar below cost service problem occurs with respect to light density lines. That problem, however, relates more to shippers on a particular line than to inter-carrier relationships. The bill institutes the use of branchline surcharges on any lines carrying less than 3 million gross tons per year. (1 million gross tons for carriers with adequate revenues).

State authority over intrastate transportaton is limited to administering the provisions of the Interstate Commerce Act. Within 120 days of the effective date of this Act, State authorities must submit to the Commission standards and procedures to be used in exercising such jurisdiction. With 90 days of the receipt of the State's filing, the Commission shall certify the State's compliance with the regulations and procedures of this Act. States are precluded from authority over general rate increases, inflation–based rate increases and fuel adjustment surcharges.

In order to encourage competitive pricing, no rail carrier is permitted to discuss single line rates proposed by another carrier, except for the purposes of general rate increases and broad tariff changes. No rail carrier may discuss a joint line rate unless it practicably participates in that movement. After January 1, 1984 (or earlier if the Commission decides), no carrier may discuss a joint line rate where there are two or more routes between the same end points, except with a carrier that forms part of a particular single route. If the Commission finds that implementation of the section is not feasible, it may delay or suspend implementation in whole or in part.

Transcripts or sound recordings and records of votes are to be available to the Commission and other Federal agencies.

The Commission shall require protective conditions for rate bureau employees.

[page 84]

Competition is encouraged by permitting entry by a rail carrier, through new construction, if public convenience and necessity permit or require it. Where the Commission has authorized construction or extension of a line, no other railroad may refuse to permit the carrier to cross its property if the construction or operation does not interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. The Commission may require protective conditions for the employees affected by new construction.

The Commission may require reciprocal switching where practicable and in the public interest or where such agreements are necessary to provide competitive rail service. The Commission may establish conditions and compensation where carriers are unable to agree within a reasonable time. The Commission may require that reciprocal switching agreements include labor protection provisions.

This title repeals existing incentive per diem provisions. The Commission is authorized to grant shippers antitrust immunity to conduct negotiations with carriers regarding charges for rolling stock owned or leased by such shippers. The participants have the right to petition the Commission to set compensation at a reasonable level, if the parties cannot agree.

In order to encourage more efficient car utilization, carriers are permitted to charge for special services or special levels of service not otherwise included in any tariff applicable to the movement.

For transactions that do not involve the merger or control of at least two Class I railroads, the Commission is required to approve an application unless it finds there is a likelihood of substantially lessening competition, creation of a monopoly or restraint of trade

and the anticompetitive effects of the transaction outweigh the public interest.

The application of the Elkins Act to business expenses by rail carriers and motor carriers is clarified by treating these businesses as all other businesses.

Finally the Commission is given exemption authority if regulation is not necessary to carry out the Railroad Transportation Policy and protect shippers from market abuse.

Title III—Railroad Cost Determinations

Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of this bill. There is established a Railroad Accounting Principles Board for the purpose of developing cost accounting principles which identify variable costs which accurately represent the most accurate costs of rail movements.

The Board shall exist for three years. Within two years, it shall issue cost determination principles necessary for regulatory purposes which shall identify accurate costs. The principles are to apply to the entire railroad industry to ensure consistency in railroad cost accounting practices.

Each rail carrier is to maintain a system that is in compliance with the rules promulgated under Section 11163 of this title and are required to make cost data available to shippers, states, ports,

[page 85]

communities and other interested parties that are party to a Commission proceeding.

Title IV—Railroad Modernization Assistance

This title continues the existing redeemable preference share financing program.

The Secretary must report to Congress within 90 days after the end of each fiscal year specifying how each grant or loan contributes to the goal of providing a safe and efficient rail system.

A new feeder railroad development program is established which gives shippers the opportunity to acquire a rail line carrying less than 3,000,000 gross tons a year if the railroad is not providing adequate service. After the third year any rail line may be acquired under this provision. The Commission must make certain findings before any acquisition can take place and the rail carrier must be given compensation for selling the line.

New time limits are established for considering abandonment applications. Applications for abandonment which are not opposed would be granted within 45 days, and the abandonment would occur within 75 days. With respect to unopposed applications, this would basically codify existing ICC practice. For applications which are opposed, ICC decisions would be reached much more quickly than under present law, and the ICC would be required to process and decide such cases within 9 months. No changes are made in the substantive abandonment standards.

The low interest redeemable preference share program under section 505 of the 4R Act is extended for two years. An additional $700 million is authorized for the program, and of that amount

$200 million shall be transferred to the United States Railway Association for use by Conrail in reducing the size of its workforce.

Section 211(i) the Regional Rail Reorganization Act is also amended to make available to railroads in addition to Conrail loan guarantees for the purpose of electrifying high density mainlines or for other capital improvements to achieve the goals to the national energy policy.

Finally, section 211(d) the Regional Rail Reorganization Act of 1973 is amended to extend the time period from December 31, 1980 to December 31, 1981 to permit the United States Railway Association to continue to act on loan modifications this provision and increases the principal amount of a loan made under Section 211(d) from $4 million to $7.5 million.

Title V—Conrail Title V Labor Protection

Section 501 changes the formula for calculating monthly guarantees for non-operating employees, maintenance-of-way employees and operating employees. No change is proposed in the guarantee formula currently applicable to non-contract employees and employees who have been transferred.

Section 502 would restrict the payment of the MDA in two situations. First, a protected employee's entitlement to an MDA would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, floods, snowstorms, and similar occurrences. Second, the legislation would require a protected employee to claim an MDA within three months of entitlement and would require that entitle-

[page 86]

ment to claims be resolved within 150 days after a claim is filed for the first year and 90 days thereafter. This provision will eliminate bookkeeping problems caused by procrastination in filing a claim for an MDA, and enable the Corporation to assess more accurately expected payments for labor protection.

In addition, this legislation would clarify that the period of protection for a protected employee with less than 5 years of service begins to run from the beginning of the first month for which the employees receives an MDA.

Subsection 505(d) of the current law sets out transfer procedures by which the Corporation may require a protected employee deprived of employment to transfer to a bona fide vacancy within the employee's class or craft.

Section 503 addresses restrictions on manpower utilization by including employees in the marine crafts and unemployed Penn Truck Lines, Inc. truck drivers in the provisions permitting transfer of adversely affected employees to another class, and by offering retraining programs to make the interclass transfer provision meaningful. In addition, the Corporation can make use of an expedited multiple offer procedure to Penn Truck Line and marine craft employees.

Section 504 would redesignate section 509 of the 3–R Act as section 509(a) and increase the amount of funds authorized to be appropriated under title V by $235 million to a new authorization level of $485 million make training and retraining costs incurred

by the Corporation under revised section 505(d)(4)(D) reimbursable costs, and confirm existing practice whereby title V funds are used to reimburse the Railroad Retirement Board's unemployment compensation paid to protected employees.

An additional $235 million is authorized to fund the substantially reduced level of benefits afforded by these amendments. This sum would fund the program during a transition period, after which the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that impose auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to conduct a program audit of the payment of benefits under title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in the workforce. The Association would be afforded access to pertinent documents for the purpose of facilitating its audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Section 505 gives Conrail employees the right of first hire on other railroads.

Section 506 requires the single collective bargaining agreements be negotiated with each class and craft and that such negotiations be conducted on a system wide basis.

Section 507 would make the new formulas provided by this title effective August 1, 1980, as already required by a recent Supplemental Appropriations bill, Public Law 96-304.

[page 87]

Section 508 makes certain technical amendments.

Title VI—Expedited Supplemental Transaction Proposals

Section 305 of the Regional Rail Reorganization Act of 1973 is changed by requiring that within the 240 days after the effective date of this Act the Secretary shall determine whether to initiate a proposal for the transfer of all Conrail properties in Connecticut and Rhode Island to another rail carrier in the region. The Secretary shall develop such proposal if the proposed transferee railroad is financially and operationally capable of assuming freight obligations on a financially self-sustaining basis and the transfer would promote a financially self-sustaining rail system in Connecticut and Rhode Island.

The Secretary shall establish a fair and equitable price for proposed transfers. If the special court determines that the proposal is fair and equitable and meets the other requirements of this section, it shall issue order to carry out the proposal.

The parties to a supplemental transaction under this section and the representatives of the affected employees are to enter into a new agreement.

Title VII—Miscellaneous Provisions

Title VII of the Conference substitute includes provisions related to effective dates, status of pending matters and construction of amendments. In addition, the title provides the annual authorization for the United States Railway Association and funds for Conrail.

Specific provisions are also included to clarify or remedy legislation enacted early this year related to the Rock Island and Milwaukee Railroads.

SHORT TITLE

Senate bill.—The Senate bill has as a short title "Railroad Transportation Policy Act of 1979".

House amendment.—The House amendment has as a short title "Harley O. Staggers Rail Act of 1980".

Conference substitute.—adopts the "Staggers Rail Act of 1980" as the short title of the Act.

FINDINGS

Senate bill.—The Senate bill has no findings.

House amendment.—The house amendment has findings which provide an overview of the need for legislation. Among other considerations stated are findings that today, most transportation within the United States is competitive, nearly two-thirds of intercity freight is transported by modes other than railroads, earnings of railroads are insufficient to generate funds for necessary capital improvements, by 1985 there will be a capital shortfall of between $16 billion and $20 billion and that modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization or railroads to save energy and combat inflation.

Conference substitute.—The House amendment.

[page 88]

Senate bill.—The Senate bill has no statement of goals except as included in the railroad transportation.

House amendment.—The House amendment sets forth specific overall goals to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States.

Conference substitute.—The House amendment.

TITLE I

RAILROAD TRANSPORTATION POLICY

Senate bill.—The Senate bill adds an independent railroad transportation policy to the Interstate Commerce Act to guide the Commission in formulating its rules, regulation, and divisions arising from its administration of the Act.

House amendment.—The House amendment is similar to the Senate provision but puts a greater emphasis on the need to minimize Federal regulatory control over railroads.

Conference substitute.—Adopts the House amendment with additional policy considerations taken from the Senate bill.

Title II—Railroad Rates and Inter-Carrier Practices

SECTION 201—REGULATION OF RAILROAD RATES

Senate bill.—The Senate bill provides that a rail carrier may establish any rate which yields a revenue to variable cost ratio that is equal to or less than the average ratio of revenue to variable costs established by the Commission. It sets out standards to be used by the Commission in establishing the average ratio and establishes timeframes for action under this section.

House amendment.—Section 203 of the House amendment provides that rail carriers may establish any rate for transportation or other services provided by rail carriers unless a rail carrier has market dominance over the traffic. It establishes which parties shall have the burden of proof in complaint and investigation proceedings to challenge the lawfulness of rates or rate increases. The House amendment requires the Commission in determining the reasonableness of rates, to recognize the policy that rail carriers must earn adequate revenues.

Conference substitute.—The Conference substitute adopts the House amendment with various changes to conform it to the Senate bill. It allows a rail carrier to establish any rate for transportation unless a rail carrier has market dominance over the transportation, in which case the rate must be reasonable. The definition of market dominance under existing law has not been altered by the substitute, and it is not intended that there be any change in the meaning of the term, nor is any change intended in the Commission's authority to determine market dominance and reasonableness concurrently. However, since other parts of the Conference substitute provide additional rate freedom for rail carriers beyond those found in present law or under existing or proposed Commission regulations, the Commission must revise its market dominance regulations.

[page 89]

In maintaining the term market dominance, in addition to statutory changes designed to provide more rate freedom to rail carriers, the Conferees intend that whenever there is effective competition which will restrain rate increases by the railroads, such competition should continue to function as the regulator of the rate rather than the Commission. Maintenance of the "market dominance" standard is not intended in any way to restrict the ability of the Commission to apply this concept, both in its regulations and individual cases.

Consistent with the new rail transportation policy of this Act, the Conferees intend that competition be recognized as the best control on the ability of railroads to raise rates. The purpose of this legislation is to reverse the decline of the railroad industry, which has been caused, in part, by excessive government regulation. The

Conferees believe that by allowing the forces of the marketplace to regulate railroad rates wherever possible the financial health of the railroad industry will be improved and will benefit all parts of the economy, including shippers, consumers, and rail employees.

The Conference substitute establishes which party shall have the burden of proof in establishing that a rate is not reasonable and has the effect of maintaining the existing burden of proof in determining reasonableness, i.e. the carrier has the burden of proof in investigation and suspension proceedings and the shipper in compliant cases. The railroad bears the burden of proof when a rate increase is greater than the 6 percent zone for the first four years, or the 4 percent zone after the first four years. If the rate increase is within the 6 percent or 4 percent zones, but is more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost, whichever is lesser, the railroad will also bear the burden of proof if the Commission decides to investigate.

In complaint cases, i.e., where the shipper is complaining about an existing rate, the burden remains on the shipper to prove that the rate is unreasonable, no matter what level the rate is. The Conference substitute does not alter the existing procedure which places such a burden on the shipper.

The shipper must bear the burden of proof when the rate increase is within the 6 percent or 4 percent zones, and the rate is not more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower. The shipper also bears the burden whenever a rate increase is within the 6 percent or 4 percent zone, but the rate increase brings the rate more than 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost whichever is lower, and the Commission decides not to investigate.

The Conference substitute adopts the language from the House bill that in determining rate reasonableness the Commission must recognize the policy of this Act that carriers must earn adequate revenues. The difficult economic situation of much of the railroad industry is one of the reasons for this legislation, and the Commission is required to make efforts to ensure that rail carriers earn adequate revenues.

The Conference substitute maintains language similar to existing law which states that variable costs shall be determined by formulas or procedures prescribed or certified by the Commission.

[page 90]

The Conference substitute maintains the requirement that joint rates must be reasonable. The conferees intend that the rate standard for the reasonableness of joint rates shall be the same as for all rates. The establishment of the minimum compensatory joint rate relief in Section 217 of this Act is not intended to mean that such minimum levels relate to the maximum reasonable level for joint rates. A joint rate must be reasonable, as must the divisions of such a joint rate between carriers, and the Commission should not interfere to require joint rates or any carrier's division of a joint rate to be maintained below the rate levels permitted by this Act.

Rates may not be established below a reasonable minimum. Rates which contribute to going concern value shall be reasonable and rates which do not contribute to going concern value shall be

presumed to be unreasonable. In essence, these provisions strengthen the minimum rate policies of the 4R Act by placing the burden of proof on the party challenging a rate as too low and by expediting the procedures whereby rates which are too low can be raised.

These modifications will ensure that carriers pricing in a manner that meets rational economic standards will not be prevented from improving their economic position by reducing rates. While the Conferees believe there may be circumstances in which rates which do not contribute to going concern value are reasonable, those circumstances are likely to be unusual and once a complainant has shown a rate does not contribute to going concern value, that rate shall be presumed to be unreasonable until the carrier charging the rate bears the burden of showing that the rate is reasonable.

These provisions will ensure that those shippers can protest that a rate is too low and that a carrier is worse off than it would be if the rate were raised. Upon finding this to be the case, the Commission may raise the rate to the minimum level at which the rate benefits the carrier. All shippers as well as the carrier are better off if traffic which makes a contribution moves than if it does not, because the carrier is made financially stronger and need not rely as much on revenue from other shippers.

The Conferees do not intend, however, that rates which are contributing to the going concern value of a carrier should be forced to be raised. The Commission should not restrict the carriage of this beneficial traffic, placing a greater burden on other shippers. This is a decision that is best made by the carrier as it judges the market. Since a carrier has no reason to keep a rate below the most beneficial level, the Conferees have no reason to believe rates will be held below the most beneficial level except by oversight. Accordingly, rates that contribute to going concern value shall be reasonable and the Commission may not require that those rates be raised.

SECTION 202—DETERMINATION OF MARKET DOMINANCE

Senate bill.—The Senate bill establishes a level below which the Commission will have no jurisdiction over railroad rates. The jurisdictional level is equal to the average ratio of revenue to variable costs for all transportation. Until such level is determined by the Commission the jurisdictional level is set at 150 percent of revenue to variable cost. The Senate bill also repeals 49 U.S.C. 10709, which

[page 91]

is the section establishing "market dominance" as a test for Commission jurisdiction over railroad rates.

House amendment.—Section 204 of the House amendment retains 49 U.S.C. 10709 and adds a new subsection. The new subsection requires the Commission to find that a rail carrier does not have market dominance over the transportation to which a rate applies if that rate is below a revenue to variable cost ratio of:

160 percent from the effective date of the Act to September 30, 1981;

165 percent from September 30, 1981, to September 30, 1982;

170 percent from September 30, 1982, to September 30, 1983;

175 percent or the "cost recovery percentage", whichever is lower, from September 1, 1983 to September 30, 1984; and

the "cost recovery percentage" thereafter, except that the "CRP" may not exceed 180 percent nor be lower than 170 percent.

The House amendment establishes a "cost recovery percentage" which is the revenue to variable level at which the industry is covering its costs as defined in the House amendment. The Commission is required to establish the "cost recovery percentage" annually.

Conference substitute.—The Conference substitute adopts the House provision establishing and defining the "cost recovery percentage". It also adopts the House language establishing a jurisdictional threshold of 160 percent increasing 5 percent each year through 1984, when the jurisdictional threshold is 175 percent or the cost recovery percentage, whichever is lower. After September 30, 1984, the jurisdictional threshold is the cost recovery percentage, but it may not be lower than 170 percent or higher than 180 percent.

The Conferees have adopted the concept of a jurisdictional level that varies according to the performance of the railroad industry. When the industry is earning revenues which are adequate, it is appropriate for the Commission to have the authority to review rate increases more carefully.

The Conference substitute incorporates a provision which allows a carrier to use present Rail Form A, with adjustments specified by the Commission as appropriate for the type of traffic involved, or its successor as the basis for determining the revenue to variable cost ratio of a rate. The burden is on the carrier to establish on such a basis that the rate is below the jurisdictional level, and the complainant may rebut the showing of the revenue to variable cost ratio according to the Commission formula by evidence of such type and under such burden of proof as the Commission shall prescribe. By such a showing the complainant or the railway may demonstrate that the revenue to variable cost ratio is different than the one established under adjusted Rail Form A or its successor.

The Conferees do not intend that the Commission alter the jurisdictional threshold by reducing the items which will be considered as part of the variable cost.

The Conferees have adopted a jurisdictional threshold which will deny the Commission jurisdiction over rates which the Commission reviews under present law. The reduction in Commission jurisdiction is adopted because the conferees believe that competition

[page 92]

should be the determining factor in railroad rates wherever possible. The railroads' share of intercity freight traffic has decreased dramatically in the past three decades, to the point where most freight traffic can be transported by another mode and is subject to competition.

SECTION 203—ZONE OF RATE FLEXIBILITY

Senate bill.—The Senate bill establishes procedures and standards for determining a "base rate" and an "adjusted base rate" for purposes of computing rate increases. Carriers are allowed to recover inflation quarterly on individual rates up to the level of the adjusted base rate without challenge.

To determine the adjusted base rate the Commission must publish quarterly a rail cost adjustment factor, which uses an Index of Railroad Costs to keep rates equal with inflation.

The Senate bill allows a rail carrier to increase a rate by an amount not exceeding 5 percent of the adjusted base rate, subject to the restriction that the increase over 5 years under this section not exceed 14 percent. The Commission is not allowed to suspend any rate increase within this 5 percent zone, and it may investigate such increase only if it exceeds a revenue to variable cost ratio established by the Commission or if the carrier or carriers proposing the rate increase have achieved an adequate revenue level. Even a rate increase within the 5 percent zone is subject to challenge on complaint, with the burden of proof on the shipper.

If the Commission decides not to investigate a rate within the 5 percent zone, it must set forth its reasons for not doing so, after giving consideration to three factors—the amount of traffic transported below variable cost, the amount of traffic which contributes only marginally to fixed cost and the extent to which such rates can be changed, and the impact of the proposed rate increase on national energy goals, taking into account the railroads' role as a primary source of transportation and the need for a sound rail transportation system.

The Commission shall consider, among other factors, when determining the reasonableness of a rate, the amount of traffic which is transported below variable costs, the amount of traffic which contributes only marginally to fixed costs and the extent to which such rates can be changed, and the carrier's mix of rail traffic to determine whether one commodity is paying a disproportionate share of the carrier's overall revenues.

The Senate bill allows the Commission to investigate a rate even if it is within the 5 percent zone if such a rate is proposed by a carrier or carriers with adequate revenues.

House amendment.—The House amendment establishes a base rate for purposes of rate increases, and an adjusted base rate to account for inflation. It also provides for a 6 percent zone for each of the four years after the date of enactment, and a 4 percent zone for carriers without adequate revenue for each succeeding year.

The House amendment does not permit a suspension or investigation of rate increases within the 6 percent or 4 percent zones, if the resulting rate is less than 190 percent or revenue to variable cost or 20 percentage points above the jurisdictional threshold, whichever is lower. It also prohibits the Commission from using

rules, classifications, or practice changes to limit rates. It includes a provision that limits the allowable rate on coal movements fitting a particular description.

Conference substitute.—The conference substitute adopts parts of the Senate bill and parts of the House amendment. It establishes the base rate as the rate in effect on the effective date of the Act. The "adjusted base rate" is computed quarterly by means of a "rail cost adjustment factor", as contained in the Senate bill.

A carrier is allowed to change a rate to conform to the "adjusted base rate" at any time without challenge. A carrier may not receive a rate increase under the adjusted base rate method if the carrier has received an inflation increase through general rate increases or the inflation index thereby already assuring that the rate reflects inflation.

The language of subsection (b) makes it clear that rate increases which do not exceed the adjusted base rate may not be found by the Commission to exceed a maximum reasonable level. The reference to rate increases under subsections (c) and (d) of this section is not intended to suggest that increases under those subsections are presumed to be reasonable. The reasonableness of such rate increases shall be determined under the same standards of maximum reasonableness applicable to any other rate or rate increase.

The conference substitute adopts the 6 percent zone contained in the House amendment. A carrier is free to increase any rate by 6 percent of the adjusted base rate.

During the four year period after the effective date of the Act, the total increase allowed under this section is limited to 118 percent of the adjusted base rate. If a carrier does not take all or a portion of a rate increase in a year, the carrier may take that portion in the next succeeding year.

If a carrier chooses not to take some portion of the allowed 24 percent increase during the first four years, the carrier may take that portion in the next 2 succeeding years, except that the rate increase allowed under this section is limited to 10 percent for each of those years.

The 6 percent zone does not establish a limit for allowable rate increases by the Commission. If the Commission finds that rate increases do not exceed a reasonable maximum, it may allow such rate increases under the normal standards and procedures of the Act. The 6 percent zone is established as a procedural mechanism for carriers to change rates without undue regulatory interference. The Conferees believe that the best regulator is the marketplace, and the forces of competition will restrain railroad rates more effectively than federal regulation.

The Conference substitute requires the Commission, when considering a rate increase within the 6 percent zone and below the point 20 percentage points higher than the jurisdictional level or 190 percent of revenue to variable cost, whichever is lower, to give due consideration to whether a carrier proposing a rate increase has attained adequate revenues, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level. This provision is intended to apply only for the four years that the 6 percent zone applies, and only to those rate increases which are

within the 6 percent zone and below the point 20 points higher than the jurisdictional level or 190 percent of revenue to variable cost, whichever is lower.

The Conferees intend that the Commission give due regard to two things, whether a rate increase would mean excessive profits, and the need for a rate increase in light of the carrier's revenue position taking into account the policy of this Act that inadequate revenue carriers make adequate revenues. This language is not intended to imply that excessive profits for inadequate revenue carriers are reasonable.

The Conferees understand that the Commission presently considers the adequacy of revenues in its determination of reasonableness, and the Conferees intend that the Commission continue to consider the adequacy of revenues in its determination of reasonableness. The Conferees intend that the Commission continue to look carefully at the adequacy of a rail carrier's revenues when considering whether a rate is reasonable and to consider all the other factors which it presently considers in determining reasonableness.

The Conference substitute adopts the 4 percent zone from the House amendment. A 4 percent zone is established free from suspension, and free from investigation if the resulting rate is below 190 percent or 20 percentage points above the jurisdictional threshold, whichever is lower. A carrier is allowed 4 percent of the existing rate as an increase without undue regulatory interference.

This zone is limited to carriers without adequate revenues. Carriers with adequate revenues are not allowed this 4 percent zone on single line rates, and are not allowed the zone on joint line rates unless the Commission determines in its rulemaking under this provision that it cannot establish rules preventing rail carriers with adequate revenues from taking advantage of the 4 percent zone without denying the zone to carriers without adequate revenues. The conferees expect the Commission to establish the rules for determining how the 4 percent zone is to be applied in conformity with the policy of this Act, which is designed to provide increased regulatory freedom and to allow carriers to earn adequate revenues.

Neither the 4 percent or the 6 percent zone is intended to create any presumptions about the rate increases beyond the zone. The Conference substitute states unequivocally that a rate increase beyond the zone establishes no presumption of market dominance or reasonableness.

The Conference substitute adopts the House amendment which establishes the point at which the Commission may investigate a rate increase within the 6 percent or 4 percent zones. The point is 20 percentage points above the jurisdictional threshold or 190 percent of revenue to variable cost, whichever is lower. For example in the first year the jurisdictional threshold is 160 percent, and the point at which the Commission may investigate is 180 percent.

The Conference substitute adopts the Senate provision which requires the commission to set forth its reason for not reviewing a rate increase or new rate. The Commission shall give due consideration, in its decision whether or not to investigate, to the following factors:

1. the amount of traffic which is transported below going concern value, and efforts made to minimize such traffic;

2. the amount of traffic which contributes only marginally to fixed costs; and

3. the impact of the proposed rate increase on the attainment of the national energy goals and the rail transportation policy of this Act, taking into account the railroads' role as a primary source of energy transportation and the need for adequate revenues to achieve a sound rail system.

The Conferees have used the term "going concern value" in the first consideration in place of "variable cost" to eliminate any confusion about what is intended. Railroads should not be carrying traffic which is losing money but in a competitive environment railroads should be attracting whatever traffic they can at the lowest rates that will attract the traffic. There should be no incentive to prevent such pricing, which is to the advantage of the shipper and the consumer.

The Conferees have added to the third consideration the rail transportation policy of this Act. The national energy goals, which include a reduction of dependence on foreign energy sources and the encouragement of fuel efficient forms of transportation within the United States, are compatible with the transportation policy of this Act. To reduce dependence on foreign energy sources this country must stimulate utilization of its abundant, indigenous coal reserves. For coal to be a viable alternative, we must have a sound rail transportation system capable of handling such coal efficiently and economically. At a minimum the rail system will need to invest over $5 billion over the next 4 years to maintain a system adequate for increased coal use. Without such an investment the national energy policy of decreasing reliance on foreign energy sources will never be achieved.

Decisions whether to investigate a rate are not presently reviewable in court. The conferees intend, and the Act specifically states, that a decision whether or not to investigate remains not reviewable.

The Conference substitute adopts the language of the Senate bill specifying three factors among those already considered by the Commission which the Commission must consider in determining the reasonableness of a rate, with changes. As in the previous section the term "going concern value" is substituted for "variable costs". In the third consideration, the word "disproportionate" is changed to "unreasonable". It requires the Commission to consider evidence of the factors listed.

The Conference substitute adopts the House provision limiting coal rates which meet a specific description. This provision deals with the celebrated and extended dispute over the freight rate for rail transportation of coal to a municipally owned utility in San Antonio, Texas. This utility decided voluntarily in 1973, prior to the oil embargo, and prior to any legislative requirements concerning use of alternate fuels, to convert an oil/gas unit then on order to coal and to build this and an additional unit on an accelerated basis, resulting in the displacement of oil and gas equivalent to more than 50 billion cubic feet of gas on an annual basis. Unfortunately the appropriate rate for the transportation of coal to these new plants has been the subject of dispute and protracted litiga-

tion. Due to the unique circumstances of the San Antonio situation, this provision imposes certain short term limitations on the rate level for the San Antonio coal movement. The purpose of this provision is not punitive and the rate specified for such a coal movement shall have no effect on any decision of the Commission or a court, and evidence of the rate or this section shall be inadmissible in any proceeding.

The Conference substitute adopts the House provision. New section 10709(h) makes it clear that the Commission may not use any of its residual powers to regulate rates, rules, classifications, and practices as tools to interfere with the rate freedom provided by the Staggers Rail Act. The Conferees intend that a practical rule or classification which has the effect of resulting in an increased rate for transportation shall not be found unreasonable unless, in the absence of its effect on rate levels, it would itself be unreasonable.

SECTION 204—TRANSPORTATION OF RECYCLABLE MATERIALS

Senate bill.—The Senate bill requires that rates for recyclable or recycled materials be no higher than the average revenue to variable cost ratio of all rates for railroad transportation. Any rate which exceeds that threshold shall not be required to bear further rate increases.

House amendment.—No provision.

Conference substitute.—The Conference substitute adopts the Senate bill with certain changes. The substitute excludes recyclable or recycled iron and steel from this provision. Rates which are currently above the threshold would be prohibited from increases until such time as the rate falls below the average revenue to variable cost threshold. The standard for establishing the average revenue to variable cost threshold is the standard used in the Senate bill.

SECTION 205—RATE REGULATION PROCEEDINGS; ADEQUATE REVENUES

Senate bill.—The Senate bill required the Commission to submit to Congress, within one year after the enactment of the act, a study on the desirability of using return-on-investment as a threshold standard for jurisdiction over the reasonableness of rail carrier rates. The Commission was also required to submit a report to the Congress every three years which analyzed the revenue needs of carriers and made appropriate recommendations.

House amendment.—The House amendment requires the Commission to commence and conclude within 230 days of enactment a proceeding to determine whether, and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. For purposes of only this proceeding product competition is defined in the amendment. This definition is not intended to be taken into account in any other Commission or court proceeding dealing with competition from alternative sources or types of commodities. The amendment provides that on the basis of the study the Commission may find that in determining the reasonableness of a rate, product competition should be given the same or greater weight than in current proceedings or proof of product competition should be given greater or conclusive weight.

The section is not to be construed as requiring any change in the Commission's present standards concerning reasonableness and is not to influence in any way the meaning of market dominance.

The House amendment also requires the Commission to submit to Congress within three years of the effective date of the Act recommendations as to the threshold level for Commission jurisdiction over the reasonableness of a proposed rail rate.

The House amendment also requires the Commission within 180 days after the effective date of the Act to establish standards for determining what constitutes adequate revenues under section 10704 of the Act and to report to the Congress, within 180 days after the effective date and annually thereafter, which carriers were earning adequate revenues.

The House amendment makes the rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980, the base rate for purposes of determining permissible rate increases.

Conference substitute.—The Conference substitute adopts the provision from the House amendment requiring the Commission to initiate a proceeding within 230 days of the effective date of the Act to determine whether and to what extent, product competition should be considered in determining the reasonableness of rail carrier rates. The substitute amends the House amendment to underscore the fact that the ICC proceeding shall not be evidence in a Commission or court proceeding regarding the scope of the market dominance concept.

The Conferees intend to exclude from any rule adopted under this subsection existing supply contracts, or for two years, whichever is less. The Conferees also intend that the Commission, in its rule-making, look at the existence of long-term contracts in determining how to apply product competition. Product competition means the availability to a consignee at a competitive delivered cost and in sufficient quantities of products or commodities which are of the same type as the coramodity or product to which the rate applies without regard to whether such products or commodities are available from the same or a different origin as those to which a rate applies. An example of where product competition does not exist is a situation in which a particular automobile company manufactures bumpers at Plant A and ships them to its Plant B for assembly because it cannot use another automobile company's bumpers.

The Conference substitute amends existing Section 10704(a)(2) of Title 49 clarifying that the Commission has the authority to revise its standards and procedures for determining revenue adequacy as necessary; by directing the Commission to conclude a proceeding under Section 10704(a)(2) within 180 days after the effective date of the Act; and on the basis of standards and procedures under Section 10704(a)(2) to determine which rail carriers have adequate revenues within 180 days of the effective date of the Act and on an annual basis thereafter.

SECTION 206—INFLATION-BASED INCREASES

Senate bill.—The Senate bill provides a free zone for the recovery of inflationary cost increases.

House amendment.—The House amendment allows the Commission to establish a percentage rate increase or rate index for rail carriers in order to compensate for inflation. Such percentage increase or index may be applied carrier by carrier or industry wide. The percentage rate index allows the Commission to establish a range within which carriers may increase rates differently for different commodities, but recovering no more than total inflation.

Conference substitute.—The Conference substitute provides that the Commission may establish a percentage rate increase or index to allow carriers to cover inflation. Such an index or percentage may not be necessary, since carriers will be free to recover inflation on individual rates without challenge. In the event that carriers find they are unable to keep up with inflation, and the Commission believes that it must prescribe a general mechanism to allow carriers to cover inflation, this percentage increase or index is allowed. The provision makes specific reference to the policy section of the Act which discourages the automatic pass-through of inflation through increases of general applicability.

Under this provision, the Commission is allowed to establish a range of permissible increases, and the carriers may take increases within that range. The total increase in revenue may not account for more than is necessary to cover the total of inflationary cost increases.

SECTION 207—INVESTIGATION AND SUSPENSION OF RATES

Senate bill.—The Senate bill requires the Commission to complete a proceeding when a suspension has occurred within five months, unless it reports to the Congress that it is unable to do so, in which case it may take an additional three months.

House amendment.—The House amendment requires the Commission to act within five months if a suspension has occurred, and provides an additional 3 months if the Commission reports to the Congress that it is necessary. The House amendment also revises the standards under which the Commission may suspend a rate by adding the word "substantially" to the requirement that the Commission find that it is likely that the complainant will prevail on the merits and by adding a new standard which requires the Commission to find that because of the peculiar economic circumstances of the protestant, he is not protected by the refund provisions. The burden is on the protestant to prove that the standards are met.

The House amendment also provides for an accounting and refunds to shippers where a proposed rate increase is suspended, and to rail carriers if the proposed rate increase is suspended and later found to be reasonable.

Conference substitute.—The Conference substitute adopts the House amendment with a modification with respect to refunds. The substitute makes suspension more difficult.

SECTION 208—CONTRACTS

Senate bill.—The Senate provision clarifies the status of contract rate and service agreements in an effort to encourage carriers and purchasers of rail service to make widespread use of such agree-

ments. In addressing concerns of small shippers the Senate provision also limited the percentage of equipment a rail carrier could dedicate to contract service. This limitation was designed to insure that the carriers always had sufficient equipment to meet common carrier obligations. The Senate bill limits the number of cars a carrier can dedicate to contract service to 35 percent of the carriers' capacity by major car type. A further limitation was imposed on large shippers, again to protect the small shippers' ability to obtain sufficient cars, with respect to contracts between Class I carriers and shippers which originate an average of 1,000 cars or more per year by major car type during any preceding three-year period, nor more than 40 percent of that coverage could be used for contracts. The remainder of the shipper's car needs would be supplied by the carrier under the common carrier obligation as with all other non-contracting shippers. The smaller shippers, i.e., one who originates less than 1,000 cars per year (based on a 3 year average prior to the contracting period) could contract for 100 percent of the shipper's needs.

Further, the Commission may order a carrier to provide rates and services similar to those in any contract which it finds the carrier did not make available to a similarly situated shipper.

House amendment.—The House amendment permits carriers to enter into contracts with shippers. Once approved, a contract is not subject to challenge.

First, carriers may enter into contracts filed with the Commission (along with summaries to be made public) unless the Commission finds that the contract unduly impairs the ability of the carrier to fulfill its common carrier obligation to a complaint, unreasonably discriminates against a port or, in the case of agricultural commodities, the carrier has unreasonably discriminated the complainant a similar contract under similar conditions or the contract constitutes a destructive competitive practice.

Second, the Commission may begin an investigation within 30 days of the filing of a contract on its own motion or on complaint. The Commission has 30 days following the initiation of a proceeding to approve the contract. If the Commission fails to act, then the contract is approved.

Third, if the Commission determines that a carrier has refused to provide an agricultural shipper with a similar contract, the Commission may order the carrier to enter into such a contract with appropriate adjustments.

Fourth, once a contract has been approved by the Commission, the Commission may not require violation of the contract except to require compliance under the Commission or any court under the provisions of this subtitle. The exclusive remedy for breach of a contract entered into under this section is an action in a State or U.S. district court, unless the parties otherwise agree.

Fifth, during the first three years after passage of the Act, a carrier may enter into contracts for the transportation of agricultural commodities involving the utilization of carrier-owned or leased equipment not in excess of 35 percent of the capacity of such carriers' owned or leased equipment by major car type, except with respect to a contract with a shipper of over 1,000 cars or more per year for the prior three years in which case the carrier may con-

tract for more than 40 percent of the average equipment utilized in the three year period. The Commission may raise these limits.

Conference substitute.—The conference substitute adopts the Senate amendment with several changes. The percentage of limitation on cars for contracts for agricultural commodities, is expanded to include forest products and paper and is not limited to three years after passage of the Act. However, the Commission, as well as any other party, may initiate a proceeding to modify this percentage limitation. Unreasonable discrimination with respect to agricultural, forest product or paper shippers is defined for purposes of this section as that term is used in section 10741 of the Interstate Commerce Act. A similar provision with respect to ports from the House amendment is retained. The conferees stress that the establishment of contract rates is a significant aspect of the new freedom allowed to carriers to market rail transportation more effectively. Therefore, the grounds for disapproving contracts have been intentionally limited.

The provision establishes a separate class of rail service and thereby makes carriers entering into such contracts both common carriers and contract carriers. Once a contract is approved by the Commission or goes into effect because the Commission has not acted within the specified time limits, the service provided under the contract is exempt, subject to the specific limitation of section 11128, from all regulation and all of the requirements of the Interstate Commerce Act. However, the Commission is given the specific authority to limit the right of a rail carrier to enter into future contracts if it determines that such additional contracts will impair the ability of the rail carrier to fulfill its common carrier obligations under Section 11101 of the Act. Once contracts are approved under this section, they are to be enforced in the courts and not at the Commission.

Shippers who do not elect to enter into contracts, or are unable to do so, are assured that carriers will have the same common carrier obligations as in existing law. The percentage limitation on equipment for agricultural commodities, forest products and paper result from problems experienced in providing adequate numbers of cars for the shipment of these products and are intended to ensure that a carrier can meet its common carrier obligations. These limits are to apply to any type of car which could practicably be used for shipping agricultural commodities, forest products or paper. However, they are not intended in any way to imply a limit on a carrier's ability to contract with respect to other types of equipment.

While the Conferees intend to encourage shippers to contract they recognize the difficulty that small shippers may have in negotiating contracts, and therefore, the Conference substitute adopts the Senate provision establishing a railroad contract rate advisory service. The Conference substitute also includes the Senate provision which gives the Commission the ability to order a carrier to provide rates and services similar to those in any contract which it finds the carriers did not make available to similarly situated agricultural shippers. Finally, the Conference substitute includes a provision which allows agricultural shippers to challenge a contract on the grounds that the proposed contract constitutes a destructive competitive practice. It should be noted that these provisions were

included in recognition of the fact that smaller shippers are particularly concerned about the market power of their larger competitors once the contract rate provisions are put into effect. It is the intention of the Conferees that the Commission carefully review this aspect of the competitive situation in approving contracts.

The existing Federal antitrust laws apply to this section.

SECTION 209—DEMAND SENSITIVE RATES

Senate bill.—The Senate bill amends 49 U.S.C. 10727 to provide for the filing of a demand-sensitive tariff in response to explicit or anticipated fluctuations in demand for rail services. The tariff would apply to a specified movement and would include a maximum and minimum rate, subject to maximum and minimum rate regulation. The Senate bill specifically excluded grain from this provision.

House amendment.—The House amendment repealed 49 U.S.C. 10727 because of the concerns raised by agriculture interest groups about the way demand-sensitive tariffs had been implemented. The provision was originally included in the 4R Act to provide greater car utilization by encouraging rail shippers to ship in off-peak, low demand periods. The repeal of the demand-sensitive tariff authority should not be construed by the Commission as a resolution of the car utilization problems. The Commission has other ways to abate the serious problem of the declining car utilization in the rail industry.

Conference substitute.—The Conference substitute adopts the House provision. The conferees direct the Commission to explore alternative methods of improving car utilization and making railroad prices and services more responsive to market conditions instead of artificial regulatory restraints. However, the Commission is on specific notice not to contravene the policy set out by Congress which is clearly to prevent demand-sensitive rates by any means to apply to agricultural commodities.

A letter from Chairman Gaskins on the Commission's existing authority in this area is attached as an appendix.

SECTION 210—PHASEOUT OF CAPITAL INCENTIVE RATES

Senate bill.—The Senate bill repealed 49 U.S.C. 10729, which provides that if a capital incentive rate is approved by the Commission, such rate not be found unreasonable or discriminatory for 5 years. A capital incentive rate is based on an investment by a shipper, railroad or interested third party of $1 million or more in rail-related equipment or facilities. The intent of this provision was to encourage the negotiation of rates reflecting individualized and innovative service and to create stability which would promote large investments. Regulatory complexities and ambiguities have frustrated the intent of this section. Moreover, the explicit authorization of contracts makes this section unnecessary. Capital-incentive rates filed not less than 90 days before the date of enactment would not become effective, but rates filed before that date remain effective subject to the 5-year limitation.

House amendment.—The House amendment repeals the capital-incentive rate provision, but preserves all capital-incentive rates

from challenge as unreasonable or discriminatory if filed prior to the effective date of this Act, subject to the 5-year limitation from the date the rate became effective, unless the parties otherwise agree. The Commission may, during the period the rate is in effect, order the rate revised to a level equal to the incremental cost of providing the transportation, if the Commission finds that the rate level in effect reduces the going concern value of the rail carrier.

Conference substitute.—The Conference substitute adopts the House amendment.

SECTION 211—PERMISSIVE LIMITED LIABILITY

Senate bill.—The Senate bill amends 49 U.S.C. 10730 with respect to released rates. Under existing law, the Commission is authorized to permit released rates in cases where rates based on a declared or released value would be just and reasonable under the circumstances surrounding the transportation. Under this section, no carrier may publish rates based on the declared or agreed value without specific authority from the Commission.

Under the Senate bill, rail carriers may establish released value rates subject to the provisions and procedures set forth in chapter 107. The effect of this change is to authorize the filing of such rates without prior Commission authorization. In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage.

Rail carriers should be able to negotiate for the type of service required and the rate to be paid for that service. It is with that purpose in mind that this subsection has been added to section 10730—to permit the establishment of released rates as an additional option available to shippers and rail carriers. Full value rates will of course continue in effect for the use of those shippers and receivers which choose not to utilize released rates established and filed under this provision or agree to other terms as part of a contract for services.

House amendment.—The House amendment provides that rail carriers may establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by a written declaration of the shippers or by a written agreement between the shipper and carrier, and such agreement may provide for a specified deductible for any claim against the carrier for loss or damage to the property or delay in the transportation of such property. The ability to use released rates including the deductible in an agreement, gives both the shipper and carrier greater flexibility with respect to negotiation of rates without harrassment and delay at the Commission.

The House amendment changes provisions of the Carmack Amendment, 49 U.S.C. 11707 concerning the availability of special damages, comparative negligence standards for liability and the time period when claims must be filed with the carrier and where actions must be instituted against a carrier under the Carmack Amendment.

Conference substitute.—The Conference substitute adopts the House provision with respect to released rates, including deductibles, but drops the references to the Carmack Amendment, except for venue provisions. It adds a study with respect to the need for the Carmack Amendment. At the insistence of several shipper groups, explicit statutory language prohibiting special damages was eliminated because special damages are not permitted under the Carmack Amendment.

A provision regarding the changing of the existing case law that makes the railroad almost strictly liable, unless it can establish that it was neither negligent nor not liable under certain recognized absolute defenses, was dropped and has been included in the study. While the study is being completed, carriers are not prohibited from arguing to the courts that the Carmack Amendment was intended to codify common law standards and therefore, a comparative negligence standard ought to be adopted.

The Conference substitute adopts the House amendment with respect to changes in venue for Carmack Amendment cases. Hereafter, cases may only be brought in the court having jurisdiction over the originating carrier's point of origin, against the delievering carrier in a court at the principal place of business of the person entitled to recover against the carrier or having jurisdiction over the point of destination, or against an originating, intermedinte or delivering carrier in a court having jurisdiction over the point where the loss or damage is alleged to have occurred. Because existing law permits an action wherever the carrier operates, venue is virtually uncontrollable and frequently, inconvenient.

The Carmack Amendment was enacted at a different time with different factors affecting rail carriers. Among other issues, the studies should examine whether special damages are being recovered from rail carriers, and, whether a rail carrier ought to be responsible for such damages in the absence of a clear showing, by written agreement, that the carrier was made aware of certain foreseeable risks and had an opportunity to make appropriate arrangements.

Similarly, the studies should consider whether it makes sense in 1980 to hold a carrier liable for 100 percent of the damages even if the carrier was only 10 percent at fault. Current law makes a carrier totally liable unless the carrier can show that it was completely free from fault and that the shipper's negligence was the sole cause of the damages. The study should consider whether it is appropriate to follow the recent trend among the states to adopt comparative negligence standards, requiring each party to bear the costs of its own negligence. More than a majority of states have departed from prior law making liability an all or nothing alternative. The study should determine whether similar policy goals would require similar legislation with respect to common carrier obligations.

The studies should also address other issues raised by the Carmack Act, including the recovery of attorneys' fees, appropriate time limits, the feasibility of a "no-fault" system, and proper venue requirements.

SECTION 212—RATE DISCRIMINATION

Senate bill.—No provision.

House amendment.—The House amendment amends section 10741 to state that differences between rates, rules, or practices which result from different services do not constitute a violation of this section. The amendment specifically exempts surcharges, approved contracts, separate rates for distinct services under 10728, rail rates applicable to different routes and customer solicitation expenses from being challenged as discriminatory. The Commission retains its existing authority to regulate rate relationships between and within ports.

Conference substitute.—The Conference substitute adopts the House amendment. The Conference substitute will help ensure that, with the exception of the right of ports to complain of unjust discrimination between and within ports and the special remedies provided for certain unjustly discriminatory contracts in new section 10713, claims of unjust discrimination may not be used to hamper the development of sound economic rate and service relationships. The conferees also expect the Commission to exercise its remaining power under section 10741 only where it is needed to prevent abuses of market power where discrimination cannot be justified by differences in demand for services or costs.

The conferees intend that the reference to separate rates or distinct rail services in this section shall not affect the *Wichita* doctrine.

SECTION 213—EXEMPTIONS

Senate bill.—The Senate bill amended section 10505 to provide that, where any provision of the Interstate Commerce Act is not needed to protect shippers from the abuse of market power, the "limited scope" restriction in the original section 10505 would not apply. The Senate bill also removed the requirement that a proceeding be held in all cases before an exemption is granted.

The Senate bill requires the Commission to provide an exemption from regulation when it finds that regulation is not necessary to carry out the transportation policy and the transportation or service is either of limited scope or regulation is not needed to protect shippers from the abuse of market power. The Commission may not issue an exemption which will substantially lessen competition and coordination between water and rail carriers. No exemption order shall operate to relieve railroads of their common carrier liability for claims under 49 U.S.C. 11707.

House amendment.—The House amendment amends section 10505 of the Interstate Commerce Act and provides that the Commission shall exempt a person or transaction from one or more provisions of the Act where it is not necessary to carry out the rail transportation policy and where (1) the transportation or service is of a limited scope or (2) the application of a provision is not needed to protect shippers or receivers where there is an absence of effective competition or (3) where there is effective competition. The House bill, like the Senate bill, removed the requirement that a proceeding be held in all cases. The Commission is charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section's standards.

The amendment places certain limits on the Commission's authority to grant exemptions. First, section 10505(e) provides con-

tractual terms for liability and claims consistent with section 11707. This limitation does not affect the ability of a carrier to offer alternative terms nor give the Commission the authority to require either any specific level of rates or services based on Section 11707, nor does it require the filing of those terms with the Commission. Second, the exemption authority may not be used to relieve a carrier of its obligation to protect the interests of employees. Third, under section 10505(f) the exemption authority may not be used to authorize intermodal ownership otherwise prohibited by this title.

Conference substitute.—The Conference substitute combines the Senate and House provisions. The bill permits exemptions wherever regulation is not needed to prevent abuses of market power, regardless of the presence of effective competition. The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation. The conferees anticipate that through the exemption process the Commission will eventually reduce its exercise of authority to instances where regulation is necessary to protect against abuses of market power where other federal remedies are inadequate for this purpose. Particularly, the conferees expect that as many as possible of the Commission's restrictions on changes in prices and services by rail carriers will be removed and that the Commission will adopt a policy of reviewing carrier actions after the fact to correct abuses of market power.

For these reasons we also expect that except to the extent necessary to comply with subsections (e) and (g) of section 10505 of title 49 U.S.C. as amended by the Staggers Rail Act of 1980, an exemption order issued by the Commission prior to the effective date of the Staggers Rail Act of 1980 shall remain in full force and effect unless revoked pursuant to subsection (d) of section 10505 of title 49 U.S.C. as amended.

SECTION 214—INTRASTATE RATES

Senate bill.—The Senate bill amends section 11501 to reaffirm both that the Commission's power in this area is only as otherwise authorized by this title and that the States' power cannot conflict with the Federal regulatory scheme.

First, it amends section 11501 to limit the Commission's authority to prescribe a rate or effect other action which is inconsistent with its rate regulatory authority as limited by the act.

Second, it reaffirms that where the Commission has withdrawn its jurisdiction to regulate, the State could not assume such jurisdiction.

Third, it provides that to the extent States do have jurisdiction, they are to regulate in accordance with the transportation policies set forth in the act.

Finally, it shortens the time in which a failure by the State to act on an intrastate rate allows Commission action.

House amendment.—The House amendment amends sections 11501, 10103, and 10501 of the Interstate Commerce Act by exempting rail carriers from the provisions of section 11501(a) and by adding provisions making the Commission's and certified States' jurisdiction over intrastate and interstate rail carrier rates, classifications, rules and practices and the remedies provided by the Act exclusive.

First, it amends section 11501(a) of the Interstate Commerce Act to exempt rail carriers from present provisions for Commission jurisdiction over intrastate carriers.

Second, it amends section 11501 by adding new provisions which provide that only State authorities whose standards and procedures have been certified by the Commission may exercise jurisdiction over intrastate rail rates, classifications, rules and practices. Intrastate rail transportation not subject to the jurisdiction of a certified State authority is subject to the jurisdiction of the Commission. In no event may a State authority exercise jurisdiction over general rate or inflation-based rate increases. Decisions of State authorities may be appealed to the Commission if not in accordance with this subtitle.

Third, it amends section 10103(a) to make explicit that where the Interstate Commerce Act provides an exclusive remedy, such remedy is not in addition to remedies under another law or at common law.

Finally, it amends section 10501 by adding a new paragraph providing that the jurisdiction of the Commission and of certified State authorities over rail transportation, as well as the remedies provided with respect to rail rates, classifications, rules and practices are exclusive.

Conference substitute.—The Conference substitute adopts the House amendment, except that the Commission's power to adjust intrastate rates is retained in the event that actions by certified states impose a burden on intrastate commerce. The conferees' intent is to ensure that the price and service flexibility and revenue adequacy goals of the Act are not undermined by state regulation of rates, practices, etc., which are not in accordance with these goals. Accordingly, the Act preempts state authority over rail rates, classifications, rules and practices. States may only regulate in these areas if they are certified under the procedures of this section.

The remedies available against rail carriers with respect to rail rates, classifications, rules and practices are exclusively those provided by the Interstate Commerce Act, as amended, and any other federal statutes which are not inconsistent with the Interstate Commerce Act. No state law or federal or state common law remedies are available.

SECTION 215—BUSINESS ENTERTAINMENT EXPENSES

Senate bill.—No provision.

House amendment.—The House amendment adds a new section 10751 to subchapter III of chapter 107 of title 49 U.S.C. to provide that business solicitation or entertainment expenses incurred by

rail carriers do not constitute illegal rebates or discrimination, if these expenses would be legal when incurred by a non-Commission regulated entity. The House amendment treats rail carriers in a similar manner as other businesses.

To discourage excessive solicitation or entertainment expenses, these expenses are not to be taken into account in determining the cost of service or the rate base for rate regulation purposes.

The Commission is directed to institute a rulemaking proceeding to establish standards and guidelines for authorized expenses under this section.

Conference substitute.—The Conference substitute follows House amendment. It amends Section 10751 of Title 49 U.S.C., which was added by the Motor Carrier Act of 1980, by striking out "other than transportation by rail". In addition, Subsection (b) of Section 215 makes clear that Section 10751 should be construed so as to include any permissible business expense that was incurred prior to the effective date of this Act (other than expenses on which a penalty has been paid) or that is incurred on or after such date.

SECTION 216—EFFICIENT MARKETING

Senate bill.—The Senate bill amends 49 U.S.C. 10762(c)(3) to permit new or increased rates to become effective 20 days after the notice of such rate is published and filed, but delayed the effective date of this change for 60 days. The Senate bill also leaves contracts and demand-sensitive tariffs subject to the provisions of existing law that require that tariffs shall not become effective on less than 30 days notice.

House amendment.—The House amendment reduced the period after which tariffs increasing rates can become effective to 10 days and the period after filing tariffs which reduce rates can become effective to 5 days after filing. The House amendment also permits the Commission to reduce the notice period if cause exists. The House amendment establishes a separate filing procedure for contracts in the contract section.

Conference substitute.—The Conference substitute permits tariffs increasing rates to become effective upon 20 days notice and tariffs reducing rates to become effective upon 10 days notice. The Conference substitute does not change existing law which permits the effective dates of tariffs to be reduced upon cause shown.

SECTION 217—JOINT RATES

Senate bill.—The Senate bill authorizes a carrier to publish a surcharge without the concurrence of other carriers if the surcharge is applied in equal dollar amounts to all of the routes participated in by that carrier between the same points as if an increase in joint rates, to all of its competing single-line routes between each such origin and destination. The change in revenues shall accrue solely to the carrier applying the surcharge.

The proposing carrier must give 45 days' notice to other carriers party to the joint rate.

A carrier which participates in any route subject to a surcharge may by tariff cancel the application of such surcharge to any route if such carrier demonstrates that, under the applicable joint rate

without the surcharge or under a new lawful rate or division concurred in by the carrier, the surcharging carrier's revenues for its participation over such route are less than 110 percent of its variable costs.

A carrier may not apply a surcharge unless, for 1 year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by other parties to the rates.

Only the carrier proposing a surcharge shall be required to defend the surcharge, and the lawfulness of the surcharge shall be determined without regard to the amounts received and the services performed by other carriers party to the joint tariff to which the surcharge is applied.

A rail carrier may, without the concurrence of any connecting rail carrier, publish surcharges applicable to traffic originating or terminating upon any line of railroad originating and terminating less than 3 million gross ton miles of traffic per mile in the most recent calendar year for which traffic data are available if, prior to the application of any such surcharge, the through charges applicable to traffic to and from any such line do not provide the surcharging carrier revenues adequate to cover 100 percent of the reasonably expected costs (including the cost of capital) of continuing to operate the line involved. The change in revenues resulting from any such surcharge shall accrue solely to the carrier applying the surcharge.

A carrier may cancel the application of a joint rate to any through route without the concurrence of any connecting carrier unless another carrier party to the rate over that route demonstrates that the canceling carrier's share of revenue under the canceled rate is not less than 110 percent of the canceling carrier's variable cost of providing service over that route.

The carrier would be required to provide an estimate to class III carriers or other parties upon a showing of good cause in developing necessary data to challenge surcharges. The Commission's Special Council is authorized to assist class III carriers in actions brought under this section.

House amendment.—Consistent with the goal of preserving a financially stable, private sector rail system set forth in section 3 of the amendment, section 301 establishes procedures by which rail carriers which do not earn adequate revenues under existing joint rates and divisions can surcharge such rates or cancel their application to particular routes without the concurrence of other carriers. The purpose of this section is to insure than no rail carrier will be compelled to carry goods unless its share of the revenues from the joint rate, including any surcharges, is at least 110 percent of the carrier's variable cost of providing the particular services involved. In addition, for light density lines owned by a single carrier which carry less than 3 million gross ton miles per mile of traffic, this section allows such a carrier to apply surcharges to recover in full its reasonably expected costs of providing services over such lines.

With respect to a particular route to which a surcharge has been applied under subsection (a) or to which the application of a joint rate has been cancelled, section 301 allows connecting carriers who participate in the route or shippers who demonstrate that they have no competitive alternative to the route to respond to provide

revenues to the surcharging or canceling carrier in excess of 110 percent of that carrier's variable cost. Alternatively, the connecting carrier may agree to a new division or new lawful rate or the carrier or a shipper in an affected route may petition the Commission to establish a new rate which is sufficient to produce revenues equal to 110 percent of the variable cost to the carrier proposing the surcharge or cancellation. Under either alternative, the surcharge would be cancelled or the application of the joint rate continued for that particular route. A surcharge to a light density line may be challenged by a shipper who has no competitive alternative to such line on the basis that the revenues generated exceed the surcharging carrier's reasonably expected costs of providing services over the particular line or that the shipper is bearing an unreasonable proportion of the reasonably expected costs. Special provisions are also included in section 301 to protect class III carriers from unfair competition as a result of action taken by another carrier under this section.

SECTION-BY-SECTION ANALYSIS

Section 301. This section amends chapter 107 of title 49 by adding a new section 10705a which provides standards and procedures for surcharging an existing joint rate or for canceling the application of a joint rate to a particular route to increase revenues for rail carriers earning inadequate revenues from existing joint rates and divisions.

Subsection (a) authorizes a carrier to apply a surcharge increasing or decreasing the joint rate for a particular movement between two points without the concurrence of other parties to the joint rate provided the surcharge is applied in equal dollar amounts to all routes for the movement under the joint rate in which the surcharging carrier participates and, if the surcharge increases the rate, to all single line routes of that carrier between the same points. A connecting carrier may cancel the application of a surcharge to a route in which it participates by demonstrating that the surcharging carrier's revenues over that route without the surcharge exceed 110 percent of the surcharging carrier's variable cost or by putting into effect a new division or a new lawful rate which provides the surcharging carrier 110 percent of its variable cost. In addition, a shipper showing that it has no competitive alternative to that route and a carrier in the affected route, may petition the Commission to cancel the application of a surcharge to a particular route by showing that the surcharging carrier's revenues with the surcharge exceed 110 percent of variable cost. The Commission must then authorize the surcharging carrier to apply a surcharge sufficient to generate revenues equal to 110 percent of the surcharging carrier's variable cost. The right of surcharge may be exercised by a particular carrier only once a year for a particular movement and only if that carrier has participated in all generally applicable rate increases to that joint rate for one year prior to the surcharge.

Subsection (b) authorizes a surcharge applicable to traffic which originates or terminates upon a light density line, owned by a single carrier, which carries less than 3 million gross ton miles of traffic per mile per year. The surcharge may be applied (in differ-

ent amounts to different traffic in order to optimize market relationships if necessary) whenever the revenues under existing rates do not cover 110 percent of the carrier's variable cost of transporting traffic to or from the line plus 100 percent of the carrier's reasonably expected costs (including the cost of capital) of operating the line. A shipper located upon a light density line to which a surcharge is applied may petition the Commission for two kinds of relief: (1) if it is established that the revenues generated by the surcharge exceed 100 percent of the variable cost of transporting traffic to and from the line plus all the reasonably expected costs of continuing to operate the line (including normalized maintenance and the replacement cost of equipment), the Commission may reduce the surcharge to the level needed to generate such revenues; and (2) if it is established that the complaining shipper would, by virtue of the surcharge, bear an unreasonable proportion of the reasonably expected costs of operating the light density line, the Commission may reallocate the surcharge among the traffic originating or terminating upon the line.

Subsection (c) authorizes a carrier to cancel the application of a joint rate to a particular through route subject to that rate. Another carrier participating in that route or the Commission, upon petition of a shipper having no competitive alternative to the route, may prevent the cancellation upon the same demonstration or by putting into effect the same type of new rate or division necessary to cancel a surcharge under subsection (a). When a cancellation is prevented in this manner, the Commission shall consider the cancelling tariff under the provisions of existing law relative to the cancellation of joint rates. If a cancellation becomes effective, the canceling carrier may establish a local or proportional rate for that movement. Any through rate of which that local or proportional rate is a part will divide as the separate factors of the through rate are made and not by prescribed divisions.

No matter when a surcharge or cancellation is challenged under this section, the issue to be decided by the Commission is whether the surcharge or cancellation met the standards of this section at the time it was filed and not at the time it is challenged.

Subsection (d) provides that revenue changes resulting from surcharges shall accrue to the surcharging carrier. Upon demonstration by an intraterritorial connecting class III carrier particularly in a surcharged route, and in the absence of any increase in the joint rate, revenues resulting from a surcharge under subsection (a) in excess of 110 percent of variable cost over that route will be divided with intraterriorial connecting class III carriers in that route on the basis of existing divisions. This section does not apply to revenues resulting from the diversions to a line but only to revenue directly accruing from the surcharge.

Subsection (e) provides that, when a carrier puts into effect a new rate or division in order to prevent a surcharge or cancellation from taking effect over a particular route, other carriers can require similar concessions on other routes under the same joint rate in which they participate, subject to the limitations set forth in this subsection.

Subsections (f) through (h) set forth ancillary provisions with respect to surcharges and cancellations regarding notice, effect upon other sections of title 49, and access to information from the Com-

mission regarding revenues and variable cost. In particular, subsection (g) provides that, except where specifically provided in this section, the Commission may not remedy a surcharge or cancellation found to violate another section of title 49 in a way which would require a carrier to provide service at less than 110 percent of variable cost for reasonably expected costs in the case of a light density line).

Subsections (i) through (k) set forth special remedial provisions available to class III rail carriers relative to surcharges under subsection (a) or cancellations under subsection (c). These provisions allow aggrieved class III carriers to protest surcharges or cancellations which are alleged to be anticompetitive, which will unduly affect the complaining carrier's ability to earn an adequate rate of return or which create unreasonable differences in existing rates. In these limited circumstances the Commission may order relief which requires a surcharging or canceling carrier to carry traffic at less than 110 percent of variable cost if it determines that such relief is warranted by the public interest in preserving rail service or ensuring competition among rail carriers.

Subsection (l) requires the Commission, upon petition by a participating class II or III rail carrier, to prescribe a new compensatory through rate when the application of a joint rate to a through route is canceled under subsection (c).

Subsection (m) sets forth the method for determining variable cost for purposes of this section.

Subsection (n) provides that the authority to make surcharges under subsection (a) expires three years after the effective date of the Act (unless extended for one additional year by the Commission), but that surcharges made before the date will continue to be lawful.

SENATE AMENDMENT TO HOUSE AMENDMENT—NO PROVISION

Conference substitute.—The Conference substitute adopts the House substitute, with modifications. Today, most of the property transported by rail moves over through routes subject to joint rates, and the revenue derived from these movements is divided among the participating carriers according to divisions generally prescribed by the Commission. The existing joint rates and divisions do not allow some rail carriers to recover even the variable cost of providing transportation services on certain through routes. Under existing law, unless all carriers participating in the joint rate concur, these rates and divisions can be changed only by protracted proceedings before the Commission.

Two of the major problems caused by the existing joint rate system are too low rate divisions and a proliferation of uneconomic routes protected by the archaic "commercial closing" doctrine.

The Conferees intend that the conference substitute will alleviate these problems in part by assuring that a carrier, with a minimum of regulatory interference will be able, by applying surcharges or directly cancelling routes, to either earn revenues over all lines equal to or exceeding 110 percent of unadjusted ICC formula variable costs or to close routes not providing this level of earnings and, in the case of railroads earning less than adequate revenues with lines carrying less than 3 million gross ton miles, to cover all

the costs of operating those lines. The same holds for railroads earning adequate revenues, except only with respect to lines carrying less than 1 million gross ton miles.

With regard to surcharges on light density lines, the conferees intend that such surcharges may not be imposed in a manner which would require shippers to pay for extraordinary occurrences (i.e. bridge washouts, landslides) in a short period of time. The Commission's proceeding should address this issue.

These provisions are intended to insure these results but they in no way imply an intent on the part of Conferees that a carrier's existing rights under the Act to secure improved earnings over specific routes should be limited. The Conferees recognize that a carrier cannot remain healthy only earning revenues at these levels, but believe that at this time the extraordinary provisions of this section are only needed to attain the revenue levels specified in this section and that existing remedies, assuming the Commission chooses to administer them in order to realize the revenue adequacy goals of the Act, should be adequate to remedy other joint route and division problems.

The key to the success of these provisions will be the ease with which they may be implemented by a surcharging or cancelling carrier. The Conferees intend that the revenue levels guaranteed by this section take precedence wherever possible to competing claims and that only where action is essential to protect vital public interests should the Commission or the Court act to frustrate the implementation of these provisions.

Administrative feasibility is also the reason the conferees have selected formula costs for use under all provisions except where otherwise specified; and the conferees encourage the Commission not to permit cost debates to delay the policy of this Act that carriers earn the full and reasonably expected costs of providing service on lines carrying less than 3 million gross ton miles for revenue inadequate carriers and 1 million gross ton miles for revenue adequate carriers. Only if carriers are able to cover all these costs can they expect to begin to invest to provide the service on which our nation's commerce depends.

In determining which carriers qualify as class III carriers, the Commission shall exclude any revenues not earned from freight operations, specifically excluding revenues from passenger service.

All of the provisions as described in the House amendment are available for class III rail carriers.

SECTION 218—EXPEDITED DIVISION OF REVENUES PROCEEDINGS

Senate bill.—The Senate bill amended section 10705(e)(1) of the Interstate Commerce Act by requiring the Commission to complete all evidentiary proceedings to adjust the division of joint rail rates within nine months if the proceeding is brought on complaint or within 18 months if the proceeding is initiated by the Commission. The Commission is required to take final action by the 180th day after the completion of evidentiary proceedings unless the Commission requires more time in which case it must report its reasons to Congress.

However, when the divisions proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover

the variable costs of handling the traffic, the Commission must give the proceeding preference over all other proceedings and must take action within the earliest practicable time. In no event may the Commission fail to act more than 100 days after the completion of the evidentiary proceedings.

House amendment.—The House amendment is the same as the Senate bill except it exempts division proceedings involving joint rates participated in by class III carriers.

Conference substitute.—The Conference substitute adopts the Senate provision, except that for a three-year period the expedited divisions provision shall not apply to class III carriers. The conferees intend that the Commission will modify its regulations governing divisions proceedings to insure that prefiling requirements do not frustrate the purpose of the Congress to expedite divisions proceedings as much as possible. The conferees also expect the Commission to examine closely alternative means of dividing revenues among carriers in a manner which might better reflect market conditions than the crude, across the board divisions which now apply regardless of the specific economic conditions of the carriers involved and the markets they serve.

SECTION 219—RATE BUREAUS

Senate bill.—The Senate bill modified some of the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission.

First, intrastate rates affecting interstate commerce may be set collectively in the same manner as interstate rates.

Second, the extent of carrier discussion of single line rates and interline rates related to a particular interline movement is defined and limited.

Third, sound recordings or transcripts must be kept of bureau proceedings, submitted to the ICC and made available to any other federal agency with jurisdiction.

House amendment.—The House amendment modified the activities which a rate bureau may permit its members to engage in if it is to be approved by the Commission and its members are to be immune from the application of the antitrust laws.

First, no carrier may discuss, vote or agree on single line rates proposed by another carrier. The Commission may allow such discussions for general rate increases only if it finds that the implementation of the limitation is not feasible.

Second, no carrier may discuss a joint line rate unless it practicably participates in the movement. The term "practicably participates" is to be defined by the Commission.

Third, after January 1, 1984, or earlier, if the Commission decides, unless the Commission finds it is not feasible, no carrier may discuss a joint line rate where there are two routes between the same end points, except with a carrier that forms part of a particular single route.

Until January 1, 1983, such carriers may discuss general increases for joint rates and broad tariff charges, if the rate bureau has a special procedure allowing shippers to comment prior to the filing of the tariff with the Commission.

Fourth, employee protective provisions are provided for rate bureau employees affected by this section.

Fifth, in any proceeding in which an antitrust violation is alleged concerning a rail carrier the party making the allegation shall have the burden of proving the violation by clear and convincing evidence. Proof of the violation may not rest on or be inferred from evidence that two or more carriers acted together with respect to an interline movement and that one of the parties took similar action with respect to a competitive route.

Sixth, transcripts or sound recordings must be kept of bureau meetings and submitted to the ICC and made available to other federal agencies with jurisdiction.

Conference substitute.—The Conference substitute adopts the House amendment with modifications. The Commission shall define "practicably participate" for determining when a carrier participates in a movement. The Conferees believe that railroads, shippers, and consumers will benefit from increased rail to rail competition, and expect that the Commission will interpret the term in a manner which encourages competition while maintaining a rail system which functions efficiently.

The Conference substitute extends the date by which the Commission must eliminate general rate increases by one year, to January 1, 1984. General rate increases are also limited to inflationary cost increases. Rate bureau discussions are limited to joint movements where carriers have an actual interline movement by January 1, 1984, unless the Commission acts sooner. Car compensation, demurrage, and car allowances are not considered single-line rates.

The Conferees wish to emphasize that nothing in the new law will prevent a carrier from publishing broad territorial rate changes in a tariff.

Because of the requirement that carriers concur in changes to joint rates, carriers must talk to competitors about interline movements in which they interchange. That requirement could falsely lend to conclusions about rate agreements that were lawfully discussed. To prevent such a conclusion the Conference substitute provides procedural protections about lawful discussions and resulting rates. The Conferees intend that these protections be construed to insure that remedies for anti-competitive activities remain under existing laws.

SECTION 220—LONG AND SHORT HAUL TRANSPORTATION

Senate bill.—No provision.

House amendment.—The House bill amended section 10726 by limiting the provisions of existing law to rates applicable to grains, soybeans, rice or cotton or to situations in which the Commission determines that competition exists between rail and water carriers and the provisions are necessary to prevent anti-competitive behavior. The House amendment also repealed 10726(c) which limited a rail carrier's ability to increase a rate which had been previously decreased to meet water carrier competition.

Conference substitute.—The Conference substitute repeals 10726(c). The conferees repealed this subsection in order to encourage flexible and innovative pricing by railroads. The conferees' decision to otherwise retain the existing section 10726 is not to be

construed to indicate that the Commission is not to take steps consistent with the policy of this act to reduce barriers to market-oriented pricing without the need for prior Commission approval.

SECTION 221—RAILROAD ENTRY

Senate bill.—The Senate bill changes existing law to permit easier entry, consistent with the policy of this Act to encourage greater reliance on marketplace forces than on government regulation.

Under present law, the Commission may authorize the construction of a railroad only if it finds that the public convenience and necessity "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. The Senate bill changes the test applied by the Commission from "require or will be enhanced" to "require or permit".

When a railroad has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross another carrier. The Senate bill provides that when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

House amendment.—The House amendment changes the standard under 49 U.S.C. 10901 for the construction or extension of a rail line from requiring the Commission to find that the "public convenience and necessity require or will be enhanced" by the construction or acquisition (or both) and the operation of the railroad line to requiring the Commission to find that the "public convenience and necessity permit the construction or acquisition". The House amendment permits one railroad that has been issued a certificate of public convenience and necessity to cross the property of another carrier if the construction does not unreasonably interfere with the operation of the crossed line, the operation does not materially interfere with the operation of the crossed line and the owner of the crossing line compensates the owner of the crossed line. If the carriers are unable to agree to the terms of operation or compensation, either party may submit the matters in dispute to the Commission. The House amendment requires the Commission to impose employee protection under 49 U.S.C. 11347 upon any rail carrier proposing to both construct and operate a new railroad line. If a rail carrier rearranges or adjusts its work force in anticipation of a transaction with the purpose of depriving an employee of benefits under this title, the provisions of this title apply to such employee.

Conference substitute.—The Conference substitute adopts the House amendment, but makes employee protection discretionary and drops the provision regarding deprivation of employee benefits in anticipation of a transaction. The Commission does not have authority over the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team switching, or sidetracks, if the tracks are located, or intended to be located, entirely in one state (49 U.S.C. 10907). The Committee does not intend that new subsections added to 49 U.S.C. 10901 shall expand the Commission's jurisdiction. If the construction or extension of a line of railroad would be otherwise exempt under 49 U.S.C. 10901, there should be no reason to obtain a certificate of public convenience and necessity even if the constructing railroad reaches a voluntary agreement to cross another carrier's line. Only if a dispute is submitted to the Commission would there be a need to obtain a certificate of public convenience and necessity. This certificate could be sought at the same time as the dispute is submitted to the Commission. The Conferees wish to emphasize that if a certificate would not otherwise be required under section 10907, the certificate should be issued routinely and that its purpose is (1) to assure Commission jurisdiction under 10901(d) and (2) to assure that the crossing carrier has its right to serve a shipper sanctioned by the Commission.

SECTION 222—SERVICE DURING PERIODS OF PEAK DEMAND

Senate bill.—No provision.

House amendment.—The House amendment provides that a rail carrier may not be found to have violated its common-carrier obligation under 49 U.S.C. 11101 to provide transportation or service on reasonable request if it fulfills its commitments under contracts for the shipment of goods before responding to reasonable requests for service.

Conference substitute.—The Conference substitute adopts the House amendment. However, this provision does not abrogate the power of the Commission to refuse to approve contracts on the grounds that they will impair a carrier's ability to meet its common carrier obligation.

SECTION 223—RECIPROCAL SWITCHING

Senate bill.—The Senate authorized the Commission to require railroads to enter into reciprocal switching where it finds such agreements to be practicable and in the public interest. In many parts of the country, reciprocal switching agreements are in effect where carriers pick up and deliver traffic for other railroads. In areas where reciprocal switching is feasible, it provides an avenue of relief for shippers where only one railroad provides service and it is inadequate. The standard "practicable and in the public interest" is the same standard the Commission has applied in considering whether to order the joint use of terminal facilities.

House amendment.—The House amendment is the same as the Senate bill, but permits the Commission in its discretion to order protection for employees who are adversely affected by a grant of authority by the Commission under this section.

Conference substitute.—The Conference substitute adopts the House provision. The Conferees note that the Commission should use the "practicable and in the public interest" standard even though section 11123 has been expanded to include all facilities, not just the joint use of terminals. The Conferees note that the entry and reciprocal switching provisions should not be used to allow Class I carriers to force their way into traffic originating or terminating on a Class III carrier.

SECTION 224—CAR SERVICE COMPENSATION

Senate bill.—No provision.

House amendment.—The House amendment repeals section 11122(b)(2) which allowed the Commission to impose incentive per diem rates.

The House amendment also provides that when shippers enter into an agreement to discuss what they will propose to charge rail carriers for the use by such rail carriers of rolling stock owned or leased by such shippers, they shall apply to the Commission for approval of the agreement. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the rail transportation policy in section 10101a of this title. The Commission may require compliance with conditions necessary to make the agreement further the rail transportation policy. If the Commission approves the agreement, any action by a party under its terms or the terms required by the Commission shall receive antitrust immunity under section 10706(a)(2).

The House amendment also provides that where the shippers who have entered into an agreement approved by the Commission and the rail carriers proposing to use the rolling stock owned or leased by the shippers cannot agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may settle the matter by submitting the issues in dispute to the Commission. The Commission shall render a binding decision on the issues based on a standard of reasonableness. The Commission's decision may consider any past precedents on the history of the negotiations and must be rendered within 90 days of the submission of the dispute to the Commission.

Conference substitute.—The Conference substitute adopts the provisions of the House amendment and adds a provision which states that the law in effect prior to the effective date of this Act with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers shall remain in effect.

The conferees do not believe that the provision of an incentive element on freight equipment is the best means of attracting capital into the industry for the acquisition of rolling stock. Rather, the rental rate for such rolling stock should be sufficient to pay an adequate return on investment. The conferees do anticipate, however, that the Commission shall continue to examine means (such as flexible car hire) of making basic car hire more responsive to market forces where this is possible without subjecting carriers which are forced to use cars received in interchange to unreasonable rates.

The conferees intend that marketplace decisions govern the railroad industry and its relationship with shippers. Indeed this policy is enunciated in the rail transportation policy. The conferees expect that antitrust immunity be granted under this section consistent with previous Commission decisions. The conferees are aware that shippers could have antitrust immunity to establish private car-hire when participating in a Commission proceeding and do not intend that this provision shall change existing law in that regard.

If the Commission allows per diem rates below basic per diem during periods of surplus car supply, the Commission should allow rates above basic per diem during periods of shortage.

SECTION 225—CAR UTILIZATION

Senate bill.—The Senate bill created a new section 10732 of the Interstate Commerce Act. This section provides that rail carriers are free to establish a special elective tariff which contains premium freight rates for special services or levels of services that may be requested by a shipper. Throughout Senate hearings on rail regulatory reform, testimony was submitted by many shippers who advised that they were prepared to pay a higher rate for a higher level or a more expeditious service. This amendment will give those shippers that option and, in turn, allow the rail carriers to increase the utilization of their cars.

Essentially, this subsection allows carriers to privide a more specialized service to shippers who choose to pay the premium rate, but the common carrier obligation is not abrogated in any way. This will insure that the shipper is still guaranteed the same level of service that he receives today. This subsection is simply another option for the shipper and the rail carrier.

House amendment.—No provision.

Conference substitute.—The Conference substitute adopts the Senate provision, with an amendment.

SECTION 226—CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

Senate bill.—The Senate bill limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in two ways. First, the Commission would be restricted to emergencies "of such magnitude as to have substantial adverse effects on rail service to the nation or a substantial region of the nation". Second, the Senate bill restricted emergency orders to 30 days, but permitted the Commission to extend the order another 60 days if the Commission had a proceeding to resolve the service problems which generated the need for the emergency order on a more permanent basis. The two restrictions were adopted based on the belief that only real emergencies should trigger such orders and that in the past, the Commission has been far too willing to issue car service orders in other than emergency situations. The Senate bill removed the limitation in existing law that the Commission may order only the joint or common use of terminals, including mainline tracks for a reasonable distance outside of those terminals. The Commission would be permitted to require the joint or common use of all facilities when

it considers that a shortage of equipment, congestion of traffic, or qualifying emergency exists.

House amendment.—The House amendment limited the Commission's authority to issue car service orders under 49 U.S.C. 11123 in instances where it finds a "shortage of equipment, congestion of traffic or other failure in traffic movement exists which creates an emergency situation resulting in substantial adverse effects of rail service in the United States or a substantial region of the United States". The House amendment requires the Commission to find a nationwide emergency or broad regional emergency that justifies the extraordinary remedy of the imposition of car service orders. The House amendment permits the Commission to extend such orders beyond 30 days if the Secretary of Transportation certifies that a transportation emergency exists. The House amendment permits the Commission when it makes the prerequisite findings to require the joint use of all facilities, not just terminal and mainline tracks a reasonable distance outside those terminals. This provision will permit the Commission to effectively address genuine emergency situations in an expeditious manner without restrictions regarding the use of a railroad's facilities, including mainlines and equipment by another railroad or over that railroad. This provision specifically overrules the decision in *Atchison, Topeka and Santa Fe* v. *ICC*, 617 F. 2nd 485 (7th Cir., 1980). When the Commission does require one railroad to use or go over another railroad's facilities, the Commission shall require, to the maximum extent practicable, the use of employees who would have performed work in connection with the traffic subject to the action of the Commission.

Conference substitute.—The Conference substitute adopts the House provision, but authorizes the full Commission after a hearing to determine that a transportation emergency exists if the original 30-day order is to be extended. The conferees emphasize that the Commission's powers under this section are extraordinary and should be exercised only in genuine emergencies. Some shipping interests have expressed concern as to the scope of this section. An important distinction must be borne in mind. Section 11123 of title 49 is being amended as to the required regional or national type emergency before the Commission can issue car service orders, as well as the duration and the scope of the car service orders.

The Conferees want to emphasize that the provisions of section 11122 of title 49 of the United States Code as to permanent rules and regulations on railroad car service are unaffected and remain intact. The importance of insuring on a day-to-day basis the efficient functioning of our unified national rail system and network remains. The Commission still retains its power to issue permanent mandatory car service rules such as those which are now in effect and which govern the movement of railroad cars throughout the country.

SECTION 227—EMPLOYEE PROTECTION

Senate bill.—No provision.

House amendment.—The House amendment provided for employee protection, as described in 49 U.S.C. 11347, to be imposed in transactions involving transfers or the operation of or over a dest-

or's lines by another entity under section 1172(b) of the Bankruptcy Act of 1978. The provision puts employees of rail carriers which entered bankruptcy after the effective date of the Bankruptcy Act of 1978 in the same position as employees of rail carriers that entered bankruptcy prior to the Bankruptcy Act of 1978 with respect to employee protection. This provision is not intended to change existing law with respect to either the priority or the timing of payment of employee protection in a bankruptcy proceeding.

Conference substitute.—The Conference substitute follows the House provision.

SECTION 228—MERGERS AND OTHER TRANSACTIONS

Senate bill.—The Senate bill would make no changes in the present law with respect to major rail mergers: the ICC would consider such proposals under existing standards and procedures, and the present time limit of about 31 months (which was established by the 4R Act) would be retained. However, this section makes two major changes in the present law under which the Commission is required to consider all other restructuring transactions among railroads (including the purchase or sale of assets, trackage rights, and the like). These changes are intended to encourage the rationalization and restructuring of the rail system through actions less than merger.

First, the Commission would have to decide on smaller transactions faster than under present law. Present law permits the Commission 15 months to decide all such cases regardless of their complexity or importance. For transactions having regional or national significance, this section would require the Commission to reach a decision within 10 months. For transactions which do not have regional or national transportation significance, this section would require the Commission to reach a decision within 6 months. These deadlines are, of course, maximum time limits and the Committee believes that many applications can and should be processed without taking the full amount of time allowed.

In order to meet the deadlines specified in this section, the number of factors the Commission must consider in ruling on transactions less than merger would be reduced. (The Commission now applies the same test to all transactions as to major mergers.) This section would require the Commission to balance the transportation benefits of the transaction against any anticompetitive effects. In addition, where the transaction is part of a restructuring project previously approved by the Secretary of Transportation under section 401 of the 4R Act, the Commission would be required to give substantial weight to the recommendations of the Secretary.

House amendment.—The House bill contains a provision relating to the factors the Commission is required to consider when passing on major mergers. The House provision would require the Commission to consider whether the proposed transaction would have an adverse effect on competition among rail carriers.

Conference substitute.—The Conference substitute includes a combination of the House and Senate provisions. The conferees note that many transactions for which Commission approval is required are minor in nature and routinely approved. The Committee believes that the Commission should focus its attention on more

important issues and judiciously use its statutory authority to reduce the burden on all parties (including a reduction in paperwork) where approval is routinely and consistently granted.

SECTION 229—SAVINGS PROVISIONS

Senate bill.—The Senate bill provided that a rail rate in existence on the date of enactment of this Act could only be challenged as being not reasonable within 270 days after enactment. Such rate would not be found not reasonable if its revenue-to-variable cost ratios did not exceed the average ratio of revenue-to-variable cost established by the Commission.

House amendment.—The House amendment provided that any rate for a carrier in effect on the effective date of this Act could be challenged within 180 days of that date in a complaint filed with the Commission alleging that the carrier had market dominance under section 10709 over the particular route to which the rate applied and that the rate was not reasonable under new section 10701(a). If a rate in effect upon enactment has not been challenged within 180 days or was challenged and found to be reasonable, the rate could not again be challenged before the Commission or any court.

The savings provisions would not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date did not exceed 500 net tons where such rate has increased tenfold in the 3-year period immediately preceding the bringing of a challenge to the increase of such rate.

In all cases under this section, the burden of proof is on the complainant.

Conference substitute.—The Conference substitute adopts the House bill. This Conference substitute allows a 180-day period from the effective date of the bill in which existing rates may be challenged as unreasonably high under the procedures of 11701. The Conferees do not intend this right to be construed as creating any presumption as to the reasonableness of the rates subject to challenge. The purpose of this provision is to give affected parties a final opportunity to review the reasonableness of existing rates before their opportunity to challenge those rates is curtailed. Any challenges arising under this section shall be limited by the jurisdictional standards otherwise newly adopted in the Staggers Rail Act of 1980.

SECTION 301—UNIFORM ACCOUNTING SYSTEM

Senate bill.—No provision.

House amendment.—The House amendment makes section 11142, which requires the Commission to prescribe a uniform cost and revenue accounting and reporting system applicable only to non-rail carriers. Previous accounting and reporting systems developed by the Commission for rail carriers are to be replaced by the accounting and reporting requirements of Title III of the amendment.

Conference substitute.—The Conference substitute is the same as the House amendment.

SECTION 302—RAILROAD COST ACCOUNTING

Senate bill.—No provision.

House amendment.—The House amendment establishes a Railroad Accounting Standards Board, consisting of seven members and chaired by the Comptroller General of the United States. The purpose of the Board is to develop cost accounting principles which identify—variable costs which accurately represent the economic costs of rail movements.

The Board, in developing principles, is to take into account several factors concerning the regulatory purpose, the costs and benefits for rail carriers, and the least expensive way of obtaining the cost information.

The Commission is to promulgate rules to implement the principles developed by the Board.

Within 180 days after enactment, each railroad must file a request with the ICC for preliminary certification, which is to be granted if the carrier's cost accounting system is in compliance with the ICC accounting principles in effect on the date of enactment. The Conferees do not envision the requirements for preliminary certification to be any more than a simple affirmation that the carrier is meeting and will continue to meet the existing requirements of the Commission.

The Commission shall grant final certification if it finds that a carrier's accounting system is in compliance with the rules promulgated by the Commission, under the principles of the Board.

Each rail carrier is to maintain a system that is in compliance with rules promulgated by the Commission, under the principles of the Board.

Rail carriers are required to make cost data available to parties to a Commission proceeding.

In order to obtain expense and revenue information for regulatory purposes, the Commission may promulgate rules which prescribe expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to rail carriers. The Commission in promulgating rules for expense and revenue accounting and reporting requirements, shall ensure that such requirements are cost effective and not duplicative of the managerial and responsibility accounting requirements of carriers.

The Board shall file two reports with the Congress within 2 years after the effective date of this legislation. One report is to compare the cost of implementing the accounting standards to possible benefits. A second report is to recommend changes to the regulatory system, including maximum rate regulation, to integrate the new cost accounting standards and rules.

Conference substitute.—The Conference adopted the House provision with the following changes: First, the Conference substitute makes it clear that the primary purpose of the Cost Accounting Principles Board is to promulgate sound principles to govern the determination of railroad costs rather than detailed standards. Second, the Conference substitute limits the availability of cost evidence to that which the Commission will allow under its discovery rules. Third, the Conference substitute authorizes the appropriation of $1 million per year to carry out the functions of the Cost

Accounting Principles Board. Fourth, the Conference substitute limits the number of Board members to seven. Fifth, the Conference substitute requires that the Board conduct one study, recommending legislative or administrative action that may be necessary to integrate the cost accounting principles and certification process with the regulatory system, including maximum rate regulation. Sixth, the conference substitute makes certain technical changes to stress that the principles promulgated by the Board and the rules promulgated by the Commission are to emphasize the degree of economic accuracy needed for regulatory purposes and not merely the accumulation of more detailed, but not necessarily more accurate, accounting information.

The substitute clarifies the description of the type of principles to be determined in order to eliminate redundant language contained in the House bill. The Conferees intent is to provide for the most accurate possible statement of costs, both direct and indirect, associated with particular movements of goods, and the Board in developing its principles should consider the degree of relinbility with which such costs can be attributed to specific movements.

The Conferees expect that while the Board develops its principles, the Commission will continue its efforts to complete the uniform revenue and cost systems which it commenced after the passage of the 4R Act so that the Board, as part of its task, will be able to evaluate that system as it is developing its principles.

The conferees desire that the Board's principles will be sufficiently sound that they will be generally applicable for both regulatory and management purposes. To this end, railroads are to be afforded maximum possible freedom consistent with the commission's regulatory needs, to develop internal accounting and cost finding systems that are suited to the needs of the carriers themselves. The Conferees wish to emphasize, however, that the purpose of the Board's efforts is to develop a regulatory accounting system and that this section is not intended to limit the use of cost finding systems by railroads which railroads might find useful for management purposes.

The substitute allows, but does not require, the Commission to promulgate rules prescribing expense and revenue accounting and reporting requirements. In addition to other limitations in the bill designed to minimize the burden of such rules on carriers, the bill requires that to the extent they are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings, the rules must comply with the principles established by the Railroad Accounting Principles board.

The Committee recognizes that the Commission has exempted Class III railroads from the Uniform System of Accounts. The Committee shares the view that elaborate accounting systems imposed upon smaller railroads could produce a much greater burden on the railroad than could be justified by offsetting public benefits. Thus, the Committee has left with the Commission the discretion to exempt carriers from the burdens of a Cost Accounting System if that seems desirable. We encourage the Commission to continue the practice of granting exemptions as needed to relieve unnecessary paperwork burdens and costs on small businesses.

SECTION 303—CIVIL PENALTIES FOR VIOLATIONS OF ACCOUNTING PRINCIPLES PROVISIONS

Senate bill.—No provision.

House amendment.—A carrier failing to obtain final certification of its cost accounting system is to be fined not less than $50,000. Any party to a proceeding who knowingly discloses confidential data made available by a railroad pursuant to this title may be fined up to $50,000.

Conference substitute.—The Conference substitute is the same as the House amendment.

SECTION 401—FEEDER RAILROAD DEVELOPMENT PROGRAM

Senate bill.—No provision.

House amendment.—To provide shipper groups and government agencies an alternative to inadequate rail service and to preserve feeder lines prior to the total downgrading of such lines, the House amendment provides for a feeder line development program which would require a rail carrier to sell a railroad line to a financially responsible person at a price not less than the constitutional minimum, if the Commission makes a finding that the present or future public convenience and necessity required or permited the abandonment or discontinuance of a railroad line, or if the Commission makes a finding that the transportation provided over a particular line is inadequate. Inadequate transportation is defined by five criteria. The Commission must affirmatively determine the existence of the conditions set forth in all five criteria as a prerequisite to the sale of a railroad line under this section. The burden of proving inadequacy of service is on the person filing to acquire the rail line.

The Commission may require the selling carrier to provide the acquiring carrier trackage rights if the acquiring carrier compensates the selling carrier for such trackage rights. If an acquiring rail carrier petitions the Commission for a joint rate, the Commission is required to grant such acquiring carrier a reasonable compensatory joint rate.

The carrier is exempt from sections 10901 and 10903 of the Interstate Commerce Act, except if an acquiring carrier participates in a joint rate. The feeder line development program permits an acquiring carrier to set conditions which shippers must meet as a prerequisite to using the line.

Conference substitute.—The Conference substitute adopts the House provision with several modifications.

First, the program is limited for the first three years to lines carrying 3,000,000 gross ton miles per year or less. After the third year any line is eligible for acquisition under the program but joint rates can not be mandated for lines acquired carrying more than 3,000,000 gross tons per mile per year.

Second, the feeder railroad program is not intended to surplant the branch line program under existing law. Where an application for abandonment has been actually filed with the Commission, existing provisions of the Interstate Commerce Act and of the Local Rail Service Assistance Act will be available.

Third, an opportunity is given for the Commission to allow a rail carrier a reasonable time to make the necessary efforts to provide

adequate service to shippers who transport traffic over a line in question.

Fourth, it is made clear that the Commission may require trackage rights to the acquiring carrier in order to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between non-contiguous feeder lines operated by the acquiring carrier. The Conferees recognize that one operator may acquire a number of non-contiguous branch lines thereby requiring the allocation of trackage rights in order to permit movement of power equipment between the non-contiguous lines.

Fifth, normal labor protection is afforded employees of the selling carrier and the provision requires the acquiring carrier to hire, to the maximum extent practicable, the employees who would normally have performed work in connection with a line subject to sale under the program.

The Conferees believe that the feeder line program will give shippers and communities an opportunity to insist upon adequate rail service. Where such service is not forthcoming the provision provides, through acquisition, a viable alternative to poor service or total abandonment.

SECTION 402—ABANDONMENT

Senate bill.—Section 202 of the Senate bill alters the existing provisions of the Interstate Commerce Act relating to abandonments of railroad lines. This section expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon abandonment applications, depending on the complexity of and the opposition to the abandonment proceeding. For example, under existing law, there is no time limit within which an investigation of an abandonment application must be concluded. Section 202(c)(3) places a time limit of 135 days upon such investigations.

Section 202 repeals existing 49 U.S.C. 10905. New section 10905 creates a mechanism that requires railroads to sell a railroad line approved for abandonment to a financially responsible party if the financially responsible party has offered to pay the acquisition cost of the line or the difference between the revenues attributable to providing that service plus a reasonable return on the value of the line. Section 202 also requires rail carriers petitioning for abandonment of a railroad line to provide interested parties an estimate of the subsidy or the minimum purchase price required to keep the line in operation, calculated in accordance with the new provisions in 49 U.S.C. 10905.

The provisions in section 202 assist shippers who are sincerely interested in improving rail service, while at the same time protecting carriers from protracted legal proceedings which are calculated merely to tediously extend the abandonment process.

House amendment.—No provision.

Conference substitute.—The Conference substitute adopts the Senate provision.

SECTION 403—CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

Senate bill.—Section 305 of the Senate bill is an amendment to the original bill, S. 1946, the Railroad Transportation Policy Act of 1979. The section authorized $20 million over a 3-year period for acquisition of abandoned railroad rights-of-way for future use as bicycle paths, jogging and hiking trails and related transportation, recreation and conservation uses, as stated in section 809 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). This authorization includes matching Federal and State funds, with the Federal share being 80 percent and the State share being 20 percent.

The 4R Act authorized $20 million for fiscal year 1976, 1977 and 1978 to the Department of Interior for acquisition of abandoned railroad rights-of-way for conversion to trails related to transportation, recreation, and conservation. Based on this initial authorization $5 million was appropriated during the 95th Congress to Department of Interior Bureau of Recreation (now the Heritage and Recreational Services) for funding the Rail-to-Trail program.

The response to the Department of Interior's public notice of funding for the Rail-to-Trail program was very enthusiastic. The Department received 135 applications totaling $70 million. Because of the large response to the project, DOI felt they could be selective in the application approval. Top priority was given to applications for trails based or originating in metropolitan areas as well as trails used for commuter transportation.

Ten projects received funding from the $5 million appropriated. These 10 projects represent 111.62 miles of multiple-use trails from abandoned rail lines in 10 States. This is a small percentage of the 6,232 miles of nation-wide abandonments suitable for conversion to transportation and recreational uses.

Funding authority for this project expired as of September 30, 1979. This authorization will allow for the continuation of the Rail-to-Trail program started in the 4R Act. Evidence from State governments has shown intense interest in preserving funding for this program.

House amendment.—The House amendment has no provision.

Conference substitute.—The Conference substitute adopted the Senate provision, but reduces the authorization to $10 million.

SECTION 404—EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

Senate bill.—The Senate bill continues the existing redeemable preference share program for two years, until September 30, 1982, and it authorizes an additional $400 million for this purpose. The Senate provision expands the scope of eligible participants under the program and provides a specific allocation of program funds for labor cost associated with improved manpower effectiveness.

House amendment.—The House amendment extends the existing redeemable preference share program for two years.

Conference substitute.—The Conference substitute extends the redeemable preference share program until September 30, 1982. The funding provisions are discussed in the following section.

SECTION 405—FINANCING

Senate bill.—The Senate bill contains an amendment to section 511(a) of the 4-R Act. Section 511 of the 4-R Act is one of the financial assistance programs available to railroads for the acquisition, repair, or improvement of rolling stock and facilities associated with rolling stock. This amendment opens the doors of eligibility to this loan program to computerized car management systems which carriers desire to acquire, repair, or rehabilitate. Most railroads in this Nation operate sophisticated computer systems to follow their rolling stock throughout their rail network. These computers are essential to the efficient management of a railroad's car fleet. Unfortunately, as technology improves, many of the early computer systems have become obsolete. The new technology which is available would certainly pay for itself in a short period as a result of increased utilization of the car fleet. All loans under the 511 loan program are absolutely secured.

House amendment.—The House amendment authorizes the Secretary to provide assistance (either alone or as a participant with other investors) to any railroad or its subsidiary to achieve significant restructuring. The assistance may be used for the purchase of securities or the rehabilitation, improvement, or acquisition of facilities (including track, maintenance, equipment and related labor protection costs) which the Secretary, based upon a restructuring plan provided to the Secretary or as part of a restructuring project supported by the Secretary under section 5 (a)-(d) of the Department of Transportation Act, or both, determines will contribute to significant railroad restructuring that would not likely be achieved without Federal assistance. The assistance may also be used for purchase or rehabilitation of feeder lines. States, communities, or shipper groups that intend to purchase a feeder line are to be considered railroads for the purposes of this section.

Senate amendment.—The Senate amendment extends the existing section 505 to September 30, 1982, and authorizes an additional $400 million.

A new paragraph is added to section 505(b) to authorize the Secretary to provide a percentage not more than 20 percent of the total funds authorized for this program to employee or shipper groups formed pursuant to an employee and/or shipper stock ownership plan for the purchase and/or rehabilitation of rail lines or facilities. In determining the priority by which such groups should receive funding under this program, the Secretary is directed to consider the availability of other feasible alternatives for providing rail service. It is specifically intended that those projects without a viable or feasible alternative would receive a priority in the allocation of available funds under this section.

The Senate amendment adds a new section 505(A) to the current law granting the Secretary of Transportation the authority to provide Class I rail carriers with financial assistance to cover labor costs associated with operational improvements.

The Senate bill clarifies what specific actions would be considered a form of restructuring for the purposes of the 505 program.

Conference substitute.—The Conference substitute adopts the Senate provisions, but increases the authorization to $700,000,000, in section 505 funds. Conferees do not agree with any suggestion

that a legitimate need for rehabilitation of track cannot exist outside a restructuring. Conferees have provided for restructuring under the Milwaukee Railroad Restructuring Act and are expanding that under this bill to include purchase of rail assets as elements of an eligible project—but not necessarily priority elements. The Congressional intent in establishing the Preference Share Program under section 505 was to provide a "bank of last resort" to put money quickly into railroads to address the deferred maintenance problem while solutions to the overall financial shortfall in the industry could be developed. Much deferred maintenance remains. This Conference does not believe that now is the time to scrap the existing program, thereby forcing the marginal carrier to seek Federal assistance on terms more appropriate for healthy railroads.

The Conference substitute earmarks in the section 505 authorization $200,000,000, originally authorized in the restructuring provisions of the House bill, for automatic transfer by the Secretary to the United States Railway Association for use by Conrail in establishing a voluntary annuity program to reduce the size of its workforce. The money is to be transferred to the account under Section 216 of the Regional Reorganization Act, notwithstanding the authorization limitation of that section.

The Conferees intend for the Finance Committee of the Association to determine if (1) any program proposed by the Corporation will in fact reduce the size of the Corporation's workforce, and (2) funding of the program will result in substantial savings to the United States as measured against the probable costs to the Government of not reducing the Corporation's workforce to the extent contemplated by the institution of a voluntary early retirement annuity program.

To facilitate the institution of such a program subsection (b)(1) of section 405 amends Section 216(b) of the Regional Rail Reorganization Act of 1973 by adding paragraph (B) which makes it clear that employees of the Corporation taking advantage of an early retirement program will be deemed to have a "current connection with the railroad industry" so as to avoid losing Railroad Retirement eligibility at the appropriate age.

SECTION 406—TRANSACTION ASSISTANCE

Senate bill.—No provision.

House amendment.—The House amendment creates a new category for financial assistance under section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210). Specifically, financial assistance would be available to purchase properties of the Milwaukee Railroad located in the State of Montana for rail banking.

Conference substitute.—The Conference substitute adopts the House amendment.

SECTION 407—ELECTRIFICATION LOAN GUARANTEES

Senate bill.—No provision.

House amendment.—The House amendment amends 211(f) of the Regional Rail Reorganization Act to make available to railroads in

addition to Conrail loan guarantees for the purpose of electrifying high density mainlines. Loan guarantees for capital improvements for coal export facilities are provided for Corporation and other railroads in the region receiving assistance under the 3-R Act.

Conference substitute.—The Conference substitute is the same as the House amendment, but the Secretary's authority to waive findings in 511(g) has been deleted. The Conferees expect that the loan guarantees for capital improvements for coal export facilities available under this section will be used to construct coal export facilities such as the proposed coal facility at the Port of Philadelphia.

SECTION 408—AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Senate bill.—No provision.

House amendment.—The House amendment raises the amount authorized to be loaned to any railroad in the region receiving assistance under section 211(d)(2) of the Regional Rail Reorganization Act of 1973, notwithstanding sections 211(e)(3) and (f).

Conference substitute.—The Conference substitute adopts the House provision.

SECTION 409—FEDERAL ASSISTANCE REPORT

Senate bill.—No provision.

House amendment.—The House amendment provides direction to the Secretary of Transportation on the coordination of federal assistance and also requires the Secretary to file an annual report on federal assistance provided to the rail industry, the reasons for each loan or grant, and the results to be expected.

Conference substitute.—The Conference substitute requires the study described above but does not include the directions for coordination to the Secretary.

SECTION 501—MONTHLY DISPLACEMENT ALLOWANCE

Senate bill.—No provision.

House amendment.—The House amendment proposed four new formulas for monthly displacement allowance as follows:

1. *Non-operating employees.*—Except for maintenance-of-way employees, non-operating employees (i.e., other than train and engine service employees) will receive an hourly guarantee, based upon the rate of pay of the position they held on September 1, 1979. This guarantee will be increased to reflect subsequent general wage increases, and will be increased whenever the employee, through the exercise of his or her seniority, becomes the qualified incumbent of a higher rated position. If, as a result of a reduction in the number of positions available, a protected employee is required to exercise seniority to a position with an hourly rate less than the guarantee, the employee will receive a monthly guarantee payment representing the hourly differential multiplied by the number of hours in the new position's straight-time work schedule for the claim month. If a protected employee is unable to retain any position, the employee will receive the guaranteed hourly rate for the number of hours the employee would have worked on a straight time basis if he or she had retained his or her previous position.

2. *Maintenance-of-way employees.*—The maintenance-of-way guarantee is based on average monthly compensation, which is total compensation received by an employee during 1974, divided by total time paid for, and multiplied by 174 or by average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. The protected employee's monthly displacement allowance is the difference between the straight-time earnings and 80 percent of the average monthly compensation, less time lost due to voluntary absences other than vacations.

If, at the close of a calendar year, the sum of the employee's annual straight-time compensation, monthly displacement allowance payments, and offsets under this title are less than the employee's average monthly compensation divided by 12, the employee would receive an additional payment for the difference. If, in the previous calendar year, an employee has received displacement allowances payments greater than his annual guarantee, the excess benefits would be recovered from current or future entitlements, exclusive of moving expense benefits.

The House amendment also conforms the guarantee formulas for employees affected by a supplemental transaction to the revised guarantee formulas for other protected employees.

3. *Operating employees.*—It is proposed that operating employees (i.e., train and engine service employees) retain their current monthly guarantee subject to two important modifications. Average 1977 Conrail earnings will be calculated for each Commission classification of operating employees. These values will be upgraded by subsequent general wage increases, and will constitute maxima. These protected employees whose current monthly guarantees exceed the applicable maximum will have their guarantees reduced to the maximum. The second modification is an annual calculation in accordance with the maintenance-of-way formula described above. If a protected employee's earnings are less than the guarantee in any month, 75 percent of the difference will be paid. At the end of the calendar year, a comparison of guarantee and earnings on the annual basis will determine whether an additional payment will be made or whether future payments will be withheld pending recovery.

4. *Non-contract employees and employees who have been transferred.*—No change is proposed in the guarantee formula currently applicable to these employees. Non-contract employees receive salaries which do not include overtime compensation. Additionally, they receive merit increases rather than general wage increases, so that their guarantees have not changed since the formation of Conrail. Consequently, they have not been the recipients of "windfall" payments as is the case with contract employees.

Transferred employees retain their current guarantee. They have frequently purchased new homes at a price reflecting the standard of living they were assured of on the basis of the current guarantee formula. A sudden reduction in their monthly income might place them in an untenable financial position. There are approximately 350 employees who have transferred.

There are two other changes made in this section. Under subsection (b)(7), in addition to all unemployment compensation benefits and railroad earnings being set off against the employee's monthly displacement allowance (as under existing law), all outside earnings of a protected employee deprived of employment must be setoff against the employee's MDA. This change will ensure that the monthly displacement allowance of such protected employees are fully offset by other compensation.

An additional change is made by this section in proposed subsection (b)(10). It calls for employees deprived of employment, or the employees' class or craft representative, and the employer to agree on a procedure by which such employees will report their non-railroad earnings in order that they may be setoff against monthly displacement allowances. It also calls for an agreed upon procedure by which the employer is kept apprised of the unemployment benefits currently paid to employees deprived of employment, also for the purpose of off-setting their monthly displacement allowances. These procedures are necessary to ensure that the reporting/investigative burdens are shared by the employer and the employees, rather than having the burden of investigation fall solely on the employer, as now exists.

Senate amendment.—The Senate amendment is similar to the House amendment except for maintenance-of-way employee payments. Maintenance-of-way employees often work as portable equipment operators in the summer when extensive track rehabilitation is undertaken, and as trackmen in the winter when only routine maintenance can be performed. As a result of this circumstance, maintenance-of-way employees frequently earn less than their average monthly compensation in the winter and more than their average monthly compensation in the summer. When monthly displacement allowances during the winter months are added to these earnings, the employee's actual annual compensation can well exceed his or her annual compensation guarantee.

In order to correct this situation, a separate calculation is proposed for maintenance-of-way employees. Each protected employee will be assigned a monthly guarantee equal to the employee's 1974 average hourly earnings on a straight-time basis, upgraded by subsequent general wage increases, and multiplied by 174 (i.e., the number of hours in a straight-time work schedule in the average month). If a protected employee's current monthly guarantee is less than this value, the current guarantee will be retained. If, in any month, a protected employee's earnings are less than the guarantee, a payment will be due equal to 75 percent of the difference. At the end of the calendar year the employee's annual guarantee will be compared to his or her annual earnings plus monthly guarantee payments and any offsets. If the annual guarantee is larger, the full difference will be paid. If the annual calculation demonstrates that all or a portion of the monthly guarantee payments represent an overpayment, the employee will be entitled to no further guarantee payments until the overpayment is recovered. In the calculation of guarantee payments on the monthly and the annual basis earnings include overtime rate on any given day.

Conference substitute.—This follows the House provision. The conferees note that changes in the monthly displacement allowance formulas were necessary to eliminate expensive inequities in the current formulas. The conferees note that different formulas were provided for different classes and crafts of employees because of different procedures used to determine the basic wages of different classes and crafts of railroad employees and because the work

schedules of certain employees (such as maintenance-of-way employees) are subject to irregular and seasonal fluctuations. The conferees believe the use of these different formulas is rationally related to such differences among the classes and crafts and to the need to conserve scarce government resources.

SECTION 502—DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

Senate bill.—No provision.

House amendment.—The House amendment would restrict the payment of the monthly displacement allowance in two situations. First, a protected employee's entitlement to a monthly displacement allowance would be suspended for the period that the employee fails to work for reasons beyond the control of his or her current employer due to strikes, flood, snowstorms, and similar natural occurrences. Second, the legislation would require a protected employee to claim a monthly displacement allowance within three months of entitlement unless the claim is the subject of or based upon an arbitration decision. It also would require that entitlement to claims be approved or denied within 150 days after a claim is filed for the first year following enactment and within 90 days thereafter, unless the employee and the employer agree upon other timeframes for filing and determining claims. This provision will eliminate bookkeeping problems caused by delay in filing a claim for a monthly displacement allowance, and enable the Corporation to assess more accurately expected payments for labor protection. The legislation further provides that unless denied within the timeframes by the carrier, the claim would be deemed approved.

Senate amendment.—The Senate amendment contains a similar provision.

Conference substitute.—The Conference substitute contains the provision in the House and Senate amendments.

SECTION 503—TRAINING AND TRANSFER

Senate bill.—No provision.

House amendment.—The amendment addresses restrictions on manpower utilization by permitting the Corporaton and other employers with protected employees to transfer such employees in the marine crafts and unemployed Penn Truck Lines, Inc. workers to another class, and by offering retraining programs to make the inter-class transfer provisions meaningful.

The new training and transfer provisions would apply to unemployed protected employees in the marine crafts and unemployed Penn Truck Lines, Inc. employees. No bona fide vacancies exist for these employees in their class or craft. Consequently, their guarantee payments represent a considerable ongoing liability.

Training expenses would be paid for by the Corporation or other employer, which could then be reimbursed from the Regional Rail Transportation Protective Account. Moving expenses incident to transfers would be reimbursable under the provisions of section 505(g), as is the case under existing law.

Senate amendment.—The Senate amendment is similar, with two exceptions. The power to transfer unemployed protected employees

is extended to employers besides the Corporation, and the multiple offer provision was not adopted.

The "multiple offer" provision establishes procedures that permit the Corporation and other employers to expedite reassignments by making simultaneous offers of a vacancy to no more than four employees at a time (those contacted employees junior to the least senior employee who accepts the vacancy will be furloughed or severed).

Conference substitute.—The Conference substitute follows the Senate bill, but retains the restriction in the House bill which allows only Conrail to transfer protected employees. However, the substitute permits Amtrak to transfer employees within their seniority districts unless Amtrak and the affected unions agree to negotiate an appropriate collective-bargaining agreement in this area.

The substitute also restricts use of the multiple offer provision to unemployed protected employees of the marine crafts and protected employees of Penn Truck Lines. Other employees would not be subject to the multiple offer provision.

SECTION 504—PAYMENT, AUDIT AND REPORT

Senate bill.—No provision.

House amendment.—The House amendment would redesignate section 509 of the 3R Act as section 509(a) and increase the amount of funds authorized to be appropriated under Title V by $235 million (of which up to $180 million could be spent on monthly displacement allowances) to a new authorization level of $485 million making training costs incurred by the Corporation under revised section 505d(4)(D) reimbursable costs, direct the Secretary of Transportation to be responsible for requesting needed appropriations for expenditure by the Railroad Retirement Board, and additionally authorize the appropriation of funds for administrative expenses incurred by the Railroad Retirement Board in performing their functions under section 509. The appropriations may be allocated by the Secretary to the Board and the Association.

It is proposed that an additional $235 million be authorized to fund the revised level of benefits afforded by these amendments. Conrail projects that this sum will fund the program. If in fact the cost of the program exceeds an additional $235 million, the carriers employing protected employees would be responsible for the payment of benefits without reimbursement.

In addition, this section would add two new subsections to section 509 that improve program auditing and reporting responsibilities upon the Association. Section 509(b) would direct the Association to conduct a program audit of the payment of benefits under Title V and evaluate the effectiveness of the provisions of Title V in providing a reasonable level of protection to protected employees and enabling the Corporation to improve management of the protected employees in its workforce. In conducting the program audit, the Association should be particularly sensitive to the impact of Title V provisions upon management policies, so that the Association will be able to suggest corrective legislation quickly in the event inequities are uncovered in the program or the way that the Corporation administers the program.

The Association would be afforded access to pertinent documents for the purpose of facilitating its program audit and evaluation functions. Section 509(c) would require the Association to transmit an annual detailed and comprehensive report of its periodic program audit and evaluation to the Congress and the President within 90 days after the end of each fiscal year.

Senate amendment.—The Senate amendment contains an identical provision to the House amendment.

Conference substitute.—This provision is contained in the substitute.

SECTION 505—RAILROAD HIRING

Senate bill.—No provision.

House amendment.—The House amendment provides for a right of first hire on other rail carriers for protected separated, or furloughed employees of Conrail. This right would not apply if an employee was separated for cause, or found to be less qualified than other applicants. The right would also not apply to any vacancy covered by a required or permissive voluntary affirmative action plan. This right is similar to that granted Milwaukee and Rock Island employees by recent legislation.

Conference substitute.—This follows the House provision.

SECTION 506—SINGLE COLLECTIVE-BARGAINING AGREEMENT

Senate bill.—No provision.

House amendment.—No provision.

Senate amendment.—The Regional Rail Reorganization Act of 1973, as amended, was based on a recognition that Conrail could succeed only if the predecessor bankrupt roads' operations were combined into a unified system.

A major component of that integration was addressed by section 504(d) of the 3R Act which required representatives of the various classes or crafts of the bankrupt carriers and representatives of Conrail to enter into negotiations for a single collective bargaining agreement for each class and craft of employees. This section was motivated by a recognition that the near countless existing labor agreements had to be replaced by negotiated collective-bargaining agreements for each class and craft.

Such negotiations were commenced and substantial progress has been made toward the goals of the Act. As a significant example, the United Transportation Union and Conrail, after extensive bargaining, concluded an agreement having far-reaching effects on labor costs of train movements while allowing the United Transportation Union members to share in the resulting savings. However, continued implementation of this collectively bargained agreement is imperiled by the findings of a U.S. Magistrate in the case of *Maloof v. United Transportation Union and Conrail*, issued March 27, 1980.

As the result of a suit brought by minority members of the union who wish to block the agreement, the U.S. Magistrate has concluded, among other things, that section 504(d) of the 3R Act does not require the negotiation of a single agreement for each class or craft. As a finding of fact, this conclusion must be considered to

have a substantial likelihood of adoption by the Federal District Court. Such an adoption would, in all likelihood, be accompanied by an order effectively terminating the United Transportation Union-Conrail agreement and allowing the continuation of regional distinctions in treatment among members of the same class or craft in opposition to the conclusions of the Final System Plan, and the clearly stated policy of Congress. Revocation of the detailed and comprehensive Crew Consist Agreement, on the strength of findings by a Magistrate, not only denies its benefits to a large number of United Transportation Union members but wipes out needed savings for Conrail.

Conference substitute.—The Conference substitute follows the Senate bill, with a clarifying sentence added to ensure that such a single collective bargaining agreement is negotiated systemwide. This follows the historical policy of the National Mediation Board that crafts or classes are to be certified systemwide, and negotiations conducted on a similar basis.

This section will make it absolutely clear that the intent of Congress was in 1973, has remained, and is today that Conrail is entitled to a single collective bargaining agreement with each craft or class of workers. The Magistrate's opinion was premised on what he described as an ambiguous phrase in the existing statutory language. This section should make it clear that the intent of Congress is that Conrail is entitled to a single agreement for each class and craft.

SECTION 507—EMPLOYEE PROTECTION PAYMENTS

Senate bill.—No provision.

House amendment.—The House amendment provided an effective data for the new formulas of the first day of the month following enactment.

Senate amendment.—The Senate bill provides that the new formulas are to be effective on the first day of the month following enactment. The Corporation and other employers with protected employees were to be reimbursed effective October 1 for any protective payments not previously reimbursed.

Conference substitute.—The Conference substitute adopts October 1, 1980 as the effective date.

SECTION 508—TECHNICAL AMENDMENTS

Senate bill.—No provision.

House amendment.—The House amendment makes technical changes to the Regional Rail Reorganization Act of 1973 and adds the Attorney General to the Board of Directors of the United States Railway Association.

The Secretary of Transportation and the Secretary of the Treasury are authorized to delegate their responsibilities under the 3R Act, including membership on the Board of Directors of the USRA and its committees, to the following designated representatives. The Secretary of Treasury may designate any officer of the Department whose position is confirmed by the Senate. The Secretary of Transportation is authorized to designate as his representative the

Deputy Secretary, the General Counsel, the Federal Railroad Administrator, or the Deputy Federal Railroad Administrator.

Subsection (d) amends the definition of "deprived of employment" in subsection 501(6) to exclude from the definition, and thereby excludes from coverage under the protection program consistent with changes made in section 4 of this legislation, failure to work due to Acts of God. Subsection (d) also adds a definition of "compensation" to section 501 so that it is clear the word means only earnings in employment subject to the Railroad Retirement Act rather than such earnings plus earnings from non-railroad employment and compensation for personal injury claims against the employer.

Finally, subsection (e) clarifies that the arbitration provisions that apply to disputes between the Corporation and its employees regarding the interpretation of Title V provisions do not restrict the newly-created audit and reporting responsibilities of the USRA.

Senate amendment.—The Senate amendment is similar to the House amendment but does not add the Attorney General to the Association's Board of Directors.

Conference substitute.—The Conference substitute follows the House amendment, but deletes the provision to include the Attorney General on the USRA Board of Directors.

Section 508(f) of the House amendment alters section 403(d) of the Rail Passenger Service Act to enable Amtrak greater flexibility in contracting for compensation for providing commuter services with the states. At present, the level of compensation is fixed at the "avoidable cost" level. Conferees expect that this provision will enable Amtrak to have the flexibility to contract for the value of services rendered and not result in commuter revenues below avoidable cost.

SECTION 601—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Senate bill.—No provision.

House amendment.—The House bill amends section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) by providing that the Secretary of Transportation shall determine, after comments from interested parties, whether to propose a supplemental transaction under this section for the transfer of all rail properties of Conrail in Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that another rail carrier is financially and operationally capable of assuming Conrail's freight operations and freight service obligations in the area, that the transfer would promote the establishment and retention of a financially self-sustaining rail system in Connecticut and Rhode Island adequate to meet the needs of those states, and that the transfer would minimize job losses and associated increases in unemployment, should the Secretary develop such a proposal. After providing USRA and the ICC with an opportunity to review and comment on the proposal, the Secretary may petition the special court for an order to carry out the proposed transfer.

Notwithstanding any existing 508 agreements, a new employment agreement would be entered into between the parties to the transfer and affected employees pursuant to section 508. These agreements would involve the Corporation, but would not impose

additional obligations on the Corporation, which is neither an acquiring nor a selling carrier for the purposes of section 508.

The bill would also allow further supplemental transactions under the normal procedures of section 305 to occur by deleting the six year time limit provided in section 102(19) of the Act.

Conference substitute.—The Conference substitute adopts the House provision, but allows the States of Connecticut and Rhode Island to comment formally. The time period is also extended to 240 days.

If a proposal is sent to the Special Court, the Special Court shall use the procedures of existing section 305. If a transferee railroad is unwilling to accept the fair and equitable price established by the Secretary, the Secretary need not petition the Special Court. The Special Court may review the proposal to determine if it is in the public interest.

SECTION 701—ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

Senate bill.—No provision.

House amendment.—The House amends the Rock Island Transition and Employee Assistance and the Milwaukee Railroad Restructuring Act in several instances. The amendment provides that any decision with respect to constitutionality of the Rock Island Transition Act or the Milwaukee Railroad Restructuring Act from the respective courts having jurisdiction over the respective railroads in bankruptcy shall be taken to the United States Court of Appeals for the Seventh Circuit. If a constitutional challenge is made to the procedure under this provision, the challenge shall be heard by the United States Court of Appeals for the Seventh Circuit because the procedure is part of the Rock Island Transition Act. Should the appeals on constitutionality involve section 106 or section 110 of the Rock Island Transition Act or sections 9 or 15 of the Milwaukee Railroad Restructuring Act, regarding the claim of administration for employee protection claims, the court shall determine the appeals in a consolidated proceeding and render a final decision no later than 60 days after the last such appeal is filed.

The House amendment clarifies the Rock Island Transition and Milwaukee Railroad Restructuring Act to state affirmatively that nothing in these Acts shall limit the right of any person to bring an action under the Tucker Act. This provision was not in the original Acts on the grounds that there continued to exist a Tucker Act remedy where Congress has not explicitly waived such a remedy. See Regional Rail Reorganization Cases, 419 U.S. 102; 125 (1974). However, in reviewing Judge Garr's injunction of the Rock Island Transition Act, Justice Stevens expressed concern about the availability of such a remedy where the injunction to be lifted and were the Act subsequently to be held unconstitutional, —— U.S. ———— (1980). This specific provision clearly establishes that the Tucker Act is available and nothing in these Acts limits the right of any person to seek redress under the Tucker Act.

The House amendment provides for a new schedule for the negotiation of an employee protection agreement between the Rock Island Railroad and the labor organizations. If these parties are not able to come to an agreement within 5 days, the Commission is

to impose a fair and equitable arrangement no less protective of the interests of employees than the protection established under section 9 of the Milwaukee Railroad Restructuring Act within 15 days after the enactment of the Staggers Rail Act. The bankruptcy court shall order the Rock Island Trustee and the Rock Island employee organizations to implement such arrangement immediately. Any order of the Commission or the bankruptcy court with respect to implementing such order shall be appealed only to the United States Court of Appeals for the Seventh Circuit within 5 days after the order of the Commission or the bankruptcy court, whichever is later, and shall be determined within 60 days after the appeal is filed. Benefits and allowances under this arrangement shall be paid by the Rock Island Railroad and shall be treated as administrative expenses of the estate of the Rock Island Railroad. By specifically stating that there is a Tucker Act remedy, the benefits and allowances will immediately become available to the qualifying Rock Island employees and the Trustee may pursue his allegations of unconstitutional action under the Tucker Act.

Under Section 7(d), (e), and (f) of the Milwaukee Railroad Restructuring Act, certain obligations to the United States were subordinated to the creditors, but not the stockholders. Hence, there is a gap between these two classes of interests. The House amendment eliminates this gap, by forgiving such subordinated obligations to the United States when the Milwaukee Railroad is either successfully reorganized as a rail carrier or when more than 50% of the railroad as it exists on the effective date of the Staggers Rail Act is purchased and 50% of its employees on that date have obtained employment with other carriers. By eliminating this gap in this way, the House amendment will encourage the Milwaukee Railroad's stockholders to seek a successful reorganization or purchase and not feel it necessary to seek liquidation at this time.

Additional funds for Transaction Assistance under the Rock Island Transition Act for the purchase of abandoned lines by non-rail carrier entities of the Rock Island Railroad and Milwaukee Railroad and for rail banking of lines of the Milwaukee Railroad in Montana are made available. The Secretary may determine if applications for purchase filed after September 15, 1980, are appropriate. Other than the funds specifically reserved for Montana, Transition assistance funds should be equitably distributed without State preference to non-carrier entities which have applied for funds.

Conference substitute.—The Conference substitute adopts the House provision, with minor modifications and deletion of the new findings for the Rock Island Transition Act. The conferees believe that there is an obligation upon the Rock Island estate to provide employee protection as a claim of administration to its employees who were not covered by the March 4, 1980, agreement. Further, the conferees believe the Rock Island estate has benefitted from the Rock Island Transition Act by the reduction in its employee protection liability and through the Congressionally-supported March 4, 1980, agreement, the ability to lease its facilities and the use of funds to purchase its facilities, thus preserving its value as a going concern, and the expeditious consideration of Rock Island transactions at the Commission. The conferees reiterate that it is the intention of Congress that employee protection be imposed in

bankruptcy proceedings involving major rail carriers, for to do otherwise would be to promote liquidations, to the detriment of the employees and the public interest.

SECTION 702—LOAN GUARANTEES

Senate bill.—No provision.

House amendment.—The House amendment provides that the Secretary of Transportation shall not later than 45 days after the effective date of this Act, take final action on any application for a section 511 loan guarantee under the Railroad Revitalization and Regulatory Reform Act to be used in connection with joint ownership, construction or rehabilitation of any facilities for a second rail carrier to serve the Powder River Basin in Wyoming and Montana. This provision is included to promote needed competition for transportation of the low-sulfur coal from the Powder River Basin that is used by a great number of utilities in many states.

The Secretary is authorized to waive findings under 511(g) with respect to such loan guarantees, and section 4 (f) of the Department of Transportation Act is not applicable to such loan guarantees. However, the Secretary shall review the proposed Chicago and North Western connector and shall not approve any route which requires the use of agricultural land unless there is no feasible and prudent alternative to the use of such land and the proposed route construction plan requires all possible planning to minimize loans to such agricultural land. The Secretary shall review the use of any agricultural land in any new constructed line and shall require private land crossings for agricultural land owners whose land is divided by such line. When the Secretary requires the construction of a grade crossing, the Secretary shall require the land owner and the railroad to enter into agreements limiting the railroad's liability at such crossings.

Conference substitute.—The Conference substitute adopts the House amendment, but substitutes provisions regarding standards and deadlines for judicial review instead of the Secretary's discretion to waive findings under section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210). It also makes clear that actions can be taken without prior approval of any Committee of Congress.

The standards and deadlines are borrowed from the Alaska Natural Gas Transportation Act, 15 U.S.C. 719h, and the Administrative Procedure Act, 5 U.S.C. 706. The reference to the phrase, "arbitrary, capricious, or an abuse of discretion" is an adaptation of 5 U.S.C. 706(2)(A). The reference to "in excess of statutory jurisdiction, authority or limitations, or short of statutory right" is an incorporation of the grounds for review provided in section 706(2)(C). The Conferees wish to emphasize that the other grounds for review set forth in section 5 U.S.C. 706(2) not in this section are intentionally excluded. Judicial review is to be confined to considerations of whether the agency complied with the Constitution and acted within its authority.

SECTION 703—CONRAIL STUDIES AND EMERGENCY FUNDING & USRA AUTHORIZATION

Senate bill.—The Senate bill requires USRA to submit preliminary recommendations by November 15, 1980, with regard to Conrail's future structure, activities and funding. Following review by the Department of Transportation and the Commission, and comment by interested parties, USRA is required to submit to Congress by March 1, 1981 specific final recommendations with respect to (1) future projected funding requirements of Conrail; (2) future structure and activities of Conrail in the region; and (3) legislative proposals, if necessary, to implement such recommendations. The Senate provisions also require specific studies to be completed in developing preliminary and final recommendations. Conrail is required to submit recommendations to USRA by October 1, 1980; it is also free to comment on the Association's preliminary and final recommendations. The provision includes an USRA authorization of $31.5 million for fiscal year 1981 and $27.5 million for fiscal year 1982.

A separate title of the Senate bill provides emergency funding for Conrail of $329 million for fiscal year 1981. This provision is intended to provide interim Federal funding for Conrail while Congress identifies alternative measures, including structural changes, based on the various studies and recommendations discussed above. The funding is conditioned upon a finding by the Finance Committee under section 216(b) of the Regional Rail Reorganization Act of 1973, as amended, that Conrail has taken appropriate action to eliminate losses on light density and unprofitable lines through negotiation of subsidy or trackage rights agreements, sale or lease, imposition of surcharges or abandonment of such lines. Expedited surcharge and abandonment procedures are provided for these light density and unprofitable lines. In addition, the Senate bill requires an economic analysis that will forecast the full effects upon Conrail and rail labor of alternative changes in labor agreements and related operational changes.

House amendment.—The House amendment does not contain any provision on Conrail studies or emergency funding. It provides an authorization for USRA of $28.5 million for fiscal year 1981.

Conference substitute.—The Conference substitute generally adopts the Senate provision with regard to Conrail studies. However, Conrail is given a larger role and will be required to submit a separate report and recommendations at the same time as USRA on the carrier's future funding requirements, future structure and activities, and legislative action which might be required. Conrail is to submit preliminary projections and recommendations to USRA by January 1, 1981. The report and recommendations of USRA and Conrail are to be submitted to Congress no later than April 1, 1981.

The Department of Transportation is to submit its recommendations by that same date, and there is a provision for comment by the Commission.

The Conference substitute adopts the Conrail emergency funding authorization of $329 million for fiscal year 1981. It retains the Senate provision for an affirmative finding by the Finance Committee that Conrail has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. However, since the rail bill contains separate surcharge and abandonment provisions, the expedited Conrail surcharge and abandonment procedures have been deleted. The Conferees stress, however, that Congress intends, as a condition of the emergency funding, that Conrail proceed to eliminate or reduce its losses on unprofitable lines and implement such cost conservation measures as are feasible to minimize the needs for additional Federal funds.

Earlier this year, in the Passenger Railroad Rebuilding Act, Congress established the goal of eliminating congestion of rail freight and rail passenger traffic along the Northeast Corridor. At that time, Congress also authorized funds to begin the diversion of freight around Baltimore. It now appears that still more freight may be diverted off the corridor by cooperation between Conrail and the Delaware and Hudson Railroad and that no authorization of appropriations is required to divert additional traffic off the corridor by the negotiations of trackage rights between Conrail and the Delaware and Hudson. Accordingly, the Conferees express their hope that these negotiations will successfully divert additional freight off the corridor and direct the United States Railway Association to monitor these negotiations and to report on their progress to the respective committees.

SECTION 704—USRA AUTHORIZATION OF APPROPRIATIONS

Senate bill.—The Senate bill contained a 2 year authorization of $31.5 million in fiscal year 1981 and $25.5 million in 1982.

House amendment.—The House amendment contained a 1 year authorization for $28.5 million.

Conference substitute.—The conference substitute provides a 1 year authorization of $30 million for fiscal year 1981.

SECTION 705—FEEDER LINE REHABILITATION STUDY

Senate bill.—No provision.

House bill.—Section 231 of the House bill created a Rail Technology and Shippers Needs Board. This Board is to consist of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, the Chairman of the Interstate Commerce Commission, and two shipper representatives from national agricultural organizations appointed by the President. The Board is given authority to conduct studies of technological means to improve rail productivity and the continuing transportation needs of urban and rural shippers.

Section 231 of the House bill also provides for a study of the revenue impact and public benefits of exempting from taxation State or local government obligations incurred in connection with the rehabilitation of railroad feeder lines. The report must include criteria as may be necessary to prevent the abuse of the special tax status given under this section.

Conference substitute.—The Conference Substitute deleted the Rail Technology and Shippers Needs Board but retained the study of the impact of exempting State or local government obligations incurred in connection with the railroad feeder lines. It is anticipated that this report will include recommendations regarding the

types of railroad properties and services which ought to be eligible for State or local government obligations which are exempt from taxation; ways to narrow the applicability of this special issue to ensure that such obligations will be issued only for productive rail rehabilitation or acquisition projects; and ways to ensure coordination with Federal, State and local rail programs.

SECTION 706—EFFECT ON PENDING MATTERS

Senate bill.—No provision.

House amendment.—The House bill contains a provision which states that all applications or proceedings pending before the Commission or other agencies, or any court, shall be determined as if this law had not been enacted.

Conference substitute.—The conference substitute deletes the House provision, but clarifies that existing rate bureau proceedings shall be conducted under the law prior to the enactment of this Act. The House bill, as passed, contains a section determining the effect of this legislation on pending matters. The fact that the Conference substitute does not contain a similar provision is not intended to create any implication that other cases now pending at the Commission, other affected agencies, or pending in the Federal courts are not to be adjudicated or determined under existing law or the new legislation in accordance with controlling case law. The deletion of these provisions means that existing cases at the Commission, other affected agencies, or pending in the Federal courts, shall be determined as present case law requires that they be determined.

If a case is pending in Federal Court or has been remanded to the Commission, the Conferees intend that the rate ultimately determined by the Commission shall be considered the rate in effect on the date of enactment for the purposes of this Act.

SECTION 707—CONSTRUCTION OF AMENDMENTS

Senate bill.—Same as the House bill.

House amendment.—The House amendment provided that the amendments made by this Act should not be construed to modify the existing law with respect to competition and coordination as it affected the relationship between water carriers and rail carriers.

Conference substitute.—The provision contained in this section, which qualifies each provision of each section of this Act, is designed to make clear that none of the provisions of the Act modifies existing law to make lawful a rate or practice that was unlawful on the day prior to enactment. Also the Conferees intend that this section allow water carriers to challenge practices that were unlawful as unfair, destructive, predatory, or otherwise undermined competition prior to enactment of this Act. In addition, of course, the Conferees do not intend to limit the rights of water carriers to exercise their rights and remedies under the provision of the Interstate Commerce Act as amended by the Staggers Act of 1980 regardless of whether those rights and remedies are related to practices which are unfair, destructive, predatory or otherwise undermine competition.

The intent is that none of the amendments made by this Act is to be used to legitimize the undermining of rail-water competition. Railroad rates and practices that affect rail-water competition that are unfair, destructive, predatory, or otherwise undermine competition, and that were unlawful immediately prior to enactment of this Act shall continue to be prohibited. Similarly, no change made by this Act makes lawful any other railroad rate or competitive practice that is unfair, destructive, predatory or otherwise undermines competition.

SECTION 708—SURPLUS EQUIPMENT

Senate bill.—No provision.

House amendment.—The House amendment makes Conrail eligible to borrow excess equipment from the Department of the Army. Now, the effected community must pay a rental fee of the fair market value, which is too high for most local communities. The amendment would set up a two-step process for obtaining the needed equipment (bridge for example). The first would be an application by Conrail to the Army for a contract to borrow the bridge; this would occur only after Conrail has determined that public safety required such action. After Conrail and the Army have concluded negotiations, Conrail would enter into a contract with the local community to pay for the transportation of the bridge to the site and for routine maintenance.

While the language of the amendment is general, it is specifically aimed at solving a problem in the city of Niles, Ohio, where the West Park Avenue Bridge going over Conrail tracks was damaged and traffic is now being rerouted through a public park. This creates a hazardous and dangerous condition for the many children in the area.

Conference substitute.—Conference substitute adopts the House provision.

SECTION 709—STUDY OF ALASKA RAILROAD RATES

Senate bill.—No provision.

House amendment.—The House amendment requires, within 6 months after the effective date of the legislation, the Commission to complete a study to determine whether certain rates charged by the Alaskan Railroad would, if such rates were entered into after the enactment of the legislation, have violated Section 10701a(c)(1) of Title 49 U.S.C. as amended by the House amendment.

Conference substitute.—The Conference substitute follows the House amendment. Allegations have been made that the Alaska Railroad has been engaged in predatory pricing to the injury of its privately-owned competitors. It has also been alleged that the Alaska Railroad has the capacity to engage in such activity because it is federally owned and subsidized, while its competitors are totally unsubsidized. Clearly, such conduct would be contrary to sound public policy.

Accordingly, an investigation by the Commission is ordered by this Act. It is expected that the Commission will conduct a careful, impartial analysis of the controversy, weighing all the facts and arguments of the interested parties, and making available its analy-

sis and supporting data for public comment prior to rendering a final report to Congress. The Department of Transportation and other Federal agencies are expected to cooperate fully with the Commission in the conduct of the investigation.

The Commission's study is to be coordinated with a study by the State of Alaska.

SECTION 710—EFFECTIVE DATES

Senate bill.—No provision.

House amendment.—The House amendment provides that the provisions of this Act and the amendments made by this Act shall take effect October 1, 1980, except certain sections dealing with the Conrail employee protection.

Conference substitute.—The Conference substitute adopts the House amendment, but clarifies that the amendments to the Rock Island Transition and Employee Assistance Act in section 227 are effective upon enactment.

APPENDIX A

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., September 16, 1980.

Hon. J. JAMES EXON,
U.S. Senate, Washington, D.C.

DEAR SENATOR EXON: This is in reply to your letter of September 11 asking for my interpretation of the Commission's authority regarding demand-sensitive rates if Section 210 of H.R. 7235 (The Rail Act of 1980) were enacted. As your letter points out, Section 210 repeals the existing section of the Interstate Commerce Act which requires the Commission to maintain standards and procedures to permit the establishment of demand-sensitive rates. In my view, repeal of this section will lead the Commission to repeal its existing regulations regarding demand-sensitive rates and to refuse to initiate new rulemakings on this subject.

I hope this addresses your concerns about the Commission's interpretation of existing and pending legislation. I would, of course, be pleased to discuss this with you at any time. If legislation is enacted, I look forward to working closely with you and other members of Congress who have devoted so much effort to bringing a rail bill to fruition.

Sincerely yours,

DARIUS W. GASKINS, Jr., *Chairman.*

APPENDIX B

CHICAGO AND NORTHWESTERN TRANSPORTATION CO.,
September 16, 1980

Hon. J. J. EXON,
U.S. Senate, Washington, D.C.

DEAR SENATOR EXON: We know you are concerned with our plans for the future of our east-west line between the Wyoming State line and the Mississippi River. Please be advised we have no intention of abandoning this line.

The construction of, and successful operation of, our proposed connector line to the Union Pacific near Joyce, Nebraska, not only will not endanger the east-west line, but will enhance its future. Revenues derived from the coal project will make this railroad stronger and better able to maintain this line, which performs a useful service for the citizens of Nebraska.

It is our purpose to maintain this line in condition to respond to service needed by your citizens. As we become stronger, we are better able to increase the quality of this line and our other lines in Nebraska. However, I would like to emphasize that we do have an ongoing program which has resulted in substantial investment. For the period from 1974 to 1979 we have invested $35,456,000 in maintenance and capital in this line. Obviously, it is our intention to continue maintenance and investment at this level or, hopefully, greater.

Sincerely,

JEROME CONLON, *Senior Vice President.*

HARLEY O. STAGGERS,
JAMES J. FLORIO,
JOHN M. MURPHY,
BON ECKHARDT,
JIM SANTINI,
BARBARA A. MIKULSKI,
ROBERT T. MATSUI,
JAMES T. BROYHILL,
EDWARD R. MADIGAN,
TOM LOEFFLER,
GARY A. LEE,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
J. JAMES EXON,
BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

STAGGERS RAIL ACT OF 1980

Public Law 96-448; 96th Congress

AN ACT To reform the economic regulation of railroads, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Staggers Rail Act of 1980".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Goals.

TITLE I—RAIL TRANSPORTATION POLICY

Sec. 101. Rail transportation policy.

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

Sec. 201. Regulation of railroad rates.
Sec. 202. Determination of market dominance.
Sec. 203. Zone of rate flexibility.
Sec. 204. Transportation of recyclable materials.
Sec. 205. Rate regulation proceedings; adequate revenues.
Sec. 206. Inflation-based rate increases.
Sec. 207. Investigation and suspension of rates.
Sec. 208. Contracts.
Sec. 209. Demand sensitive rates.
Sec. 210. Phaseout of capital incentive rates.
Sec. 211. Permissive limited liability rates.
Sec. 212. Rate discrimination.
Sec. 213. Exemption.
Sec. 214. Intrastate rates.
Sec. 215. Business entertainment expenses.
Sec. 216. Efficient marketing.
Sec. 217. Compensatory joint rate relief.
Sec. 218. Expedited division of revenues proceedings.
Sec. 219. Rate bureaus.
Sec. 220. Long and short haul transportation.
Sec. 221. Railroad entry.
Sec. 222. Service during periods of peak demand.
Sec. 223. Reciprocal switching.
Sec. 224. Car service compensation.
Sec. 225. Car utilization.
Sec. 226. Car service orders for exigent circumstances.
Sec. 227. Employee protection.
Sec. 228. Mergers and other transactions.
Sec. 229. Savings provisions.

TITLE III—RAILROAD COST DETERMINATIONS

Sec. 301. Uniform accounting system.
Sec. 302. Railroad cost accounting.
Sec. 303. Civil penalties for violations of accounting principles provisions.

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

Sec. 401. Feeder railroad development program.
Sec. 402. Abandonment.
Sec. 403. Conversion of abandoned railroad rights-of-way.
Sec. 404. Extension of redeemable preference share financing.
Sec. 405. Financing.
Sec. 406. Transaction assistance.
Sec. 407. Electrification loan guarantees.
Sec. 408. Amendment to the Regional Rail Reorganization Act of 1973.
Sec. 409. Federal assistance report.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

Sec. 501. Monthly displacement allowance.
Sec. 502. Duration of monthly displacement allowance.
Sec. 503. Training and transfer.
Sec. 504. Payment, audit, and report.
Sec. 505. Railroad hiring.
Sec. 506. Single collective-bargaining agreement.
Sec. 507. Employee protection payments.
Sec. 508. Technical amendments.

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

Sec. 601. Expedited supplemental transaction proposals.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Rock Island and Milwaukee Railroads amendments.
Sec. 702. Loan guarantees.
Sec. 703. Conrail studies and emergency funding.
Sec. 704. USRA authorization of appropriations.
Sec. 705. Feeder line rehabilitation study.
Sec. 706. Effect on pending matters.
Sec. 707. Construction of amendments.
Sec. 708. Surplus property.
Sec. 709. Study of Alaska railroad rates.
Sec. 710. Effective dates.

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) historically, railroads were the essential factor in the national transportation system;

(2) the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to establish and maintain a national railroad network;

(3) today, most transportation within the United States is competitive;

(4) many of the Government regulations affecting railroads have become unnecessary and inefficient;

(5) nearly two-thirds of the Nation's intercity freight is transported by modes of transportation other than railroads;

(6) earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements;

(7) by 1985, there will be a capital shortfall within the railroad industry of between $16,000,000,000 and $20,000,000,000;

(8) failure to achieve increased earnings within the railroad industry will result in either further deterioration of the rail system or the necessity for additional Federal subsidy; and

(9) modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential in order to achieve maximum utilization of railroads to save energy and combat inflation.

GOALS

SEC. 3. The purpose of this Act is to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(5) to assist in the rehabilitation and financing of the rail system.

TITLE I—RAIL TRANSPORTATION POLICY

RAIL TRANSPORTATION POLICY

SEC. 101. (a) Chapter 101 of title 49, United States Code, is amended by inserting after section 10101 the following new section:

"§ 10101a. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

"(9) to cooperate with the States on transportation matters to assure that intrastate regulatory jurisdiction is exercised in accordance with the standards established in this subtitle;

"(10) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation;

"(11) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

"(12) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(13) to prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination;

"(14) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(15) to encourage and promote energy conservation.'.

(b) Section 10101(a) of title 49, United States Code, is amended by striking out "To ensure" and inserting in lieu thereof "Except where policy has an impact on rail carriers, in which case the principles of section 10101a of this title shall govern, to ensure".

(c) The section analysis of chapter 101 of title 49, United States Code, is amended by inserting after the item relating to section 10101 the following new item:

"10101a. Rail transportation policy.".

TITLE II--RAILROAD RATES AND INTER-CARRIER PRACTICES

REGULATION OF RAILROAD RATES

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; or

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; and

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.

"(c)(1) A rate for transportation or other service provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may not be established below a reasonable minimum. Any rate for transportation by such a rail carrier that does not contribute to the going concern value of such carrier is presumed to be not reasonable. A rate that contributes to the going concern value of such carrier is conclusively presumed not to be below a reasonable minimum.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission shall order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.

"(4)(A) For purposes of this subsection, variable costs shall be determined under formulas or procedures prescribed or certified by the Commission.

"(B) In the determination of variable costs for purposes of minimum rate regulation, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of such carrier and only those costs of the specific service in question unless the specific information is not available. The Commission

may not include in such variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.".

(b)(1) Section 10701(a) of title 49, United States Code, is amended—

(A) by inserting "(other than a rail rate)" immediately after "A rate" in the first sentence;

(B) by inserting "(including a rail carrier)" immediately after "such a carrier" in the second sentence thereof; and

(C) by inserting "(including rail carriers)" immediately after "those carriers" in the third sentence thereof.

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 202. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B)(i) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(ii) for purposes of determining the cost recovery percentage only, 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In making a determination under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

"(A) 160 percent during the period beginning on the effective date of the Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending September 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

"(3) For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined pursuant to section 10705a(m)(1) of this title, with adjustments specified by the Commission. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with such section 10705a(m)(1), but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Commission shall prescribe.

"(4) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has or does not have market dominance over such transportation, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

"(5)(A) Within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for the transportation of all traffic received by rail carriers. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

ZONE OF RATE FLEXIBILITY

SEC. 203. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility

"(a) In this section—

"(1)(A) 'base rate' means, with respect to the transportation of a particular commodity (i) for the 24-month period beginning on October 1, 1980, the rate in effect on October 1, 1980, (ii) for the 24-month period beginning on October 1, 1982, the rate in effect on October 1, 1982, and (iii) for the 5-year period beginning on October 1, 1984, and for each subsequent 5-year period, the rate in effect on the first day of the applicable 5-year period.

"(B) If no rate exists for the transportation of a particular commodity on October 1, 1980, the base rate for the transportation of such commodity shall be the rate established by the rail carrier (divided by the latest rail cost adjustment factor published by the Commission), unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission (divided by the latest rail cost adjustment factor published by the Commission).

"(2)(A) 'adjusted base rate' means the base rate for the transportation of a particular commodity multiplied by the latest rail cost adjustment factor published by the Commission pursuant to this paragraph.

"(B) Commencing with the fourth quarter of 1980, the Commission shall, as often as practicable but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Commission, with appropriate adjustments to reflect the changing composition of railroad costs, including the quality and mix of material and labor), and the denominator of which is the same index for the fourth quarter of 1980, or for the fourth quarter of 1982 or for the fourth quarter of every fifth year thereafter, as appropriate.

"(b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may increase any rate over which the Commission has jurisdiction under section 10709 of this title so long as the increased rate is not greater than the adjusted base rate for the transportation involved, plus any rate increases implemented under subsection (c) or (d) of this section.

"(2) A rate increase authorized under this subsection may not be found to exceed a reasonable maximum for the transportation involved.

"(3) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title applicable to that rate.

"(c)(1) During the 12-month period beginning on the effective date of the Staggers Rail Act of 1980 and during each of the 3 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 118 percent of the adjusted base rate.

"(2)(A) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may, except as provided in subparagraph (B) of this paragraph, be implemented only in the next succeeding year.

"(B) If any portion of the total rate increase authorized under this subsection is not implemented by the end of the 4-year period beginning on the effective date of the Staggers Rail Act of 1980, such portion may be implemented in the next 2 succeeding years, except that in no event may a rail carrier increase a rate under this subsection or under subsection (d) of this section in either of such 2 succeeding years by an annual amount of more than 10 percent of the adjusted base rate.

"(d)(1) Except as provided in paragraph (3) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3)(A) The provisions of this subsection shall not apply to a rail carrier proposing to increase a single line rate if such carrier earns adequate revenues, as determined by the Commission under section 10704(a)(2) of this title.

"(B) The Commission shall, after a hearing on the record, prescribe such rules with respect to joint rates as necessary to ensure that rail carriers which earn adequate revenues, as determined under section 10704(a)(2) of this title, do not receive the rate increases authorized by this subsection unless the Commission determines that it is unable to prescribe such rules without precluding rail carriers not earning adequate revenues from receiving the rate increases authorized under this subsection.

"(e)(1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under subsection (c) or (d) of this section—

"(A)(i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle.

In considering any complaint challenging a rate increase that is authorized under subsection (c) of this section and that results in a revenue-variable cost percentage that is less than the lesser of the percentages described in clauses (i) and (ii) of paragraph (2)(A), the Commission shall, in determining the reasonableness of such rate increase, give due consideration to whether the carrier proposing the rate increase has attained adequate revenues, as determined by

the Commission under section 10704(a)(2) of this title, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level.

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than—

"(i) 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title; or

"(ii) a revenue-variable cost percentage of 190 percent,

whichever is less, the Commission may, on its own initiative, or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.

"(C) In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence of the following:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that (1) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (2) the proposed rate exceeds or does not exceed a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this subtitle.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

(c)(1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipally owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage of not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 204. Section 10731 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this title or any other law, within 90 days after the effective date of the Staggers Rail Act of 1980, all rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall take all actions necessary to reduce and thereafter maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than

the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. As long as any such rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase. The Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of this subsection.".

RATE REGULATION PROCEEDINGS; ADEQUATE REVENUES

SEC. 205. (a)(1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 230 days after the effective date of this Act.

(2)(A) For purposes of this subsection, the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether coal is available to a consignee from another source.

(3)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its standards for the determination of the reasonableness of rail carrier rates under existing law and procedures.

(B) Nothing in this subsection shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. The enactment of this subsection shall not be considered by the Commission in any proceeding, or by any court on an appeal from that or any other proceeding, to determine the proper scope of the term "market dominance" or whether there is market dominance over the transportation to which any particular rate applies.

(b)(1) Section 10704(a)(2) of title 49, United States Code, is amended by inserting "and revise as necessary" immediately after "shall maintain".

(2) Section 10704(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The Commission shall conclude a proceeding under paragraph (2) of this subsection within 180 days after the effective date of the Staggers Rail Act of 1980 and thereafter as necessary.

"(4) On the basis of the standards and procedures under paragraph (2) of this subsection, the Commission shall, within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.".

INFLATION-BASED RATE INCREASES

SEC. 206. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Inflation-based rate increases

"(a) The Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based rate increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 207. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

"(A) is effective at the end of that time period; or

"(B) if already in effect at the end of that time period, remains in effect.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.

"(4) Notwithstanding the provisions of section 10741 or section 10761 of this title, the Commission shall, by rule, establish standards and procedures permitting a rail carrier to waive the collection of amounts due under this subsection if such amounts are not significant.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 208. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such a rail carrier may not enter into a contract with purchasers of rail service except as provided in this section.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall publish special tariff rules for such contracts in order to assure that the essential terms of the contract are available to the general public in tariff format.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper), a complaint may be filed—

"(i) by a shipper only on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

"(B) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the grounds that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice under this subtitle.

In making a determination under clause (ii) of this subparagraph, the Commission shall consider the difference between contract rates and published single car rates.

"(C) For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall, subject to the provisions of this section, order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(e) Approval of a contract filed under this section shall be effective—

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title.

"(g) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title.

"(h) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(i)(1) A contract that is approved by the Commission under this section, and transportation under such contract, shall not be subject to this subtitle, and may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(j) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract shall hereafter have the same force and effect as if it had been entered into in accordance with the provisions of this section. Nothing in this section shall affect the rights of the parties to challenge the existence of such a contract.

"(k)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products and paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) The Commission may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Commission considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

"(l) Service under a contract approved under this section shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(m) The Commission shall establish a railroad contract rate advisory service. The advisory service shall—

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various shipments and the published single car rates, and submit a report on such impact to the Congress not later than 90 days after the effective date of the Staggers Rail Act of 1980.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

SEC. 209. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 210. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 211. (a) Section 10730(a) of title 49, United States Code, is amended by inserting "and excluding any rail carrier" immediately after "motor common carrier of property".

(b) Section 10730 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

(c) Section 11707(d) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)";

(2) by inserting "(other than a rail carrier)" immediately after "delivering carrier"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) A civil action under this section may be brought in a United States district court or in a State court.

"(C) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.".

(d) Within one year after the effective date of this Act, the Attorney General and the Interstate Commerce Commission shall independently investigate whether rail carriers should continue to be subject to section 11707 of title 49, United States Code, and submit a report to the Congress setting forth recommendations to Congress for appropriate legislative action. Each such investigation shall address the following issues:

(1) Whether, in the case of traffic with respect to which rail carriers do not have market dominance, such carriers should be subject to any higher level of liability for loss and damage than they are willing to agree to with the shippers of such traffic.

(2) Whether, in the case of traffic with respect to which rail carriers have market dominance, such carriers should be subject to any greater liability than would be imposed under a statutory comparative negligence standard.

(3) Whether liability for damage to rail traffic should be determined under a no-fault liability system and what shippers should bear the cost of such a system.

(4) Whether venue in cases arising from rail carrier liability for damages to traffic should be further limited.

(5) Whether rail carrier property damage cases should be subject to laws other than Federal law.

(6) Whether the right to claims should be limited to either the shipper or receiver of property.

(7) Whether maximum time limits should be imposed on the filing of claims with rail carriers and the courts.

(8) Whether the prevailing party in a claims proceeding should be awarded attorneys fees in order to limit needless litigation.

(9) Whether excessive attorneys fees are awarded in cases under section 11707 of title 49, United States Code.

(10) Whether claimants should be able to recover damages in excess of the market value of the commodity transported unless liability for special or consequential damages is agreed to by the carrier in unity.

RATE DISCRIMINATION

SEC. 212. Section 10741 of title 49, United States Code, is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) contracts approved under section 10713 of this title, other than as provided in subsection (d)(2)(A)(ii) and (d)(2)(B) of such section;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10728 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title,

except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.".

EXEMPTION

SEC. 213. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

SEC. 214. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "subchapter I or IV" and inserting in lieu thereof "subchapter IV"; and

(4) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle.

"(2) Within 120 days after the effective date of the Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are in accordance with the standards and procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not in such accordance, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

"(B) The standards and procedures existing in each State on the effective date of the Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

"(4)(A) Any State authority which is certified by the Commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification or which does not seek certification may not exercise any jurisdiction over intrastate rates, classifications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such certifica-

tion. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this subtitle, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title, inflation-based rate increases under section 10712 of this title, or fuel adjustment surcharges approved by the Commission.

"(c) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority, in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined, on the grounds that the standards and procedures applied by the State were not in accordance with the provisions of this subtitle. The Commission shall take final action on any such petition within 30 days after the date it is received. If the Commission determines that the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11501(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(c) of title 49, United States Code, is amended by inserting "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" immediately after "unless".

(5) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501(b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 215. Section 10751 of title 49, United States Code, is amended by striking out "(other than transportation by rail)" in subsections (a) and (b).

(b) The provisions of section 10751 of title 49, United States Code, as amended by subsection (a) of this section, shall apply to any expense of the type described in subsection (a) of such section 10751 that was incurred prior to the effective date of this Act (other than an expense with respect to which a penalty was paid pursuant to section 10761 of such title 49) or that is incurred on or after such effective date.

EFFICIENT MARKETING

SEC. 216. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 10 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.".

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

COMPENSATORY JOINT RATE RELIEF

SEC. 217. (a)(1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a)(1)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party in such joint rate.

"(B) A carrier earning adequate revenues, as determined under section 10704(a)(2) of this title, may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such other carrier, if such carrier

makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier;

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C)(i) The canceling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice after such determination is made.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B)(iv) of this paragraph, the tariff shall become effective on the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a rail carrier canceling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3)(A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge. Nothing in this paragraph shall be construed to limit the right of a carrier to reduce rates over routes not in direct competition between the same points with routes to which it has applied a surcharge.

"(b)(1) Notwithstanding subsection (a) of this section—

"(A) a rail carrier not earning adequate revenues, as determined under section 10704(a)(2) of this title, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile in the most recent calendar year for which traffic data is available; and

"(B) a rail carrier earning adequate revenues, as so determined, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 1,000,000 gross ton miles of traffic per mile in such most recent calendar year.

Such a surcharge may be applied without the concurrence of any rail carrier. Any such surcharge may be allocated, subject to the provisions of paragraph (4) of this subsection, in different amounts among different movements between different origins and destinations, and shall accrue solely to the surcharging carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

The Commission shall, within 120 days after the effective date of the Staggers Rail Act of 1980, complete a proceeding to define the term 'reasonably expected costs' as used in subparagraph (B) of this paragraph. In the interim, the term shall be construed in accordance with Rail Services Planning Office subsidy standards.

"(3)(A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B)(i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line that result in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable in that year under section 10709(d) of this title.

"(ii) A surcharging carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carrier's variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such revenues without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by such paragraph (3)(A) is made, the Commission may suspend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission imposes a surcharge, in conformity with such petition, upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rate was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, the canceling tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge, shall remain in effect during the pendency of the Commission's consideration.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Commission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent of its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of 110 percent of its variable costs with all class III rail carriers in the same rate territory participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail carrier proposes to apply a surcharge under subsection (a) of this section or to cancel the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs of providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movements over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined without regard to amount received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsection (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a viola-

tion of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any rate under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If, on the basis of such investigation, the Commission finds that the protested surcharge or cancellation is or is intended to be anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2)(A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 30 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class III rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applied.

"(k)(1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 30 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or canceling carrier to provide service at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m)(1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated using the Commission's Rail Form A cost finding methodology), such surcharging or canceling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

"(l) Whenever the application of a joint rate to a through route is canceled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such route, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n) Surcharges applied under subsection (a) or (c) of this section and cancellations under subsection (c) of this section shall not be subject to the provisions of section 10726 (a)(1)(B) of this title.

"(o) The Special Counsel of the Commission may, consistent with the rail transportation policy in section 10101a of this title, provide assistance to class III rail carriers and small businesses in preparing actions under this section.

"(p)(1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a)(2) or (a)(3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

(c)(1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10311 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B)(i) the number of surcharges applied by the Consolidated Rail Corporation and all other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and all other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 10705a and to class II and class III rail carriers under subsection (l) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 218. (a) Section 10705(f)(1) of title 49, United States Code, is amended to read as follows:

"(f)(1)(A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint.

The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report its reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

(b) Section 10705(f)(1) of title 49, United States Code, as amended by subsection (a) of this section, is further amended—

(1) by striking out subparagraph (B);

(2) by striking out "(A)" immediately before "The Commission";

(3) by striking out "(i)" and inserting in lieu thereof "(A)";

(4) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(5) by striking out "clause (i) of this subparagraph" and inserting in lieu thereof "subparagraph (A) of this paragraph".

RATE BUREAUS

SEC. 219. (a) Section 10706(a)(1) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) 'practicably participates in that movement' shall have such meaning as the Commission shall by regulation prescribe.".

(b) Section 10706(a)(2)(A) of title 49, United States Code, is amended—

(1) by inserting "publication," immediately after "initiation," in the first sentence; and

(2) by striking out "section 10101" in the second sentence and inserting in lieu thereof "section 10101a".

(c)(1) Section 10706(a)(3)(A) of title 49, United States Code, is amended to read as follows:

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single line rates proposed by another rail carrier, except that for purposes of general rate increases and broad tariff changes only, if the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in that movement; or

"(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

(2) Section 10706(a)(3)(B) of title 49, United States Code, is amended to read as follows:

"(B) Until January 1, 1984, subparagraph (A)(ii) and (A)(iii) of this paragraph do not apply to—

"(i) general rate increases to cover inflationary cost increases, or general rate decreases, for joint rates if the agreement gives shippers, under specified procedures, at least 15 days notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

"(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply, except single line rates where subparagraph (A)(i) of this paragraph prohibits the participation of carriers with single line rates.

If the Commission finds at any time that the implementation of this subparagraph is not feasible, it may delay or suspend such implementation in whole or in part.".

(3) Section 10706(a)(3)(C) of title 49, United States Code, is amended—

(A) by inserting "(i)" immediately after "(C)"; and

(B) by adding at the end thereof the following new clause:

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such carrier and one or more other carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

"(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

"(II) concerned an interline movement of the carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of clause (I) or (II) are satisfied before allowing the introduction of any such evidence.".

(4) Section 10706(a)(3) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.".

(d) Section 10706(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Commission may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

(e) Section 10706(i)(1)(B) of title 49, United States Code, is amended by striking out "section 10101" and inserting in lieu thereof "section 10101a".

(f) The Interstate Commerce Commission may not take any action with respect to the elimination of general rate increases or decreases prior to April 1, 1982.

(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees of such rate bureau who are affected by the amendments made by this section with fair arrangements no less protective of the interests of such employees than those established pursuant to section 11347 of title 49, United States Code. For purposes of this subsection, the term "employees" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions.

LONG AND SHORT HAUL TRANSPORTATION

SEC. 220. Section 10726(c) of title 49, United States Code, is repealed.

RAILROAD ENTRY

SEC. 221. (a) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(b) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(d)(1) Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other rail carrier may block such construction or extension by refusing to permit the carrier to cross its property if (A) the construction does not unreasonably interfere with the operation of the crossed line, (B) the operation does not materially interfere with the operation of the crossed line, and (C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the carriers are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Commission for determination.

"(e) The Commission may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".

SERVICE DURING PERIODS OF PEAK DEMAND

SEC. 222. Section 11101(a) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "A rail carrier shall not be found to have violated this section because it fulfills its commitments under contracts approved under section 10713 of this title before responding to reasonable requests for service.".

RECIPROCAL SWITCHING

SEC. 223. Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commission may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Commission may establish such conditions and compensation.

"(2) The Commission may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.".

CAR SERVICE COMPENSATION

SEC. 224. (a)(1) Section 11122(b)(2) of title 49, United States Code, is repealed.

(2) Section 11122(b)(1) of title 49, United States Code, is amended by striking out "(1)" immediately before "The rate".

(b) Section 10706(a) of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves the agreement that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Commission shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.

"(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.".

CAR UTILIZATION

SEC. 225. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting at the end thereof the following new section:

"§ 10734. Car utilization

"In order to encourage more efficient use of freight cars, notwithstanding any other provision of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10731 the following new item:

"10734. Car utilization.".

CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

SEC. 226. Section 11123(a) of title 49, United States Code, is amended to read as follows:

"(a)(1) When the Interstate Commerce Commission finds that a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States, the Commission may, for a period not to exceed thirty days—

"(A) suspend any car service rule or practice;

"(B) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section;

"(C) require joint or common use of facilities, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest, and

"(D) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

"(2) The Commission may extend any action taken under paragraph (1) of this subsection beyond the thirty-day period provided in such paragraph only if the full Commission, after a hearing, certifies that a transportation emergency exists.

"(3) In carrying out the provisions of this subsection, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.".

EMPLOYEE PROTECTION

SEC. 227. (a) Section 1170 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In authorizing any abandonment of a railroad line under this section, the court shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

(b) Section 1172 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) In approving an application under subsection (b) of this section, the Commission shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

MERGERS AND OTHER TRANSACTIONS

SEC. 228. (a) Section 11344(b) of title 49, United States Code, is amended—

(1) by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new paragraph:

"(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.".

(b) Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Commission shall, with respect to any application that is part of a plan or proposal developed under section 5 (a)-(d) of the Department of Transportation Act (49 U.S.C. 1654 (a)-(d)), accord substantial weight to any recommendations of the Secretary of Transportation.".

(c) Section 11344 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(e) A rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, may apply for approval under this subsection of a transaction for the purpose of providing motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on a railroad other than the applicant carrier. Such application shall be approved by the Commission if the applicants demonstrate presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or seriously to fail otherwise to provide adequate normal rail services required by shippers and which shippers would reasonably expect the rail carrier to provide. The Commission shall approve or disapprove applications under this subsection within 30 days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within 30 days following receipt of such application.".

(d) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves—

"(1) the merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of

notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which it concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commission has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.".

(e) Any application filed or pending on the effective date of this Act under section 11343, 11344, or 11345 of title 49, United States Code, before the Secretary of Transportation, the Interstate Commerce Commission, or any court shall be adjudicated or determined as if this Act had not been enacted.

SAVINGS PROVISIONS

SEC. 229. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180-day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be deemed to be lawful and may not thereafter be challenged in the Commission or in any court (other than on appeal from a decision of the Commission).

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold within the 3-year period immediately preceding the bringing of a challenge to the reasonableness of such rate.

(d) The burden of proof in any proceeding under this section shall be on the complainant.

TITLE III—RAILROAD COST DETERMINATIONS

UNIFORM ACCOUNTING SYSTEM

SEC. 301. Section 11142 of title 49, United States Code, is amended to read as follows:

"§ 11142. Uniform accounting system

"The Interstate Commerce Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.".

RAILROAD COST ACCOUNTING

SEC. 302. (a) Chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"§ 11161. Railroad Accounting Principles Board

"(a)(1) There is established a Railroad Accounting Principles Board which shall be within and responsible to the legislative branch of the Federal Government.

"(2) The Board shall be composed of the Comptroller General of the United States, who shall serve as chairman, and six members to be appointed by the Comptroller General.

"(3) The Comptroller General shall appoint members of the Board from among persons who are well qualified for such position by virtue of experience in or knowledge of rate regulation, accounting, or cost determinations. Of the members of the Board so appointed—

"(A) one shall be from the accounting profession;

"(B) one shall be from the railroad industry;

"(C) one shall be a representative of major rail shippers;

"(D) one shall be from the Interstate Commerce Commission;

"(E) one shall be a representative of small rail shippers; and

"(F) one shall be from the economics profession.

"(4) The term of office of each appointed member of the Board shall be three years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(5) The Board shall not act in the absence of a quorum, which shall consist of three members.

"(b) Each appointed member of the Board shall receive compensation at a rate equal to 1/200 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

"(c)(1) The Board may utilize personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees or to provide the staff services necessary to assist the Board in carrying out its functions and responsibilities under this subchapter.

"(2) Individuals appointed by the Board under this subsection may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(d) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

"(e) Members and employees of the Board and all other individuals appointed under this subsection having or having had access to information in the possession of the Board shall be subject to the provisions of section 1905 of title 18.

"(f) The Board shall cease to exist three years after the effective date of the Staggers Rail Act of 1980.

"§ 11162. Cost accounting principles

"(a) Within two years after the effective date of the Staggers Rail Act of 1980, the Railroad Accounting Principles Board shall establish, for rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods, including the variable costs associated with particular movements of goods or such other costs as the Board believes most accurately represent the economic costs of such movements. Such principles shall govern the determination of all railroad costs for specific regulatory proceedings under this title.

"(b) In developing cost accounting principles under this section, the Board shall take into account the following considerations:

"(1) The specific regulatory purposes for which railroad costs are required.

"(2) The degree of accuracy of the cost information which is needed to meet regulatory purposes.

"(3) The existing capability and the probable future capability of rail carriers to provide such information and the relative benefits and costs of requiring development of additional capability.

"(4) The means by which the degree of economic accuracy required can be obtained at the least possible expense and with the least possible information reporting.

"(5) The means by which the confidentiality of such costs can best be maintained while meeting the need for such information in regulatory proceedings.

"(c) The cost accounting principles established by the Board shall require that cost information be reported or disclosed only for the essential regulatory purposes defined by the Board.

"§ 11163. Implementation of cost accounting principles

"Upon the establishment of cost accounting principles by the Railroad Accounting Principles Board under section 11162 of this title, the Interstate Commerce Commission shall promptly promulgate rules to implement and enforce such principles. Not less than once every five years after the promulgation of the original rules, the Commission shall review the principles of the Board and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this title and the goals of this subchapter. The Commission shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes.

"§ 11164. Certification of rail carrier cost accounting systems

"(a) Within 180 days after the effective date of the Staggers Rail Act of 1980, each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a request for preliminary certification of its cost accounting system. The Commission shall grant such preliminary certification if it determines that the cost accounting system of such rail carrier is in compliance with the accounting standards of the Commission in effect on the day prior to the effective date of the Staggers Rail Act of 1980.

"(b)(1) As soon as practicable, but not later than 9 months, after the promulgation of rules by the Commission under section 11163 of this title, each rail carrier described in subsection (a) of this section shall file with the Commission a request for final certification of its cost accounting system developed to comply with this section.

"(2) Within 90 days, or such additional time as the Commission finds necessary, after a rail carrier files its request for final certification under paragraph (1) of this subsection, the Commission shall grant such final certification to such carrier if the Commission determines that the cost accounting system of such carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title. If the Commission denies such final certification, the rail carrier shall revise its cost accounting system and file a new request for certification within 90 days after the date of such denial. The Commission shall thereupon grant final certification if it determines that such cost accounting system, as revised, is in compliance with such rules. If the Commission again denies final certification to the rail carrier, the Commission shall prescribe a cost accounting system which such carrier shall adopt within a reasonable time and which shall be considered a finally certified cost accounting system for purposes of this section.

"(c) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Commission under section 11163 of this title.

"(d)(1) Certification under this section that the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title shall be valid until the promulgation of new rules by the Commission.

"(2) After the cost accounting system of a rail carrier is certified under this section, such rail carrier may, after notifying the Commission, make modifications in such system unless, within 60 days after the date of notification, the Commission finds such modifications to be inconsistent with the rules promulgated by the Commission under section 11163 of this title.

"(e) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission, the Commission shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

"§ 11165. Cost availability

"As required by the rules of the Interstate Commerce Commission governing discovery in Commission proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Commission proceeding in which such data is required.

"§ 11166. Accounting and cost reporting

"(a) To obtain expense and revenue information for regulatory purposes, the Interstate Commerce Commission may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings pursuant to this title, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board under section 11162 of this title.

"(b) Any reports required by the rules established by the Commission under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

"§ 11167. Report

"The Railroad Accounting Principles Board shall, within 2 years after the effective date of the Staggers Rail Act of 1980, submit to the Congress a report setting forth any recommendations of the Board for appropriate legislative or administrative action in order to integrate the cost accounting principles and the cost accounting system certification process under this subchapter into existing rail carrier rate regulation under this title, including determinations under section 10709 of this title.

"§ 11168. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter not to exceed $1,000,000 for the fiscal year ending September 30, 1981, not to exceed $1,000,000 for the fiscal year ending September 30, 1982, and not to exceed $1,000,000 for the fiscal year ending September 30, 1983.".

(b) The analysis of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"11161. Railroad Accounting Principles Board.
"11162. Cost accounting principles.
"11163. Implementation of cost accounting principles.
"11164. Certification of rail carrier cost accounting systems.
"11165. Cost availability.
"11166. Accounting and cost reporting.

"11167. Report.
"11168. Authorization of appropriations.".

CIVIL PENALTIES FOR VIOLATIONS OF ACCOUNTING PRINCIPLES PROVISIONS

SEC. 303. (a)(1) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11913 the following new section:

"§ 11913a. Accounting principles violations

"Any rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that fails to obtain final certification of its cost accounting system under section 11164(b) of this title shall be fined not less than $50,000.".

(2) The section analysis of chapter 119 of title 49, United States Code, is amended by inserting immediately after the item relating to section 11913 the following new item:

"11913a. Accounting principles violations.".

(b) Section 11910 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A person that knowingly discloses confidential data made available to such person under section 11165 of this title by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall be fined not more than $50,000.".

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

FEEDER RAILROAD DEVELOPMENT PROGRAM

SEC. 401. (a) Subchapter I of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10910. Railroad development

"(a) In this section—

"(1) 'financially responsible person' means a person who (A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a government authority but does not include a class I or a class II rail carrier.

"(2) 'railroad line' means (A) during the 3-year period beginning on the effective date of the Staggers Rail Act of 1980, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, and (B) after the end of such 3-year period, any line of railroad.

"(b)(1) When the Interstate Commerce Commission finds that—

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line has been placed on a system diagram map as required under section 10904 of this title, but the rail carrier owning such line has not filed an application to abandon such line under sections 10903 and 10904 of this title; and

"(B) an application to purchase such line has been filed, in accordance with regulations required under subsection (k) of this section, by a financially responsible person,

the Commission shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater, but shall not include the cost of providing a protective arrangement under subsection (j) of this section.

"(c)(1) For purposes of this section, the Commission may determine that the public convenience and necessity require or permit the sale of a railroad line if the Commission determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Commission finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Commission shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Commission shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Commission shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic p[illegible] mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this title, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier [illegible] this section proposes to sell or abandon all or any portion o[illegible]rchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

"(j) In the case of any railroad line sold pursuant to this section, the Commission shall require the selling carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of this title.

"(k) The Commission shall, within 60 days after the effective date of the Staggers Rail Act of 1980, prescribe such regulations and procedures as may be necessary to carry out the provisions of this section.".

(b) The section analysis of chapter 109 of title 49, United States Code, is amended by adding immediately after the item relating to section 10909 the following new item:

"10910. Railroad development.".

ABANDONMENT

SEC. 402. (a)(1) Section 10903(b)(1) of title 49, United States Code, is amended by striking out the first sentence.

(2) Section 10903(c) of title 49, United States Code, is repealed.

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking out "at least 60" and all that follows through "effective" in paragraph (1);

(B) by striking out "and" at the end of paragraph (2)(A);

(C) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding at the end of paragraph (2) the following new subparagraph:

"(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title, (ii) a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title, and (iii) the name and business address of the person who is authorized to discuss sale or subsid[illegible]ms for the carrier."; and

(E) by inserting immediately before the period at the end of paragraph (3)(E) the following: ", and certifying that clauses (A)-(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the rail carrier and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, after the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days after the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final deci-

sion, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Section 10904 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ", except that the requirement of such description or identification in such diagram may be waived by the Commission if the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to avoid abandonment and discontinuance

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance of a particular railroad line, it shall, concurrently with service of the decision upon the parties, publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made,

request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 403. Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by inserting "(1)" immediately before the first sentence thereof; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated, for the purposes of carrying out the provisions of subsection (b)(2) of this section, not to exceed an aggregate amount of $10,000,000 for the fiscal years 1981, 1982, and 1983. Such sums are authorized to remain available until expended. Notwithstanding the provisions of subsection (b)(2) of this section, the Federal share for each grant made from the funds authorized to be appropriated pursuant to this paragraph may not exceed 80 percent of the total cost of any project.".

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 404. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are each amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

FINANCING

SEC. 405. (a)(1) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking out "$700,000,000" and inserting in lieu thereof "$1,400,000,000".

(2) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking out "$600,000,000" and inserting in lieu thereof "$1,400,000,000".

(b)(1) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by inserting "(a)" immediately after "SEC. 509." and by adding at the end thereof the following new subsection:

"(b)(1) Not more than $200,000,000 of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section shall be transferred by the Secretary to the United States Railway Association for use by the Association in accordance with section 216(b)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(3)). Such funds shall be transferred immediately upon the finding by the Finance Committee under such section 216(b)(3).

"(2) Not less than 5 percent of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) (excluding funds transferred under paragraph (1) of this subsection) shall be available for the purchase or rehabilitation of railroad lines acquired under section 10910 of title 49, United States Code, except that no such funds shall be available for the

purchase or rehabilitation of such a railroad line unless such purchase or rehabilitation is consistent with the rail plan (as defined under section 5 of the Department of Transportation Act) of the State in which such line is located.

"(3) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than $180,000,000 are authorized to be appropriated in fiscal year 1981.".

(2) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Amounts transferred to the Association pursuant to section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 may be used to purchase series A preferred stock of the Corporation to provide for the implementation by the Corporation of a program to reduce the Corporation's work force, if the Finance Committee finds that the implementation of such program will result in substantial savings to the United States.

"(B) An employee who ceases to be an employee as a result of the reduction of work force under a program implemented pursuant to this paragraph shall not, by reason of so ceasing to be an employee, or by reason of any work or employment entered into after so ceasing to be an employee, lose such employee's current connection with the railroad industry for the purposes of the Railroad Retirement Act of 1974.".

(c)(1) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(a)) is amended—

(A) by inserting "(1)" immediately before "Any railroad"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) An employee or employee-shipper group may apply to the Secretary for financial assistance pursuant to subsection (b)(3) of this section.

"(3) A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) may apply to the Secretary for financial assistance from funds made available pursuant to section 509(b)(2) of this title.".

(2) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may approve applications to provide financial assistance to any employee or employee-shipper ownership group formed pursuant to a plan for the purchase or rehabilitation of a line or lines of railroad or of rail facilities which are considered to be in the public interest. The Secretary shall not use more than 20 percent of the total funds available under this section for such financial assistance. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership or rehabilitation by the eligible employee-shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(3) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

(A) inserting "employee or employer-shipper group" immediately after "railroad" wherever it appears;

(B) inserting "employee or employee-shipper groups" immediately after "railroads" wherever it appears; and

(C) inserting "employee or employee-shipper group's" immediately after "railroad's" wherever it appears.

(4) Section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of a Government authority that applies for financial assistance from funds made available pursuant to section 509(b)(2) for the purchase or rehabilitation of railroad lines purchased under section 10910 of title 49, United States Code, financing pursuant to this section shall be in the form of purchase by the Secretary of bonds or other debt obligations issued for such purpose by such Government authority.".

(5) Paragraph (4) of section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(d)), as redesignated by this subsection, is amended by inserting ", bonds, and other debt obligations" immediately after "trustee certificates".

(d) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking out "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs:

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that such term does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

(e) The first sentence of section 511(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately after "equipment" the following: "(which includes but is not limited to computerized car management systems)".

TRANSACTION ASSISTANCE

SEC. 406. Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended by adding at the end thereof the following new paragraphs:

"(5) Financial assistance made available under paragraph (1)(B) of this subsection may be used to purchase, for purposes of rail banking, properties of the Milwaukee Railroad located in the State of Montana with respect to which an interest in future rail common carrier operations has been evidenced.

"(6) Applications for rail banking shall be treated equally with other applications for transaction assistance."

ELECTRIFICATION LOAN GUARANTEES

SEC. 407. Section 211(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(i)) is amended—

(1) by inserting "or any other railroad" immediately after "the Corporation" the first place it appears;

(2) by inserting "or such railroad" immediately after "the Corporation" the second and third places it appears; and

(3) by inserting immediately after the first sentence the following new sentences: "Upon application by the Corporation or by any railroad in reorganization in the region which receives a loan under section 211(a) of this Act, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 511 through 513 of such Act, guarantee obligations of the Corporation or such railroad for purposes of making capital improvements to coal export facilities.".

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 408. (a) The second sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e)(3) and (f) and" immediately after "the Association" the first place it appears.

(b) Section 211(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)(2)) is amended by striking out "$4,000,000" and inserting in lieu thereof "$7,500,000".

(c) The last sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out "1980" and inserting in lieu thereof "1981".

FEDERAL ASSISTANCE REPORT

SEC. 409. Within 90 days after the end of each fiscal year, the Secretary of Transportation shall submit a report to the Congress listing the specific Federal assistance provided the railroad industry during such fiscal year. Each such report shall set forth the reasons for each Federal loan or grant and explain the way in which such loan or grant contributed to the overall goal of providing a safe and efficient transportation system.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

MONTHLY DISPLACEMENT ALLOWANCE

SEC. 501. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to such employee's compensation, in accordance with the following provisions:

"(1)(A) Effective on the effective date of the Staggers Rail Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the rate described in the preceding sentence, and will be (i) the actual hourly rate for hourly rated employees, (ii) the daily rate divided by 8 for daily rated employees, and (iii) the monthly rate divided by the working days in the claim month, further divided by 8, in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(B) In the event a protected employee's position is abolished or such employee is displaced and is thereby required to occupy a position paying an hourly rate that is less than such employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position such employee is occupying and his guaranteed hourly rate for all hours included in the straight time work schedule of such employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(C) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid such employee's guaranteed hourly rate for the number of hours such employee would have worked in the straight time work schedule of such employee's previously held position.

"(D) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become such employee's protected rate.

"(2) Notwithstanding paragraph (1) of this subsection, effective on the effective date of the Staggers Rail Act of 1980, a protected maintenance-of-way employee shall be afforded his average monthly compensation, which is defined as the total compensation received by such employee during the 12 months

immediately preceding January 1, 1975, divided by his total time paid for during that period and multiplied by 174 or by his average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. If a protected employee is deprived of employment or if the employee's straight-time compensation in his current position is less in any month than the employee's average monthly compensation, the employee shall be paid the difference between his straight-time earnings, if any, and 80 percent of the average monthly compensation, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual straight-time compensation, monthly displacement allowance payments and offsets applicable pursuant to this title is less than the employee's average monthly compensation multiplied by 12, the employee shall receive an additional payment representing the difference. If in the previous calendar year an employee has received displacement allowance payments in excess of his annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

"(3) Effective on the effective date of the Staggers Rail Act of 1980 a protected operating employee (as defined in Interstate Commerce Commission classifications 107 through 128) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be afforded his average monthly compensation computed in accordance with this subsection as in effect prior to such effective date, but subject to a maximum amount equal to one-twelfth of the average annual earnings of all employees in the Interstate Commerce Commission classification, computed by cumulating the employee earnings reported to the Commission by the Corporation on a monthly basis for calendar year 1977 for the Interstate Commerce Commission classification of operating service in which such employee performed the preponderance of such employee's work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the Interstate Commerce Commission classification shall be determined by the preponderance of such employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum amount described in the first sentence of this paragraph, the average monthly compensation of the employee will be reduced to such maximum amount for purposes of computing such employee's monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than such maximum amount, the average monthly compensation of the employee will be used to compute such employee's monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his compensation such that the compensation in such employee's current position is less in any month than the average monthly compensation of the employee or such maximum amount, whichever is less, the employee shall be paid 75 per centum of the difference between such employee's earnings, if any, and the lesser figure, minus any time lost on account of voluntary absences other than vacations. If at the close of the calendar year the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than such employee's average monthly compensation subject to the maximum amount and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an Interstate Commerce Commission classification with a lesser maximum amount than the maximum amount applicable to such employee's 1974 Interstate Commerce Commission classification, such employee shall be paid the difference without credit being taken for compensation earned by virtue of actual working hours in the calendar year in excess of the number of hours paid for in such employee's average monthly compensation multiplied by 12 or such employee's annual 1977 maximum amount, whichever is less. An employee's compensation for purposes of this subsection shall not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If, in the previous calendar year, an employee has received displacement allowance payments in excess of such employee's annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by subsection (g) of this section.

"(d) Effective on the effective date of the Staggers Rail Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to such employee's compensation shall retain his average monthly compensation and monthly displacement allowance computed in accordance with this subsection as in effect prior to such effective date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, such employee's entitlement to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of such employee to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979.

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to subsection (d) of this section, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with this subsection prior to the effective date of the Staggers Rail Act of 1980.

"(6) In determining compensation in a protected employee's current employment, such employee shall be treated as occupying the position producing the highest rate of pay to which such employee's qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to such employee's average monthly compensation, subject to the maximum amount.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by (A) the full amount of any unemployment compensation benefits received by such employee, and (B) an amount equivalent to any outside earnings of such employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and his representative shall be furnished with such employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum amount, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment or his representative and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by such employee and the earnings of such employee in employment other than with such employer.

"(11) In the case of a supplemental transaction—

"(A) with respect to an employee described in paragraph (1) of this subsection who was not employed on September 1, 1979, the protected rate of pay of such employee shall be based on the rate of pay of the position held by such employee on the first day of the first month after September 1979 in which such employee was employed;

"(B) with respect to an employee described in paragraph (2) of this subsection who was not employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed; and

"(C) with respect to an employee described in paragraph (3) of this subsection—

"(i) if such employee was employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of such 12-month period; and

"(ii) if such employee was not employed during the 12 months immediately preceding January 1, 1975, the preponderance of work of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 502. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall, in the case of a protected employee with 5 or more years of service on the effective date of this Act, continue until the attainment of age 65 by such employee, and shall, in the case of a protected employee who has less than 5 years of service on such date, continue for a period equal to the employee's total prior years of service, except that such monthly displacement allowance—

"(1) shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause;

"(2) shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to the employee by the exercise of such employee's seniority rights in accordance with the provisions of this section;

"(3) shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (but the payment of monthly displacement allowances shall be resumed upon termination of the emergency); and

"(4) shall not be paid with respect to any month that commences after the effective date of the Staggers Rail Act of 1980 for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee or his representative and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not apply to any claim which is the subject of or is based upon an arbitration decision issued pursuant to section 507 of this title.

therwise agreed upon by the employee or his representa- the employer, the entitlement of an employee to an allow- shall be approved or denied within 150 days after the claim therefor is made if such claim is filed during the 12-month period beginning on the effective date of the Staggers Rail Act of 1980, and within 90 days after the claim therefor is made if such claim is filed after such 12-month period. Any claim not approved or denied at the expiration of the time limits described in the preceding sentence shall be deemed approved.".

TRAINING AND TRANSFER

SEC. 503. (a)(1) Section 505(d) (1) and (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (1) and (3)) are each amended by inserting "or other employers with employees protected under this section" immediately after "Corporation" wherever it appears.

(2) Section 505(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(1)) is amended by inserting "or the system of other employers with employees protected under this section" immediately after "Corporation's system".

(3) Section 505(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(2)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this subsection, a protected employee of the National Railroad Passenger Corporation shall not be required to transfer to a location outside the seniority district of such protected employee.".

(b) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended by striking out "Transfers" and inserting in lieu thereof "Except as provided in paragraph (5) of this subsection, transfers".

(c) Section 505(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of a marine craft or class on the Corporation's system, or in the craft or class of a Penn Truck Lines, Incorporated, employee, transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employees deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in subparagraph (A) of this paragraph. Employees offered transfer pursuant to this paragraph will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in such craft or class, the Corporation may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to subparagraph (A) of this paragraph. If no such position exists, the Corporation may tender the employee a transfer notice involving a position elsewhere on the system pursuant to subparagraph (B) of this paragraph. In the event it is necessary to train an employee after such employee's acceptance of a position pursuant to this paragraph such training shall be provided by the Corporation at no cost to the employee.".

(d) Section 505(i)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(1)) is amended by adding at the end thereof the following new sentences: "The Corporation may simultaneously offer a position to not more than 4 protected noncontract employees. The position shall be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer shall retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, AUDIT, AND REPORT

SEC. 504. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, AUDIT, AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring

railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Staggers Rail Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacements operators, and acquiring railroads, of the amounts paid such employees, except that the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after the effective date of the Staggers Rail Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable under this title, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of its functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

"(b) AUDIT.—Beginning October 1, 1980, the Association shall conduct a program audit of the payment of benefits pursuant to this title and shall evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances. Such audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with, the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such audit and evaluation.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances.".

RAILROAD HIRING

SEC. 505. Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) is amended by adding at the end thereof the following new section:

"RAILROAD HIRING

"SEC. 510. Any protected employee of the Corporation and any employee of the Corporation who is separated or furloughed from his employment with the Corporation (other than for cause) shall, unless found to be less qualified than other applicants, have the first right of hire by any other railroad that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 506. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.".

EMPLOYEE PROTECTION PAYMENTS

SEC. 507. Notwithstanding any other provision of law, the Consolidated Rail Corporation and other employers with employees protected under the provisions of title V of the Regional Rail Reorganization Act of 1973 shall, until the effective date of this Act, continue to make payments for employee protection under such Act in accordance with the provisions of such Act which were in effect on January 1, 1979. Notwithstanding any other provision of law, such Corporation and employers shall be reimbursed for such payments in accordance with the provisions of section 509(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779(a)).

TECHNICAL AMENDMENTS

SEC. 508. (a)(1) The item relating to section 509 in the table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended to read as follows:

"Sec. 509. Payment, audit, and report.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by inserting immediately after the item relating to section 509 the following new item:

"Sec. 510. Railroad hiring.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;".

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) by amending subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and";

(2) striking out "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate"; and

(3) by striking out the first sentence of subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) in paragraph (6), by inserting immediately after "disability," the following: "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.".

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by inserting ", section 509(b), or section 509(c)" immediately after "section 504(d)".

(f) The first sentence of section 403(d)(1) of the Rail Passenger Service Act (45 U.S.C. 563(d)(1)) is amended by striking out "if such State" and all that follows through "service".

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

SEC. 601. (a) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding at the end thereof the following new subsection:

"(f) EXPEDITED PROPOSALS.—(1) Within 240 days after the effective date of the Staggers Rail Act of 1980, the Secretary, after providing an opportunity for comments from interested parties, shall determine whether to initiate a proposal for a supplemental transaction under this section for the transfer of all rail properties of the Corporation in the States of Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that—

"(A) the proposed transferee railroad is financially and operationally capable of assuming the freight operations and freight service obligations of the Corporation on a financially self-sustaining basis;

"(B) the proposed transfer would promote the establishment and retention of a financially self-sustaining rail system in the States of Connecticut and Rhode Island adequate to meet the needs of such States; and

"(C) the proposed transfer is consistent with the goals set forth in section 206(a)(8) of this Act,

the Secretary shall develop such a proposal and may, after providing the Association, the Commission, and the States of Connecticut and Rhode Island an opportunity to review and comment on such proposal, petition the special court for an order to carry out such proposal.

"(2) The Secretary shall establish a fair and equitable price for any rail properties transferred pursuant to a proposal developed under this subsection.

"(3) If the special court determines that a proposal developed under this subsection is fair and equitable, meets the requirements of this subsection, and is in the public interest, it shall issue such orders as may be necessary to carry out such proposal. The provisions of paragraphs (2)-(6) of subsection (d) of this section shall apply to the determination of the special court under this subsection, except that the standards for such determination shall be those set forth in this paragraph.

"(4) In complying with the requirements of subsection (d)(7) of this section with respect to the application of the provisions of title V of this Act to supplemental transactions, the parties to an expedited supplemental transaction under this subsection and the representatives of the employees affected thereby shall enter into a new agreement pursuant to section 508 of this Act and shall not be bound by the terms of any agreement executed under such section

508 and in effect on the date of enactment of the Staggers Rail Act of 1980.".

(b) Section 102(19) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(19)) is amended by striking out ", within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation".

TITLE VII—MISCELLANEOUS PROVISIONS

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

SEC. 701. (a)(1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section:

"JUDICIAL REVIEW

"SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability".

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(E)) is amended by inserting "to employees" immediately after "liability".

(b)(1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENTS

"SEC. 106. (a) No later than 5 days after the date of enactment of the Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Staggers Rail Act of 1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Staggers Rail Act of 1980, unless the Rock Island Railroad, and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

"(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act.".

(2) Section 103(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')".

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

(c)(1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 906) is amended by adding at the end thereof the following new subsection:

"(h)(1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and canceled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h)(1) (A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

(d) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1)(A), by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1)(B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) by amending paragraph (4) to read as follows:

"(4) This subsection shall apply to (A) purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate), and (B) purchase applications filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate) and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

LOAN GUARANTEES

SEC. 702. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 75 days after the date of the issuance of the final environmental impact statement with respect to the loan application, take final action on any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b)(1) The Secretary of Transportation shall review the proposed Chicago and North Western connector line route and shall not approve any route which requires the use of any agricultural land unless (A) there is no feasible and prudent alternative to the use of such land, and (B) the proposed route construction plan requires all possible planning to minimize harm to such agricultural land resulting from such use. The Secretary of Transportation may not otherwise disapprove a proposed route for the Chicago and North Western line under the authority of this subsection. This review of a proposed route shall be completed within 90 days after the final action specified in subsection (a) of this section.

(2)(A) The Secretary shall review the use of any agricultural land used in any route for newly constructed line and shall require, to the maximum extent prudent and feasible, that such railroad provide a private grade crossing for the convenience of each landowner whose agricultural holdings are divided by such newly constructed line when the Secretary finds that such division of property will cause a substantial disruption to the agricultural use of such land. The owners of such property shall file a request for such grade crossing with the Secretary within 180 days of the final determination of the route. The finding of the Secretary under this subsection shall be final.

(B) The Secretary shall render a decision on each request for grade crossing under this paragraph within 180 days of its receipt. Such review shall not require the delay of construction of new line under subsection (a) of this section.

(c)(1) Notwithstanding any other provision of law, the actions of the Secretary of Transportation taken pursuant to subsections (a) and (b) of this section shall not be subject to judicial review except as provided in this section.

(2) A claim alleging the invalidity of this section may be brought no later than the 60th day following the date a final action is taken pursuant to subsections (a) and (b) of this section.

(3) A claim challenging an action of the Secretary of Transportation under subsection (a) or (b) of this section may be brought only on the grounds that such action will deny rights under the Constitution of the United States, is arbitrary, capricious, or an abuse of discretion, exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right. Such a claim may be brought not later than the 60th day following the date of such action.

(4) A claim under paragraph (2) or (3) shall be barred unless prior to the expiration of such time limits, a complaint is filed in the United States Court of Appeals for the District of Columbia acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(5) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States.

(d) Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent, or lack thereof, of any Committee of the Congress.

CONRAIL STUDIES AND EMERGENCY FUNDING

SEC. 703. (a) For purposes of this section, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service;

(5) "region" has the meaning given such term in section 101(15) of the Regional Rail Reorganization Act of 1973; and

(6) "Secretary" means the Secretary of Transportation.

(b)(1) No later than April 1, 1980,[1] the Association and the Corporation shall each submit a report to the Congress analyzing the impact, upon the Corporation, rail service in the region, railroad employees, the economy of the region, and other rail carriers in the region and elsewhere, and the Federal budget, of—

(A) no further Federal funding for the Corporation;

(B) continued Federal funding of the rail system of the Corporation as it is presently structured; and

(C) future Federal funding of the Corporation to the extent necessary to preserve rail service in the region which can be self-supporting, without undue interim disruption of operations which will be maintained.

(2) Each report submitted under paragraph (1) of this subsection shall contain a description, under each of the Federal funding alternatives set forth in subsection (a) of this section, of the lines of the Corporation which would be maintained, the lines of the Corporation which would be abandoned, and the lines which would be transferred.

(3) Each report submitted under paragraph (1) of this subsection shall also include specific recommendations with respect to—

(A) future projected funding requirements of the Corporation;

(B) future structure and activities of the Corporation in the region;

(C) any legislative action needed with respect to the matters described in subparagraphs (A) and (B) of this paragraph; and

(D) any other matters which the Association or the Corporation considers appropriate.

The specific recommendations submitted under this paragraph shall set forth alternatives for the Congress to consider in the event it determines that modification of such recommendations is appropriate.

(4) In developing recommendations in accordance with this subsection, the Association and the Corporation shall identify measures designed to ensure a financially self-sustaining rail system in the region. The recommendations shall be based on analyses of rail properties which might be proposed for abandonment or transfer to another railroad or qualified person and proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio.

(5) In developing recommendations under this subsection, the Association and the Corporation shall each analyze and consider—

(A) projections of the Corporation's future traffic, revenues, operating costs, and capital requirements;

(B) rail properties which might be proposed for abandonment or transfer to another railroad or qualified person, taking into account the potential impact of changes in the regulatory environment;

(C) the impact on communities served by lines proposed for abandonment or transfer;

(D) proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio;

(E) the impact on the Corporation of proposed mergers by connecting or competing railroads;

(F) employee motivation and labor productivity programs and a projection of labor protection costs which could result from the recommendations;

(G) the future capital structure of the Corporation; and

(H) any other factors identified by the Association as relevant to the recommendations required to be developed and submitted pursuant to this section.

(6)(A) The Association and the Corporation shall, on the date of submission of their recommendations to the Congress under this subsection, transmit copies of such recommendations to the Secretary, the Commission, and the Governor of each State that could be affected by such recommendations. Upon request, the Association and the Corporation shall furnish a copy of their recommendations to any interested person.

(B) As soon as practicable after submission of their recommendations to the Congress, the Association and the Corporation shall publish in the Federal Register a summary of such recommenda-

[1] This should read "April 1, 1981".

tions and invite interested parties to comment on such recommendations.

(7) The Commission shall, no later than May 1, 1981, submit to the Congress its comments on the reports of the Association, the Secretary, and the Corporation under this subsection.

(8) Not later than April 1, 1981, the Secretary shall submit to the Congress his recommendations with respect to the future structure and operations of the Corporation. Not later than May 1, 1981, the Secretary shall submit to the Congress his comments and recommendations with respect to the reports of the Association and the Corporation under this subsection, and shall make any changes in his recommendations that he determines are necessary.

(9) The antitrust laws, as defined in section 601(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(3)), shall not apply to any action taken by the Association or the Secretary prior to May 1, 1981, in accordance with and under the authority of the provisions of this subsection.

(c) The Corporation shall, no later than March 15, 1981, submit to the Congress an analysis of the effects upon the Corporation and its employees of alternative changes in labor agreements and related operational changes. Such report shall include an analysis of any Federal funding that will be required.

(d) The Corporation shall, no later than January 15, 1981, submit to the Association its projections of the benefits to the Corporation of the Staggers Rail Act of 1980, its projections of changes needed in the structure of the rail system of the Corporation including properties which may be abandoned or transferred, and other projections of potential savings or increased revenues to the Corporation.

(e) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(4) Purchases of up to $329,000,000 of a series A preferred stock shall be made by the Association, subject to the availability of appropriations, as required and requested by the Corporation, if the Finance Committee makes an affirmative finding that the Corporation has taken appropriate action to eliminate losses on light density lines and other lines which are unprofitable. Such action shall include the imposition of surcharges on such lines, the abandonment of such lines, and the transfer of such lines.".

(f)(1) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$2,300,000,000" and inserting in lieu thereof "$2,629,000,000".

(2) Section 216(g) of such Act (45 U.S.C. 726(g)) is amended by striking out "$3,300,000,000" and inserting in lieu thereof "$3,629,000,000".

(3) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting immediately after "section" in the first sentence thereof the following: "or under subsection (a) of section 306 of this Act".

USRA AUTHORIZATION OF APPROPRIATIONS

SEC. 704. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $30,000,000. Sums appropriated under this subsection are authorized to remain available until expended.".

FEEDER LINE REHABILITATION STUDY

SEC. 705. (a) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(b) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signaling equipment, or any other rail equipment (other than rolling stock)

EFFECT ON PENDING MATTERS

SEC. 706. In the case of any proposal docketed with a rate bureau prior to the effective date of this Act which is or becomes the subject of an application or proceeding before the Interstate Commerce Commission, such application or proceeding shall be determined as if this Act had not been enacted, and the antitrust immunity provided in section 10706(b) of title 49, United States Code, resulting from approval of such agreement shall continue in effect.

CONSTRUCTION OF AMENDMENTS

SEC. 707. With respect to the relationship between water carriers and rail carriers, none of the amendments made by this Act shall be construed to make lawful (1) any competitive practice that is unfair, destructive, predatory, or otherwise undermines competition and that was unlawful on the effective date of this Act, or (2) any other competitive practice that is unfair, destructive, predatory, or otherwise undermines competition.

SURPLUS PROPERTY

SEC. 708. Notwithstanding any other provision of law, the Consolidated Rail Corporation shall be considered a Federal agency for the sole purpose of Department of the Army Regulations 735-5, paragraph 1-16. Such Corporation may enter into a contract under the authority granted by this section only when it determines that the safety of the public so requires.

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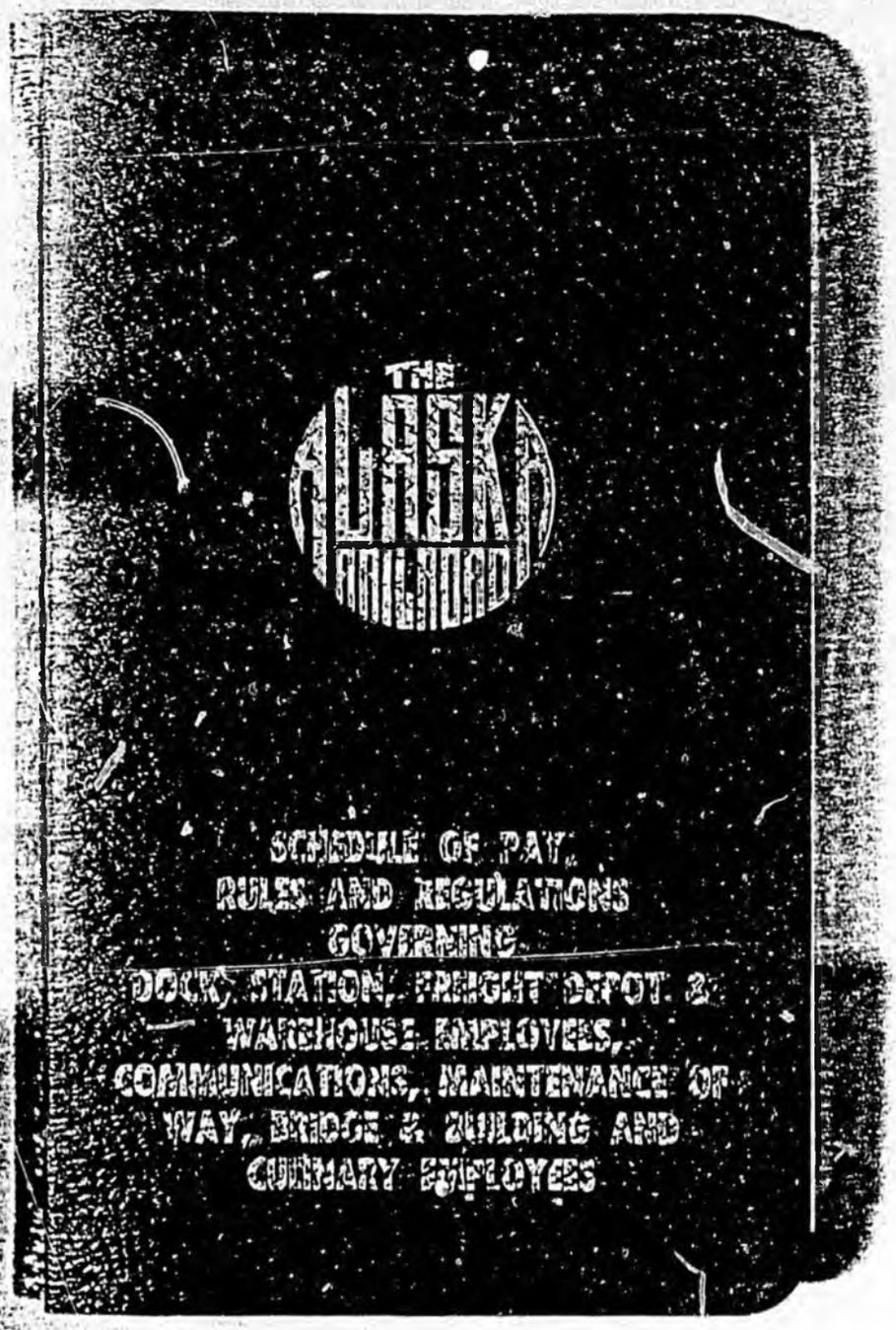
THE
CLARK
ROADRUNNER
SCHEDULE OF PAY,
RULES AND REGULATIONS
GOVERNING
DOCK, STATION, FREIGHT DEPOT &
WAREHOUSE EMPLOYEES,
COMMUNICATIONS, MAINTENANCE OF
WAY, BRIDGE & BUILDING AND
CUSTODIAN EMPLOYEES

UNITED STATES
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing represented Blue Collar Foremen, Dock, Station, Freight Depot and Warehouse Employees, Communications, Maintenance of Way, Bridge & Building, and Culinary Employees

Basic Labor Agreement

and

Blue Collar Wage Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon Terminating Service.

Book Assigned to:

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Revised February 10, 1971

Article Number	
1	Recognition and Unit Designation
2	Responsibilities and Rights of Management
3	Rights of Employees
4	Provisions of Law and Regulation
5	Appropriate Matters
6	Union Representation
7	Hours of Work and Basic Work Week
8	Road Service
9	Overtime
10	Holiday Work
11	Sick Leave
12	Annual Leave
13	Leave of Absence
14	Merit Promotion
15	Bulletining Positions within Multiple Appointments

Article Number	
16	Repromotion
17	Personnel Movement in RIF Situations
18	Reviews of Job Descriptions and Requirements
19	Disposition of Unit Work
20	Apprentice Trainee Programs and Re-Training
21	Safety
22	Committee Assignments
23	Civic Responsibilities
24	Special Tools - Clothing - Servi...
25	Grievance Procedure
26	Arbitration
27	Seniority
28	Appl..ation of Wage Fixing Syst...
29	Duration and Changes

ALPHABETICAL INDEX

	ART.	SEC.
A		
Absences a/c Sickness	11	2
Acting Assignments	15	7
Adjoining Territory Assistance	19A	6
Administrative Work Week	7	1
Advanced Request for Leave	12	1
Advertising of Vacancies under:		
Merit Promotion	14	3
Multiple Appointment)	15	1
Singular Appointment)		
Annual Seniority Rosters	27	10
Application of Wage Fixing System	28	
Apprentice Training & Retraining	20	
Arbitration	26	
Assembly Point	7	2b
Assignment of Personnel	2	2
Assignment Right by Seniority	27	1
B		
Basic Labor Agreement	Page	92

	ART.	SE
B		
Basic Work Week	7	4
Bidding Twice in One Year	19C	6
Boarding in Outfits	8	2d
Bulletining of Positions	15	1)
	19F	2)
Bulletining Short Vacancies	27	8
C		
Call - Four Hours	9	1e
- Forty Minutes	9	1f
Certificate of Eligibles	14	10
Challenged Seniority Listings	27	12
Changes in Agreement	29	2
Changes in Benefits	5	2
Change of Shift (24 Hours Notice)	7	3b
Classification & Grading	19E	8)
	18	)
Committees:		
Apprentice	20	2
ARRMA & EBP	BLA	
Charitable Solicitations	22	1
Joint Labor-Management	BLA	
Joint Union-Management Safety	BLA	
Safety	21	3
Suggestion	22	2

	ART.	SEC.
C		
Compensatory Time	9	1c
Competitive Area for RIF:	17	4
The Alaska Railroad except:		
Section Laborers:		
1) North Pole to Talkeetna		
2) Sunshine to Seward		
Dock, Station, Frt. House) 50 miles one way		
& Warehouse Employees) driving distance		
Conflict with Law & Regulation	4	1
Consecutive Days	7	4
Consultation	5	5
Continuing Agreement	29	3
Cook Helper Assignments	19B	3
Crew Consist	19E	4
D		
Demerit System	25	9
Detail	3	4
Deta	14	9
Disc linary Procedure	25	
Dis etionary Authority	4	2
Di osition of Unit Work	19A	
Duration of Agreement	29	

	ART.	SEC.
E		
Effective Date - March 1, 1971	29	1
Emergency - Wrecking Service	8	1
Equal Treatment	5	3
Exclusive Recognition	6	1)
	1	2)
F		
Family Living - Communities	19E	5b
Forced Assignment	27	10)
	15	2)
Force Reduction and Seniority	27	5
G		
Grievance - in writing	6	5
- procedure	25	
- through Steward	6	4
H		
Habitual Absence	13	9
Handbook X-118	14	6
Handicapped Employees	11	5)
	2	2)
Headquarters Equipment Operators	19E	5)
	8	2e)
Headquarters (called in emergency service)	19D	3

		ART.	SEC.
	H		
Hearing		25	9
Holidays		10	1
Holiday Work Assignments		10	1
Housekeeping		25	9
	I		
Investigation		25	9
	J		
Jury Duty		23	
	K		
Kitchen & Dining Facilities Responsibility		19B	2
	L		
Leave:	Abuse of Sick Leave	11	3
	Administrative-Emergency	7	5
	Advances of Sick Leave	11	6
	Annual	12	-
	Court-jury-witness	23	
	M/W Foremen 15 days	19C	5
	Military	13	5
	Sick	11	
	Training & Briefing	6	7
	Without pay for Union Work	13	1,2,3,) 4,8)
Light Duty		2	2

	ART.	SEC.
M		
Meal Charges	19E	5c, d
Meals (Extension of shift)	9	2
Meal Periods	7	3a
Merit Promotion	14	-
Money Claims (90 day limit)	25	10
Multiple Appointment	14	9b)
	19G	1)
N		
Negotiable Items	5	1
New Employees Seniority	27	6
Notice Period for RIF	7	8
O		
Official Bulletin Boards	15	3
Outfit Car Capacities	21	14
Outside Employment Prohibited	13	6
Overtime:		
Entitlement to overtime	9	1d
Held on rest day	19C	5c
Over 8, Over 40	9	1a
Proper Authority	9	1b
Supervisory Work Restrictions	19A	2)
	19A	5)
Within a 24 hour day	9	3
Work full shift	19	4)
	10	3)

	ART.	SEC.
P		
Parking Spaces	2	2
Pay Basic Day	7	2
During Leave (19 CG 1015 6/22/40)	12	4
Exercise of Seniority	27	9
Fixing	Page 110	
Forty Minute Call	9	1a
Four Hour Call	9	1e
Four Hours or More Highest Rate	15	4
Holiday	10	1
Juror Pay	23	5
Meal Period	7	6
Night Differential	7	9
Per Diem (See Standard Government Regulations)	27	10
Preservation	15	5
Process Grievance	6	5
Regular Travel	8	2b
Retroactive	28	1
Travel	8	2
Travel Between 10 PM & 6 AM	8	2d
Travel on Public Conveyance	9	3
Waiting, Working, Traveling	8	1
Personnel File Access	3	3
Position Description	3	3
Position Rating Review	18	1
Promotion and Release	14	7
Protection of Employees	21	12,13
Protective Clothing	24	

	ART.	SECT.
O		
Quarters	19G	2
Outfit Cars	21	14
Qualifying Physical and Rules	19C	9
	19D	6
	19E	6
	19G	4
R		
Reduction in Force	17	
Repairs to Equipment	19A	1
Repromotion	16	
Responsibilities & Rights		
of Management	2	
of Union	3	
Return to Duty Notice	13	7
Road Service	8	2
Rosters - Seniority	27	11
S		
Safety	21	
Selecting Official - Branch Chief	14	10
Seniority:	27	
1) Culinary Workers (System)	19B	4
2) Maintenance of Way (2 districts)	19C	4
Seniority as Laborer	19C	7
Seniority above Laborer	19C	7b,c
3) Extra Gang Laborer (System)	19C	2
Seniority as Laborer	19C	7
Seniority above Laborer	19C	7b,c

x

S

	ART.	SEC.
Seniority:		
4) Bridge & Building (System)	19D	4
5) Equipment Operators (System)	19E	1
Acquisition of new skills	19E	2
Seniority as Oiler	19E	9
6) Dock, Station, Frt. Depot & Warehouse (System)	19F	1,4
7) Communications Employees (System)	19G	3
Seniority Protection (White Collar-Blue Collar)	19F	1
Seniority Retained	27	2
Seniority Rosters	27	11
Seniority for Vacation Choice	12	3
Short Vacancies & Bulletining	27	8
Special Rules	19B,C D,E,F,G	))
Special Tools	24	
Split Shift	7	7
Spreader - Snow and Work	19E	3
Standard Government Travel Regulations	8	1) 2e)
Starting Times and Shifts	19G	5)
	19F	5)
	19E	7)
	19D	5)
	19C	8)
	7	7)

	ART.	SEC.
S		
Stewards	6	1
Numbers of	6	2
Subjugation Clause	29	4
	4	1
Supervisory Work Restrictions	19A	2
	19A	5
T		
Telephone Communications	8	2d
Time Limits for Disciplinary Action	25	1
Transfer	27	10
Transportation account sickness	11	4
Transportation free	3	4,5
Travel Authorization	8	2e
Travel Synonymous with work (interpretation)	9	3
Travel Time	8	2a,b,c
Trial Period 30 days	15	2
U		
Union Membership	3	1
Union Notices	24	4
Union Representatives	6	3,6
Units added	1	3

	ART,	SEC.
V		
Vacation Schedules February 1	12	3
Vacation Selection by Seniority	27	1
Voting - Register - 3 hours	23	6
W		
Wage Agreement, February 29, 1968	Page 110	
Working Leaders	19D	2
Work of Other Crafts	19A	3
Work Transfer, Hot or Cold	21	8

UNITED STATES
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
THE ALASKA RAILROAD

Schedule of Pay, Rules and Regulations Governing represented Blue Collar Foremen, Dock, Station, Freight Depot and Warehouse Employees, Communications, Maintenance of Way, Bridge and Building, and Culinary Employees.

The AGREEMENT is made between THE ALASKA RAILROAD, Anchorage, Alaska, hereafter referred to as "Management" and the American Federation of Government Employees, Local No. 183, AFL-CIO, hereafter referred to as the "Union".

The participants agree as follows:

It is the intent and purpose of the participants to promote and improve the efficient administration of the Federal Service, to promote the well-being of employees within the framework of Executive Order 11491, to establish a basic understanding relative to personnel policies, practices, and other matters affecting conditions of employment, and to provide a means for amicable discussion and adjustment of matters of mutual interest.

ARTICLE 1

RECOGNITION AND UNIT DESIGNATION

Section 1. This Agreement is subject to the limitation on the discretionary powers of the Management Official of The Alaska Railroad over the area negotiated and it is applicable to the units for which the Union has been granted exclusive recognition.

Section 2. Management recognizes that the Union is the exclusive representative of blue collar employees in the bargaining unit or units. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 3. Other units which are granted exclusive recognition may be covered by this agreement when mutually agreed upon by Management and the Union and placed in written form.

ARTICLE 2

RESPONSIBILITIES AND RIGHTS OF MANAGEMENT

Section 1. The right to make reasonable rules and regulations shall be considered acknowledged functions of Management. In making

rules and regulations relating to personnel policies, and practices and procedures, and matters of working conditions, Management shall give due regard and consideration to the rights of the Union and the employees and the obligations imposed by this Agreement and the provisions of Executive Order 11491; however, such obligation and regard shall not be construed to extend to such areas of discretion and policy as the functions or mission, the budget, organization, assignment of personnel, the technology of performing work, or matters pertaining to the National Security.

Section 2. Management shall maintain a continuing program for the placement of handicapped employees, or those employees temporarily limited to light duty and who cannot be utilized in their primary assignment. It is recognized that in some instances a brief period of indoctrination may be required. Special consideration will also be given to the assignment of reserved parking spaces for use by handicapped employees depending upon the degree and nature of the handicap, availability, and nature of assignment.

ARTICLE 3

RIGHTS OF EMPLOYEES

Section 1. Management and the Union agree that employees shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employees' organization or to refrain from any such activity. Except as expressly provided here and in Executive Order 11491, the freedom of such employees to assist any Union organization shall be recognized as extending to participation in the Union and acting for the Union in the capacity of a Union Representative, including presentation of Union views to officials of the Executive Branch, Congress, or other appropriate authority. Management shall take such action, consistent with law or with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this Article, and that no interference, restraint, coercion or discrimination is practiced to discourage membership in Union organization.

Section 2. Any employee covered by the provisions of this Agreement and during the period he is on the payroll of Management,

shall not forfeit any benefits of this Agreement while on detail or assignment to another Activity or Division including off-site or satellite facilities for which Management has been delegated responsibility. This excludes assignment or promotion to Supervisory positions.

Section 3. Employees shall have access to their respective personnel file and the personnel file shall contain a job description stating the work performed by the employee.

Section 4. Employees covered by this Agreement and those dependent upon them for support will be given the same consideration in granting free transportation as is granted other non-operating employees in service.

Section 5.
(a) Employees transferred by direction of the Management requiring them to move family and household goods will be furnished free transportation over The Alaska Railroad on application to the employing officer.

(b) Employees moving to new positions or vacancies which necessitate a change of residence will receive free railroad transportation for themselves, dependent members

of their family and household goods, but fre transportation for household goods under these circumstances will not be allowed more than twice in a twelve-month period.

ARTICLE 4

PROVISIONS OF LAW AND REGULATION

Section 1. It is agreed by Management and the Union that nothing in this Agreement shall be so interpreted as to conflict with provisions of any existing or future law or regulation of the Federal Government. This includes, but is not restricted to, those applicable rules and regulations issued by the Civil Service Commission and the Department of Transportation.

Section 2. Management agrees to furnish the Union with two copies of any directives from higher Headquarters which affect employees or which alter Management's discretionary authority with regard to any item dealt with in this Agreement before implementing same. When such directives are not readily available Management agrees to requisition the two copies for the Union.

ARTICLE 5

APPROPRIATE MATTERS

Section 1. It is agreed and understood that

matters appropriate for negotiation in this Agreement, or for consultation between the parties are policies, programs and procedures related to working conditions which are within the discretion of Management, including but not limited to such matters as safety, training, labor-management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion practices, pay practices, reduction in force practices, and hours of work.

Section 2. Management agrees that the Union will be notified before changes are made to existing benefits, practices, and understandings which have been authorized by Management but which are not specifically covered by this Agreement.

Section 3. Management agrees that all privileges and benefits extended within the limits of its discretionary power will be applied fairly and equitably to all employees in the unit. Management agrees to consult with the Union concerning alleged inequities in this connection.

Section 4. It is further recognized that this Agreement does not alleviate the responsibility of either party to meet with the other to discuss and consult on matters

not covered by this Agreement, which come within the scope of consultation and negotiation. It is further agreed and understood that the Management will consult with the Union before issuing any official directives which adversely affect the general working conditions covering the employees within the bargaining unit but which are not specifically covered by this Agreement.

ARTICLE 6

UNION REPRESENTATION

Section 1. Management recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. Management further recognizes the right of the Union to designate Stewards and Union Representatives from among the employees of the unit. Management agrees to recognize the Stewards and Representatives designated by the Union.

Section 2. The number of Stewards and Representatives shall be only that number required to assure each employee of the unit ready access to a Steward in his work location. The designated number of stewards shall also be sufficient to assure that the Union can properly carry out its responsibilities under the terms of this Agreement.

For the purposes outlined in Sections 1 and 2 of this Article, the Union agrees to supply Management in writing, and shall maintain with Management on a current basis, a complete list of all Union authorized Representatives, Stewards and any alternates.

Section 3. Management agrees to recognize the officers and duly designated representatives of the Union and shall be advised in writing by the Union of the names of its officers and representatives.

Section 4. An employee who alleges and feels that he has a grievance or complaint shall be, upon request and approval of his supervisor, allowed time to report his grievance or complaint to the Steward, and when a pending grievance is reported to the Steward or Representative, that Steward or Representative shall be allowed the time necessary to investigate the reported grievance. This investigative procedure may require discussions with employee(s) within the bargaining unit or outside and representatives of Management (supervision) responsibilities or in some cases all three, in order to evaluate the facts and carry out the Union's responsibility under the terms of this Agreement.

Section 5. Management agrees that Stewards,

. Union, officers, representatives and employees shall upon request and approval of their supervisor be allowed to leave their assigned areas to go to other departments, shops or offices when it is necessary to do so in order to accomplish the purposes outlined in Section 4 above, and in order to bring about a prompt and expeditious disposition of a complaint or grievance. It is further agreed that such activity shall be engaged in without any loss in pay or benefits to the employees authorized to act in behalf of the bargaining agent under the terms of this Agreement or to the employees contacted. Permission, in these instances will be granted unless the individual's work situation precludes such action. In any event, approval will be granted at the earliest opportunity. It is recognized that employees at outlying points may not have ready access to a Steward and the work situation precludes relief to process a claim, therefore, the claim will be processed through the President or other Union representative in writing to the appropriate Railroad official.

Section 6. Management agrees that any representative of the American Federation of Government Employees, AFL-CIO, or Local Lodge, upon request to Management shall be allowed into the activity at reasonable times on official Union business.

Section 7. Administrative leave may be granted to an employee Union representative to receive training, information, briefing and orientation on matters within the scope of Executive Order 11491--including statutory or regulatory provisions relating to pay, working conditions, work schedules, employee grievance procedures, performance rating, adverse action appeals and agency policy.

ARTICLE 7

HOURS OF WORK AND BASIC WORK WEEK

Section 1. Eight (8) hours shall constitute a normal work day. The administrative work week shall be Sunday through Saturday.

Section 2.
(a) Except as otherwise provided in these rules, eight (8) consecutive hours or less, exclusive of meal period, shall constitute a day's work for which a minimum of eight (8) hours' pay will be allowed.

(b) Employees' time will start and end at a regular designated assembling point for each class of employee, such as tool house, outfit car, shop, station, or office.

Section 3.

(a) There may be more than one starting time for employees at line points and at terminals, respectively, based upon service requirements, provided however, that no assignment shall be made with a starting time later than 12:00 midnight or earlier than 6:00 A.M. Assignments starting between 6:00 A.M. and 10:00 A.M., may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes nor more than one (1) hour; or such assignments may be made to consist of eight (8) consecutive hours including an allowance of twenty (20) minutes for lunch without loss of time. Assignments starting at 10:00 A.M. or later will be eight consecutive hours including an allowance of twenty (20) minutes for lunch without loss of time. Where three assignments performing the same service are coupled in continuous service covering the twenty-four (24) hour period, each such continuous service assignment shall consist of eight (8) consecutive hours including an allowance of twenty (20) minutes for lunch without loss of time. Meal periods shall be between the end of the fourth and the beginning of the sixth hours.

(b) Except in emergencies, the hours of service for employees under this Agreement will not be changed on less than twenty-four (24) hours notice.

Section 4. Management agrees to recognize a normal basic work week of Monday through Friday of any employee except in those cases where a regular tour of duty would seriously handicap the performance of a function or would result in substantially increased cost. It is recognized that functions of The Alaska Railroad operate on a seven-day work basis and that certain five-day work weeks will involve work on Saturday and Sunday. In those cases when a change in the normal work week of regular assigned positions is necessary, Management shall consult with the Union in determining which specific jobs fall within the category for which a re-arranged basic work week of other than Monday through Friday is appropriate. In no case shall an employee be required to work in excess of five (5) eight (8) hour consecutive days in the Administrative work week without payment of overtime.

Section 5. Where it is necessary to close the installation or an activity therein and administrative excused leave is granted because of inclement weather, breakdown of equipment, or other emergency "Act of God" situations, employees who report for work shall be given administrative excused leave for the period of the emergency situation.

Section 6. An employee required to work any part of the assigned meal period (between

the fourth and sixth hour) will be allowed time therefor on the minute basis at rate of time and one-half. In the event there is not sufficient time remaining within the limits of the meal period in which to procure lunch (not less than twenty (20) minutes), employee will be allowed not to exceed twenty (20) minutes including any time remaining within the meal period in which to eat, without deduction therefor.

This does not apply to employees who are assigned to eight (8) consecutive hours without meal period and who are allowed twenty (20) minutes in which to eat without deduction of pay.

Section 7. At small outlying points or terminals where the service is intermittent or terminals where one shift is worked, not requiring continuous application, assignment may be made for employees to work eight (8) hours within a spread of twelve (12) consecutive hours with but one interval of not less than two (2) hours of release. Time actually worked in excess of eight (8) hours will be paid for at the rate of time and one-half.

Section 8. No notice period is required to employees of less than six months service when forces are reduced and employees to be

reduced have temporary appointment status, otherwise five days notice is required.

Section 9. Employees covered in this agreement are entitled to night differential in accordance with published wage schedules of the Department of Transportation.

ARTICLE 8

ROAD SERVICE

Section 1. Emergency & Wrecking Service: An employee regularly assigned to work at a designated headquarters, when called for emergency work or road work away from headquarters, will be paid from the time called to leave his headquarters, until return for all time worked in accordance with schedule rules, and will be paid straight time rates for traveling or waiting, except assigned rest days and holidays, which will be paid for at the rate of time and one-half, whether waiting, working or traveling. If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) hours or more, such relief time will not be paid for provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and

lodging are not provided by the Railroad, travel expenses in accordance with the current Standard Government Travel Regulations will be allowed. Employees used in emergency service will be called as nearly as possible one (1) hour before leaving time; and on their return will deliver tools at point designated. Employees used in wrecking service will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on assigned rest days and holidays will be paid for at the rate of time and one-half. (Article 9, Section 3, interpretation applies.)

Section 2. Road Service:
(a) Employees required by the Management to travel on or off their assigned territory for reasons other than emergency (Road work) will be paid actual travel time at straight time rates in excess of their assigned hours. Overtime worked in excess of eight (8) hours will be paid for at overtime rates. (Article 9, Section 3 interpretation applies.)

(b) Positions requiring travel as a regular part of their assigned duties will not be paid travel time in excess of their assigned hours.

(c) Employees required to travel by the Management on or off their assigned territory in boarding cars will be paid straight time rates traveling during regular assigned working hours, and for rest days and Sundays during hours established for work periods on other days. When traveling in boarding cars after work period hours, the only time allowed will be for actual travel time, traveling between 10:00 P.M. and 6:00 A.M. at one-half the straight time rate. Travel time will not be counted against the basic work week of forty (40) hours.

(d) Any member of a gang stationed at a point where he maintains a residence will not be required to board with the boarding outfits. Any employee maintaining a residence at a point where employed will not be required to live in cars or houses furnished

Section 3. Road Service:
(a) Employees required to work away from their headquarters for a period of time involving more than one calendar week, will be allowed one trip each way on company time. Employees electing to travel to their home on intervening days off will travel on their own time.

ARTICLE 9

OVERTIME

Section 1.
(a) Time worked in excess of eight (8) hours in any one day or forty (40) hours in any one week shall be considered overtime and paid for on an actual minute basis.

(b) No overtime shall be worked except by direction of proper authority, except in cases of emergency where advance authority is not obtainable.

(c) Employees shall not be required to suspend work during regular assigned hours to absorb overtime.

(d) In working overtime after assigned hours and on rest days, Sundays or Holidays, employees regularly assigned to the position for which overtime is to be worked shall be allowed to work the overtime, except as provided in Article 19, Section 6.

(e) When employees are ordered and report for work, they shall receive not less than four (4) hours' pay at straight time rates for two hours and forty minutes work or less, and if held on duty in excess of two hours and forty minutes, time and one-half will be allowed on the minute basis.

(f) An employee required to come on duty in advance of his regular starting time will be allowed time and one-half on the minutes basis with a minimum of time allowance of forty (40) minutes at the overtime rate for such service, the advance period to be not more than one (1) hour. If called more than one hour in advance of regular starting time, paragraph (e) will apply, except fifteen minutes preparatory time and fifteen minutes tie-up time for positions of pile driver caliber shall be allowed.

Section 2. In the event of a situation requiring the extension of a regular work shift into more than a two (2) hour overtime period, time for lunch will be permitted on the work site. Management will make the necessary arrangements that food will be made available for the employees involved, or provision made for a meal period.

Section 3. An employee with a regularly assigned point of duty, who reports out and in of said point within a twenty-four hour period shall receive time and one-half hours in excess of eight in any twenty-four hour period involved.

Interpretation: Employees traveling, regardless of the twenty-four (24) hour provision, on a motor car, trailer or

highway vehicle, who are required to operate, flag, or move the car or trailer to or from the track, or handle tools to and from such vehicles, shall be paid for time traveling as time worked. This does not apply when travel is on public conveyance when the travel time is paid at straight time rates for all time concerned.

ARTICLE 10

HOLIDAY WORK

Section 1. Federal regulations applicable to Federal Holidays shall apply. Employees shall be excused for all holidays now prescribed by law and any that may be later added by law and all holidays designated by Executive Order shall be observed as regular holidays. If a holiday falls on the employee's first rest day within the normal work week, the preceding day shall be treated as the holiday for leave and pay purposes and if the holiday falls on the employee's second rest day, the following day shall be treated as the holiday for leave and pay purposes. All hours worked within the hours of the assignment, shall be paid at the regular basic rate of compensation for the day. When possible, Management will notify all employees who are to work on a holiday two (2) days prior to the holiday

be worked; a list of employees expected work on a holiday shall be posted in their work area at least two (2) work days in advance of such holiday.

Section 2. Management agrees that employees will not be scheduled to work on a holiday; prescribed by Federal Law or Executive Order, solely to avoid overtime work that otherwise would be performed on a day outside the basic work week.

Section 3. An employee notified to work a full shift on rest days or holidays, or an employee called to take the place of such employee, will be allowed to complete the shift unless relieved at his own request. Article 19 A, Section 4.

ARTICLE 11

SICK LEAVE

Section 1. Sick leave shall be granted employees when they are incapacitated for the performance of their duties by sickness, injury, or for medical, dental, or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease.

Section 2. An employee who is absent on account of sickness shall notify his superiors or other appropriate person prior to the start of their shift on the first workday of his absence, or as soon thereafter as possible. Second and third shift employees shall notify their department foreman prior to the start of their shift or as soon thereafter as possible. Requests for sick leave for medical, dental, or optical examination or treatment shall be submitted for approval prior to the beginning of the leave, except in the case of emergencies.

Section 3. A medical certificate for absence of three (3) workdays or less will not be required, except where there is reason to believe the employee is abusing sick leave privileges. In such cases the employee will be verbally advised that the sick leave privilege is being abused. When there is no improvement the employee will be advised, in writing, that he will be required to submit a medical certificate for each subsequent absence for illness. Medical certificates will not be required for holidays or days outside the employee's workweek. It is further agreed that Management and the employee will review the sick leave record of each employee required to furnish a medical certificate periodically, and where such review reveals no substantial evidence that the

employee has abused sick leave privileges during the review period, the employee will be notified in writing that a medical certificate will no longer be required for each absence which is claimed as due to illness for periods of three (3) work-days or less unless an abuse recurs.

Section 4. An employee sent home by the Chief Medical Officer will be provided transportation by Management in those cases where the Medical Officer determines such transportation is necessary.

Section 5. When an employee is assigned a temporary restricted work classification, as determined by the Medical Officer, Management will make every effort to place the employee on a job, if available, within the prescribed restrictions.

Section 6. Management agrees to advance sick leave in accordance with applicable regulations to permanent employees, not to exceed thirty days, when there is reason to believe the advanced sick leave will be earned after return to work.

ARTICLE 12

ANNUAL LEAVE

Section 1. Annual leave is afforded by law. Employees shall accrue leave in accordance with regulations. Approval of an employee's request for annual leave will be granted when his request is submitted with reasonable advance notice. Approval of requests for annual leave for unforeseen reasons will be considered as the circumstances warrant.

Section 2. Every attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of extended annual leave for vacations. When Management finds it necessary to cancel previously approved leave, the reasons for such action will be explained to the affected employee(s).

Section 3. Applications for specific days of annual leave for vacation purposes will be granted on a seniority basis and in the event of a coinciding request date the senior employee of the affected area of The Alaska Railroad shall receive preference. Filing date for vacation leave shall be February 1 of each year.

Section 4. Compensation is payable during leave of absence at the rate applicable to the position from which the employee is excused from duty and not at the rate payable for a period during which leave is earned (19 Comp. Gen. 1015, June 22, 1940).

Permanent employees who are temporarily re-assigned or promoted to positions at higher salary rates and who are granted annual leave while serving under the temporary assignment to take effect prior to return or re-assignment to their former positions are entitled to compensation for the leave so taken at the higher rate of compensation of the temporarily assigned position for the entire period of leave; but if they are returned to their former positions prior to the effective date of the granted annual leave, they are entitled to compensation for the leave so taken only at the rate applicable to the position to which returned, even though no duty be performed under such re-assignment or return before leave is taken (19 Comp. Gen. 1015, June 22, 1940).

ARTICLE 13

LEAVE OF ABSENCE

Section 1. A reasonable number of employees may be granted annual leave, leave without pay, to accept temporary Union positions or to attend conventions or meetings of the Union as defined in Executive Order 11491. Employees may be granted leave of absence with or without pay for other purposes.

Section 2. Management agrees to grant upon request of the Union, leave without pay for employees to act as full-time representatives for the Union.

Section 3. Management recognizes the obligation to provide employment at the end of the extended leave without pay granted for employees as full-time Union representatives within the rating the employee held upon his request for leave and in the current pay status of such rating at the time the employee returns to work, also recognizing the bumping and retreating rights of an employee on approved leave of absence without pay in situations where the employee's status has been affected by reduction-in-force action during the period of leave of absence.

Section 4. All employees in approved leave of absence without pay status shall accrue all rights and privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employees Health Benefits Program in accordance with current law and regulations.

Section 5. Each Reservist of the Armed Forces or member of the National Guard who is a permanent employee is entitled to leave of absence from his duties without

loss of pay or seniority for not exceeding fifteen (15) calendar days in any calendar year in which he has been called to active duty.

Section 6. Employees shall not be granted leave of absence without pay for the purpose of accepting outside employment unless given written permission prior to leave jointly by the Management and the Union. Employees giving false reasons for the purpose of obtaining leave will be subject to discipline.

Section 7. An employee on leave or temporarily absent from his assignment for any cause, must notify his foreman of his return thereto at least one (1) hour prior to the quitting time of his assignment on the working day next preceding his return, except in the case of sick leave.

Section 8. Duly accredited representatives of the employees and other employees employed exclusively by the organization shall be considered as in the service of the Carrier and may return to their former position or exercise seniority within thirty (30) calendar days after release from such employment.

Section 9. An employee unavoidably detained from work will not be discriminated against. Unless prior notice of expected absence has been given, notice to foreman must be given as quickly as possible, and failure to do so, or habitual absence from work without good cause will be considered cause for discipline.

ARTICLE 14

MERIT PROMOTION

Section 1. The Employer will utilize employees' skills and potentials to the fullest extent practicable. Employees will be promoted on the basis of merit without regard to race, color, religion, sex, age, or membership or non-membership in employee organizations. The over-all objective of the merit promotion program is to assure that positions are filled with the best qualified persons available and to assure that all employees have an equal opportunity to apply for advancement.

Section 2. The Union recognizes that the Employer has the option of filling positions by repromotion, or by methods other than promotion such as appointment, reinstatement, reassignment, or transfer provided the person selected is in the best qualified

group using the same qualification standards as for evaluating applicants for promotion. Management agrees that whenever possible to utilize existing employees from within the activity to fill vacant positions when qualified employees are available.

Section 3. All Alaska Railroad merit promotion program opportunities, outside the Multiple Appointment system, will be advertised through issuance of announcements within the area of consideration on all Official Bulletin Boards. Announcements will be open for at least ten working days when advertising is confined to The Alaska Railroad. Only employees or applicants outside the Railroad making application will be considered.

Section 4. The Alaska Railroad will normally be the minimum area of consideration. If an announcement fails to provide a sufficient number of highly qualified candidates, the area will be expanded. The Union will be notified in advance of expansions of areas of consideration and upon request the Employer will consider the Union's views concerning the necessity for such expansions.

Section 5. Upon request, each applicant will be told whether he was eligible for

promotion on the basis of minimum qualification requirements, whether he was in the group from which selection was made, who was selected for promotion, and in what areas he should improve himself to increase his chances for promotion.

Section 6. In accordance with Civil Service Commission directives, qualification standards for promotion are those prescribed in Commission Handbook X118-C for ungraded positions as supplemented by Department of Transportation directives. These standards prescribe elements for each occupational area and level of occupation. In accordance with the Federal Personnel Manual, the following consideration may be used in evaluating these job elements.

a. Written Tests. Appropriate validated written tests which are either required or approved by the Civil Service Commission may be used. Written tests may not be used as the sole means of evaluating candidates; they may be used as only one part of the evaluation process with due weight given to the appropriate factors.

b. Appraisals of Performance. Appraisals of performance must be considered as one factor in evaluation of basically eligible candidates. When an employee has

worked for a particular supervisor for less than six (6) months, a second, foreman (leadingman) supervisory appraisal shall be obtained. An employee is entitled to see, upon his request, any production record or any supervisory appraisal of past performance used in considering him for promotion. An employee, however, is not entitled to see a supervisory report on potential which is a recorded judgment of the supervisor's estimate or prediction of how well the employee is likely to perform at a level or in a kind of work different from one in which he has already performed.

c. Experience. In evaluating experience the type and quality of experience is considered in relation to the requirements of the position to be filled. Length of service, length of experience, or seniority, is evaluated when there is a clear and positive relationship with quality of performance and for breaking ties.

d. Awards. Due weight will be given awards received by employees in terms of qualifications indicated such as initiative, resourcefulness and planning ability and their bearing on the requirements of the position to be filled.

e. Training and Self-Development. Training and self-development which would increase the employees potential for

effective performance in the position to be filled must be considered.

Section 7. Employees selected for promotion will be notified promptly of their selection and released from their former positions as soon as practicable, normally with two weeks' notice. An employee will be paid at the pay level of the position for which selected, starting with the effective date of promotion, in accordance with applicable regulations.

Section 8. Questions or complaints about the promotion program should be resolved informally if possible, by the Union President or his designee, who will have access to unrestricted records used in the promotion process, or with the immediate supervisors, and the Personnel Officer. The formal means for resolving complaints is then through the grievance procedure.

Section 9.
(a) When practicable, the duties of a higher graded employee who is absent for a time less than thirty (30) days will be assumed by another employee as a detail. When a qualified employee is assigned for a period of thirty (30) days or more, a temporary promotion will be made under applicable rules and regulations. This does

not require that management fill vacated positions. Employees with multiple appointments receive pay for the work performed, for that work which is included in the Multiple Appointment. (FPM Chapter 300, Subchapter 8 "Detail of Employees",

(b) All time that an employee is required to fill a position of higher grade than his regular assignment shall be recorded. After he has fulfilled the duties of the position for a total period of experience required by the Civil Service Commission regulations, he shall be eligible for inclusion of such position in his Multiple Appointment, upon approval of his supervisor and completion of any required test or examination pertaining to the position.

Section 10. When a vacancy occurs, a Certificate of Eligibles will be forwarded to the Selecting Official containing the names of no more than five (5) of the best qualified applicants and shall be grouped alphabetically and the certificate shall state that the names are not listed relative to qualifications. The Selecting Official may interview candidates on the Certificate of Eligibles. If one (1) candidate is interviewed all candidates will be interviewed if available.

Section 11. Merit promotion announcements will show the job requirements for which an applicant's qualifications are evaluated in terms of the skills, knowledge, abilities, and potential needed to perform the job for which the applicant is being considered. Merit promotion announcements shall not contain key or restrictive clauses that tend to favor one employee or a group of employees for a particular position.

Section 12. A merit promotion opportunities announcement may not be modified after the promotion process is under way unless an inappropriate announcement has been released. Modified announcements will be in accordance with Section 3 of this Article and all employees eligible under the modified announcement shall be considered for promotion.

Section 13. The Employer agrees to consult with the Union on any revisions or amendments to the Merit Promotion Plan.

ARTICLE 15

BULLETINING POSITIONS
WITHIN MULTIPLE APPOINTMENTS
(Outside Merit Promotion)

Section 1. Vacancies of thirty (30) days or

more shall be bulletined for ten (10) days before being permanently filled. The oldest employee in point of service in the respective craft, if qualified by experience to efficiently handle the work, will be assigned. Employees desiring to avail themselves of this rule will make bid, in writing, to the official in charge, duplicate copy to the Union, and the Management to make assignment.

Section 2. An employee exercising his seniority rights under this rule will do so without expense to the Carrier; he will not lose his right to the job he left, and if after a fair trial not to exceed thirty (30) days he fails to qualify for the new position, he will return to his former position. The next senior qualified man bidding will be assigned. In the event there are no bids, the youngest qualified employee will be assigned.

Section 3. Official Bulletin Boards shall be used at all central points of employee contact throughout the Railbelt, where proper notices of interest to employees and job bulletins may be posted. Access to such board will be made available to accredited Union representatives for posting such notices as are necessary.

Section 4. Employees covered by this Agreement, who have been assigned in a multiple appointment, perform work for four (4) hours or more in a position authorized with a multiple appointment shall be paid for the rate of work performed consistent with the grade assignments authorized in multiple appointment.

Section 5.
(a) An employee assigned to a permanent position and who does not hold a Multiple Appointment, his rate shall not be reduced when temporarily assigned to lower grade duties.

(b) An employee who holds a Multiple Appointment shall not have his rate reduced below that of his bid position, while temporarily performing the duties of a position which is graded lower.

Section 6. Positions of a higher grade shall not be abolished solely for the purpose of requiring an employee to accept a lower graded position within his category. It is recognized that this does not preclude the abolishment or realignment of positions to meet the needs of the service.

Section 7. Advertised vacancies may be filled in acting status pending an assign-

Section 8. Assignment bulletin shall be prepared and mailed within ten (10) days after the close of the bulletin calling for bids.
SUP 2

Section 2. Any employee demoted without cause must be considered for repromotion before other means are used to fill a position. Although he is not guaranteed repromotion he should be repromoted as an exception to competitive procedures if he is well qualified for the position unless there are persuasive reasons for not doing so.

Section 3. If the selecting official decides not to select an employee under the repromotion promises of this agreement certified to him as one of the best qualified under competitive promotion procedures, the official must state his reasons for the record if he does not then select the employee.

ARTICLE 17

PERSONNEL MOVEMENT IN RIF SITUATIONS

Section 1. It is agreed that all possible action will be taken to avoid or minimize the impact of a reduction-in-force prior to separating employees. Such action will include restricting recruitment, meeting ceiling limitations through attrition, reassigning employees in surplus positions and terminating limited appointments.

Section 2. Management agrees to notify the Union of the necessity for reduction-in-force as far in advance as practicable and of the reasons therefor. Management also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that Management, to the extent consistent with the installation's manpower requirements, will make an effort to reassign employees whose positions are eliminated because of automation or adoption of labor saving devices. It is agreed that management will make practical effort to train employees, when necessary for reassignment, whose positions are eliminated because of automation or adoption of labor saving devices.

Section 4. For reduction-in-force purposes the Competitive Area for employees of this unit shall be The Alaska Railroad, except as provided in special rules for ~~Track Laborers~~; and the Dock, Station, Freight House, and Warehouse Employees.

ARTICLE 18

REVIEWS OF JOB DESCRIPTIONS & REQUIREMENTS

Section 1. The activity program for determining the ratings of positions of employees in the unit is conducted in accordance with the applicable Department of Transportation regulations. To assure that ratings are appropriate to the work currently being performed by the employees in the bargaining unit, Management agrees to and shall conduct a continuing review of such ratings throughout the activity. In any case where a modification of a job description of any position in the unit is proposed to the extent that either the rating, title, pay level, or qualification requirements for the rating would be affected, the proposed change will be discussed verbally or in writing by Management with the Employee prior to the effective date of any such change.

Section 2. Any employee in the unit who alleges that his position is improperly described or rated may discuss the matter with his supervisor, who will, upon request, arrange for review of the employee's rating by personnel of the Personnel Office. The review shall include discussion with the employee and with his supervisor to determine the employee's actual regular work assignment over a representative current period and comparison of such assignments to the related job descriptions and/or rating definitions. Management agrees to consider fully all pertinent facts including those presented by the employee. If the employee's complaint is not resolved to the satisfaction of the employee, Management shall notify the employee in writing of the findings, the basis of the findings, and shall outline the employee's appeal rights, and enclose a copy of the appeal procedures. In requesting a review of his position rating and in the discussions described above, the employee may have and shall be entitled to representation by his Union.

Section 3. Upon request by the employee and/or his representative, Management agrees to produce all pertinent and current data on the grade and job standards of the employee's particular job. The information will include how the grades, job standards, and titles were established and the type of work actually required under these standards.

Section 4. It is agreed that Management will advise the Employee when a job rating is to be changed due to reclassification actions to a lower grade, and at least thirty (30) days prior to effecting personnel action.

Section 5. The Union may present supporting evidence to Management regarding the local application of position classification standards and the equity of classification results.

ARTICLE 19

A. DISPOSITION OF UNIT WORK

Section 1. Nothing in this agreement shall be construed to prevent operators of equipment and machines from making minor repairs to equipment they operate incidental to the continuous operation of their equipment and machinery, outside the shop.

Section 2. None but assigned personnel regularly employed as such shall do the assigned work of each craft. This rule does not prohibit foremen in the exercise of their duties, or foremen at points where no craftsmen are employed, to perform work, when qualified.

Section 3. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work of any craft (including welding) that may be necessary.

Section 4. An employee notified to work a full shift on his day of rest, Sundays or holidays, will be allowed to complete the shift unless relieved at his own request. (Article 10, Section 3.)

Section 5. Management agrees that as a matter of practice, supervisors, above the level of represented foremen, shall not be assigned to perform the duties as outlined in job descriptions of Unit employees except when instructing or training employees.

Section 6. Maintenance employees may be required to afford reasonable assistance on adjoining territory, otherwise will not be required to work outside of his assigned territory, except in cases of emergency or over-lapping on rest days or holidays.

19 B. SPECIAL RULES

CULINARY WORKERS

Section 1.

(a) A work week for regularly assigned employees, except as noted, shall consist of five (5) days of eight (8) hours each with two (2) rest days in each seven (7). Such rest days shall be consecutive to the extent practicable.
Note: Where the service requirements are such and regular relief assignments are impractical, the work week may consist of seven (7) days, with overtime at the rate of time and one-half for the sixth and seventh days, Friday and Saturday.

(b) Service extending over a period of more than five (5) days per week may be performed by establishing regular relief assignments consisting of five (5) days of work and two (2) days to do the work necessary on rest days of regular assignments in such service or to perform relief work on certain days and such types of other work on other days as may be assigned, or work weeks of regular assignments in such service may be staggered, or extra or furloughed employees may be

used to do the work necessary on rest days of regular assignments in such service.

(c) Assignments for regular relief positions may on different days include different starting times, duties or work locations.

Section 2. The cook is in charge of kitchen and dining facilities, coordinating his activities for serving the gang with the foremen, and shall be responsible for maintaining cleanliness and safe and sanitary conditions of the area and of the employees under his charge, and shall also be responsible for the appearance and deportment of employees while on duty in the kitchen and/or dining room.

Section 3. Helper service in outfit cars will be assigned to meet the service requirements of the following schedule:

(a) When there are 14 men, but not to exceed 16 men, to be served meals, one helper shall be added. If a helper is not added or if the cook, by proper notification to the Chief Steward, desires, he may perform the necessary services without a helper and will be allowed one hour overtime for each day such service is performed.

(b) When there are 17 but not to exceed 20 men, as shown in paragraph (a) above, 2 hours overtime will be allowed.

(c) When there are 21 to 35 men, one helper will be furnished and no option will be allowed the cook to perform these extra services.

(d) When there are 36 to 44 men, two helpers will be furnished and no option will be allowed the cook to perform these extra services.

(e) When there are 45 or more men, three or more helpers will be furnished, depending on the requirements of the service, and no option will be allowed the cook to perform these extra services.

Section 4. Employees holding seniority of other crafts cannot hold seniority under this craft.

19 C. SPECIAL RULES

MAINTENANCE OF WAY

Section 1. The cook is in charge of the

kitchen and dining facilities, coordinating his activities for serving the gang with the foremen, and shall make orders for stores and necessary provisions; shall be responsible for maintaining cleanliness and safe and sanitary conditions of the area and of the employees under his charge, and shall also be responsible for the appearance and deportment of employees while on duty in the kitchen and/or dining room.

Section 2.

There will be one seniority roster for all extra gang and section laborers entitled: "Track Laborers".

SUP 2

~~Section 3.~~

~~(a) Competitive area for reduction-in-force purposes for section track laborers shall be North Pole to and including Talkeetna, Sunshine to and including Seward.~~

~~(b) Competitive area for Extra Gang laborers shall be system-wide.~~

Section 3. Employees holding seniority of other crafts cannot hold seniority under this craft.

Section 5.

(a) Foremen are authorized to permit subordinates leave not to exceed 15 calendar days. Leave in excess of 15 calendar days must be given prior approval of Roadmaster,

(b) In event Foremen cannot contact their Roadmasters, permission may be secured from the office of the General Roadmaster or Chief Engineer. If none of the foregoing are available, in emergencies, the nearest telegraph operator must be notified. In all cases, information as to where Foremen can be located must be filed for use in emergencies.

(c) Track men held on duty on rest days will be paid overtime.

Section 6.

a) Employees entering service shall acquire seniority as of the first day of pay in the group in which the employee first entered service.

Section 7.

(a) Laborers entering service acquire seniority as of the first day of pay as laborer.

(b) An employee who has a multiple appointment and who has worked thirty (30) days on a position within the multiple appointment may gain seniority for that position at the completion of the thirty (30) days. If the service is continuous, the seniority date will be as of the first day of the thirty (30) days. If service is intermittent, the employee shall keep a record of days worked and the seniority date will be as of the thirtieth (30th) day before the last day of the qualifying thirty (30) day period.
(c) An employee who receives a promotion, reassignment or change to lower grade will receive seniority as of the effective day of the change.
(d) Employees claiming retroactive seniority under this change will be given a seniority date as of May 12, 1976. Where more than one employee claims seniority on the same list, the employees will be given in ID order. Employees desiring seniority under this change must apply in writing to the Office of Chief Engineer prior to July 15, 1976.

Section 8. (amended)
The required starting time of Article 7, Section 3, may be amended to permit other than the 12:00 midnight and 6:00 A.M. starting time (to provide maximum work time, conforming to train schedules, and daylight hours) by giving the Union and Gang Foreman five (5) days notice. A change may be made in less than five (5) days by mutual written agreement between the Union and Management. Regardless of starting time, assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes nor more than one (1) hour. This amendment is applicable only to floating gangs, extra gangs, tamper crews and ditcher operators.

19 D. SPECIAL RULES

BRIDGE AND BUILDING

Section 1. The cook is in charge of the kitchen and dining facilities, coordinating his activities for serving the gang with the foremen, and shall make orders for stores and necessary provisions; shall be responsible for maintaining cleanliness and safe and sanitary conditions of the area and of the employees under his charge, and shall also be responsible for the appearance and deportment of employees while on duty in the kitchen and/or dining room.

Section 2.
(a) Foremen supervising B & B gangs consisting of five men or less will be required to work as mechanics on such gangs.

(b) Employees of any craft may be assigned to B & B Foremen and they will be under his supervision.

Section 3. When called in road service or emergency work, the term headquarters shall be defined as the point on the Railroad where gang is stationed at the time they are called to the emergency.

Section 4. Employees holding seniority of other crafts cannot hold seniority

Section 5. (Revised)
The required starting time of Article 7, Section 3, may be amended to permit other than the 12:00 midnight and 6:00 A.M. starting time (to provide maximum work time, conforming to train schedules, and daylight hours) by giving the Union and Gang Foreman five (5) days' notice. A change may be made in less than five (5) days by mutual written agreement between the Union and Management. Regardless of starting time, assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes nor more than one (1) hour. This amendment is applicable only to floating gangs, extra gangs, B&B gangs, tamper crews, and ditcher operators.

Section 6. Remains the same.

Section 7. (added)
Same as Article 19C, Section 6, paragraphs (a), (b), (c), and (d).

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under other crafts cannot hold seniority under this craft.

...iority shall prevail

Section 2. Same as Article 19C, Section 6, paragraphs (a), (b), (c), and (d).

days ... Sup 2

road on one or more items of any group, notwithstanding compliance with standards established for the position by the Civil Service Commission. If service is continuous, his seniority date will be as of the first day of the thirty (30) days. If service is intermittent, record shall be kept by employees and seniority date will be the thirtieth (30th) day previous to the last day of the qualifying thirty (30) day period.

Section 3. When spreaders are used in snow or work service, spreader operators will work under the same conditions as train crews with regard to hours of service and living conditions.

Section 4.
(a) Crews on shovels, cranes, clamshells, draglines and backhoes shall consist of the operator, oiler, Ditcher Foreman or

Heavy Equipment Foreman, as may be required when machines are in continuous operation.

(b) One oiler will be provided for each three (3) or four (4) caterpillers, carry-alls and tournapulls and similar machines used in a group and in continuous operation. Additional oilers will be provided on the same basis as the number of units are increased. When one or two units are used separately, the operators will service and maintain their own machines.

Section 5.

(a) Headquarters for equipment operators is defined as Anchorage, or such other point as may be established by bulletin, for position of thirty (30) days or more; or outfit cars or section houses with lodging and messing or batching facilities. Equipment Operators performing service away from assigned headquarters shall be paid in accordance with standard government travel regulations.

(b) Headquarters for positions of one year duration or more, will be established at locations where facilities for family living are available, or established communities.

(c) Equipment Operators working at line points in gangs where outfit cars are provided will be furnished quarters at no expense, and pay for their meals under the same conditions as other floating gang employees.

(d) When it is necessary for such employees to be away from outfit cars or assignments, it is understood that quarters and meals will be provided at no expense to the employee. Employees who do not agree to use outfit cars [illegible]

Section 7. (revised)
The required starting time of Article 7, Section 3, may be amended to permit other than the 12:00 midnight and 6:00 A.M. starting time (to provide maximum work time, conforming to train schedules, and daylight hours) by giving the Union and Gang Foreman five (5) days' notice. A change may be made in less than five (5) days by mutual written agreement between the Union and Management. Regardless of starting time, assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes nor more than one (1) hour. This amendment is applicable only to floating gangs, extra gangs, B&B gangs, tamper crews and ditcher operators.

This amendment is applicable only to floating gangs, extra gangs, B & B gangs, tamper crews and ditcher operators.

Section 8. It is understood and agreed that new classification standards for Equipment Operator are in the process of publication and when these new grades are published, they shall be the subject of negotiation in accordance with this Agreement and shall be initiated immediately after concluding negotiations.

Section 9. An employee entering service as an Equipment Operator shall acquire seniority as an Oiler.

19 F. SPECIAL RULES

DOCK, STATIONS, FREIGHT DEPOT AND WAREHOUSE EMPLOYEES

Section 1. Employees who had held seniority prior to effective date of the Agreement in both Group I (white collar seniority positions) and Group II (blue collar seniority positions), will continue in both groups. After March 1, 1971, employees hired or acquire seniority may not hold dual seniority in both white collar positions and blue collar seniority positions.

Section 2. Article 15, Section 1, vacancies of 30 days or more shall be bulletined for five (5) days before permanently filled.

Section 3. The competitive area for reduction-in-force purposes, for Dock, Station, Freight Depot, and Warehouse employees is the commuting area regarded as fifty (50) miles one-way driving distance.

Section 4. Employees holding seniority of other crafts cannot hold seniority under this craft.

Section 5.
(a) When the established starting time of regular position is changed in the aggregate in excess of two hours since last bulletined, or designated rest days are changed, the employees affected may, within ten (10) calendar days thereafter, upon forty-eight (48) hours notice, exercise seniority rights to any position held by junior employee in the same Multiple Appointment or same type position. Other employees affected may exercise seniority rights in the same manner.

(b) If the starting time of an established position is changed as to convert it from

one shift to another, the new position shall be bulletined.

19 G. SPECIAL RULES

COMMUNICATION EMPLOYEES

Section 1. The union recommends the implementation of the Multiple Appointment in the Communications Branch for the effect of providing seniority in the Branch.

Section 2. Suitable living quarters, together with fuel, lights and water, will be furnished to Maintenance Linemen (Wire Communications Maintenance Worker) and Maintenance Technician. Where not furnished, they will be given an allowance of $50.00 per month in lieu thereof.

Section 3. Employees holding seniority of other crafts cannot hold seniority under this craft.

Section 4. When physical examinations and qualifying under required rules examinations are required by the Railroad, arrangements shall be made to take them without loss of time, and expenses shall be paid, except

when returning from furlough or from absences caused by sickness or disability, in accordance with standard Railroad allowances.

Section 5. (revised)
The required starting time of Article 7, Section 3, may be amended to permit other than the 12:00 midnight and 6:00 A.M. starting time (to provide maximum work time, conforming to train schedules, and daylight hours) by giving the Union and Gang Foreman five (5) days' notice. A change may be made in less than five (5) days by mutual written agreement between the Union and Management. Regardless of starting time, assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes nor more than one (1) hour. This amendment is applicable only to floating gangs, extra gangs, and maintenance linemen.

SUP 2

In this regard, Management and the Union,

will coordinate on-the-job training in order to insure that apprentices receive broad and well-rounded experience in their respective trades or occupations. All apprentice training assignments shall be scheduled and recorded to insure that all apprentices are afforded the opportunity to qualify in each phase of training, as will be defined in the Apprentice Training Schedule developed by Management and the Union for each trade.

Section 2. Management agrees to recognize a Union apprentice training committee within the bargaining Unit of not more than three (3) members appointed by the Union and three members appointed by Management, to serve on such committee. This committee shall have the right to a reasonable review of apprentice training programs affecting employees in the bargaining unit for the purpose of assisting Management in insuring a continuing effort to strengthen and improve the apprentice training program. It is further agreed that the Union apprentice and training committee shall meet once every two (2) months or upon the request of either party for the purpose of discussing the overall effectiveness of the apprentice training program.

Section 3. Management agrees that apprentices will be assigned to either an apprentice instructor or a foreman, who shall be responsible for their training while so assigned. Assignments will be made, to the extent permitted by work requirements, primarily to expose the apprentice to a variety of jobs with increasing complexity and responsibility during the programmed apprentice term.

Section 4. In recognition of the mutual advantages to Management and to the employees, Management agrees to utilize existing employees from within the activity when training for any new job ratings which may be determined necessary for establishment within the activity to carry out the mission.

ARTICLE 21

SAFETY

Section 1. Management will exert every effort to provide and maintain safe working conditions and industrial health protection for the employees. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his own safety and an obligation to know and observe safety rules and practices as a measure of protection for himself and others. Management will welcome from any individual employee or from the Union, suggestions which offer ways of improving safety conditions.

Section 3. It is agreed that the Union will appoint an appropriate number of qualified employees to serve as the Union's representatives on Management's Safety Committees.

Section 4. In the course of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in their immediate area which represent industrial health hazards. When unsafe or unhealthy conditions are observed by the Union representatives they should report them to the immediate supervisor. When such safety and industrial health matters are of general interest, the Union may present the problem to Management's safety committees or bring the matter to the attention of appropriate supervision for mutual consideration by Management and the Union.

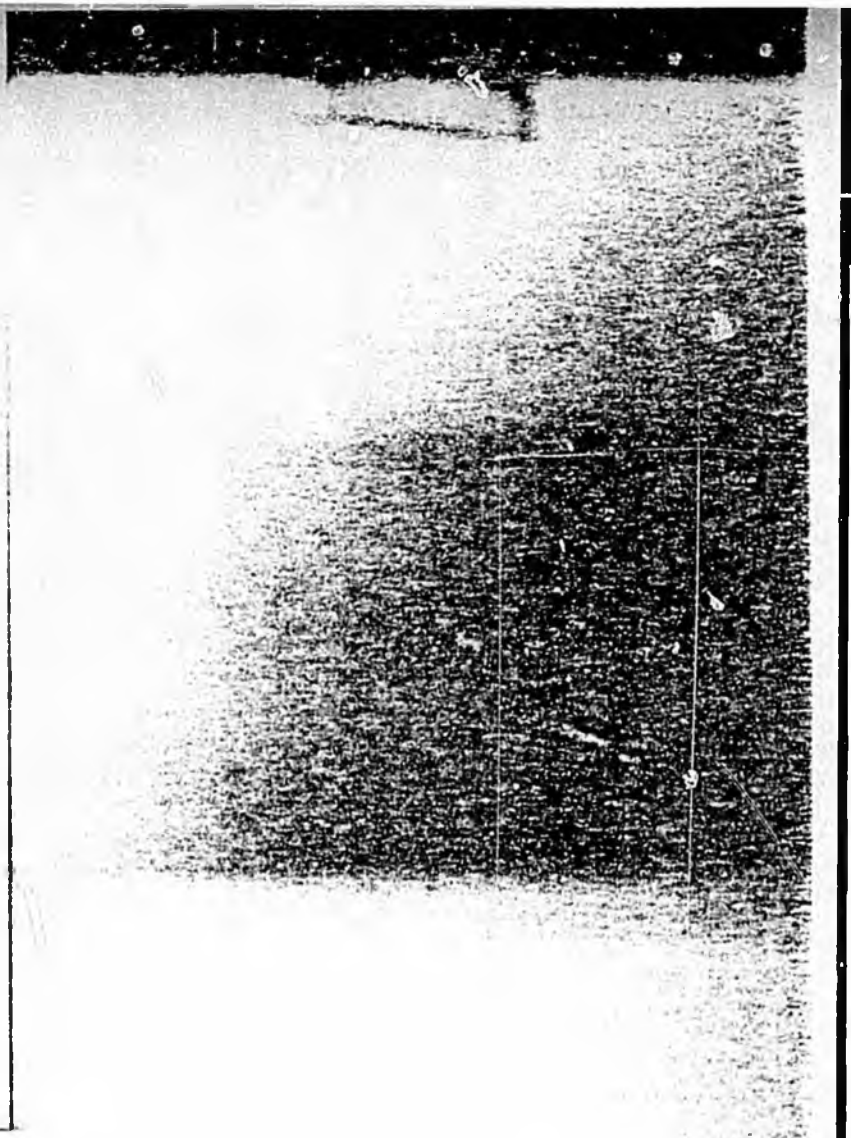
Section 5. The Union and Management will make every effort to prevent accidents of any nature. Should such accident occur, however, a prime consideration will be the welfare and comfort of injured personnel.

Section 6. When it becomes known that an accident has resulted in a disabling injury, management agrees to notify the Union promptly of the circumstances.

Section 7. Employees injured while at work will not be required to make accident reports before they are given medical attention, but will make them as soon as practicable thereafter. Proper medical attention will be given at the earliest possible moment, and, when able, employees shall be permitted to return to work without signing a release pending final settlement of the case. Settlements will be made in accordance with Employees' Compensation benefits.

Section 8. When employees covered by this Agreement are required to transfer from hot work to cold work, they will be allowed sufficient time to cool off before such transfer is made.

Section 9. Floors, lockers, toilets, washrooms, outfit cars, and lunchrooms will be



kept in good repair a[illegible] dry, safe, and sanitary condi[illegible] sulated steel bunk cars will not be [illegible] for winter service.

Section 10. Operators of sandblast or paint sprayers will be required to use utmost care not to disturb other employees working in immediate vicinity.

Section 11. All acetylene or electric welding or cutting will be protected by a suitable screen when its use is required.

Section 12. Operators who observe unsafe equipment or operating conditions shall report the facts to his immediate supervisor for his determination in continuing operations.

Section 13. First aid equipment will be furnished at all work locations and the foreman will see that the medicine chest is adequately supplied.

Where possible, foremen will be trained in first aid, for first aid administration at their work locations.

Section 14.
(a) No more than six (6) men will be quartered in the present box type cars occupied by permanent men for sleeping quarters, and no more than three (3) in combination car used for sleeping, eating, and cooking.

(b) When increases in forces are necessary, extra cars will be furnished to care for the temporary men.

(c) No upper bunks will be used in any cars assigned to permanent gangs.

(d) When bunk cars are provided they will be habitable.

ARTICLE 22

COMMITTEE ASSIGNMENTS

Section 1. The Union agrees to cooperate with Management in the development of policies and procedures for programs which involve charitable solicitations to include qualified Union representation on Management committees for such purposes.

Section 2. The Union will appoint qualified representatives to assist Management in evaluating suggestions and incentive awards.

ARTICLE 23

CIVIC RESPONSIBILITIES

Section 1. When an employee is absent from duty and in attendance in court as witness in behalf of the United States, or for jury duty in any State court or court of the United States, the absence from duty shall not be charged against annual leave but shall be recorded as "court leave" for the employee's regular tour or tours of duty.

Section 2. On receipt of a summons to appear for jury duty, the employee shall advise his supervisor. While the duty to serve as a juror is one of the precious privileges and responsibilities of American citizenship, with which the Railroad management concurs, there are instances when the absence of the employee from duty would work an undue hardship. The Personnel Officer shall investigate these hardship cases when brought to his attention by the Branch head.

Section 3. An employee answering summons for jury duty shall require written certification of attendance from the clerk of the court. This form shall be attached to Standard Form 71 and presented by the employee to timekeeper as authority for allowance of court leave.

Section 4.

(a) Since court does not ordinarily convene until 10:00 A.M., an employee called for jury duty shall be required to report on his Railroad assignment at the starting hour and continue work until such time as it is necessary to leave for court. The only exception to this requirement shall be in those instances where the foreman or other supervisor finds it would be an undue hardship to comply therewith and so informs the appropriate timekeeper in writing.

(b) When an emloyee is excused from duty by the court for as much as one and one-half (1-1/2) hours prior to time for stopping work at noon or evening, he shall return to duty unless advance authority for non-return, due to definite hardship being involved, is obtained from foreman or other supervisor.

Section 5.

(a) An employee serving as a juror in

State or municipal courts shall be instructed to collect all fees and allowances payable on account of the jury service. The employee must forward the fees so collected to the Treasury Section, Accounting Branch, The Alaska Railroad, endorsed with "Pay to The Alaska Railroad"; otherwise, payroll deduction shall be made from compensation due him. The employee may keep allowances for mileage and subsistence to cover his actual expenses incident to the jury service; however, payment of per diem is prohibited since it is a form of compensation for services rendered.

(b) An employee who performs jury service on rest or layover days is entitled to retain the fees received for such service.

Section 6. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without charge to annual leave. When the polls are not open at least three hours either before or after an employee's regular hours of work, he may be granted an amount of excused leave which will permit him to report for work three (3) hours after the polls open or leave work three hours before the polls close, whichever requires lesser amount of time off.

ARTICLE 24

SPECIAL TOOLS - CLOTHING - SERVICES

Section 1. Employees will not be required to furnish their own working tools. Those desiring to furnish and use their own tools may do so, providing that such tools are of a type and condition in conformity with the existing Safety Regulations of the Railroad.

Section 2. Management agrees to bear the full expense of all special tools, protective clothing, rubber boots as required, and equipment that employees use in the performance of their duties.

Section 3. Management agrees to bear the expense of paying the difference between work shoes and safety shoes.

Section 4. Management agrees to provide space on official bulletin boards and offices for the posting of union notices and similar information material.

Section 5. Prior approval of Branch Chief is required to be reimbursed for protective clothes and equipment purchased.

ARTICLE 25

GRIEVANCE PROCEDURE

Section 1. An employee who has passed his probationary period satisfactorily or whose application has been formally approved shall not be disciplined or dismissed without a fair hearing by the designated officer of the Railroad. He may, however, be held out of service pending hearing. At a reasonable time prior to the hearing and not less than forty-eight (48) hours, such employee shall be apprised, in writing, of the precise charge against him within thirty (30) calendar days of knowledge by the Management of the alleged offense. The hearing shall be held within ten (10) calendar days of the date when charged with the offense. A decision will be rendered within ten (10) days after completion of hearing. The time limits in this rule may be extended by mutual agreement.

Section 2. The right of appeal by employees or their duly accredited representatives in the regular order of succession up to and including the highest officer designated by the Management to whom appeals may be made is hereby established. When appeal is taken,

further hearing shall be granted, if requested of the official to whom appeal is made. Appeals will be registered within a reasonable time (30 days) after decision is given and a copy furnished official whose decision is appealed. Hearings and decisions on appeals will be given within ten (10) calendar days from date appeal notice is received by the officer to whom appeal is taken. The time limits in this rule may be extended by mutual agreement.

Note: No appeal will be handled except in accordance with the above procedure.

Section 3. At hearings an employee may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest official designated by the Management to whom appeals may be made. At each step Management will render a decision within ten working days.

Section 4. Investigations and hearings shall be held whenever possible at home terminals of employees involved and at such time as to not cause employees to lose rest or time. Employees shall have reasonable opportunity to secure the presence of duly accredited representatives and/or necessary witnesses. Upon request of the employee or his representative, all necessary existing records of management pertinent to the case and produced as evidence shall be made available for their use. In the process of the hearing, the Union will be permitted a court recorder or a tape recorder.

Section 5. A copy of all statements made a matter of record at investigations or hearings shall be furnished to the employee and to his duly accredited representative.

Section 6. If an employee is suspended, the suspension shall date from the time he was taken out of service.

Section 7. If the final decision decrees that charges against the employee were not sustained, the record shall be cleared of the charge. If suspended or dismissed, the employee shall be reinstated and paid for all time lost.

Section 8. An employee who considers himself unjustly treated, or that any of the provisions of this Agreement have been violated, shall have the right of investigation, hearing, appeal and representation as provided in Sections (1), (2), (3), (4) and (5), if written request, which sets forth the employee's grievance is made to his superior within thirty (30) calendar days of knowledge by the employee of the alleged unjust treatment. Grievance should be presented within a reasonable time following the alleged violation to insure timeliness of the facts and prompt resolution.

Section 9. When time claim is in writing and such claim is not allowed the employee making the claim shall be notified in writing and the reason for non-allowance with references to claim and disallowances by rule number.

Definition of Investigation: An inquiry conducted by the Management to determine cause and responsibility and to make search or inquiry for truth or facts prior to conducting a hearing. Employees are not disciplined as a result of an investigation except new employees who have not passed their probationary period of employment.

Definition of Hearing: A hearing (a trial) conducted after an investigation has developed cause and responsibility. At such hearings an employee or employees must be given proper notice under these rules and apprised in writing of the precise charge or charges against him. Employees may be disciplined or discharged as a result of a hearing. Appeals are based on hearings, not on investigations.

The enforcement of discipline by demerit record will apply to employees of the unit.

The advantages of this system are:

1. (a) To the employee, enabling him by good conduct to insure permanency of employment.

   (b) To the Railroad, in increased efficiency of such permanent employees.

   (c) To avoid loss of wages and consequent hardships to employees and their families because of being deprived of their regular income.

   (d) To promote good conduct and encourage careful and efficient service.

2. No discipline by record will be made for less than five (5) or more than sixty (60) demerits.

3. Where demerits are given for unsatisfactory service, cancellations upon record will be given as follows:

   (a) A clear record for six (6) months will cancel five (5) demerits.

   (b) A clear record for one (1) year will cancel thirty (30) demerits.

   (c) A clear record for eighteen (18) months will cancel sixty (60) demerits.

4. When an employee's demerits have accumulated to the number of ninety (90), he will be dismissed from the service.

5. An accumulation of demerits showing that an employee is not desirable for the service will first be given special consideration, but when the service of an employee is so generally unsatisfactory as to unfit him for further service, dismissal will follow.

6. Any permanent employee, who is not serving a probationary period and has completed one year of continuous employment, subject to discipline resulting from hearings and accumulation of demerits involving removal, suspension for more than thirty (30) days, furlough without pay or reduction in pay shall be afforded the provisions of Civil Service Commission regulations relative to adverse actions. These regulations shall be quoted to the employee, including, but not limited to a Notice of Proposed Action, Receipted Delivery Notice, Thirty day Pay status, time for employee's response and evaluation of same and Notice of Decision.

Section 10.

(a) Claims for money payments alleged to be due, arising from any cause may be made only by the employee or a representative on his behalf and must be presented in writing, to the employee's immediate superior within ninety (90) calendar days from date the employee received his pay check for the pay period involved or the basis of the claim occurred; except that time off duty on account of sickness, leave of absence, suspension or reduction in

force will extend time limits of this paragraph by the period of such time off duty. When there is a claim for money payments alleged to be due based on an occurrence during period employee was out of active service due to sickness, leave of absence, suspension or reduction in force, it must be made, in writing within ninety (90) calendar days from the date the employee resumes duty.

(b) If claims are not made within the time limits specified in paragraph (a) of this rule, they will neither be entertained nor allowed.

(c) When claims have been presented in accordance with Paragraph (a) of this rule, the employee will be notified, in writing, of the decision of the Management within ten (10) working days from the date claim was presented.

(d) Claims denied in accordance with Paragraph (c) of this rule will be considered invalid unless the decision is appealed to the General Manager within ninety (90) days from the date of which the claim was denied. When a decision is so appealed the employee will be notified in writing of the decision within sixty (60) calendar days from the date decision was appealed.

(e) When money claims are allowed, the employee affected will be advised in writing the amount involved and payroll on which payment will be made.

ARTICLE 26

ARBITRATION

Section 1. If Management and the Union fail to settle any grievance arising under Article 25, titled Grievance Procedure, with respect to the interpretation, application, or alleged violation of this Agreement or of any policy or decision of Management, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to Arbitration. Such written notice must be served not later than thirty (30) days following the conclusion of the last step of the grievance procedure.

Section 2. Within seven (7) days from the date of receipt of the arbitration request, the parties shall meet for the purpose of endeavoring to agree on the selection of an arbitrator, and the wording of the question to be resolved. If agreement cannot be reached, then either

party may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after the receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then Management and the Union will each strike one arbitrator's name from the list of five (5) and shall repeat this procedure. The remaining name shall be the duly selected arbitrator.

Section 3. The fee and expenses of the arbitrator shall be paid by the loser; by Management, or the Union, provided that the cost to Management for arbitrator's fee shall not exceed that amount authorized by rules and regulations. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, not to exceed two (2), employee appellant and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings.

Section 4. The arbitrator is requested by the parties to render his decision as quickly as possible but in any event no later than thirty (30) days after the

conclusion of the hearings unless the parties otherwise agree.

Section 5. The arbitrator shall have jurisdiction and authority to interpret this Agreement and to apply it to the particular case under consideration, but shall, however, have no authority to add to, subtract from, or modify the terms of this Agreement and shall confine his findings to the question submitted.

Section 6. In those cases where either party deems it necessary, it may arrange that a transcript of the hearing be made by a qualified court reporter. The party making such arrangement shall bear the full cost thereof. If both parties request a copy, the cost will be shared equally. If the arbitrator requests that he be furnished with a copy, the expense of the original copy and the reporter's attendance charge shall be borne equally by Management and the Union.

Section 7. The Head of the activity shall render his decision on the arbitration within twenty (20) calendar days from receipt of the arbitrator's decision. The finding of the arbitrator shall be binding on the parties unless disapproved by the Secretary of Transportation.

ARTICLE 27

SENIORITY

Section 1. Seniority where applicable for vacation or rights under multiple appointment system selection covered by this Agreement shall be The Alaska Railroad, except section track laborers.

Section 2. Employees now filling or promoted to official positions beyond the scope of this agreement shall retain and continue to accumulate seniority in the class from which promoted.

Section 3. An employee taken from any craft for assignment to special service will retain his seniority and be considered on leave of absence from his department while performing such special service.

Section 4. Employees on extended leave of absence for vacation, sickness or other authorized leave, upon returning to service will be permitted to return to their former positions or may exercise displacement rights on new jobs or vacancies created during his absence. If

such employee returns to his regular position, the employee who was relieving him will return to regular position. If a returning employee displaces another employee assigned during his absence, the displaced employee may exercise seniority in like manner to other positions for which he is qualified. Such actions are to be accomplished upon return or within three (3) days thereafter.

Section 5. When the force is reduced, seniority will not govern. Civil Service Commission Regulations shall apply for Reduction-in-Force.

Section 6. Employees voluntarily leaving the service will, if they re-enter, be considered new employees with new seniority dates.

Section 7. Bulletined positions may be filled temporarily pending an assignment and in event no applications are received, may be filled without regard to seniority rules. In making such temporary assignments, senior qualified employees desiring same will be given preference.

Section 8. New positions or vacancies of thirty (30) calendar days or less duration

shall be considered short vacancies and may be filled without bulletining. Senior qualified employees making application will be given preference.

Vacancies for Sick and Annual Leave shall be considered short vacancies under this rule, except when it is known that vacancy will extend beyond ninety (90) calendar days, in which case position will be bulletined.

Section 9. Employees will not be allowed time while traveling in the exercise of seniority or between their homes and designated assembling points, or for other personal reasons.

Section 10. Junior employees may be compelled to accept a permanent transfer to another point. (Senior employees temporarily transferred will not be compelled to accept a permanent transfer to another point.) Employees temporarily transferred to fill vacancies of less than thirty (30) days at the direction of the Management under a forced rule will be allowed expenses in accordance with Standard Government Travel Regulations for not to exceed thirty (30) days.

Section 11. Separate Seniority Rosters will be maintained for Blue Collar employees represented by this unit for the following crafts:

(a) Craft: Dock, Station, Freight Depot and Warehouse Employees

Group 1 Laborers
Group 2 Forklift Operators (By Grade)
Group 3 Forklift Operators (By Grade)
Group 4 Deliverymen
Group 5 Deliveryman (Tractor & Trailer)
Group 6 Crane Operators
Group 7 Foremen Leader
Group 8 Foremen Supervisory

(b) Craft: Communications Employees

Group 1 Asst. Maintenance Supervisors (By grade)
Group 2 Asst. Maintenance Supervisors (By grade)
Group 3 Construction Foremen
Group 4 Electronic Equipt. Installer and Repairer
Group 5 Telephone Lineman
Group 6 Wire Communications Maintenance Worker
Group 7 Radio Equipt. Installer and Repairer

Group 8 Electronics Mechanic
9 Teletype Mechanic (By grade)
10 Teletype Mechanic (By grade)

(c) Craft: Maintenance of Way

Group 1 Track Foremen
a. Extra Gang
b. Yard
c. Section
d. Surfacing Gang
e. Garner Section

Group 2 Heavy On-Track Machine Operator
a. Tamper Operator (Electro-matic)
b. Tamper Operator (Electro-matick w/liner attachment)
c. Trackliner
d. Ballast Regulator Operator
e. Power Switch Cleaner

Group 3 Light On-Track Machine Operator
a. Tamper Operator (Jackson)
b. Portable Track Machine Operator
c. Trackliner Assistant

Group 4 ~~Section~~ TRACK Laborers ~~-~~
~~Seward to Sunshine~~

~~Group 5 Section Laborers - Talkeetna to North Pole~~

~~Group 6 Extra Gang Laborers~~

Group ~~7~~ 5 Track Patrolmen, Tunnel Watchmen

Group ~~8~~ 6 Truck Driver
- a. Up to one ton
- b. 1-1/2 ton to 22,000 GVW
- c. Above 22,000 GVW

Group ~~9~~ 7 Track Welder
- ~~10~~ 8 Track Welder Helper
- ~~11~~ 9 Powderman
- 10 RELIEF TRACK FOREMAN

(d) Craft: Bridge & Building Employees

Group 1 Foremen
- a. Erector Foreman
- b. Carpenter Foreman
- c. Pipefitter Foreman
- d. Electrical Foreman
- e. Bridge Foreman
- f. Maintenance Foreman
- g. Construction Foreman

Group 2 Leaders
- a. Erector
- b. Carpenter

Group 3 Erector
4 Bridgeman
5 Welder (Bridge)
6 Cabinetmaker
7 Carpenter First Class
8 Carpenter
9 Blocklayer
10 Pipefitters
11 Welder
12 Electrician
13 Scale Inspector - Equipment Repairer
14 Painter
15 Helpers
a. Carpenter
b. Pipefitter
c. Electrical

(e) Craft: Heavy Equipment

Group 1 Foreman
a. Heavy Equipt. Foreman
b. Ditcher Foreman

Group 2 Crane-Shovel Operator (25 Ton and Over)
a. Ditcher
b Shovel
c. Dragline
d. Rail Crane

Group 3 Equipment Operator
- a. Bulldozer
- b. Roadgrader
- c. Sno-go
- d. Rail Crane (up to 20 ton capacity)
- e. Truck Crane (up to 20 ton capacity)
- f. Crawler Crane (up to 20 ton capacity)
- g. Front-End Loader
- h. Tournadozer
- i. Back Hoe

Group 4 Snow Plow Operator
5 Spreader Operator
6 Oiler

(f) Craft: Culinary Employees

Group 1 Cooks
2 Mess Attendants

Section 12. Seniority Rosters will be posted in January of each year. Protest except on typographical errors, will be confined to names and dates added since posting the previous roster, and such protest must be made within thirty (30) days from the date of posting. On proof,

of error correction will be made. Where no protests (except on typographical errors) are received within sixty (60) days from the date of first posting, seniority dates will be considered correct and not subject to protest on subsequent rosters.

ARTICLE 28

APPLICATION OF WAGE FIXING SYSTEM

Retroactive Pay.

1. If the increase in rates is not actually applied within the time limitations of CFWS, the increase is payable retroactively when:

(a) The person is in the service of the United States, including service in the armed forces or the government of the District of Columbia, on the date of the issuance of the order granting the increase; or

(b) The person retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

2. Service in the armed forces includes the period provided by statute for the mandatory restoration of the person to a position [illegible] or under the Government of the United S[illegible]s or the government of the Distric[illegible] Columbia after he is relieved from tra[illegible]ing and service in the armed forces or discharged from hospitalization following that training and service.

ARTICLE 29

DURATION AND CHANGES

Section 1. This agreement when approved by the parties for the Union and the Management shall become effective on March 1, 1971. After such approval renewal of this Agreement will be automatic from year to year, provided that this Agreement shall terminate automatically effective with any date on which it is determined that the Union is no longer entitled to exclusive recognition in accordance with Executive Order 11491.

Section 2. By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing to the General Manager and must be accompanied by a summary of the amendment or amendments proposed. Within sixty (60) days

after receipt of such request, representatives of Management and the Union will meet to negotiate the matter, and no changes other than those covered by the summary shall be considered. A written notice of desire to alter and amend by renegotiation shall not have the effect of terminating this Agreement.

Section 3. This Agreement constitutes a revision of and continuation of previous agreements, supplements, and other memoranda of understanding between The Alaska Railroad and the American Federation of Government Employees in conformity with the regulations of the Competicive Service and Executive Order 11491, superseding the following agreements:

Engineering Department, Maintenance of Way & Structures - August 8, 1950

Clerks (Rules pertaining to Blue Collar Employees) April 17, 1950

Hotel & Culinary Workers - January 28, 1954

Communications - April 17, 1950

It is agreed that this Agreement shall take precedent and the aforementioned Agreements shall not be the basis for grievances.

ARTICLE 30 (add Sec. 1 2)

Section 1. Employees living in outfit cars, employees assigned to bulletined temporary assignments covered by this Article and employees away from their assigned headquarters for more than four consecutive days at the direction of Management, will be allowed meals and lodging expense in accordance with this Article. Employees away from their assigned headquarters for four consecutive days or less and traveling at the direction of Management will be paid per diem in accordance with the current Alaska Railroad travel regulations.

Section 2. Bulletined temporary assignments covered by this article and not headquartered in outfit cars will state that this article applies. Temporary assignments not so bulletined will not be covered by this Article. The intent of this section is that Management will not pay per diem or meals and lodging when an employee is assigned to a bulletined temporary assignment at a location where he or she maintains a residence within 50 miles or where other employees of the same class are not receiving meals and/or lodging or per diem.

Section 3. There will be no charge for quarters when an employee is living in outfit cars of Railroad-owned batching facilities or hotels.

Section 4. An employee covered by this Article will be reimbutsed actual expenses for lodging to the maximum allowable by current Alaska Railroad travel regulations when Railroad-furnished lodging is not available.

Section 5. For gangs of twelve (12) or more employees headquartered in outfit cars, a cook and Railroad-operated mess hall or Railroad-contracted mess facilities will be provided.

Section 6. For gangs up to eleven (11) employees and headquartered in outfit cars, a cook and Railroad-operated mess hall may be provided at Management's discretion.

SUP 2

FOR THE ORGANIZATION:
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Thomas W. Gray

Thomas W. Gray, President

William H. Pearson

W. H. Pearson, Vice-President

Bruce L. Barnes

Bruce L. Barnes, Vice-President

ALASKA RAILROAD LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Scope of Negotiations

Section 10. Disputes, Board of Adjustment

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. The public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable hours regulations and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an Agency of the Government of the United States, is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and by

the Transportation Act of 1967, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: The term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interest in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series of agreements which are negotiated and made effective between management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement.

They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in

the Basic Labor Agreement.

Labor-Management Negotiations. This term is used interchangeably with the term "collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

Section 3. Scope

This agreement is applicable to those employees of the Railroad represented by the American Federation of Government

Employees, Blue Collar category as enumerated in The Handbook of Blue Collar Occupational Families and Series.

Section 4. Employee Rights to Labor Representation

4.1. Employees of the Railroad have the right to form or join organizations and designate representatives of their own choosing, provided they do not form or join organizations which assert that employees in the service of the United States Government may strike or assist in such strike, or which advocate the overthrow of the United States Government by force or violence.

4.2. In the exercise of the right to form or join organizations and designate representatives, employees shall be free from any and all restraint, interference or coercion on the part of management, and the supervisory staff is prohibited from exercising any such restraint, interference or coercion. By the same token the designation of individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

4.4. This section does not authorize participation in the management of a labor organization or acting as a representative of such an organization, by a supervisor, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee, nor shall a unit be established if it includes any management official or supervisor, except as authorized under Section 24 (2) Executive Order 11491.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as prescribed by law,

will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Federal Personnel Manual, Regulations of the Department of Labor, as implemented by the Department of Transportation.

Section 7. Duty to Confer

7.1. If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 6 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organizations and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to and including the Branch Head concerned the Personnel Officer, the General Manager will then

call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the Labor organization or the Railroad announcing their desire to revise the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences shall not be on official times when negotiating an agreement with agency management.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation, in labor matters, the Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Working rules, in the determination of which employees, through accredited organizations, have participated, will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplementary Agreements as defined in Section 1 of this agreement.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of outstanding differences through mutually agreeable procedures, except those that are dictated by over-riding Federal Law or Regulation.

Section 9. Scope of Negotiations

9.1. Management officials retain the right to direct employees in accomplishing the work of the agency; to hire, promote, transfer, assign, and retain employees in positions within the agency; to suspend, demote, discharge, or take other disciplinary action against employees; to relieve employees from duties because of lack of work or other legitimate reasons; to maintain the efficiency of the Government operations entrusted to them; to determine the methods, means, and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

9.2. Negotiable Items. The Alaska Railroad management shall negotiate with the unions, for the employees represented by the unions signatory hereto, for:

a. The establishment of craft working rules.

b. The establishment of grievance procedures and discussion of personnel policies and practices, or other matters affecting general working conditions.

c. NOTE: The wage fixing system applicable to the employees subject to this Basic Agreement will be set forth in Section 9.4.

9.3. All requests for negotiation conferences shall be in writing and specify the subjects for discussion and the times proposed for consideration. Conferences between the parties shall begin as promptly as practicable. Every effort will be made by the negotiators to agree.

9.4. Wage Fixing System. The wage fixing system applicable to Alaska Railroad blue collar employees represented by the American Federation of Government Employees shall be The Coordinated Federal Wage System in Alaska. Details as to the application of this system will be set forth in a supplementary agreement.

Section 10. Disputes and Grievance Procedures

10.1. The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To

this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates.

10.2. Detailed procedures for the handling of grievances shall be included in supplementary labor agreements between the parties signatory hereto.

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals

other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.

b. Conservation of materials, supplies, time, power and energy.

c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.

e. Health, safety, and morale standards.

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee

Alaska Railroad Medical Association and Excess Benefits Plan

Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar

committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Effective Date and Duration

13.1. This agreement shall remain in full force and effect for one year from the date executed, and thereafter, unless notice shall be given no earlier than ninety (90) days, nor less than sixty (60) days prior to the anniversary date of the agreement by written notice of either party to the other of its desire to terminate this agreement in its entirety, or to effect changes herein by agreement.

13.2. By mutual consent of the parties, this agreement may be opened at any time for amendment. Also, modification or amendment of this agreement may be required because of changes in applicable laws, rules, regulations or policies issued after the date of this agreement.

13.3. The Basic Labor Agreement between the American Federation of Government Employees and The Alaska Railroad, dated

April 12, 1968, and which was negotiated under authority of Executive Order 10988, was supplemented August 20, 1970, for compatibility with the new Executive Order 11491, relative to Labor Management relations effective January 1, 1970.

Basic Labor Agreement dated at Anchorage, Alaska, April 12, 1968.

FOR THE LASKA RAILROAD:

Sgd./ John E. Manley
John E. Manley, General Manager

Sgd./ R. R. Mack
R. R. Mack, Personnel Officer

FOR THE ORGANIZATION:
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Sgd./ J. F. Griner
J. F. Griner, National President

Sgd./ Thomas W. Gray
Thomas W. Gray, President, Local No. 183

SUPPLEMENTAL AGREEMENT
between

THE ALASKA RAILROAD AND BLUE COLLAR EMPLOYEES
OF THE ALASKA RAILROAD
Represented by
INTERNATIONAL ASSOCIATION OF MACHINISTS
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS & HELPERS
BROTHERHOOD RAILWAY CARMEN OF AMERICA
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

We, the representatives of the following organizations -- International Association of Machinists, International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers, Brotherhood Railway Carmen of America, and American Federation of Government Employees -- hereby submit to the General Manager of The Alaska Railroad for his consideration the following proposal:

I. The existing wage-fixing policy of The Alaska Railroad, currently applicable to its blue collar employees as represented by the unions signatory to this agreement, shall be converted to the wage-board/wage-fixing system currently applicable to the blue collar employees of Army-Air Force

installations in the State of Alaska. Such conversion shall be accomplished in accordance with the terms of this agreement and shall become effective as of April 7, 1968 for AFGE and July 1, 1968 for IAMAW, BRCA and IBBIS&H.

II. It is agreed that the coordinated Federal system for determining the pay rates of wage board employees of Federal agencies, as promulgated by the Civil Service Commission, shall be substituted for the Army-Air Force wage system referred to in Section I above, as soon as such coordinated Federal system shall be made effective for Army-Air Force installations in Alaska.

III. It is agreed that, if differences arise between Alaska Railroad management and an affected employee organization party to this agreement, as to the accuracy of the description of a position, such differences shall be the subject of conference and agreement between the management of The Alaska Railroad and said affected employee organization. Management shall determine the duties attached to a given position and union-management conferences shall extend only to the accuracy of the position descrip-

tion of such duties. The classification or grade of a position so described shall be determined in accordance with the rules and appeals procedures for job classification laid down by the Civil Service Commission.

IV. The employee organization or organizations involved will be afforded an opportunity to negotiate with management with respect to pay differentials for locations at which Alaska Railroad employees are required to perform their duties and which are claimed to be "isolated areas".

V. When changes in wage-board pay rates are made in the future as a result of wage surveys applicable to the determination of pay rates of wage board employees of Federal agencies in Alaska, such pay adjustments applicable to the non-operating employees of The Alaska Railroad covered by this agreement, shall be made effective on The Alaska Railroad as of the date such wage adjustments become effective for the wage board employees of military installations in Alaska.

VI. It is agreed and understood that this agreement will in no way affect the

rules in supplemental agreements now in effect, except in those areas where there may be a conflict due to the change in the basic wage-fixing policy.

VII. It is agreed that if the wage-fixing policy of The Alaska Railroad is converted as outlined in Sections I and II above, none of the benefits, excluding the supplemental agreements outlined in Section VI above, now negotiated or to be negotiated in the future in the railroad industry, shall be applicable to the employees represented by this agreement. Benefits contemplated under this section include but are not limited to: historic pay differentials between crafts, pay increases hereafter negotiated, fringe benefits, severance pay plans, job protection rules or any other benefits which accrue to employees of the railroad industry and are not accorded to Government wage board employees under wage-fixing policies as set forth in Sections I and II of this agreement. Nothing in this section precludes negotiation of changes in the existing supplemental agreements based on their merits.

VIII. It is agreed and understood

between the parties hereto that the provisions of this agreement shall not become effective until ratified by members of the respective employee organizations.

Dated at Anchorage, Alaska February 29, 1968.

FOR THE ALASKA RAILROAD:

Sgd./ John E. Manley
John E. Manley, General Manager

FOR THE ORGANIZATIONS:

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS:

Sgd./ Chas. C. Temple
Chas. C. Temple, Grand Lodge Representative

Sgd./ Luther R. Augenstein
Luther R. Augenstein, General Chairman
Lodge 1735

BROTHERHOOD RAILWAY CARMEN OF AMERICA:

Sgd./ Irvin L. Barney
Irvin L. Barney, General Vice-President
and National Legislative Representative

Sgd./ Donald Koch
Donald Koch, Local Protective Board,
Far North Lodge 67

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES:

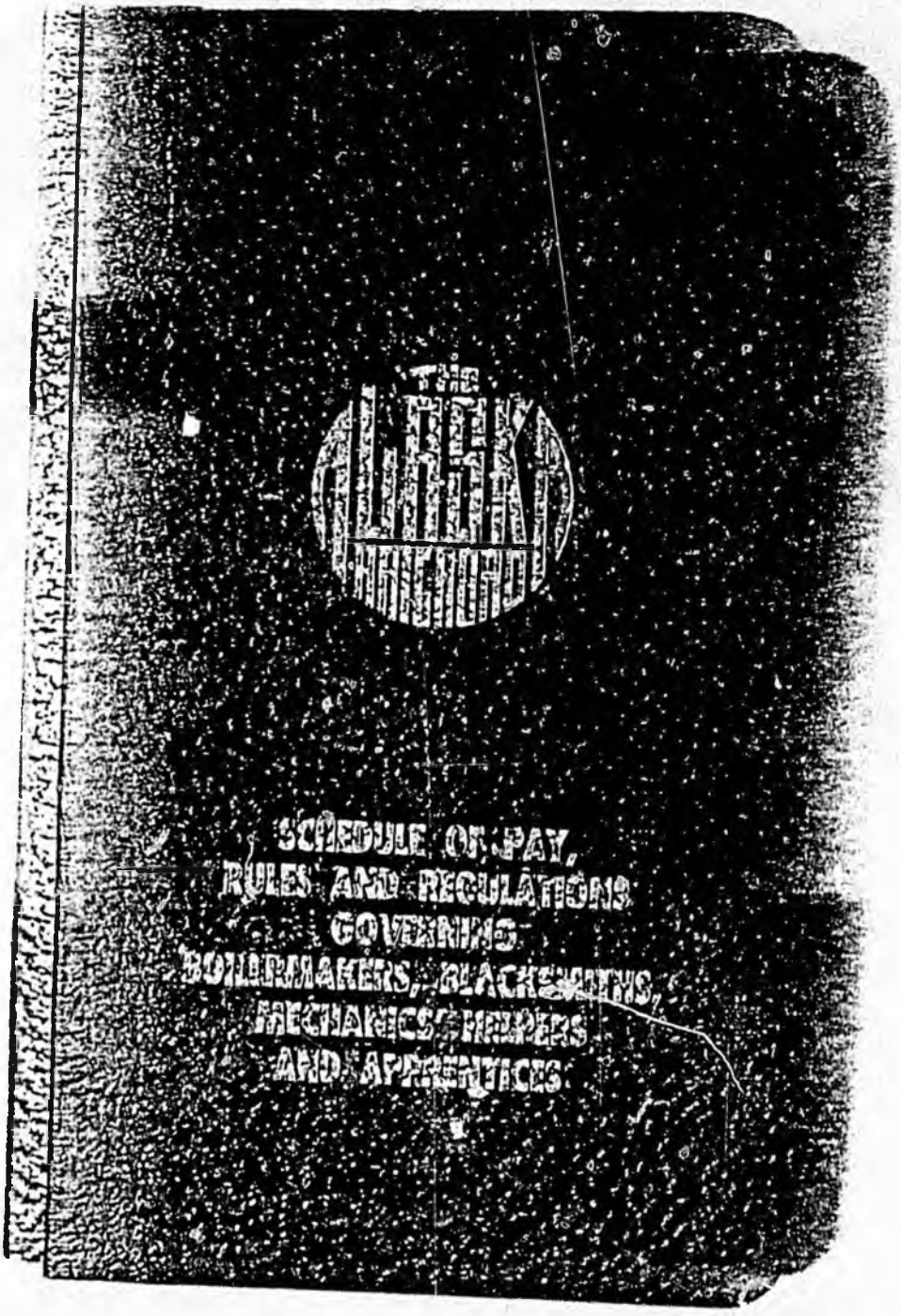
Sgd./ J. F. Griner
J. F. Griner, National President

Sgd./ Thomas W. Gray
Thomas W. Gray, President, Lodge 183

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS,
IRON SHIPBUILDERS & HELPERS:

Sgd./ Jay L. Nelson
Jay L. Nelson, President, Local 708

Sgd./ H. Buoy by I. L. Barney
Harold J. Buoy, Legislative Assistant to
the International President


SCHEDULE OF PAY,
RULES AND REGULATIONS
GOVERNING
BOILERMAKERS, BLACKSMITHS,
MECHANICS, HELPERS
AND APPRENTICES

UNITED STATES

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Blacksmiths, Boilermakers, Iron Shipbuilders, Helpers and Apprentices

and

Basic Labor Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon Terminating Service.

Book Assigned to:

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Revised February 5, 1970

	Article Number
Recognition and Unit Designation	I
Responsibilities and Rights of Management	II
Rights of Employees	III
Provisions of Law and Regulation	IV
Appropriate Matters	V
Union Representation	VI
Hours of Work and Basic Work Week	VII
Emergency Road and Wrecking Service	VIII
Overtime	IX
Holiday Work	X
Sick Leave	XI
Annual Leave	XII
Leave of Absence	XIII
Merit Promotion	XIV
Repromotion	XV
Deadheading	XVI
Personnel Movements in RIF Situations and Rehiring	XVII
Reviews or Job Descriptions and Requirements	XVIII
Disposition of Unit Work	XIX
Apprentice Training Programs and Re-Training	XX
Safety	XXI
Committee Assignments	XXII
Civic Responsibilities	XXIII
Special Tools - Clothing - Services	XXIV
Grievance Procedure	XXV
Advisory Arbitration	XXVI
Seniority	XXVII
Bulletining Positions within Multiple Appointments	XXVIII
Duration and Changes	XXIX

ALPHABETICAL INDEX

A

Act of God	VII 5
Acting Status	XXVIII 5
Additional Units	I 3
Advance Approval of Leave	XI 2
Adverse Affect	V 4
Advice to Management	XI 2
Advice to Union re RIF	XVII 2
Advisory Arbitration	XXVI
Annual Leave	XII
Appeal Grievances	XXV 2
Apprentice Training	XX
Arbitrator	XXVI 2
Attendance at Conventions	XIII
Awards	XIV 6d

B

Benefits	III 2
Best Qualified	XIV 1,10
Blue Signals	XXI 13
Bumping	XXVII 5,7
Business Manager	VI 6

B

Basic Labor Agreement:	
Definitions	Sec. 1
Compliance	Sec. 2
Scope	Sec. 3
Employee Rights to Labor Representation	Sec. 4
Discrimination Prohibited	Sec. 5
Determination of Bargaining Rights	Sec. 6
Duty to Confer	Sec. 7
Written Agreements	Sec. 8
Scope of Negotiations	Sec. 9
Disputes, Board of Adjustment	Sec. 10
Bulletin Boards and Distribution of Literature	Sec. 11
Labor-Management Cooperation	Sec. 12
Effective Date and Duration	Sec. 13

C

Changes, Advice of	V 2
Clean Engine Parts	XXI 14
Clean Up Time	VII 6
Clean Working & Rest Areas	XXI 9
Committees	
Apprentice	XX 2
Charitable Solicitation	XXII 1
Safety	XXI 3
Suggestion	XXII 2
Compensation time off	IX 1
Complaint re Job Description	XVIII 2
Compliance	IV 1
Consultation	V 4
Continuous Daily Service	VII 3
Court Leave	XIII
Craft Work	XIX 3

D

Days Work	VII 7
Deadheading	XVI 1
Details (less than 30 days)	XIV 9
Directives Furnished	IV 2
Discipline	XIII 6
Discipline	XIII 9
Discipline by Demerit	XXV 8,1-6
Discrimination	XIV 1
Duration of Agreement	XXIX

E

Emergency - Wrecking Service	VIII 1
Equity	V 3
Exclusive Recognition	VI 1
Executive Order	II 1
Excused from Court Duty	XXIII 4a,b
Experience	XIV 6c

F

February 1	XII 3
Full Time Union Representatives	XIII 2

G

Grades, reduction of	XVIII 4
Grand Lodge Representative	VI 6
Grievance Procedure	XXV

H

Handbook X-118C	XXV 6
Handicapped Program	II 2
Health Benefit Plan	XIII 4
Hearing Defined	XXV 8
Holidays	X
Hot-Cold Work	XXI 8
Hours Changed	VII 11
Hours of Work	VII 1

I

Injury, Advice to Union XXI 6
Interviews XIV 10
Investigation defined XXV 8

J

Job Bulletins XXVIII 3
Job Descriptions XVIII
Jury Duty XXIII

L

Leave, Administrative VI 7
Administrative VII 5
Annual XII
Court XXIII
Emergency XIII 1
Military XIII 5
Sick XI
Voting XXIII 6
Without Pay XIII
Life Insurance XIII 3
Light Duty XI 5
Light Duty II 2
Limitations, Management I 1

M

Maintenance by Operators XIX 1
Management Options XIV 2
Meal Period VII 2,3
Meal Period VII 9
Meal Period IX 3
Mechanic's Work XIX 2
Merit Promotion XIV

Modified Promotion Announcements XIV 12
Multiple Position Assignments XXVIII

N

Negotiation V 1
Number of Stewards, Representatives VI 2

O

Official Bulletin Boards XXVIII 3
Official Bulletin Boards XXIV 3
Official Bulletin Boards XIV 3
Official Positions XXVII 3
Official Time for Grievance VI 4
Outlying Points VII 1
Outside Employment XIII 6
Overtime: Call Basis IX 1
Excused IX 1
Holiday) X 1
within [illegible]ed)
hours)
Meal Period VII 9
Notice IX 1
Notice Holiday X 1
Rate IX 2
Rotary Board IX 4
Split Shift VII 10
Wrecking Service VIII 1
24 Hour Period IX 6

P

Parking Spaces	II 2
Pay: Arbitrator	XXVI 3
Attendance at Arbitration	XXVI 3
Charges not sustained	XXV 7
Clean up	VII 6
Court Leave	XXIII 5a,b
Deadheading	XVI 1
Grade Reduction	XVIII 4
Grievances	VI 4
Holiday	X 1
Military leave	XIII 5
Protective Clothing	XXIV 1
Safety Shoes	XXIV 2
Training	VI 7
Wash-up	VII 6
4 Hours Work	XXVIII 4

R

Reduction in Force	VII 11
Reduction in Force	XIII 3
Reduction in Force	XVII
Reduction in Force	XXVII 8
Repromotion	XIV 2
Repromotion	XV 1,2
Rest, Wrecking	VIII 1
Retirement	XIII 3
Return to Duty	XIII 3
Return to Duty	XIII 7,8
Return to Duty	XXVII 5
Review of Job Descriptions	XVIII 1
Rights of Management	II 1
Rights of Union	II 1
Rosters	XXVII 9

S

Safety	XXI
Saturday, Sunday Work	VII 4
Selection - Release for Promotion	XIV 7
Seniority	XXVII
Separation	XXV 8(6)
Sick Leave	XI
Sick Leave - Abuse of sick leave	XI 3
Advanced	XI 6
Three days excused	XI 3
Special Skills	IX 4
Split Shift	VII 8
Standard Government Travel Regulations	XVII 2 VIII 1 XVI 1
Stewards	VI 1
Straight time pay deadheading	XVI 1
Supervisory Permission	VI 5
Supervisory Vacancy	XIV 9
Suspension	XXV 6

T

Ten days decisions	XXV 1
Ten days response	XXV 1
Ten Working days	XIV 3
Thirty days trial	XXVIII 2
Training	XIV 6e
Training RIF	XVII 3
Transportation, Free	III 4
Transportation, Sick	XI 4
Travel - regular part of assignment	XVI 1
Traveling - Wrecking	VIII 1

U

Union Membership	III	1
Union Representatives	VI	1
Union, Right to join	III	1
Unit	I	2

V

Vacancies	XIV	3
Vacancies in Multiple Appointments	XXVIII	
Vacation	XIII	2,3

W

Waiting - Wrecking	VIII	1
Wash-up Time	VII	6
Work Day	VII	1
Work full shift	XIX	4
Work Hot, Cold	XXI	8
Work Week	VII	1
Written Tests	XIV	6a

UNITED STATES
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
THE ALASKA RAILROAD

Schedule of pay, rules and regulations governing Blacksmiths, Boilermakers, Iron Shipbuilders, Helpers, and Apprentices

This Agreement is made between The Alaska Railroad, Anchorage, Alaska, hereafter referred to as "Management" and the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders and Helpers, Lodge No. 708, AFL-CIO, hereafter referred to as the "Union.

The participants agree as follows:

It is the intent and purpose of the participants to promote and improve the efficient administration of the Federal Service, to promote the well being of employees within the framework of Executive Order 11491, to establish a basic understanding relative to personnel policies, practices and other matters affecting conditions of employment, and to provide a means for amicable discussion and adjustment of matters of mutual interest.

ARTICLE I

RECOGNITION AND UNIT DESIGNATION

Section 1. This Agreement is subject to the limitation on the discretionary powers of the Management Official of The Alaska Railroad over the area negotiated and it is applicable to the units for which the Union has been granted exclusive recognition.

Section 2. Management recognizes that the Union is the exclusive representative of all non-supervisory blue collar employees in the bargaining unit or units. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 3. Other units which are granted exclusive recognition may be covered by this agreement when mutually agreed upon by Management and the Union and placed in written form.

ARTICLE II

RESPONSIBILITIES AND RIGHTS OF MANAGEMENT

Section 1. The right to make reasonable rules and regulations shall be considered acknowledged functions of Management. In making rules and regulations

relating to personnel policies, and practices and procedures, and matters of working conditions, Management shall give due regard and consideration to the rights of the Union and the employees and to the obligations imposed by this Agreement and the provisions of Executive Order 11491; however, such obligation and regard shall not be construed to extend to such areas of discretion and policy as the functions or mission, the budget, organization, assignment of personnel, the technology of performing work, or matters pertaining to the National Security.

Section 2. Management shall maintain a continuing program for the placement of handicapped employees, or those employees temporarily limited to light duty and who cannot be utilized in their primary assignment. It is recognized that in some instances a brief period of indoctrination may be required. Special consideration will also be given to the assignment of reserved parking spaces for use by handicapped employees depending upon the degree and nature of the handicap, availability, and nature of assignment.

ARTICLE III

RIGHTS OF THE EMPLOYEES

Section 1. Management and the Union

agree that employees shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity. Except as expressly provided here and in Executive Order 11491, the freedom of such employees to assist any Union organization shall be recognized as extending to participation in the Union and acting for the Union in the capacity of a Union Representative, including presentation of Union views to officials of the Executive Branch, Congress, or other appropriate authority. Management shall take such action, consistent with law or with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this Article, and that no interference, restraint, coercion or discrimination is practiced to discourage membership in Union organization.

Section 2. Any employee covered by the provisions of this Agreement and during the period he is on the payroll of Management, shall not forfeit any benefits of this Agreement while on detail or assignment to another Activity or Division including off-site or satellite facilities for which Management has been delegated responsibility. Excludes assignment or

promotion to Supervisory positions.

Section 3. Employees shall have access to their respective personnel file and the personnel file shall contain a job description stating the work performed by the employee.

Section 4. Employees covered by this Agreement and those dependent upon them for support will be given the same consideration in granting free transportation as is granted other non-operating employees in service.

ARTICLE IV

PROVISIONS OF LAW AND REGULATION

Section 1. It is agreed by Management and the Union that nothing in this Agreement shall be so interpreted as to conflict with provisions of any existing or future law or regulation of the Federal Government. This includes, but is not restricted to, those rules and regulations issued by the Civil Service Commission and the Department of Transportation.

Section 2. Management agrees to furnish the Union with two copies of any directives from higher Headquarters which affect employees or which alter Management's discretionary authority with regard to any item dealt with in this Agreement

before implementing same. When such directives are not readily available Management agrees to requisition the two copies for the Union.

ARTICLE V

APPROPRIATE MATTERS

Section 1. It is agreed and understood that matters appropriate for negotiation in this Agreement, or for consultation between the parties are policies, programs and procedures related to working conditions which are within the discretion of Management, including but not limited to such matters as safety, training, labor-management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion practices, pay practices, reduction in force practices, and hours of work.

Section 2. Management agrees that the Union will be notified before changes are made to existing benefits, practices, and understandings which have been authorized by Management but which are not specifically covered by this Agreement.

Section 3. Management agrees that all privileges and benefits extended within the limits of its discretionary power will be applied fairly and equitably

to all employees in the unit. Management agrees to consult with the Union concerning alleged inequities in this connection.

Section 4. It is further recognized that this Agreement does not alleviate the responsibility of either party to meet with the other to discuss and consult on matters not covered by this Agreement, which come within the scope of consultation and negotiation. It is further agreed and understood that the Management will consult with the Union before issuing any official directives which adversely affect the general working conditions covering the employees within the bargaining unit but which are not specifically covered by this Agreement.

ARTICLE VI

UNION REPRESENTATION

Section 1. Management recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. Management further recognizes the right of the Union to designate Shop Stewards and Union Representatives from among the employees of the unit. Management agrees to recognize the Shop Stewards and Representatives designated by the Union.

Section 2. The number of Stewards and Representatives shall be only that number required to assure each employee of the unit ready access to a Steward in his work location. The designated number of stewards shall also be sufficient to assure that the Union can properly carry out its responsibilities under the terms of this Agreement. For the purposes outlined in Sections 1 and 2 of this Article, the Union agrees to supply Management in writing, and shall maintain with Management on a current basis, a complete list of all Union authorized Representatives, Stewards and any alternates.

Section 3. Management agrees to recognize the officers and duly designated representatives of the Union and shall be advised in writing by the Union of the names of its officers and representatives.

Section 4. An employee who alleges and feels that he has a grievance or complaint shall be, upon request to his supervisor, allowed time to report his grievance or complaint to the Shop Steward, and when a pending grievance is reported to the Shop Steward or Representative, that Steward or Representative shall be allowed the time necessary to investigate the reported grievance. This investigative procedure may require discussions with employee(s) within the bargaining unit or outside and representatives of Management (supervision) responsibilities or in some cases all three, in order to evaluate the facts and carry out the Union's responsibility under the terms of this Agreement.

Section 5. Management agrees that Stewards, Union officers, representatives and employees shall be allowed to leave their assigned areas to go to other departments, shops or offices when it is necessary to do so in order to accomplish the purposes outlined in Section 4 above, and in order to bring about a prompt and expedious disposition of a complaint or grievance. It is further agreed that such activity shall be engaged in without any loss in pay or benefits to the employees authorized to act in behalf of the bargaining agent under the terms of this Agreement or to the employees contacted. Permission, in these instances, will be granted unless the individuals work situation precludes such action. In any event, approval will be granted at the earliest opportunity.

Section 6. Management agrees that any representative of the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers, AFL-CIO, or Local Lodge, upon request to Management shall be allowed into the activity at reasonable times on official Union business.

Section 7. Administrative leave may be granted to an employee Union

epresentative to receive training, informa-
ion, briefing and orientation on matters
ithin the scope of Executive Order 11491--
ncluding statutory or regulatory provisions
elating to pay, working conditions, work
chedules, employee grievance procedures,
erformance rating, adverse action appeals
nd agency policy.

ARTICLE VII

HOURS OF WORK AND BASIC WORK WEEK

Section 1. Eight (8) hours shall
:onstitute a normal work day. The normal
)asic work week shall be Monday through
'riday. When one shift is employed, the
:tarting time shall not be earlier than
7:00 a.m., or later than 8:00 a.m.,
:xcept at outlying points. When two (2)
:hifts are employed, the starting time of
:he first shift shall not be earlier than
7:00 a.m. or later than 8:00 a.m., and
:he second shift shall start immediately
following the close of the first shift.
When three (3) shifts are employed, the
:tarting time of the first shift shall not
)e earlier than 7:00 a.m. or later than
3:00 a.m., and the starting time of the
)ther shifts shall be regulated accordingly.

Section 2. Assignments may be made
for eight (8) hours excluding an assigned
meal period which shall not be less than

thirty (30) minutes or more than one (1) hour; except such assignments may be made to consist of eight (8) consecutive hours including an allowance for lunch on the job site.

Section 3. Where three (3) assignments performing the same service are coupled in continuous service covering the twenty-four hour period, each such continuous service assignment shall consist of eight (8) consecutive hours including the allowance for lunch on the job site and lunch time shall be twenty (20) minutes between the fourth and fifth hour.

Section 4. Management agrees not to change the normal basic work week of Monday through Friday of any employee except in those cases where a regular tour of duty would seriously handicap the performance of function or would result in substantially increased cost. It is recognized that functions of The Alaska Railroad operate on a seven-day work basis and that certain five-day work weeks will involve work on Saturday and Sunday. In those cases when a change in the normal work week is necessary, Management shall consult with the Union in determining which specific jobs fall within the category for which a re-arranged

basic work week of other than Monday through Friday is appropriate. In no case shall an employee be required to work in excess of five (5) eight (8) hour consecutive days without payment of overtime.

Section 5. Where it is necessary to close the installation or an activity therein and administrative excused leave is granted because of inclement weather, breakdown of equipment, or other emergency "Act of God" situations, employees who report for work shall be given administrative excused leave for the period of the emergency situation.

Section 6. Management will permit adequate wash-up time before each lunch period, and adequate clean-up time at the end of each shift for the purpose of returning tools, cleaning the work area and machinery as necessary, and in each instance, wash-up time will not exceed five minutes on a straight time basis. No employee shall be required to remain after the end of his shift, without compensation, for the purpose of cleaning his designated area.

Section 7. Eight (8) hours of service will constitute a days work. All employees coming under the provisions of this agreement, except as otherwise provided in this schedule of rules, or as may hereafter be

legally established between the Railroad and employees, shall be paid in accordance with the present wage schedule and supplements thereto.

Section 8. At terminals where one shift only is worked, working hours may be established to meet local conditions providing, however, that the eight (8) hours of said shift may be worked within a spread of not more more than twelve (12 hours with but one interval of release of not less than two (2) hours.

Section 9. An employee required to work any part of the meal period will be allowed time therefor on the minute basis at rate of time and one-half. In the event there is not sufficient time remaining within the limits of the meal period in which to procure lunch (not less than twenty (20) minutes), employee will be allowed not to exceed twenty (20) minutes including any time remaining within the meal period in which to eat, without deduction therefor.

This does not apply to employees who are assigned to eight (8) consecutive hours without meal period and who are allowed twenty (20) minutes in which to eat without deduction of pay.

Section 10. At small outlying points where the service is intermittent, not requiring continuous application, assignment may be made for employees to work eight (8) hours within a spread of twelve (12) consecutive hours with but one interval of not less than two (2) hours of release. Time actually worked in excess of eight (8) hours will be paid for at the rate of time and one-half.

Section 11. Not less than five (5) working days (exclusive of Sunday and holidays) notice will be given before hours or forces are reduced.

ARTICLE VIII

EMERGENCY ROAD AND WRECKING SERVICE

Section 1. An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when called for emergency work or road work away from such shop, engine house, repair track, or inspection point, will be paid from the time called to leave home station, until his return for all time worked, and will be paid straight time rates for traveling or waiting, except assigned rest days and holidays, which

will be paid for at the rate of time and one-half, whether waiting, working or traveling. If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) hours or more, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and lodging are not provided by the Railroad, travel expenses in accordance with the current Standard Government Travel Regulations will be allowed. Employees will be called as nearly as possible one (1) hour before leaving time, and on their return will deliver tools at point designated. A wrecking service employee will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on assigned rest days and holidays will be paid for at the rate of time and one-half.

ARTICLE IX

OVERTIME

Section 1. An employee shall receive

at least two (2) hours and forty (40) minutes pay at the applicable overtime rate if required to work overtime on a regular work day after he has completed his daily tour and has left his place of employment or on one of his scheduled non-workdays, even if his services cannot be utilized for two (2) hours and forty (40) minutes and shall exclude dead work. Management will endeavor to notify all employees who are to work overtime one day prior to the overtime period. Each employee is expected to work a reasonable amount of overtime when operating requirements necessitate. When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours solely for the purpose of equalizing the time. An employee may be excused from overtime for valid reasons or excused from overtime if an equally qualified employee is willing to work.

Section 2. All overtime shall be compensated for at time and one-half (1-1/2) the employee's regular hourly rate, including all shift premiums and other payments regarded by the employee as part of his regular hourly compensation. Such overtime rates shall be paid

for all hours worked over forty (40) hours per week and for all hours worked over eight (8) hours per day.

Section 3. In the event of a situation requiring the extension of a regular work shift into more than a two (2) hour over-time period, time for lunch will be permitted on the work site. Management will make the necessary arrangements that food will be made available for the employees involved.

Section 4. Overtime assignments will be made from a rotary board on a "first-in-first out" basis. Such a board will be set up to cover each seniority list in each shop. Employees will be accorded right of refusal to an overtime call unless his skill is specially needed for that call. An exception may be made to select an employee out of rotation if his special skill is required to perform a special assignment.

Section 5. Except in the case of an emergency, Management agrees not to work an employee in an overtime status beyond two (2) consecutive days or days of rest against his wishes.

Section 6. An employee regularly assigned to work at a shop, engine house,

repair track or inspection point and who reports out and in of said point within twenty-four (24) hours shall receive time and one-half hours in excess of eight in any twenty-four hour period involved.

ARTICLE X

HOLIDAY WORK

Section 1. Federal regulations applicable to Federal Holidays shall apply. Employees shall be excused for all holidays now prescribed by law and any that may be later added by law and all holidays designated by Executive Order shall be observed as regular holidays. If a holiday falls on the employee's first rest day within the normal work week, the preceding day shall be treated as the holiday for leave and pay purposes and if the holiday falls on the employee's second rest day, the following day shall be treated as the holiday for leave purposes. All hours worked within the hours of the assignment, shall be paid at the regular basic compensation rate plus premium pay. Eligible employees excused from duty on a holiday shall receive pay at the basic rate of compensation for the day. When possible, Management will

notify all employees who are to work on a holiday five (5) days prior to the holiday to be worked; a list of employees expected to work on a holiday shall be posted in their work area at least five (5) work days in advance of such holiday.

Section 2. Management agrees that employees will not be scheduled to work on a holiday; prescribed by Federal Law or Executive Order, solely to avoid overtime work that otherwise would be performed on a day outside the basic work week.

ARTICLE XI

SICK LEAVE

Section 1. Sick leave shall be granted employees when they are incapacitated for the performance of their duties by sickness, injury, or for medical, dental, or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease.

Section 2. An employee who is absent on account of sickness shall notify his superiors or other appropriate person prior to the start of their shift on the

first workday of his absence, or as soon thereafter as possible. Second and third shift employees shall notify their department or shop prior to the start of their shift or as soon thereafter as possible. Requests for sick leave for medical, dental, or optical examination or treatment shall be submitted for approval prior to the beginning of the leave, except in the case of emergencies.

Section 3. A medical certificate for absence of three (3) workdays or less will not be required, except where there is reason to believe the employee is abusing sick leave privileges. In such cases the employee will be verbally advised that the sick leave privilege is being abused. When there is no improvement the employee will be advised, in writing, that he will be required to submit a medical certificate for each subsequent absence for illness. Medical certificates will not be required for holidays or days outside the employee's workweek. It is further agreed that Management and the employee will review the sick leave record of each employee required to furnish a medical certificate periodically, and where such review reveals no substantial evidence that the employee has abused sick leave

privileges during the review period, the employee will be notified in writing that a medical certificate will no longer be required for each absence which is claimed as due to illness for periods of three (3) workdays or less unless an abuse recurrs.

Section 4. An employee sent home by the Chief Medical Officer will be provided transportation by Management in those cases where the Medical Officer determines such transportation is necessary.

Section 5. When an employee is assigned a temporary restricted work classification, as determined by the Medical Officer, Management will make every effort to place the employee on a job, if available within the prescribed restrictions.

Section 6. Management agrees to advance sick leave in accordance with applicable regulations to permanent employees, not to exceed thirty days when there is reason to believe the advanced sick leave will be earned after return to work.

ARTICLE XII

ANNUAL LEAVE

Section 1. Annual leave is afforded by law. Employees shall accrue leave in accordance with regulations. Approval of an employee's request for annual leave will be granted when his request is submitted with reasonable advance notice. Approval of requests for annual leave for unforeseen reasons will be considered as the circumstances warrant.

Section 2. Every attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of extended annual leave for vacations. When Management finds it necessary to cancel previously approved leave, the reasons for such action will be explained to the affected employee(s).

Section 3. Applications for specific days of annual leave for vacation purposes will be granted on a seniority basis and in the event of a coinciding request date, the senior employee of the affected area of the Alaska Railroad shall receive preference. Filing date for vacation leave shall be February 1 of each year.

ARTICLE XIII

LEAVE OF ABSENCE

Section 1. A reasonable number of employees may be granted annual leave, leave without pay, to accept temporary Union positions or to attend conventions or meetings of the Union as defined in Executive Order 11491. Employees may be granted leave of absence with or without pay for other purposes.

Section 2. Management agrees to grant upon request of the Union, leave without pay for employees to act as full-time representatives for the Union.

Section 3. Management recognizes the obligation to provide employment at the end of the extended leave without pay granted for employees as full time Union representatives within the rating the employee held upon his request for leave and in the current pay status of such rating at the time the employee returns to work, also recognizing the bumping and retreating rights of an employee on approved leave of absence without pay in situations where the employee's status has been affected by reduction in force action during the period of leave of absence.

Section 4. All employees in approved leave of absence without pay status shall accrue all rights and privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employees Health Benefits Program in accordance with current law and regulations.

Section 5. Each Reservist of the Armed Forces or member of the National Guard who is a permanent employee is entitled to leave of absence from his duties without loss of pay or seniority for not exceeding fifteen (15) calendar days in any calendar year in which he has been called to active duty.

Section 6. Employees shall not be granted leave of absence without pay for the purpose of accepting outside employment unless given written permission prior to leave jointly by the Management and the Union. Employees giving false reasons for the purpose of obtaining leave will be subject to discipline.

Section 7. An employee on leave or temporarily absent from his assignment for any cause, must notify his foreman of his return thereto at least one (1) hour prior to the quitting time of his assignment on the working day next preceding his return, except in the case of sick leave.

Section 8. Duly accredited representatives of the employees and other employees employed exclusively by the organization shall be considered as in the service of the Carrier and may return to their former position or exercise seniority within thirty (30) calendar days after release from such emloyment.

Section 9. An employee unavoidably detained from work will not be discriminated against. Unless prior notice of expected absence has been given, notice to foreman must be given as quickly as possible, and failure to do so, or habitual absence from work without a good cause will be considered cause for discipline.

ARTICLE XIV

MERIT PROMOTION

Section 1. The Employer will utilize employees' skills and potentials to the fullest extent practicable. Employees will be promoted on the basis of merit without regard to race, color, religion, sex, age, or membership or nonmembership in employee organizations. The over-all objective of the merit promotion program

is to assure that positions are filled with the best qualified persons available and to assure that all employees have an equal opportunity to apply for advancement.

Section 2. The Union recognizes that the Employer has the option of filling positions by repromotion, or by methods other than promotion such as appointment, reinstatement, reassignment, or transfer provided the person selected is in the best qualified group using the same qualification standards as for evaluating applicants for promotion. Management agrees that whenever possible to utilize existing employees from within the activity to fill vacant positions when qualified employees are available.

Section 3. All Alaska Railroad merit promotion program opportunities will be advertised through issuance of announcements within the area of consideration on all Official Bulletin Boards. Announcements will be open for at least ten working days when advertising is confined to the Alaska Railroad.

Section 4. The Alaska Railroad will normally be the minimum area of consideration. If an announcement fails to provide a sufficient number of highly

qualified candidates the area will be expanded. The Union will be notified in advance of expansions of areas of consideration and upon request the Employer will consider the Unions views concerning the necessity for such expansions.

Section 5. Upon request, each applicant will be told whether he was eligible for promotion on the basis of minimum qualification requirements, whether he was in the group from which selection was made, who was selected for promotion, and in what areas he should improve himself to increase his chances for promotion.

Section 6. In accordance with Civil Service Commission directives qualification standards for promotion are those prescribed in Commission Handbook X-118-C for ungraded positions as supplemented by Department of Transportation directives. These standards prescribe elements for each occupational area and level of the occupation. In accordance with the Federal Personnel Manual the following consideration may be used in evaluating these job elements.

a. Written Tests. Appropriate validated written tests which are either required or approved by the Civil Service Commission may be used. Written tests may not be used as the sole means of evaluating candidates; they may be used as only one part of the evaluation process with due weight given to the appropriate factors.

b. Appraisals of Performance. Appraisals of performance must be considered as one factor in evaluation of basically eligible candidates. When an employee hs worked for a particular supervisor for less than six (6) months, a second, foreman (leadingman) supervisory appraisal will be obtained. An employee is entitled, upon his request, any product record or any supervisory appraisal of past performance used in considering him for promotion. An employee, however, is not entitled to see a supervisory report on potential which is a recorded judgement of the supervisor's estimate or prediction of how well the employee is likely to perform at a level or in a kind of work different from one in which he has already performed.

c. Experience. In evaluating experience the type and quality of experience is considered in relation to

... of highly

the requirements of the position to be filled. Length of service or length of experience is evaluated when there is a clear and positive relationship with quality of performance and for breaking ties.

d. Awards. Due weight will be given awards received by employees in terms of qualifications indicated such as initiativ resourcef... s and planning ability and their ... on the requirements of the position to be filled.

e. Training and Self-Development. Training and self-development which would increase the employee's potential for effective performance in the position to be filled must be considered.

Section 7. Employees selected for promotion will be notified promptly of their selection and released from their former positions as soon as practicable, normally with two weeks notice. An employee will be paid at the pay level of the position for which selected, starting with the effective date of promotion, in accordance with applicable regulations.

Section 8. Questions or complaints about the promotion program should be resolved informally if possible with immediate supervisors and the Personnel Officer. The formal means for resolving complaints is then through the grievance procedure.

Section 9. When practicable, the duties of a supervisor who is absent for a time less than thirty (30) days will be assumed by another supervisor. When this is not practicable, a qualified employee will be assigned as acting supervisor. When an employee is so assigned for a period of thirty (30) days or more, a temporary promotion will be made under applicable rules and regulations.

Section 10. When a vacancy occurs, a Certificate of Eligibles will be forwarded to the Selecting Official containing the names of the best qualified applicants and shall be grouped alphabetically and the certificate shall state that the names are not listed relative to qualifications. The Selecting Official may interview candidates on the Certificate of Eligibles. If one (1) candidate is interviewed, all candidates will be interviewed if available.

Section 11. Merit Promotion announcements will show the job requirements for which an applicant's qualifications are evaluated in terms of the skills, knowledge, abilities, and potential needed to perform the job for which the applicant is being considered. Merit promotion announcements shall not contain key or restrictive clauses that tend to favor one employee or a group of employees for a particular position.

Section 12. A merit promotion opportunities announcement may not be modified after the promotion process is under way unless an inappropriate announcement has been released. Modified announcements will be in accordance with Section 3 of this Article and all employees eligible under the modified announcement shall be considered for promotion.

Section 13. The Employer agrees to consult with the Union on any revisions or amendments to the Merit Promotion Plan.

ARTICLE XV

REPROMOTION

Section 1. Any employee demoted without cause will be advised in writing of his entitlement to special consideration for repromotion.

Section 2. An employee demoted without cause must be considered for repromotion before other means are used to fill a position. Although he is not guaranteed repromotion he should be repromoted as an exception to competitive procedures if he is well qualified for the position unless there are persuasive reasons for not doing so.

ARTICLE XVI

DEADHEADING

Section 1. Regularly assigned employees ordered by the Management to deadhead outside of assigned hours to or from a point to perform service shall be paid actual travel time at straight time rates not less than eight (8) hours per day. Travel in excess of eight (8) hours per day will be paid as travel time at straight time rates, and will not be counted against the basic work week of forty (40) hours. Where meals and lodging are not furnished by the Carrier, travel expenses will be allowed in accordance with Standard Government Travel Regulations.

Positions requiring travel as a regular part of their assigned duties will not be paid travel time in excess of their assigned hours.

ARTICLE XVII

PERSONNEL MOVEMENTS IN RIF SITUATIONS AND REHIRING

Section 1. It is agreed that all possible action will be taken to avoid or minimize the impact of a reduction-in-force prior to separating employees. Such action will include restricting recruitment, meeting ceiling limitations through attrition, reassigning employees in surplus positions and terminating limited appointments.

Section 2. Management agrees to notify the Union of the necessity for reduction-in-force as far in advance as practicable and of the reasons therefor. Management also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that Management, to the extent consistent with the installation's manpower requirements, will make an effort to reasssign employees whose positions are eliminated because of automation or adoption of labor saving devices. It is agreed that management will make practical effort to train employees, when necessary for reassignment, whose positions are eliminated because automation or adoption of labor saving devices.

ARTICLE XVIII
REVIEWS OR JOB DESCRIPTIONS AND REQUIREMENTS

Section 1. The activity program for determining the ratings of positions of employees in the unit is conducted in accordance with the applicable Department of Transportation regulations. To assure that ratings are appropriate to the work currently being performed by the employees in the bargaining unit, Management agrees to and shall conduct a continuing Review of such ratings throughout the activity. In any case where a modification of a job description of any position in the unit is proposed to the extent that either the rating, title, pay level, or qualification requirements for the rating

would be affected, the proposed change will be discussed verbally or in writing by Management with the Employee prior to the effective date of any such change.

Section 2. Any employee in the unit who alleges that his position is improperly described or rated may discuss the matter with his supervisor, who will, upon request, arrange for review of the employee's rating by personnel of the Personnel Office. The review shall include discussion with the employee and with his supervisor to determine the employee's actual regular work assignment over a representative current period and comparison of such assignments to the related job descriptions and/or rating definitions. Management agrees to consider fully all pertinent facts including those presented by the employee. If the employee's complaint is not resolved to the satisfaction of the employee, Management shall notify the employee in writing of the findings, the basis of the findings, and shall outline the employee's appeal rights. In requesting a review of his position rating and in the discussions described above, the employee may have and shall be entitled to representation by his Union.

Section 3. Upon request by the employee and/or his representative, Management agrees to produce all pertinent and current data on the grade and job standards of the employee's particular job. The information will include how the grades, job standards, and titles were established and the type of work actually required under these standards.

Section 4. It is agreed that Management will advise the Employee when a job rating is to be changed due to reclassification actions to a lower grade, and at least thirty (30) days prior to effecting personnel action.

Section 5. The Union may present supporting evidence to Management regarding the local application of position classification standards and the equity of classification results.

ARTICLE XIX

DISPOSITION OF UNIT WORK

Section 1. Nothing in this agreement shall be construed to prevent operators of equipment and machines from

making minor repairs to equipment they operate incidental to the continuous operation of their equipment and machinery, outside the shop.

Section 2. None but mechanics or apprentices regularly employed as such shall do mechanic's work of each craft. This rule does not prohibit foremen in the exercise of their duties, or foremen at points where no mechanics are employed, to perform work.

Section 3. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work of any craft (including welding) that may be necessary.

Section 4. An employee notified to work a full shift on his day of rest, Sundays or holidays, will be allowed to complete the shift unless relieved at his own request.

Section 5. Management agrees that as a matter of practice, supervisors at Anchorage shall not be assigned to perform the duties as outlined in job descriptions of Unit employees except

when instructing or training employees.

ARTICLE XX

APPRENTICE TRAINING PROGRAMS AND RE-TRAINING

Section 1. It is mutually agreed that the Apprentice Training Program is of vital interest to Management and the Union. The objective of the Program is to provide organized on-the-job and academic training and instruction to qualified employees to develop skilled journeymen and potential leaders in the trades areas necessary to the mission of this unit.

In this regard, cognizant Shop Heads will coordinate the on-the-job training in order to insure that apprentices receive broad and well-rounded experience in their respective trades. All apprentice training assignments shall be scheduled and recorded to insure that all apprentices are afforded the opportunity to qualify in each phase of training, as defined in the Apprentice Training schedule developed by Management and the Union for each trade.

Section 2. Management agrees to recognize a Union apprentice training committee within the Boilermakers/

Blacksmith bargaining Unit of not more than three (3) members appointed by the Union and three members appointed by Management to serve on such committee. This committee shall have the right to a reasonable review of apprentice training programs affecting employees in the bargaining unit for the purpose of assisting Management in insuring a continuing effort to strengthen and improve the apprentice training program. It is further agreed that the Union apprentice and training committee shall meet once every two (2) months or upon the request of either party for the purpose of discussing the overall effectiveness of the apprentice training program.

Section 3. Management agrees that apprentices will be assigned to either an apprentice instructor or a skilled journeyman who will be under the personal supervision of a supervisor, who shall be responsible for their training while so assigned. Assignments will be made, to the extent permitted by work requirements, primarily to expose the apprentice to a variety of jobs with increasing complexity and responsibility during the programmed apprentice term.

Section 4. The time a journeyman is engaged in instructing apprentices, when

assigned, will not be considered by the immediate supervisor in judging productivity of that particular journeyman.

Section 5. Whenever technological changes require the use of a composite job rating which will utilize the skills of more than one (1) craft or trade, Management agrees to make every reasonable effort to train employees from trades affected by the new rating and to secure employees for such training from within the activity. In securing employees for such on-the-job training, Management agrees to the use and principles of a merit promotion system with respect to their selection and appointment to such training programs.

Section 6. In recognition of the mutual advantages to Management and to the employees, Management agrees to utilize existing employees from within the activity when training for any new job ratings which may be determined necessary for establishment within the activity to carry out the mission.

ARTICLE XXI

SAFETY

Section 1. Management will exert every effort to provide and maintain safe working conditions and industrial health protection for the employees. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his own safety and an obligation to know and observe safety rules and practices as a measure of protection for himself and others. Management will welcome from any individual employee or from the Union, suggestions which offer ways of improving safety conditions.

Section 3. It is agreed that the Union will appoint an appropriate number of qualified employees to serve as the Union's representatives on Management's Safety Committees.

Section 4. In the course of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in their immediate area which represent industrial health hazards. When unsafe or unhealthy conditions

are observed by the Union representatives they should report them to the immediate supervisor. When such safety and industrial health matters are of general interest, the Union may present the problem to Management's safety committees or bring the matter to the attention of appropriate supervision for mutual consideration by Management and the Union.

Section 5. The Union and Management will make every effort to prevent accidents of any nature. Should such accidents occur, however, a prime consideration will be the welfare and comfort of injured personnel.

Section 6. When it becomes known that an accident has resulted in a disabling injury, management agrees to notify the Union promptly of the circumstances.

Section 7. Employees injured while at work will not be required to make accident reports before they are given medical attention, but will make them as soon as practicable thereafter. Proper medical attention will be given at the earliest possible moment, and, when able, employees shall be permitted to return to work without signing a release pending

final settlement of the case. Settlements will be made in accordance with Employee's Compensation benefits.

Section 8. When employees covered by this agreement are required to transfer from hot work to cold work, they will be allowed sufficient time to cool off before such transfer is made.

Section 9. Pits and floors, lockers, toilets, washrooms and lunchroom will be kept in good repair and in a clean, dry and sanitary condition.

Section 10. Operators of sandblast or paint sprayers will be required to use utmost care not to disturb other employees working in immediate vicinity.

Section 11. All acetylene or electric welding or cutting will be protected by a suitable screen when its use is required.

Section 12. Shop employees will not be required to work on engines or cars outside of shops during inclement weather, if shop room and pits are available. This does not apply to emergency work required to trains or in train yards.

Section 13. No employee will make repairs to engines or cars standing on main

track or side track in yards without being protected by a blue signal in place provided thereto on engine and car at both ends of the train to prevent cars from being coupled to or moved while he is making repairs. If signals are placed by the employee, he alone must remove them.

Section 14. When circumstances permit every effort will be made to clean locomotives prior to truck changes or other major work.

ARTICLE XXII

COMMITTEE ASSIGNMENTS

Section 1. The Union agrees to cooperate with Management in the development of policies and procedures for programs which involve charitable solicitations to include qualified Union representation on Management committees for such purposes.

Section 2. The Union will appoint qualified representatives to assist Management in evaluating suggestions and incentive awards.

ARTICLE XXIII

CIVIC RESPONSIBILITIES

Section 1. When an employee is absent from duty and in attendance in court as witness in behalf of the United States, or for jury duty in any State court or court of the United States, the absence from duty shall not be charged against annual leave but shall be recorded as "court leave" for the employee's regular tour or tours of duty.

Section 2. On receipt of a summons to appear for jury duty, the employee shall advise his supervisor. While the duty to serve as a juror is one of the precious privileges and responsibilities of American citizenship, with which the Railroad management concurs, there are instances when the absence of the employee from duty would work an undue hardship. The Personnel Officer shall investigate these hardship cases when brought to his attention by the branch head.

Section 3. An employee answering summons for jury duty shall require written certification of attendance from the clerk of the court. This form shall be attached to Standard Form 71 and presented by the employee to timekeeper as authority for allowance of court leave.

Section 4.

a. Since court does not ordinarily convene until 10:00 a.m., an employee called for jury duty shall be required to report on his Railroad assignment at the starting hour and continue work until such time as it is necessary to leave for court. The only exception to this requirement shall be in those instances where the foreman or other supervisor finds it would be an undue hardship to comply therewith and so informs the appropriate timekeeper in writing.

b. When an employee is excused from duty by the court for as much as one and one-half (1-1/2) hours prior to time for stopping work at noon or evening, he shall return to duty unless advance authority for non-return, due to definite hardship being involved, is obtained from foreman or other supervisor.

Section 5.

a. An employee serving as a juror in State or municipal courts shall be instructed to collect all fees and allowances payable on account of the jury service. The employee must forward the

fees so collected to the Treasury Section, Accounting Branch, The Alaska Railroad, endorsed with "Pay to The Alaska Railroad"; otherwise, payroll deduction shall be made from compensation due him. The employee may keep allowances for mileage and subsistence to cover his actual expenses incident to the jury service; however, payment of per diem is prohibited since it is a form of compensation for services rendered.

b. An employee who performs jury service on rest or layover days is entitled to retain the fees received for such service.

Section 6. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without charge to annual leave. When the polls are not open at least three hours either before or after an employee's regular hours of work, he may be granted an amount of excused leave which will permit him to report for work three (3) hours after the polls open or leave work three hours before the polls close, whichever requires lesser amount of time off.

- 47 -

ARTICLE XXIV

SPECIAL TOOLS - CLOTHING - SERVICES

Section 1. Management agrees to bear the full expense of all special tools, protective clothing and equipment that employees use in the performance of their duties.

Section 2. Management agrees to bear the expense of paying the difference between work shoes and safety shoes.

Section 3. Management agrees to provide space on official bulletin boards and offices for the posting of union notices and similar information material.

ARTICLE XXV

GRIEVANCE PROCEDURE

Section 1. An employee who has passed his probationary period satisfactorily or whose application has been formally approved shall not be disciplined or dismissed without a fair hearing by the designated officer of the Railroad. He may, however, be held out of service pending hearing. At a reasonable time prior to the hearing and not less than forty-eight (48) hours, such employee shall be apprised, in writing, of the precise charge against him within thirty

(30) calendar days of knowledge by the Management of the alleged offense. The hearing shall be held within ten (10) calendar days of the date when charged with the offense. A decision will be rendered within ten (10) days after completion of hearing. The time limits in this rule may be extended by mutual agreement.

Section 2. The right of appeal by employees or their duly accredited representatives in the regular order of succession up to and including the highest officer designated by the Management to whom appeals may be made is hereby established. When appeal is taken, further hearing shall be granted, if requested of the official to whom appeal is made. Appeals will be registered within a reasonable time after decision is given and a copy furnished official whose decision is appealed. Hearings and decisions on appeals will be given within ten (10) calendar days from date appeal notice is received by the officer to whom appeal is taken. The time limits in this rule may be extended by mutual agreement.

Note: No appeal will be handled except in accordance with the above procedure.

Section 3. At hearings an employee

may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest official designated by the Management to whom appeals may be made. At each step Management will render a decision within ten (10) days.

Section 4. Investigations and hearings shall be held whenever possible at home terminals of employees involved and at such time as to not cause employees to lose rest or time. Employees shall have reasonable opportunity to secure the presence of duly accredited representatives and/or necessary witnesses. Upon request of the employee or his representative all necessary existing records of Management pertinent to the case at hand shall be made available for their use. In the process of the hearing,

the Union will be permitted a court recorder or a tape recorder.

Section 5. A copy of all statements made a matter of record at investigations or hearings shall be furnished to the employee and to his duly accredited representative.

Section 6. If an employee is suspended the suspension shall date from the time he was taken out of service.

Section 7. If the final decision decrees that charges against the employee were not sustained, the record shall be cleared of the charge. If suspended or dismissed, the employee shall be reinstated and paid for all time lost.

Section 8. An employee who considers himself unjustly treated, or that any of the provisions of this agreement have been violated, shall have the right of investigation, hearing, appeal and representation as provided in Rules (Sections) (1), (2), (3), (4) and (5), if written request, which sets forth the employee's grievance is made to his superior within thirty(30) calendar days of knowledge by the employee of the alleged unjust treatment.

Definition of Investigation: An inquiry conducted by the Management to determine cause and responsibility and to make search or inquiry for truth, or facts prior to conducting a hearing. Employees are not disciplined as a result of an investigation except new employees who have not passed their probationary period of employment.

Definition of Hearing: A hearing (a trial) conducted after an investigation has developed cause and responsibility. At such hearings an employee or employees must be given proper notice under these rules and apprised in writing of the precise charge or charges against him. Employees may be disciplined or discharged as a result of a hearing. Appeals are based on hearings, not on investigations.

The enforcement of discipline by demerit record will apply to employees of the unit.

The advantages of this system are:

1. (a) To the employee, enabling him by good conduct to insure permanency of employment.

1. (b) To the Railroad, in increased efficiency of such permanent employees.

(c) To avoid loss of wages and consequent hardships to employees and their families because of being deprived of their regular income.

(d) To promote good conduct and encourage careful and efficient service.

2. No discipline by record will be made for less than five (5) or more than sixty (60) demerits.

3. Where demerits are given for unsatisfactory service, cancellations upon record will be given as follows:

(a) A clear record for six months will cancel five (5) demerits.

(b) A clear record for one (1) year will cancel thirty (30) demerits.

(c) A clear record for eighteen (18) months will cancel sixty (60 demerits.

4. When an employee's demerits have accumulated to the number of ninety (90), he will be dismissed from the service.

5. An accumulation of demerits showing that an employee is not desirable for the service will first be given special consideration, but when the service of an employee is so generally unsatisfactory as to unfit him for further service, dismissal will follow.

6. Any permanent employee, who is not serving a probationary period and has completed one year of continuous employment, subject to discipline resulting from hearings or hearings and accumulation of demerits involving removal, suspension for more than thirty (30) days, furlough without pay or reduction in pay shall be afforded the provisions of Civil Service Commission regulations relative to adverse actions. These regulations shall be quoted to the employee, including but not limited to a Notice of Proposed Action,

Receipted Delivery Notice, Thirty Day Pay status, time for employees response and evaluation of same and Notice of Decision.

ARTICLE XXVI

ADVISORY ARBITRATION

Section 1. If Management and the Union fail to settle any grievance arising under Article XXV titled Grievance Procedure with respect to the interpretation, application, or alleged violation of this Agreement or of any policy or decision of Management, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to Advisory Arbitration. Such written notice must be served not later than thirty (30) days following the conclusion of the last step of the grievance procedure.

Section 2. Within seven (7) days from the date of receipt of the arbitration request, the parties shall meet for the purpose of endeavoring to agree on the selection of an arbitrator, and the wording of the question to be resolved. If agreement cannot be reached, then either party may request the Federal Mediation and

Concilliation Service to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after the receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then Management and the Union will each strike one arbitrator's name from the list of five (5) and shall repeat this procedure. The remaining name shall be the duly selected arbitrator.

Section 3. The fee and expenses of the arbitrator shall be borne equally by Management and the Union provided that the cost to Management for arbitrator's fee shall not exceed that amount authorized by rules and regulations. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, not to exceed two (2), employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings.

Section 4. The arbitrator is requested by the parties to render his decision as quickly as possible but in any event no later than thirty (30) days after the conclusion of the hearings unless the parties otherwise agree.

Section 5. It is agreed and recognized that arbitration as provided herein is advisory in nature.

Section 6. The arbiter shall have jurisdiction and athority to interpret this Agreement and to apply it to the particular case under consideration, but shall, however, have no authority to add to, subtract from, or modify the terms of this Agreement and shall confine his findings to the question submitted.

Section 7. In those cases where either party deems it necessary, it may arrange that a transcript of the hearing be made by a qualified court reporter. The party making such arrangement shall bear the full cost thereof. If both parties request a copy the cost will be shared equally. If the arbiter requests that he be furnished with a copy, the expense of the original copy and the reporter's attendance charge shall be borne equally by Management and the Union.

Section 8. The Head of the activity shall render his decision on the advisory arbitration within twenty (20) calendar days from receipt of the arbitrator's decision.

ARTICLE XXVII

SENIORITY

Section 1. Mechanics, helpers or apprentices permanently transferred from one point to another will, after thirty (30) days, lose their seniority at the point they left, and their seniority at the point to which transferred will be established as of the date service is first performed at point to which transferred. Junior employees will be compelled to accept a permanent transfer to another point.*

*Senior employees temporarily transferred will not be compelled to accept a permanent transfer to another point.

Section 2. Employees temporarily transferred to fill vacanacies of less than thirty (3) days at the direction of the Management under a forced rule will be allowed expenses in accordance with Standard Government Travel Regulations for not to exceed thirty (30) days.

Section 3. Employees now filling or promoted to official positions beyond the scope of this agreement shall retain and continue to accumulate seniority in the class from which promoted.

Section 4. An employee taken from any craft for assignment to special service will retain his seniority and be considered on leave of absence from his department while performing such special service.

Section 5. Employees on extended leave of absence for vacation, sickness, or other authorized leave, upon returning to service will be permitted to return to their former positions or may exercise displacement rights on new jobs or vacancies created during his absence. If such employee returns to his regular position, the employee who was relieving him will return to regular position. If a returning employee displaces another employee assigned during his absence, the displaced employee may exercise seniority in like manner to other positions for which he is qualified. Such actions are to be accomplished upon return or within three (3) days thereafter.

Section 6. Seniority of Mechanics, helpers and apprentices covered by this agreement in each craft shall be confined to the point at which employed.

Section 7. The indiscriminate exercise of seniority to displace junior employees, which practice is usually called

"rolling" or "bumping", will not be permitted. However, an employee whose assignment is discontinued, or who may be displaced from his position by other causes, will be permitted to exercise seniority on any job occuppied by a junior employee on his seniority list.

Section 8. When the force is reduced, seniority will not govern. Civil Service Commission Regulations shall apply for Reduction in Force.

Section 9. Separate seniority rosters, at their respective points will be maintained for Blacksmiths, Boilermakers, and Mechanic's Helpers.

ARTICLE XXVIII

BULLETINING POSITIONS WITHIN MULTIPLE APPOINTMENTS

Section 1. Vacancies of thirty (30) days or more shall be bulletined for five (5) days before being permanently filled. The oldest employee in point of service in the respective craft, if qualified by

experience to efficiently handle the work, will be assigned. Employees desiring to avail themselves of this rule will make bid, in writing, to the official in charge, duplicate copy to local chairman, the management to make assignment.

Section 2. An employee exercising his seniority rights under this rule will do so without expense to the Carrier; he will not lose his right to the job he left, and if after a fair trial not to exceed thirty (30) days he fails to qualify for the new position, he will return to his former position. The next senior qualified man bidding will be assigned. In the event there are no bids, the youngest employee will be assigned. (INTERPRETATION: For Blacksmith and Boilermakers not in multiple assignments, the assignment of the youngest man to other points than his existing home station, shall be restricted to situations where the youngest man would otherwise be displaced by cancellation of his assignement.)

Section 3. Official Bulletin Boards shall be used at all shops, repair points, and roundhouses where proper notices of interest to employees and job bulletins,may be posted. Access to such board will be made

available to accredited union representatives for posting such notices as are necessary.

Section 4. Employees covered by this agreement, who have been assigned in a multiple appointment, performs work for four (4) hours or more in a position authorized with a multiple appointment shall be paid for the rate of the work performed consistent with the grade assignments authorized in multiple appointment.

Section 5. Advertised vacancies may be filled in acting status pending an assignment.

ARTICLE XXIX

DURATION AND CHANGES

Section 1. This agreement when approved by the parties for the Union and the Management shall become effective on February 5, 1970. After such approval renewal of this agreement will be automatic from year to year, provided that this agreement shall terminate automatically effective with any date on which it is determined that the Union is no longer entitled to exclusive recognition in accordance with Executive Order 11491.

Section 2. By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing to the General Manager and must be accompanied by a summary of the amendment or amendments proposed. Within sixty (60) days after receipt of such request, representatives of Management and the Union will meet to negotiate the matter and no changes other than those covered by the summary shall be considered. A written notice of desire to alter and amend by renegotiation shall not have the effect of terminating this Agreement.

Section 3. This agreement supersedes all previous agreements for employees covered by this Agreement.

Section 4. The Articles of this agreement have been negotiated in good faith and are presumed to be consistent with existing laws enacted by the U. S. Congress, applicable Department of Transportation and Civil Service Commission regulations and Executive Orders. The provision of any existing or future contrary decree with respect to and which affect this agreement shall become a part thereof.

Section 5. It is agreed that this agreement shall take precedent and no other agreement shall be the basis for grievances.

Dated at Anchorage, Alaska February 5, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers:

Jay L. Nelson
President, Local 708

Dan A. Kraft
Secretary-Treasurer, Local 708

ALASKA RAILROAD
LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Scope of Negotiations

Section 10. Disputes, Board of Adjustment

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. The public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable hours regulations and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these

public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and by the Transportation Act of 1967, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: the term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series

of agreements which are negotiated and made effective betweeen management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement.

They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "Collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

ection 3. Scope

his agreement is applicable to those mployees of the Railroad represented y the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders nd Helpers, blue collar category as enumrated in the Handbook of Blue Collar Occuational Families and Series.

ction 4. Employee Rights to Labor Representation

1. Employees of the Railroad have the ght to form or join organizations and signate representatives of their own oosing, provided they do not form or in organizations which assert that ployees in the service of the United ates Government may strike or assist such strike, or which advocate the erthrow of the United States Governit by force or violence.

2. In the exercise of the rig.. to m or join organizations and designate resentatives, employees shall be e from any and all restraint, interence or coercion on the part of agen it, and the supervisory staff prohibited from exercising any such traint, interference or coercion. the same token the designation of

individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

4.4. This section does not authorize participation in the management of a labor organization or acting as a representative of such an organization, by a supervisor, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee, nor shall a unit be established if it includes any management official or supervisor.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as

prescribed by law, will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Federal Personnel Manual as implemented by the Department of Transportation.

Section 7. Duty to Confer

7.1. If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 6 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organizations and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to

and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the labor organization or the Railroad announcing their desire to revise the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences shall not be on official times when negotiating an agreement with agency management.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel In the interest of cooperation, in labor matters, the

Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Working rules, in the determination of which employees, through accredited organizations, have participated - will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplmentary Agreements as defined in Section 1 of this agreement.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of

outstanding differences through mutually agreeable procedures, except those that are dictated by over-riding Federal Law or Regulation.

Section 9. Scope of Negotiations

9.1. Management officials retain the right to direct employees in accomplishing the work of the agency; to hire, promote, transfer, assign, and retain employees in positions within the agency; to suspend, demote, discharge, or take other disciplinary action against employees; to relieve employees from duties because of lack of work or other legitimate reasons; to maintain the efficiency of the Government operations entrusted to them; to determine the methods, means, and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

9.2. Negotiable Items. The Alaska Railroad management shall negotiate with the unions, for the employees represented by the unions signatory hereto, for:

a. The establishment of craft working rules.
b. The establishment of grievance procedures and discussion of personnel policies and practices, or other matters affecting general working conditions.
c. NOTE: The wage fixing system applicable to the employees subject to this Basic Agreement will be set forth in Section 9.4.

9.3. All requests for negotiation conferences shall be in writing and specify the subjects for discussion and the times proposed for consideration. Conferences between the parties shall begin as promptly as practicable. Every effort will be made by the negotiators to agree.

9.4. Wage Fixing System. The wage fixing system applicable to Alaska Railroad blue collar employees represented by the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers, shall be the system currently followed for their wage board employees by Army-Air Force installations in the State of Alaska. As soon as a coordinated wage fixing policy is promulgated by the Civil Service Commission for the wage

board employees in Alaska, such Federal coordinated system shall be substituted for the Army-Air Force wage fixing system referred to above. Details as to the application of this system will be set forth in a supplementary agreement.

Section 10. Disputes and Grievance Procedures

10.1 The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates.

10.2. Detailed procedures for the handling of grievances shall be included in supplementary labor agreements between the parties signatory hereto.

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals, other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours

of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.
b. Conservation of materials, supplies, time, power and energy.
c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.
e. Health, safety, and morale standards.

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefits Plan
Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Effective Date and Duration

13.1. This agreement shall remain in

full force and effect for one year from the date executed, and thereafter until the expiration of sixty (60) calendar days following the giving of written notice by either party to the other of its desire to terminate this agreement in its entirety or to effect changes herein by agreement.

13.2. By mutual consent of the parties, this agreement may be opened at any time for amendment. Also, modification or amendment of this agreement may be required because of changes in applicable laws, rules, regulations or policies issued after the date of this agreement.

13.3. The Basic Labor Agreement between the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers and The Alaska Railroad dated April 15, 1968, and which was negotiated under authority of Executive Order 10988, is hereby supplemented for compatibility with the new Executive Order 11491, relative to Labor Management relations effective January 1, 1970.

continued

Dated at Anchorage, Alaska April 15, 1968.

FOR THE ALASKA RAILROAD:

Sgd. John E. Manley
John E. Manley, General Manager

Sgd. R. R. Mack
R. R. Mack, Personnel Officer

FOR THE ORGANIZATION:
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS:

Sgd. Harold J. Buoy
Harold J. Buoy, Legislative Assistant to the International President

Sgd. Jay L. Nelson
Jay L. Nelson, President, Local 708
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS

- continued -

Dated at Anchorage, Alaska February 5, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers:

Jay L. Nelson
President, Local 708

Dan A. Kraft
Secretary-Treasurer, Local 708

STANDARDS OF APPRENTICESHIP

for

THE ALASKA RAILROAD
APPRENTICEABLE TRADES

Developed by the Local
Joint Apprenticeship Committee

Representing
THE ALASKA RAILROAD
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
ANCHORAGE, ALASKA

and

INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS

BROTHERHOOD RAILWAY CARMEN OF
UNITED STATES AND CANADA

INTERNATIONAL BROTHERHOOD OF BLACKSMITHS,
BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS

Registered & approved by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Washington, D. C.

Assisted by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Room 46, Federal Bldg.
Anchorage, Alaska

OBJECTIVE

The purpose of apprentice training is to encourage a more careful selection of men coming into the trade; to train apprentices now in the trade; to assist in providing training that will equip them for profitable employment and citizenship; and to further the assurance to the employer of the most proficient workmen to the end that the public may receive the best possible workmanship.

I. DEFINITIONS:

a) The term "Committee" shall mean the Joint Apprenticeship and Training Committee, as set up in these apprenticeship standards.

b) The term "Employer" shall mean The Alaska Railroad, Department of Transportation, Federal Railroad Administration.

c) The term "Union" shall mean the local union signatory to these apprenticeship standards.

d) The term "Registration Agency" shall mean the Bureau of Apprenticeship and Training, U. S. Department of Labor.

e) The term "Apprenticeship Agreement" shall mean a written agreement between the Committee and a person employed as an apprentice, which agreement shall be registered by the Registration Agency.

f) The term "Apprentice" shall mean a person who has signed an Apprenticeship Agreement with the Committee to learn a trade, as outlined in these apprenticeship standards.

g) The term "General Supervisor of Apprenticeship" shall mean a person appointed by the Committee to carry out the program under its direction.

h) The term "Supervisor of Apprentices" shall mean a person appointed by the individual employer to direct apprenticeship training in or on a specific establishment or job. He shall be subject to approval of the Committee.

i) The term "Apprenticeship Standards" shall mean this entire document, including these definitions.

II. JOINT APPRENTICESHIP AND TRAINING COMMITTEE:

The Committee shall be composed of three members representing employers, and three members representing Labor. Labor and Management shall be equal in all cases.

Members of the Committee shall be selected by the groups they represent. The term of office shall be for three years or less -- the term of one employer and one journeyman to expire each year. The first appointments by each group will be designated for one, two, or three years.

III. SELECTION PROCEDURES:

Selection of apprentices under the program shall be made from qualified applicants on the basis of qualifications alone and without regard to race, creed, color, national origin, sex, or occupationally irrelevant physical requirements in accordance with objective standards which permit review, after full and fair opportunity for application, and this program shall be operated on a completely nondiscriminatory basis. Apprentices will be carefully selected from applicants between 18 and 28

years of age whose background, education, personality, and physical conditions indicate that they are suitable candidates.

Information regarding apprenticeship openings and requirements shall be furnished to the local state employment service and to the local schools.

Such information will also be posted at the program sponsor's normal place of application for apprenticeship. Applications of responding candidates will be recorded. Those meeting the basic qualifications such as age, residence, education, and physical condition will be referred to the apprenticeship committee.

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

The local state employment service will supply the aptitude testing and grading. Such test measures general intelligence, manual dexterity, hand/eye coordination, perception, finger dexterity, and numerical and verbal comprehension.

Applicants who qualify in the aptitude tests will be interviewed by the program sponsor or his designated representative. The interview shall cover such factors as educational record, attitude towards work and apprenticeship, sense of responsibility, previous work experience, whether related or unrelated to the trade, reasons for interest in the trade, hobbies, and physical factors.

Qualified applicants will be rated numerically on the basis of the following factors:

		Maximum
1.	Aptitude test results (If actual scores are used, rank in relation to minimum qualifying score.)	25
2.	Educational background (High school diploma or certificate of equivalency) (Subjects studied pertinent to the trade or grades attained.)	15
3.	Reference and conduct record	10

4. Interview (personal impression of interest, sincerity, and adaptability to the trade.) 25

5. Previous working experience (related and unrelated.) 25

Selection of qualified applicants shall be in descending order of ranking. Records of the selection process shall be retained for a period of two (2) years.

IV. TERM OF APPRENTICESHIP:

Apprentices will serve a minimum term of four consecutive years (approximately 8,000 hours) of reasonably continuous employment during such term, and include the probationary period and the required hours of supplemental school instruction. (Exception: Helpers with two (2) years helper experience shall be eligible for indenturing as helper apprentice of a respective craft, ability to govern in all cases, for a period of three (3) years.)

V. RELATED INSTRUCTION:

International Correspondence School and Railway Education Bureau Courses will be substituted for related classroom instruction.

No apprentice will be allowed to work overtime when such work will interfere with the related instruction course. In case of failure of any apprentice to fulfill his obligations as to school attendance and conduct, without due cause, the local Joint Apprenticeship and Training Committee shall take necessary disciplinary action.

VI. SUPERVISION OF APPRENTICES:

The Alaska Railroad shall designate a particular person, who may be the Superintendent, Foreman, or Journeyman, to be responsible for the training of apprentices. He shall, with the advice and assistance of the local joint apprenticeship and training committee, be responsible for the apprentices' work experience on the job, for their attendance at related classes, and the recording of same on record forms provided for this purpose.

VII. RATIO OF APPRENTICES TO JOURNEYMEN:

The ratio shall be 1 apprentice to each 5 journeymen.

VIII. ACCIDENT PREVENTION:

Each apprentice shall be provided with initial indoctrination and instruction in

order to enable him to perform his work in a safe manner. Such instruction shall be coordinated with the actual work being performed on the job and the tools and equipment being used.

Initial indoctrination shall include instructions relative to pertinent company safety regulations, reporting of accidents, and availability of first aid and medical facilities.

The employer shall at all times exercise reasonable precautions for the health and safety of the apprentices engaged in the performance of the work hereinafter described as "Work Processes" . . .so far as possible. He shall comply with all applicable provisions of Federal, state and municipal safety, health, and sanitation statutes and codes.

In addition, as an integral part of this training program, the apprentice supervisor and/or instructor shall provide such training and instruction pertaining to safe work habits to insure that the apprentice will be protected against avoidable accidents. Also, that they understand the methods necessary to properly perform all phases of the work in a safe manner.

IX. PROBATIONARY PERIOD:

Apprentices will be subject to the probationary period applicable to Federal employment. During this probationary period, annulment of the Apprenticeship Agreement will be made by the Committee upon request of any of the parties concerned. After the probationary period the Committee may cancel the Apprenticeship Agreement for just cause, but due notice shall be given the Registration Agency of such action. The Apprenticeship Agreement may also be canceled if the apprentice fails to fulfill his obligations as to the related instruction courses.

X. ADJUSTING DIFFERENCES:

In accordance with the present working agreement, the railroad and the apprentice shall have the right and privilege of appeal to the local joint apprenticeship and training committee in the event of disputes and controversies arising over any provision of the local apprenticeship standards which cannot be satisfactorily settled between them. The local committee shall hear all the parties and make such adjustments as it may consider necessary.

XI. WORK EXPERIENCE:

During his apprenticeship, the apprentice shall be taught the use, care, and effective and safe handling of all tools and equipment commonly used in the trade. He shall be given work experience and training in all branches of his trade considered necessary to develop a skilled and productive worker.

WORK SCHEDULE FOR
AUTOMOTIVE MACHINIST
APPRENTICE

	Years of Service
Engine rebuild room, gas and diesel	1 Year
General repair, automotive test and electrical work	1 Year
Heavy equipment repairs . .	1 Year
Gas car repairs and trouble shooting	6 Months
Welding, electric and acetylene	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
ELECTRICIAN
APPRENTICE

	Years of Service
Electrical repair shop; servicing motors and generators, rewinding and repairing motors and generators, repairs to electrical equipment, all types	1 Year
Battery Shop	4 Months
Car shop, coaches, heating, and lighting	8 Months
Electric and acetylene welding	6 Months
Diesel locomotives, traction motor, main and auxiliary generator repairs	6 Months

ELECTRICIAN

	Years of Service
Engine circuits, voltage regulators, and relay repairs, Vapor-Clarkson generators and power car equipment	6 Months
Trouble shooting, inspections, and running repairs	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
MACHINIST
APPRENTICE

	Years of Service
Machine shop practice	1 Year
Engine rebuild and parts repairs	1 Year
General repair, truck and roller bearing repairs, locomotive and cars	6 Months
Welding, electric and acetylene	6 Months
Air room	6 Months
Running repairs, trouble shooting, diesel shop . . .	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
SHEETMETAL
APPRENTICE

	Years of Service
Shop and bench sheetmetal work, including layout and design, brazing, soldering, tinning, leading, and babbitting . . .	2-1/2 years
Locomotive Department - Pipefitting and Sheetmetal	6 Months
Car Department - Pipe and sheetmetal work on passenger cars and sheetmetal in freight department	1 Year
TOTAL	4 Years

WORK SCHEDULE FOR
CARMAN
APPRENTICE

	Years of Service
General freight car rebuilding and repairs, wood and metal	1 Year
General passenger car repairs and rebuilding	1 Year
Air room, cleaning and testing, and repairs	6 Months
Rip track, air cleaning, installation and repairs . .	6 Months
Carpenter shop, machine and bench work	6 Months
Electric and acetylene welding	6 Months
TOTAL	4 Years

XII. WAGE SCHEDULE:

The wage rate paid apprentices and journeymen shall be that which is negotiated by The Alaska Railroad officials and the local unions involved. This wage schedule shall be kept current by a supplement attached to the standards.

XIII. PERIODIC EXAMINATION:

An examination of apprentices as to their progress in learning the trade may be given at such times as determined by the committee. In these examinations, consideration shall be given to the related instruction, as well as to the daily employment records of the apprentices.

XIV. EMPLOYMENT RECORDS OF APPRENTICES:

Records of the progress of all apprentices in the trade processes enumerated in the work processes will be maintained by The Alaska Railroad, and shall be made available to the Bureau of Apprenticeship and Training upon request.

XV. JOINT MANAGEMENT-LABOR APPRENTICESHIP COMMITTEE:

The Alaska Railroad agrees that a joint management-labor apprenticeship

committee will be established as recommended by the Bureau of Apprenticeship and Training.

XVI. CERTIFICATE OF COMPLETION OF APPRENTICESHIP:

Apprentices who complete their apprenticeship, and make passing grades on the ICS and REB courses shall be awarded a certificate by The Alaska Railroad. Certificates of Completion are also available from the registration agency for all apprentices completing their apprenticeship under registered standards.

XVII. MODIFICATION OF STANDARDS:

These standards shall automatically be amended to conform with any changes in subsequent bargaining agreements, and none of these provisions shall be construed contrary to the present, or subsequent, bargaining agreements. These standards may be modified subject to the approval of management and labor participants in the program and the Bureau of Apprenticeship and Training, U. S. Department of Labor.

All changes and modifications made as provided shall automatically become a part of apprenticeship agreements in effect at the time of the change.

XVIII. OFFICIAL APPROVAL:

These standards of apprenticeship and all modifications shall be approved officially by formal action of the respective employer-employee organizations and the registration agency. Original Standards of Apprenticeship approved and accepted July 20, 1965, and amendments thereto incorporated October 14, 1971.

EMPLOYER REPRESENTATIVES:

/s/ John Norby

/s/ C. W. Poor

/s/ C. O. Brown

APPROVED: July 20, 1965

EMPLOYEE REPRESENTATIVES:

/s/ Richard L. Moyer

/s/ Walter E. King

/s/ John Bozinoff

APPROVED: July 20, 1965

APPROVED AND ACCEPTED BY THE ALASKA RAILROAD:
Anchorage, Alaska, July 20, 1965

/s/ John E. Manley
General Manager

/s/ R. R. Mack
Personnel Officer

/s/ G. V. Randall
Chief Mechanical Officer

APPROVED AND ACCEPTED BY THE ORGANIZATIONS:
Anchorage, Alaska, July 20, 1965

/s/ Luther Augenstein
International Association
of Machinists, Local 1735

/s/ Richard L. Moyer
International Brotherhood of
Boilermakers and Blacksmiths, Local 708

/s/ Walter E. King
Railway Carmen of America
Lodge No. 67

PROGRAM REGISTERED AS INCORPORATING THE
BASIC STANDARDS RECOMMENDED BY THE
BUREAU OF APPRENTICESHIP AND TRAINING:

Approved: August 30, 1965

/s/ Hugh C. Murphy
Administrator, Bureau of Apprenticeship
and Training
U. S. Department of Labor
Washington, D.C.

Consultant:

/s/ Joseph F. Fiala, State Supervisor
Bureau of Apprenticeship & Training
U. S. Department of Labor
Anchorage, Alaska

Approved: October 14, 1971

/s/ William F. Wadsworth
Consultant
Alaska State Supervisor
Bureau of Apprenticeship and Training
Department of Labor



SCHEDULE OF PAY, RULES AND REGULATIONS GOVERNING MACHINISTS, HEAVY EQUIPMENT MECHANICS, PIPE AND STEAMFITTERS, ELECTRICIANS, SHEETMETAL WORKERS, MECHANICS' HELPERS AND APPRENTICES

UNITED STATES
DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Machinists, Heavy Equipment Mechanics, Electricians, Sheet Metal Workers, Pipe and Steamfitters, Mechanics' Helpers, and Apprentices

and

Basic Labor Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon Terminating Service.

Book Assigned to:
NAME

_____

_____

_____

Revised January 16, 1970

	Article Number
Recognition and Unit Designation	I
Responsibilities and Rights of Management	II
Rights of Employees	III
Provisions of Law and Regulation	IV
Appropriate Matters	V
Union Representation	VI
Hours of Work and Basic Work Week	VII
Emergency Road and Wrecking Service	VIII
Overtime	IX
Holiday Work	X
Sick Leave	XI
Annual Leave	XII
Leave of Absence	XIII
Merit Promotion	XIV
Repromotion	XV
Deadheading	XVI

	Article Number
Personnel Movements in RIF Situations and Rehiring	XVII
Reviews or Job Descriptions and Requirements	XVIII
Disposition of Unit Work	XIX
Apprentice Training Programs and Re-Training	XX
Safety	XXI
Committee Assignments	XXII
Civic Responsibilities	XXIII
Special Tools - Clothing - Services	XXIV
Grievance Procedure	XXV
Advisory Arbitration	XXVI
Seniority	XXVII
Bulletining Positions within Multiple Appointments	XXVIII
Duration and Changes	XXIX

UNITED STATES
DEPARTMENT OF TRANSPORTATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Machinists, Heavy Equipment Mechanics, Pipe and Steamfitters, Electricians, Sheetmetal Workers, Mechanics' Helpers and Apprentices

This AGREEMENT is made between the ALASKA RAILROAD, Anchorage, Alaska, hereafter referred to as "Management" and the International Association of Machinists and Aerospace Workers Lodge No. 1735, AFL-CIO, hereafter referred to as the "Union".

The participants agree as follows:

It is the intent and purpose of the participants to promote and improve the efficient administration of the Federal Service, to promote the well being of employees within the framework of Executive Order 11491, to establish a basic understanding relative to personnel policies, practices, and other matters affecting conditions of employment, and to provide a means for amicable discussion and adjustment of matters of mutual interest.

ARTICLE I

RECOGNITION AND UNIT DESIGNATION

Section 1. This Agreement is subject to the limitation on the discretionary powers of the Management Official of the Alaska Railroad over the area negotiated and it is applicable to the units for which the Union has been granted exclusive recognition.

Section 2. Management recognizes that the Union is the exclusive representative of all non-supervisory blue collar employees in the bargaining unit or units. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 3. Other units which are granted exclusive recognition may be covered by this agreement when mutually agreed upon by Management and the Union and placed in written form.

ARTICLE II

RESPONSIBILITIES AND RIGHTS OF MANAGEMENT

Section 1. The right to make reasonable rules and regulations shall be

considered acknowledged functions of Management. In making rules and regulations relating to personnel policies, and practices and procedures, and matters of working conditions, Management shall give due regard and consideration to the rights of the Union and the employees and to the obligations imposed by this Agreement and the provisions of Executive Order 11491; however, such obligation and regard shall not be construed to extend to such areas of discretion and policy as the functions or mission, the budget, organization, assignment of personnel, the technology of performing work, or matters pertaining to the National Security.

Section 2. Management shall maina continuing program for the placement of handicapped employees, or those employees temporarily limited to light duty and who cannot be utilized in their primary assignment. It is recognized that in some instances a brief period of indoctrination may be required. Special consideration will also be given to the assignment of reserved parking spaces for use by handicapped employees depending upon the degree and nature of the handicap, availability, and nature of assignment.

ARTICLE III

RIGHTS OF THE EMPLOYEES

Section 1. Management and the Union agree that employees shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity. Except as expressly provided here and in Executive Order 11491, the freedom of such employees to assist any Union organization shall be recognized as extending to participation in the Union and acting for the Union in the capacity of a Union Representative, including presentation of Union views to officials of the Executive Branch, Congress, or other appropriate authority. Management shall take such action, consistent with law and with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this Article, and that no interference, restraint, coercion or discrimination is practiced to discourage membership in Union organization.

Section 2. Any employee covered by the provisions of this Agreement and during the period he is on the payroll of Management, shall not forfeit any benefits of this Agreement while on detail or assignment to another Activity or Division including off-site or satellite facilities for which Management has been delegated responsibility. Excludes assignment or promotion to Supervisory positions.

Section 3. Employees shall have access to their respective personnel file and the personnel file shall contain a job description stating the work performed by the employee.

Section 4. Employees covered by this Agreement and those dependent upon them for support will be given the same consideration in granting free transportation as is granted other non-operating employees in service.

ARTICLE IV

PROVISIONS OF LAW AND REGULATION

Section 1. It is agreed by Management and the Union that nothing in this Agreement shall be so interpreted as

to conflict with provisions of any existing or future law or regulation of the Federal Government. This includes, but is not restricted to, those rules and regulations issued by the Civil Service Commission and the Department of Transportation.

Section 2. Management agrees to furnish the Union with two copies of any directives from higher Headquarters which affect employees or which alter Management's discretionary authority with regard to any item dealt with in this Agreement before implementing same. When such directives are not readily available Management agrees to requisition the two copies for the Union.

ARTICLE V

APPROPRIATE MATTERS

Section 1. It is agreed and understood that matters appropriate for negotiation in this Agreement, or for consultation between the parties are policies, programs and procedures related to working conditions which are within the discretion of Management, including but not limited to such matters as safety, training, labor-

management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion practices, pay practices, reduction in force practices, and hours of work.

Section 2. Management agrees that the Union will be notified before changes are made to existing benefits, practices, and understandings which have been authorized by Management but which are not specifically covered by this Agreement.

Section 3. Management agrees that all privileges and benefits extended within the limits of its discretionary power will be applied fairly and equitably to all employees in the unit. Management agrees to consult with the Union concerning alleged inequities in this connection.

Section 4. It is further recognized that this Agreement does not alleviate the responsibility of either party to meet with the other to discuss and consult on matters not covered by this Agreement, which come within the scope

of consultation and negotiation. It is further agreed and understood that the Management will consult with the Union before issuing any official directives which adversely affect the general working conditions covering the employees within the bargaining unit but which are not specifically covered by this Agreement.

ARTICLE VI

UNION REPRESENTATION

Section 1. Management recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. Management further recognizes the right of the Union to designate Shop Stewards and Union Representatives from among the employees of the unit. Management agrees to recognize the Shop Stewards and Representatives designated by the Union.

Section 2. The number of Stewards and Representatives shall be only that

number required to assure each employee of the unit ready access to a Steward in his work location. The designated number of stewards shall also be sufficient to assure that the Union can properly carry out its responsibilities under the terms of this Agreement. For the purposes outlined in Sections 1 and 2 of this Article, the Union agrees to supply Management in writing, and shall maintain with Management on a current basis, a complete list of all Union authorized Representatives, Stewards and any alternates.

Section 3. Management agrees to recognize the officers and duly designated representatives of the Union and shall be advised in writing by the Union of the names of its officers and representatives.

Section 4. An employee who alleges and feels that he has a grievance or complaint shall be, upon request to his supervisor, allowed time to report his grievance or complaint to the Shop Steward, and when a pending grievance is reported to the Shop Steward or Representative, that Steward or Representative shall be allowed the time necessary to investigate the reported grievance. This investigative procedure

may require discussions with employee(s) within the bargaining unit or outside and representatives of Management (supervision) responsibilities or in some cases all three, in order to evaluate the facts and carry out the Union's responsibility under the terms of this Agreement.

Section 5. Management agrees that Stewards, Union officers, representatives and employees shall be allowed to leave their assigned areas to go to other departments, shops or offices when it is necessary to do so in order to accomplish the purposes outlined in Section 4 above, and in order to bring about a prompt and expedious disposition of a complaint or grievance. It is further agreed that such activity shall be engaged in without any loss in pay or benefits to the employees authorized to act in behalf of the bargaining agent under the terms of this Agreement or to the employees contacted. Permission, in these instances, will be granted unless the individuals work situation precludes such action. In any event, approval will be granted at the earliest opportunity.

Section 6. Management agrees that any representative of the International Association of Machinists and Aerospace Workers, AFL-CIO, or Local Lodge, upon request to Management shall be allowed into the activity at reasonable times on official Union business.

Section 7. Administrative leave may be granted to an employee Union representative to receive training, information, briefing and orientation on matters within the scope of Executive Order 11491--including statutory or regulatory provisions relating to pay, working conditions, work schedules, employee grievance procedures, performance rating, adverse action appeals and agency policy.

ARTICLE VII

HOURS OF WORK AND BASIC WORK WEEK

Section 1. Eight (8) hours shall constitute a normal work day. The normal basic work week shall be Monday

through Friday. When one shift is employed, the starting time shall not be earlier than 7:00 a.m., or later than 8:00 a.m., except at outlying points. When two (2) shifts are employed, the starting time of the first shift shall not be earlier than 7:00 a.m., or later than 8:00 a.m., and the second shift shall start immediately following the close of the first shift. When three (3) shifts are employed, the starting time of the first shift shall not be earlier than 7:00 a.m. or later than 8:00 a.m., and the starting time of the other shifts shall be regulated accordingly.

Section 2. Assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes or more than one (1) hour; except such assignments may be made to consist of eight (8) consecutive hours including an allowance for lunch on the job site.

Section 3. Where three (3) assignments performing the same service are coupled in continuous service covering the twenty-four hour period, each such

continuous service assignment shall consist of eight (8) consecutive hours including the allowance for lunch on the job site and lunch time shall be twenty (20) minutes between the fourth and fifth hour.

Section 4. Management agrees not to change the normal basic work week of Monday through Friday of any employee except in those cases where a regular tour of duty would seriously handicap the performance of a function or would result in substantially increased cost. It is recognized that functions of The Alaska Railroad operate on a seven-day work basis and that certain five-day work weeks will involve work on Saturday and Sunday. In those cases when a change in the normal work week is necessary, Management shall consult with the Union in determining which specific jobs fall within the category for which a re-arranged basic work week of other than Monday through Friday is appropriate. In no case shall an employee be required to work in excess of five (5) eight (8) hour consecutive days without payment of overtime.

Section 5. Where it is necessary to close the installation or an activity therein and administrative excused leave is granted because of inclement weather, breakdown of equipment, or other emergency "Act of God" situations, employees who report for work shall be given administrative excused leave for the period of the emergency situation.

Section 6. Management will permit adequate wash-up time before each lunch period, and adequate clean-up time at the end of each shift for the purpose of returning tools, cleaning the work area and machinery as necessary, and in each instance, wash-up time will not exceed five minutes on a straight time basis. No employee shall be required to remain after the end of his shift, without compensation, for the purpose of cleaning his designated area.

Section 7. Eight (8) hours of service will constitute a day's work. All employees coming under the provisions of this agreement, except as otherwise provided in this schedule of rules,

or as may hereafter be legally established between the Railroad and employees, shall be paid in accordance with the present wage schedule and supplements thereto.

Section 8. At terminals where one shift only is worked, working hours may be established to meet local conditions providing, however, that the eight (8) hours of said shift may be worked within a spread of not more than twelve (12) hours with but one interval of release of not less than two (2) hours.

Section 9. An employee required to work any part of the meal period will be allowed time therefor on the minute basis at rate of time and one-half. In the event there is not sufficient time remaining within the limits of the meal period in which to procure lunch (not less than twenty (20) minutes), employee will be allowed not to exceed twenty (20) minutes including any time remaining within the meal period in which to eat, without deduction therefor.

This does not apply to employees who are assigned to eight (8) consecutive hours without meal period and who are allowed twenty (20) minutes in which to eat without deduction of pay.

Section 10. At small outlying points where the service is intermittent, not requiring continuous application, assignment may be made for employees to work eight (8) hours within a spread of twelve (12) consecutive hours with but one interval of not less than two (2) hours of release. Time actually worked in excess of eight (8) hours will be paid for at the rate of time and one-half.

Section 11. Not less than five (5) working days (exclusive of Sunday and holidays) notice will be given before hours or forces are reduced.

ARTICLE VIII

EMERGENCY ROAD AND WRECKING SERVICE

Section 1. An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when called for emergency work or road work away from such shop, engine house, repair track, or inspection point, will be paid from the time called to leave home station, until ..s return for all time worked, and will be paid straight ... e

rates for traveling or waiting, except assigned rest days and holidays, which will be paid for at the rate of time and one-half, whether waiting, working or traveling. If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) hours or more, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and lodging are not provided by the Railroad, travel expenses in accordance with the current Standard Government Travel Regulations will be allowed. Employees will be called as nearly as possible one (1) hour before leaving time, and on their return will deliver tools at point designated. A wrecking service employee will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on assigned rest days and holidays will be paid for at the rate of time and one-half.

ARTICLE IX

OVERTIME

Section 1. An employee shall receive at least two (2) hours and forty (40) minutes pay at the applicable overtime rate if required to work overtime on a regular work day after he has completed his daily tour and has left his place of employment or on one of his scheduled non-workdays, even if his services cannot be utilized for two (2) hours and forty (40) minutes and shall exclude dead work. Management will endeavor to notify all employees who are to work overtime one day prior to the overtime period. Each employee is expected to work a reasonable amount of overtime when operating requirements necessitate. When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours solely for the purpose of equalizing the time. An employee may be excused from overtime for valid reasons or excused from overtime if an equally qualified employee is willing to work.

Section 2. All overtime shall be compensated for at time and one-half (1-1/2) the employee's regular hourly rate, including all shift premiums and other payments regarded by the employee as part of his regular hourly compensation. Such overtime rates shall be paid for all hours worked over forty (40) hours per week and for all hours worked over eight (8) hours per day.

Section 3. In the event of a situation requiring the extension of a regular work shift into more than a two (2) hour overtime period, time for lunch will be permitted on the work site. Management will make the necessary arrangements that food will be made available for the employees involved.

Section 4. Overtime assignments will be made from a rotary board on a "first in-first out" basis. Such a board will be set up to cover each seniority list in each shop. Employees will be accorded right of refusal to an overtime call unless his skill is specially needed for that call. An exception may be made to select an employee out of rotation if his special skill is required to perform a special assignment.

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Section 5. Except in the case of an emergency, Management agrees not to work an employee in an overtime status beyond two (2) consecutive days or days of rest against his wishes.

Section 6. An employee regularly assigned to work at a shop, engine house, repair track or inspection point, and who reports out and in of said point within twenty-four (24) hours shall receive time and one-half hours in excess of eight in any twenty-four hour period involved.

ARTICLE X

HOLIDAY WORK

Section 1. Federal regulations applicable to Federal Holidays shall apply. Employees shall be excused for all holidays now prescribed by law and any that may be later added by law and all holidays designated by Executive Order shall be observed as regular holidays. If a holiday falls on the employee's first rest day within the normal work week, the preceding day shall be treated as the holiday for leave and pay purposes and if the holiday falls on the employee's second rest day, the following day shall be treated as the holiday for leave and pay purposes. All hours worked within the hours of the assignment, shall be paid at the regular

basic rate of compensation for the day. When possible, Management will notify all employees who are to work on a holiday five (5) days prior to the holiday to be worked; a list of employees expected to work on a holiday shall be posted in their work area at least five (5) work days in advance of such holiday.

Section 2. Management agrees that employees will not be scheduled to work on a holiday; prescribed by Federal Law or Executive Order, solely to avoid overtime work that otherwise would be performed on a day outside the basic work week.

ARTICLE XI

SICK LEAVE

Section 1. Sick leave shall be granted employees when they are incapacitated for the performance of their duties by sickness, injury, or for

medical, dental, or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease.

Section 2. An employee who is absent on account of sickness shall notify his superiors or other appropriate person prior to the start of their shift on the first workday of his absence, or as soon thereafter as possible. Second and third shift employees shall notify their department or shop prior to the start of their shift or as soon thereafter as possible Requests for sick leave for medical, dental, or optical examination or treatment shall be submitted for approval prior to the beginning of the leave, except in the case of emergencies.

Section 3. A medical certificate for absence of three (3) workdays or less will not be required, except where there is reason to believe the employee is abusing sick leave privileges. In such cases the employee will be verbally advised that the sick leave privilege is being abused. When there is no

improvement the employee will be advised, in writing, that he will be required to submit a medical certificate for each subsequent absence for illness. Medical certificates will not be required for holidays or days outside the employee's workweek. It is further agreed that Management and the employee will review the sick leave record of each employee required to furnish a medical certificate periodically, and where such review reveals no substantial evidence that the employee has abused sick leave privileges during the review period, the employee will be notified in writing that a medical certificate will no longer be required for each absence which is claimed as due to illness for periods of three (3) workdays or less unless an abuse recurrs.

Section 4. An employee sent home by the Chief Medical Officer will be provided transportation by Management in those cases where the medical officer determines such transportation is necessary.

Section 5. When an employee is

assigned a temporary restricted work classification, as determined by the Medical Officer, Management will make every effort to place the employee on a job, if available, within the prescribed restrictions.

Section 6. Management agrees to advance sick leave in accordance with applicable regulations to permanent employees, not to exceed thirty days when there is reason to believe the advanced sick leave will be earned after return to work.

ARTICLE XII

ANNUAL LEAVE

Section 1. Annual leave is afforded by law. Employees shall accrue leave in accordance with regulations. Approval of an employee's request for annual leave will be granted when his request is submitted with reasonable advance notice. Approval of requests for annual leave for unforeseen reasons will be considered as the circumstances warrant.

Section 2. Every attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of extended annual leave for vacations. When Management finds it necessary to cancel previously approved leave, the reasons for such action will be explained to the affected employee(s).

Section 3. Applications for specific days of annual leave for vacation purposes will be granted on a seniority basis and in the event of a coinciding request date the senior employee of the affected area of the Alaska Railroad shall receive preference. Filing date for vacation leave shall be February 1 of each year.

ARTICLE XIII

LEAVE OF ABSENCE

Section 1. A reasonable number of employees may be granted annual leave, leave without pay, to accept temporary Union positions or to attend conventions

or meetings of the Union as defined in Executive Order 11491. Employees may be granted leave of absence with or without pay for other purposes.

Section 2. Management agrees to grant upon request of the Union, leave without pay for employees to act as full-time representatives for the Union.

Section 3. Management recognizes the obligation to provide employment at the end of the extended leave without pay granted for employees as full time Union representatives within the rating the employee held upon his request for leave and in the current pay status of such rating at the time the employee returns to work, also recognizing the bumping and retreating rights of an employee on approved leave of absence without pay in situations where the employee's status has been affected by reduction in force action during the period of leave of absence.

Section 4. All employees in approved leave of absence without pay status shall accrue all rights and

privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employees Health Benefits Program in accordance with current law and regulations.

Section 5. Each Reservist of the Armed Forces or member of the National Guard who is a permanent employee is entitled to leave of absence from his duties without loss of pay or seniority for not exceeding fifteen (15) calendar days in any calendar year in which he has been called to active duty.

Section 6. Employees shall not be granted leave of absence without pay for the purpose of accepting outside employment unless given written permission prior to leave jointly by the Management and the Union. Employees giving false reasons for the purpose of obtaining leave will be subject to discipline.

Section 7. An employee on leave or temporarily absent from his assignment for any cause, must notify his

foreman of his return thereto at least one (1) hour prior to the quitting time of his assignment on the working day next preceding his return, except in the case of sick leave.

Section 8. Duly accredited representatives of the employees and other employees employed exclusively by the organization shall be considered as in the service of the Carrier and may return to their former position or exercise seniority within thirty (30) calendar days after release from such employment.

Section 9. An employee unavoidably detained from work will not be discriminated against. Unless prior notice of expected absence has been given, notice to foreman must be given as quickly as possible, and failure to do so, or habitual absence from work without a good cause will be considered cause for discipline.

ARTICLE XIV

MERIT PROMOTION

Section 1. The Employer will

utilize employees' skills and potentials to the fullest extent practicable. Employees will be promoted on the basis of merit without regard to race, color, religion, sex, age, or membership or nonmembership in employee organizations. The over-all objective of the merit promotion program is to assure that positions are filled with the best qualified persons available and to assure that all employees have an equal opportunity to apply for advancement.

Section 2. The Union recognizes that the Employer has the option of filling positions by repromotion, or by methods other than promotion such as appointment, reinstatement, reassignment, or transfer provided the person selected is in the best qualified group using the same qualification standards as for evaluating applicants for promotion. Management agrees that whenever possible to utilize existing employees from within the activity to fill vacant positions when qualified employees are available.

Section 3. All Alaska Railroad merit promotion program opportunities will be advertised through issuance of

announcements within the area of consideration on all Official Bulletin Boards. Announcements will be open for at least ten working days when advertising is confined to the Alaska Railroad.

Section 4. The Alaska Railroad will normally be the minimum area of consideration. If an announcement fails to provide a sufficient number of highly qualified candidates the area will be expanded. The Union will be notified in advance of expansions of areas of consideration and upon request the Employer will consider the Unions views concerning the necessity for such expansions.

Section 5. Upon request, each applicant will be told whether he was eligible for promotion on the basis of minimum qualification requirements, whether he was in the group from which selection was made, who was selected for promotion, and in what areas he should improve himself to increase his chances for promotion.

Section 6. In accordance with Civil Service Commission directives, qualification standards for promotion

are those prescribed in Commission Handbook X-118-C for ungraded positions as supplemented by Department of Transportation directives. These standards prescribe elements for each occupational area and level of the occupation. In accordance with the Federal Personnel Manual the following consideration may be used in evaluating these job elements.

a. Written Tests. Appropriate validated written tests which are either required or approved by the Civil Service Commission may be used. Written tests may not be used as the sole means of evaluating candidates; they may be used as only one part of the evaluation process with due weight given to the appropriate factors.

b. Appraisals of Performance. Appraisals of performance must be considered as one factor in evaluation of basically eligible candidates. When an employee has worked for a particular supervisor for less than six (6) months, a second, foreman (leadingman) supervisory appraisal will be obtained. An empoloyee is entitled to see, upon his request, any production record or any supervisory appraisal of past performance used in considering him for

promotion. An employee, however, is not entitled to see a supervisory report on potential which is a recorded judgment of the supervisor's estimate or prediction of how well the employee is likely to perform at a level or in a kind of work different from one in which he has already performed.

c. Experience. In evaluating experience the type and quality of experience is considered in relation to the requirements of the position to be filled. Length of service or length of experience is evaluated when there is a clear and positive relationship with quality of performance and for breaking ties.

d. Awards. Due weight will be given awards received by employees in terms of qualifications indicated such as initiative, resourcefulness and planning ability and their bearing on the requirements of the position to be filled.

e. Training and Self-Development. Training and self-development which would increase the employee's potential for

effective performance in the position to be filled must be considered.

Section 7. Employees selected for promotion will be notified promptly of their selection and released from their former positions as soon as practicable, normally with two weeks' notice. An employee will be paid at the pay level of the position for which selected, starting with the effective date of promotion, in accordance with applicable regulations.

Section 8. Questions or complaints about the promotion program should be resolved informally if possible with immediate supervisors and the Personnel Officer. The formal means for resolving complaints is then through the grievance procedure.

Section 9. When practicable the duties of a supervisor who is absent for a time less than thirty (30) days will be assumed by another supervisor. When this is not practicable, a qualified employee will be assigned as acting supervisor. When an employee is so assigned for a period of thirty (30) days or more, a temporary promotion will be made under applicable rules and regulations.

Section 10. When a vacancy occurs, a Certificate of Eligibles will be forwarded to the Selecting Official containing the names of the best qualified applicants and shall be grouped alphabetically and the certificate shall state that the names are not listed relative to qualifications. The Selecting Official may interview candidates on the Certificate of Eligibles. If one (1) candidate is interviewed all candidates will be interviewed if available.

Section 11. Merit promotion announcements will show the job requirements for which an applicant's qualifications are evaluated in terms of the skills, knowledge, abilities, and potential needed to perform the job for which the applicant is being considered. Merit promotion announcements shall not contain key or restrictive clauses that tend to favor one employee or a group of employees for a particular position.

Section 12. A merit promotion opportunities announcement may not be modified after the promotion process is under way unless an inappropriate announcement has been released. Modified announcements will be in accordance with Section 3 of this Article and all employees eligible under the modified announcement shall be considered for promotion.

Section 13. The Employer agrees to consult with the Union on any revisions or amendments to the Merit Promotion Plan.

ARTICLE XV

REPROMOTION

Section 1. Any employee demoted without cause will be advised in writing of his entitlement to special consideration for repromotion.

Section 2. Any employee demoted without cause must be considered for repromotion before other means are used to fill a position. Although he is not guaranteed repromotion he should be repromoted as an exception to competitive procedures if he is well qualified for the position unless there are persuasive reasons for not doing so.

ARTICLE XVI

DEADHEADING

Section 1. Regularly assigned employees ordered by the Management to deadhead outside of assigned hours to or from a point to perform service shall be paid actual travel time at straight time rates not less than eight (8) hours per day. Travel in excess of eight (8) hours per day will be paid as travel time at straight time rates, and will not be counted against the basic work week of forty (40) hours. Where meals and lodging are not furnished by the Carrier, travel expenses will be allowed in accordance with Standard Government Travel Regulations. Positions requiring travel as a regular part of their assigned duties will not be paid travel time in excess of their assigned hours.

ARTICLE XVII

PERSONNEL MOVEMENTS IN
RIF SITUATIONS AND REHIRING

Section 1. It is agreed that all

possible action will be taken to avoid or minimize the impact of a reduction-in-force prior to separating employees. Such action will include restricting recruitment, meeting ceiling limitations through attrition, reassigning employees in surplus positions and terminating limited appointments.

Section 2. Management agrees to notify the Union of the necessity for reduction-in-force as far in advance as practicable and of the reasons therefor. Management also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that Management, to the extent consistent with the installation's manpower requirements, will make an effort to reassign employees whose positions are eliminated because of automation or adoption of labor saving devices. It is agreed that management will make practical effort to train employees, when necessary for reassignment, whose positions are eliminated because automation or adoption of labor saving devices.

ARTICLE XVIII

REVIEWS OR JOB DESCRIPTIONS
AND REQUIREMENTS

Section 1. The activity program for determining the ratings of positions of employees in the unit is conducted in accordance with the applicable Department of Transportation regulations. To assure that ratings are appropriate to the work currently being performed by the employees in the bargaining unit, Management agrees to and shall conduct a continuing Review of such ratings throughout the activity. In any case where a modification of a job description of any position in the unit is proposed to the extent that either the rating, title, pay level, or qualification requirements for the rating would be affected, the proposed change will be discussed verbally or in writing by Management with the Employee prior to the effective date of any such change.

Section 2. Any employee in the unit who alleges that his position is improperly described or rated may discuss

the matter with his supervisor, who will, upon request, arrange for review of the employee's rating by personnel of the Personnel Office. The review shall include discussion with the employee and with his supervisor to determine the employee's actual regular work assignment over a representative current period and comparison of such assignments to the related job descriptions and/or rating definitions. Management agrees to consider fully all pertinent facts including those presented by the employee. If the employee's complaint is not resolved to the satisfaction of the employee, Management shall notify the employee in writing of the findings, the basis of the findings, and shall outline the employee's appeal rights. In requesting a review of his position rating and in the discussions described above, the employee may have and shall be entitled to representation by his Union.

Section 3. Upon request by the employee and/or his representative, Management agrees to produce all pertinent and current data on the grade and job standards of the employee's

particular job. The information will include how the grades, job standards, and titles were established and the type of work actually required under these standards.

Section 4. It is agreed that Management will advise the Employee when a job rating is to be changed due to reclassification actions to a lower grade, and at least thirty (30) days prior to effecting personnel action.

Section 5. The Union may present supporting evidence to Management regarding the local application of position classification standards and the equity of classification results.

ARTICLE XIX

DISPOSITION OF UNIT WORK

Section 1. Nothing in this agreement shall be construed to prevent operators of equipment and machines from making minor repairs to equipment they operate incidental to the continuous operation of their equipment and machinery, outside the shop.

Section 2. None but mechanics or apprentices regularly employed as such shall do mechanics work of each craft. This rule does not prohibit foremen in the exercise of their duties, or foremen at points where no mechanics are employed, to perform work.

Section 3. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work of any craft (including welding) that may be necessary.

Section 4. An employee notified to work a full shift on his day of rest, Sundays or holidays, will be allowed to complete the shift unless relieved at his own request.

Section 5. Management agrees that as a matter of practice, supervisors at Anchorage shall not be assigned to perform the duties as outlined in job descriptions of Unit employees except when instructing or training employees.

ARTICLE XX

APPRENTICE TRAINING PROGRAMS
AND RE-TRAINING

Section 1. It is mutually agreed that the Apprentice Training Program is of vital interest to Management and the Union. The objective of the Program is to provide organized on-the-job and academic training and instruction to qualified employees to develop skilled journeymen and potential leaders in the trades areas necessary to the mission of this unit.

In this regard, cognizant Shop Heads will coordinate the on-the-job training in order to insure that apprentices receive broad and well-rounded experience in their respective tr). All apprentice training assignmen shall be scheduled and recorded to insure that all apprentices are afforded the opportunity to qualify in each phase of training, as defined in the Apprentice Training schedule developed by Management and the Union for each trade.

Section 2. Management agrees to recognize a Union apprentice training committee within the Machinist bargaining Unit of not more than three (3) members appointed by the Union and three members appointed by Management, to serve on such committee. This committee shall have the right to a reasonable review of apprentice training programs affecting employees in the bargaining unit for the purpose of assisting Management in insuring a continuing effort to strengthen and improve the apprentice training program. It is further agreed that the Union apprentice and training committee shall meet once every two (2) months or upon the request of either party for the purpose of discussing the overall effectiveness of the apprentice training program.

Section 3. Management agrees that apprentices will be assigned to either an apprentice instructor or a skilled journeyman who will be under the personal supervision of a supervisor, who shall be responsible for their training while so assigned. Assignments will be made, to the extent permitted by

work requirements, primarily to expose the apprentice to a variety of jobs with increasing complexity and responsibility during the programmed apprentice term.

Section 4. The time a journeyman is engaged in instructing apprentices, when assigned, will not be considered by the immediate supervisor in judging productivity of that particular journeyman.

Section 5. Whenever technological changes require the use of a composite job rating which will utilize the skills of more than one (1) craft or trade, Management agrees to make every reasonable effort to train employees from trades affected by the new rating and to secure employees for such training from within the activity. In securing employees for such on-the-job training, Management agrees to the use and principles of a merit promotion system with respect to their selection and appointment to such training programs.

Section 6. In recognition of the mutual advantages to Management and to the employees, Management agrees to utilize existing employees from within the activity when training for any new

job ratings which may be determined necessary for establishment within the activity to carry out the mission.

ARTICLE XXI

SAFETY

Section 1. Management will exert every effort to provide and maintain safe working conditions and industrial health protection for the employees. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his own safety and an obligation to know and observe safety rules and practices as a measure of protection for himself and others. Management will welcome from any individual employee or from the Union, suggestions which offer ways of improving safety conditions.

Section 3. It is agreed that the Union will appoint an appropriate number of qualified employees to serve as the Union's representatives on Management's Safety Committees.

Section 4. In the course of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in th ir immediate area which represent industrial health hazards. When unsafe or unhealthy conditions are observed by the Union representatives they should report them to the immediate supervisor. When such safety and industrial health matters are of general interest, the Union may present the problem to Management's safety committees or bring the matter to the attention of appropriate supervision for mutual consideration by Management and the Union.

Section 5. The Union and Management will make every effort to prevent accidents of any nature. Should such accident occur, however, a prime consideration will be the welfare and comfort of injured personnel.

Section 6. When it becomes known that an accident has resulted in a disabling injury, management agrees to notify the Union promptly of the circumstances.

Section 7. Employees injured while at work will not be required to make accident reports before they are given

medical attention, but will make them as soon as practicable thereafter. Proper medical attention will be given at the earliest possible moment, and, when able, employees shall be permitted to return to work without signing a release pending final settlement of the case. Settlements will be made in accordance with Employee's Compensation benefits.

Section 8. When employees covered by this agreement are required to transfer from hot work to cold work, they will be allowed sufficient time to cool off before such transfer is made.

Section 9. Pits and floors, lockers, toilets, washrooms and lunchroom will be kept in good repair and in a clean, dry and sanitary condition.

Section 10. Operators of sandblast or paint sprayers will be required to use utmost care not to disturb other employees working in immediate vicinity.

Section 11. All acetylene or electric welding or cutting will be protected by a suitable screen when its use is required.

Section 12. Shop employees will not be required to work on engines or cars outside of shops during inclement weather, if shop room and pits are available. This does not apply to emergency work required to trains or in train yards.

Section 13. No employee will make repairs to engines or cars standing on main track or side track in yards without being protected by a blue signal in place provided thereto on engine and car at both ends of the train to prevent cars from being coupled to or moved while he is making repairs. If signals are placed by the employee, he alone must remove them.

Section 14. When circumstances permit every effort will be made to clean locomotives prior to truck changes or other major work.

ARTICLE XXII

COMMITTEE ASSIGNMENTS

Section 1. The Union agrees to cooperate with Management in the development of policies and procedures for programs which involve charitable

solicitations to include qualified Union representation on Management committees for such purposes.

Section 2. The Union will appoint qualified representatives to assist Management in evaluating suggestions and incentive awards.

ARTICLE XXIII

CIVIC RESPONSIBILITIES

Section 1. When an employee is absent from duty and in attendance in court as witness in behalf of the United States, or for jury duty in any State court or court of the United States, the absence from duty shall not be charged against annual leave but shall be recorded as "court leave" for the employee's regular tour or tours of duty.

Section 2. On receipt of a summons to appear for jury duty, the employee shall advise his supervisor. While the duty to serve as a juror is one of the precious privileges and responsibilities of American citizenship, with which the railroad management concurs, there are instances when the absence of the employee from duty would work an undue hardship. The Personnel Officer shall investigate these hardship cases when brought to his attention by the Branch head.

Section 3. An employee a swering summons for jury duty shall require written certification of attendance from the clerk of the court. This form shall be attached to Standard Form 71 and presented by the employee to timekeeper as authority for allowance of court leave.

Section 4.

a. Since court does not ordinarily convene until 10:00 a.m., an employee called for jury duty shall be required to report on his Railroad assignment at the starting hour and continue work until such time as it is necessary to leave for court. The only exception to this requirement shall be in those instances when the foreman or other supervisor finds it would be an undue hardship to comply therewith and so informs the appropriate timekeeper in writing.

b. When an employee is excused from duty by the court for as much as one and one-half (1-1/2) hours prior to time for stopping work at noon or evening, he shall return to duty unless advance authority for nonreturn, due to definite hardship being involved, is obtained from foreman or other supervisor.

Section 5.

a. An employee serving as a juror in State or municipal courts shall be instructed to collect all fees and allowances payable on account of the jury service. The employee must forward the fees so collected to the Treasury section, Accounting Branch, The Alaska Railroad, endorsed with "Pay to The Alaska Railroad"; otherwise, payroll deduction shall be made from compensation due him. The employee may keep allowances for mileage and subsistence to cover his actual expenses incident to the jury service; however, payment of per diem is prohibited since it is a form of compensation for services rendered.

b. An employee who performs jury service on rest or layover days is entitled to retain the fees received for such service.

Section 6. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without charge to annual leave. When the polls are not open at least three hours

either before or after an employee's regular hours of work, he may be granted an amount of excused leave which will permit him to report for work three (3) hours after the polls open or leave work three hours before the polls close, whichever requires lesser amount of time off.

ARTICLE XXIV

SPECIAL TOOLS - CLOTHING - SERVICES

Section 1. Management agrees to bear the full expense of all special tools, protective clothing and equipment that employees use in the performance of their duties.

Section 2. Management agrees to bear the expense of paying the difference between work shoes and safety shoes.

Section 3. Management agrees to provide space on official bulletin boards and offices for the posting of union notices and similar information material.

ARTICLE XXV

GRIEVANCE PROCEDURE

Section 1. An employee who has passed his probationary period satisfactorily or whose application has been formally approved shall not be disciplined or dismissed without a fair hearing by the designated officer of the Railroad. He may, however, be held out of service pending hearing. At a reasonable time prior to the hearing and not less than forty-eight (48) hours, such employee shall be apprised, in writing, of the precise charge against him within thirty (30) calendar days of knowledge by the Management of the alleged offense. The hearing shall be held within ten (10) calendar days of the date when charged with the offense. A decision will be rendered within ten (10) days after completion of hearing. The time limits in this rule may be extended by mutual agreement.

Section 2. The right of appeal by employees or their duly accredited representatives in the regular order of succession up to and including the highest officer designated by the Management to whom appeals may be made

is hereby established. When appeal is taken, further hearing shall be granted, if requested of the official to whom appeal is made. Appeals will be registered within a reasonable time after decision is given and a copy furnished official whose decision is appealed. Hearings and decisions on appeals will be given within ten (10) calendar days from date appeal notice is received by the officer to whom appeal is taken. The time limits in this rule may be extended by mutual agreement.

Note: No appeal will be handled except in accordance with the above procedure.

Section 3. At hearings an employee may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest offical designated

by the Management to whom appeals may be made. At each step Management will render a decision within ten (10) days.

Section 4. Investigations and hearings shall be held whenever possible at home terminals of employees involved and at such time as to not cause employees to lose rest or time. Employees shall have reasonable opportunity to secure the presence of duly accredited representatives and/or necessary witnesses. Upon request of the employee or his representative all necessary existing records of Management pertinent to the case at hand shall be made available for their use. In the process of the hearing, the Union will be permitted a court recorder or a tape recorder.

Section 5. A copy of all statements made a matter of record at investigations or hearings shall be furnished to the employee and to his duly accredited representative.

Section 6. If an employee is suspended, the suspension shall date from the time he was taken out of service.

Section 7. If the final decision decrees that charges against the employee were not sustained, the record shall be cleared of the charge. If suspended or dismissed, the employee shall be reinstated and paid for all time lost.

Section 8. An employee who considers himself unjustly treated, or that any of the provisions of this agreement have been violated, shall have the right of investigation, hearing, appeal and representation as provided in Sections (1), (2), (3), (4) and (5), if written request, which sets forth the employee's grievance is made to his superior within thirty (30) calendar days of knowledge by the employee of the alleged unjust treatment.

Definition of Investigation: An inquiry conducted by the Management to determine cause and responsibility and to make search or inquiry for truth or facts prior to conducting a hearing. Employees are not disciplined as a result of an investigation except new employees who have not passed their probationary period of employment.

Definition of Hearing: A hearing (a trial) conducted after an investigation has developed cause and responsibility. At such hearings an employee or employees must be given proper notice under these rules and apprised in writing of the precise charge or charges against him. Employees may be disciplined or discharged as a result of a hearing. Appeals are based on hearings, not on investigations.

The enforcement of discipline by demerit record will apply to employees of the unit.

The advantages of this system are:

1. (a) To the employee, enabling him by good conduct to insure permanency of employment.

   (b) To the Railroad, in increased efficiency of such permanent employees.

   (c) To avoid loss of wages and consequent hardships

1. (c) cont'd.

to employees and th[illegible] families because of [illegible]ing deprived of their regular income.

(d) To promote good conduct and encourage careful and efficient service.

2. No discipline by record will be made for less than five (5) or more than sixty (60) demerits.

3. Where demerits are given for unsatisfactory service, cancellations upon record will be given as follows:

(a) A clear record for six (6) months will cancel five (5) demerits.

(b) A clear record for one (1) year will cancel thirty (30) demerits.

(c) A clear record for eighteen (18) months

3. (c) cont'd.
will cancel sixty (60) demerits.

4. When an employee's demerits have accumulated to the number of ninety (90), he will be dismissed from the service.

5. An accumulation of demerits showing that an employee is not desirable for the service will first be given special consideration, but when the service of an employee is so generally unsatisfactory as to unfit him for further service, dismissal will follow.

6. Any permanent employee, who is not serving a probationary period and has completed one year of continuous employment, subject to discipline resulting from hearings and accumulation of demerits involving removal, suspension for more than thirty (30) days, furlough without pay or reduction in pay shall be afforded the provisions of Civil Service Commission regulations relative to adverse

actions. These regulations shall be quoted to the employee, including, but not limited to a Notice of Proposed Action, Receipted Delivery Notice, Thirty day Pay status, time for employees response and evaluation of same and Notice of Decision.

ARTICLE XXVI

ADVISORY ARBITRATION

Section 1. If Management and the Union fail to settle any grievance arising under Article XXV titled Grievance Procedure with respect to the interpretation, application, or alleged violation of this Agreement or of any policy or decision of Management, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to Advisory Arbitration. Such written notice must be served not later than thirty (30) days following the conclusion of the last step of the grievance procedure.

Section 2. Within seven (7) days from the date of receipt of the arbitration request, the parties shall

meet for the purpose of endeavoring to agree on the selection of an arbitrator, and the wording of the question to be resolved. If agreement cannot be reached, then either party may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after the receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then Management and the Union will each strike one arbitrator's name from the list of five (5) and shall repeat this procedure. The remaining name shall be the duly selected arbitrator.

Section 3. The fee and expenses of the arbitrator shall be borne equally by Management and the Union provided that the cost to Management for arbitrator's fee shall not exceed that amount authorized by rules and regulations. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, not to exceed two (2), employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings.

Section 4. The arbitrator is requested by the parties to render his decision as quickly as possible but in any event no later than thirty (30) days after the conclusion of the hearings unless the parties otherwise agree.

Section 5. It is agreed and recognized that arbitration as provided herein is advisory in nature.

Section 6. The arbiter shall have jurisdiction and authority to interpret this Agreement and to apply it to the particular case under consideration, but shall, however, have no authority to add to, subtract from, or modify the terms of this Agreement and shall confine his findings to the question submitted.

Section 7. In those cases where either party deems it necessary, it may arrange that a transcript of the hearing be made by a qualified court reporter. The party making such arrangement shall bear the full cost thereof. If both parties request a copy the cost will be shared equally. If the arbiter requests that he be furnished with a copy, the expense of the original copy and the reporter's attendance charge shall be borne equally by Management and the Union.

Section 8. The Head of the activity shall render his decision on the advisory arbitration within twenty (20) calendar days from receipt of the arbitrator's decision.

ARTICLE XXVII

SENIORITY

Section 1. Mechanics, helpers or apprentices permanently transferred from one point to another will, after thirty (30) days, lose their seniority at the point they left, and their seniority at the point to which transferred will be established as of the date service is first performed at point to which transferred. Junior employees will be compelled to accept a permanent transfer to another point.*

*Senior employees temporarily transferred will not be compelled to accept a permanent transfer to another point.

Section 2. Employees temporarily transferred to fill vacancies of less than thirty (30) days at the direction of the Management under a forced rule will be allowed expenses in accordance with Standard Government Travel Regulations

for not to exceed thirty (30) days.

Section 3. Employees now filling or promoted to official positions beyond the scope of this agreement shall retain and continue to accumulate seniority in the class from which promoted.

Section 4. An employee taken from any craft for assignment to special service will retain his seniority and be considered on leave of absence from his department while performing such special service.

Section 5. Employees on extended leave of absence for vacation, sickness or other authorized leave, upon returning to service will be permitted to return to their former positions or may exercise displacement rights on new jobs or vacancies created during his absence. If such employee returns to his regular position, the employee who was relieving him will return to regular position. If a returning employee displaces another employee assigned during his absence, the displaced employee may exercise seniority in like manner to other positions for which he is qualified.

Such actions are to be accomplished upon return or within three (3) days thereafter.

Section 6. Seniority of Mechanics, helpers and apprentices covered by this agreement in each craft shall be confined to the point at which employed.

Section 7. The indiscriminate exercise of seniority to displace junior employees, which practice is usually called "rolling" or "bumping", will not be permitted. However, an employee whose assignment is discontinued, or who may be displaced from his position by other causes, will be permitted to exercise seniority on any job occupied by a junior employee on his seniority list.

Section 8. When the force is reduced, seniority will not govern. Civil Service Commission Regulations shall apply for Reduction in Force.

Section 9. Separate seniority rosters, at their respective points will be maintained for Machinists, Heavy Equipment Mechanics, Electricians, Sheet

Metal Workers, Pipe and Steamfitters, and Mechanics' Helpers.

ARTICLE XXVIII
BULLETINING POSITIONS
WITHIN MULTIPLE APPOINTMENTS

Section 1. Vacancies of thirty (30) days or more shall be bulletined for five (5) days before being permanently filled. The oldest employee in point of service in the respective craft, if qualified by experience to efficiently handle the work, will be assigned. Employees desiring to avail themselves of this rule will make bid, in writing, to the official in charge, duplicate copy to local chairman, the Management to make assignment.

Section 2. An employee exercising his seniority rights under this rule will do so without expense to the Carrier; he will not lose his right to the job he left, and if after a fair trial not to exceed thirty (30) days he fails to qualify for the new position, he will return to his former position. The next senior qualified man bidding will be assigned. In the event there are no bids, the youngest employee will be assigned.

Section 3. Official Bulletin Boards shall be used at all shops, repair points, and roundhouses where proper notices of interest to employees and job bulletins may be posted. Access to such board will be made available to accredited Union representatives for posting such notices as are necessary.

Section 4. Employees covered by this Agreement, who have been assigned in a multiple appointment, performs work for four (4) hours or more in a position authorized with a multiple appointment shall be paid for the rate of the work performed consistent with the grade assignments authorized in multiple appointment.

Section 5. Advertised vacancies may be filled in acting status pending an assignment.

ARTICLE XXIX

DURATION AND CHANGES

Section 1. This agreement when approved by the parties for the Union and the Management shall become effective on January 16, 1970. After such approval renewal of this Agreement will be automatic from year to year, provided that this Agreement shall terminate

automatically effective with any date on which it is determined that the Union is no longer entitled to exclusive recognition in accordance with Executive Order 11491.

Section 2. By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing to the General Manager and must be accompanied by a summary of the amendment or amendments proposed. Within sixty (60) days after receipt of such request, representatives of Management and the Union will meet to negotiate the matter, and no changes other than those covered by the summary shall be considered. A written notice of desire to alter and amend by renegotiation shall not have the effect of terminating this Agreement.

Section 3. This Agreement supersedes all previous Agreements for employees covered by this Agreement.

Section 4. The Articles of this Agreement have been negotiated in good faith and are presumed to be consistent with existing laws enacted by the U. S. Congress, applicable Department of

Transportation and Civil Service Commission regulations and Executive Orders. The provision of any existing or future contrary decree with respect to and which affect this agreement shall become a part thereof.

Section 5. It is agreed that this Agreement shall take precedent and no other Agreement shall be the basis for grievances.

Dated at Anchorage, Alaska Jan. 16, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Association of Machinists & Aerospace Workers

Charles C. Temple
Grand Lodge Representative

For the Organizations: (Con't)

James W. Moody
James W. Moody
Business Manager, Local 1735

Luther R Augenstein
Luther R. Augenstein
General Chairman, Local 1735

Frederick P. McLoud
Frederick P. McLoud
President, Local 1735

Memorandum of Understanding No. 1
to the
Schedule of pay, rules and regulations
Governing Machinists, Heavy Equipment
Mechanics, Electricians, Sheetmetal
Workers, Pipe and Steamfitters,
Mechanical Helpers and Apprentices

Article I, Recognition and Unit Designation, Section 2, is understood to mean: Management recognizes that the Union is the exclusive representative of all non-supervisory blue collar employees in the bargaining unit consisting of the following journeymen, helpers and apprentices of the Motive Power and Equipment Branch: Machinists, Heavy Equipment Mechanics, Pipe and Steamfitters, Electricians and Sheet-metal Workers. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Article II, Responsibilities and Rights of Management, Section 1, is understood to mean: The right to make reasonable rules and regulations shall be considered acknowledged functions of Management. In making rules and regulations relating to personnel policies, and practices and procedures, and matters of working conditions, Management

due regard and consideration to
s of the Union and the employees
e obligations imposed by this
and the provisions of Executive
91 as amended, and is subject to
wing requirements:

in the administration of all
overed by the agreement, officials
yees are governed by existing or
ws and the regulations of approp-
thorities, including policies set
the Federal Personnel Manual; by
agency policies and regulations
ence at the time the agreement was
; and by subsequently published
licies and regulations required
r by the regulations of approp-
thorities, or authorized by the
a controlling agreement at a
gency level;

management officials of the agency
he right, in accordance with appli-
ws and regulations --

(1) to direct employees of the agency;
(2) to hire, promote, transfer,
and retain employees in positions
the agency, and to suspend, demote,
e, or take other disciplinary action
employees;
(3) to relieve employees from duties
of lack of work or for other legit-
easons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

Article XI, Sick Leave, Section 3: The word "periodically" is understood to mean six (6) months.

Article XXI, Safety, Section 6, is understood to mean: When it becomes known that an accident has resulted in a disabling injury, the Master Mechanic will notify the Union promptly of the circumstances.

Article XXV, Grievance Procedure: All references to the term "hearing" within the grievance procedure are understood to mean "formal investigations".

Section 3 is understood to mean: At formal investigations an employee may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly

ged representatives, verbally
the General Foreman and the
echanic. If not satisfactorily
, they may be appealed by the
tative in writing to the Chief
al Officer, then to the Operations
, and then to the General Manager.
written step Management will
a decision within ten (10) days.

Anchorage, Alaska August 1, 1974

INTERNATIONAL ASSOCIATION OF
S & AEROSPACE WORKERS:

as. C. Temple
C. Temple
dge Representative

mes W. Moody
Moody
s Manager, Local 1735

Forrest L. Whities
st L. Shities
Chairman, Local 1735

arry C. Simpson
. Simpson
st, Local 1735

FOR THE ALASKA RAILROAD:

Sgd./ G. V. Randall
G. V. Randall
Chief Mechanical Officer

Sgd./ R. R. Mack
R. R. Mack
Personnel Officer

ALPHABETICAL INDEX

A

Act of God	VII 5
Acting Status	XXVIII 5
Additional Units	I 3
Advance Approval of Leave	XI 2
Adverse Affect	V 4
Advice to Management	XI 2
Advice to Union re RIF	XVII 2
Advisory Arbitration	XXVI
Annual Leave	XII
Appeal Grievances	XXV 2
Apprentice Training	XX
Arbitrator	XXVI 2
Attendance at Conventions	XIII
Awards	XIV 6d

B

Benefits	III 2
Best Qualified	XIV 1,10
Blue Signals	XXI 13
Bumping	XXVII 5,7
Business Manager	VI 6

B

Basic Labor Agreement:

Definitions	Sec. 1
Compliance	Sec. 2
Scope	Sec. 3
Employee Rights to Labor Representation	Sec. 4
Discrimination Prohibited	Sec. 5
Determination of Bargaining Rights	Sec. 6
Duty to Confer	Sec. 7
Written Agreements	Sec. 8
Scope of Negotiations	Sec. 9
Disputes, Board of Adjustment	Sec. 10
Bulletin Boards and Distribution of Literature	Sec. 11
Labor-Management Cooperation	Sec. 12
Effective Date and Duration	Sec. 13

C

Changes, Advice of	V 2
Clean Engine Parts	XXI 14
Clean Up Time	VII 6
Clean Working & Rest Areas	XXI 9
Committees	
Apprentice	XX 2
Charitable Solicitation	XXII 1
Safety	XXI 3
Suggestion	XXII 2
Compensation time off	IX 1
Complaint re Job Description	XVIII 2
Compliance	IV 1
Consultation	V 4
Continuous Daily Service	VII 3
Court Leave	XIII
Craft Work	XIX 3

D

Days Work	VII 7
Deadheading	XVI 1
Details (less than 30 days)	XIV 9
Directives Furnished	IV 2
Discipline	XIII 6
Discipline	XIII 9
Discipline by Demerit	XXV 8,1-6
Discrimination	XIV 1
Duration of Agreement	XXIX

E

Emergency - Wrecking Service	VIII	1
Equity	V	3
Exclusive Recognition	VI	1
Executive Order	II	1
Excused from Court Duty	XXIII	4a,b
Experience	XIV	6c

F

February 1	XII	3
Full Time Union Representatives	XIII	2

G

Grades, reduction of	XVIII	4
Grand Lodge Representative	VI	6
Grievance Procedure	XXV	

H

Handbook X-118C	XXV	6
Handicapped Program	II	2
Health Benefit Plan	XIII	4
Hearing Defined	XXV	8
Holidays	X	
Hot-Cold Work	XXI	8
Hours Changed	VII	11
Hours of Work	VII	1

I

Injury, Advice to Union	XXI	6
Interviews	XIV	10
Investigation defined	XXV	8

J

Job Bulletins	XXVIII	3
Job Descriptions	XVIII	
Jury Duty	XXIII	

L

Leave, Administrative	VI	7
Administrative	VII	5
Annual	XII	
Court	XXIII	
Emergency	XIII	1
Military	XIII	5
Sick	XI	
Voting	XXIII	6
Without Pay	XIII	
Life Insurance	XIII	3
Light Duty	XI	5
Light Duty	II	2
Limitations, Management	I	1

M

Maintenance by Operators	XIX	1
Management Options	XIV	2
Meal Period	VII	2,3
Meal Period	VII	9
Meal Period	IX	3
Mechanic's Work	XIX	2
Merit Promotion	XIV	

Modified Promotion Announcement XIV 12
Multiple Position Assignments XXVIII

N

Negotiation V 1
Number of Stewards, Representatives VI 2

O

Official Bulletin Boards XXVIII 3
Official Bulletin Boards XXIV 3
Official Bulletin Boards XIV 3
Official Positions XXVII 3
Official Time for Grievance VI 4
Outlying Points VII 1
Outside Employment XIII 6
Overtime: Call Basis IX 1
Excused IX 1
Holiday Work within assigned hours X 1
Meal Period VII 9
Notice IX 1
Notice Holiday X 1
Rate IX 2
Rotary Board IX 4
Split Shift VII 10
Wrecking Service VIII 1
24 Hour Period IX 6

P

Parking Spaces II 2
Pay: Arbitrator XXVI 3
Attendance at Arbitration XXVI 3
Charges not sustained XXV 7
Clean up VII 6
Court Leave XXIII 5a,b
Deadheading XVI 1
Grade Reduction XVIII 4
Grievances VI 4
Holiday X 1
Military leave XIII 5
Protective Clothing XXIV 1
Safety Shoes XXIV 2
Training VI 7
Wash-up VII 6
4 Hours Work XXVIII 4

R

Reduction in Force VII 11
Reduction in Force XIII 3
Reduction in Force XVII
Reduction in Force XXVII 8
Repromotion XIV 2
Repromotion XV 1,2
Rest, Wrecking VIII 1
Retirement XIII 3
Return to Duty XIII 3
Return to Duty XIII 7,8
Return Duty XXVII 5
Review Job Descriptions XVIII 1
Rights of Management II 1
Rights of Union II 1
Rosters XXVII 9

S

Safety XXI
Saturday, Sunday Work VII 4
Selection - Release for Promotion XIV 7
Seniority XXVII
Separation XXV 8(6)
Sick Leave XI
Sick Leave - Abuse of sick leave XI 3
Advanced XI 6
Three days excused XI 3
Special Skills IX 4
Split Shift VII 8
Standard Government Travel) XVII 2
Regulations) VIII 1
) XVI 1
Stewards VI 1
Straight time pay deadheading XVI 1
Supervisory Permission VI 5
Supervisory Vacancy XIV 9
Suspension XXV 6

T

Ten days decisions XXI 1
Ten days response XXI 1
Ten Working days XIV 3
Thirty days trial XXVIII 2
Training XIV 6e
Training RIF XVII 3
Transportation, Free III 4
Transportation, Sick XI 3
Travel - regular part of assignment XVI 1
Traveling - Wrecking VIII 1

U

Union Membership III 1
Union Representatives VI 1
Union, Right to join III 1
Unit I 2

V

Vacancies XIV 3
Vacancies in Multiple Appointments XXVIII
Vacation XIII 2,3

W

Waiting - Wrecking VIII 1
Wash-up Time VII 6
Work Day VII 1
Work full shift XIX 4
Work Hot, Cold XXI 8
Work Week VII 1
Written Tests XIV 6a

ALASKA RAILROAD
LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Scope of Negotiations

Section 10. Disputes, Board of Adjustment

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. The public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable hours regulations and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these

public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and by the Transportation Act of 1967, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: the term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series

of agreements which are negotiated and made effective betweeen management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement.

They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "Collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

Section 3. Scope

This agreement is applicable to those employees of the Railroad represented by the International Association of Machinists and Aerospace Workers, blue collar category as enumerated in the Handbook of Blue Collar Occupational Families and Series.

Section 4. Employee Rights to Labor Representation

4.1. Employees of the Railroad have the right to form or join organizations and designate representatives of their own choosing, provided they do not form or join organizations which assert that employees in the service of the United States Government may strike or assist in such strike, or which advocate the overthrow of the United States Government by force or violence.

4.2. In the exercise of the right to form or join organizations and esignate representatives, employees shall be free from any and all restraint, interference or coercion on the part of management, and the supervisory staff is prohibited from exercising any such restraint, interference or coercion. By the same token the designation of

individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

4.4. This section does not authorize participation in the management of a labor organization or acting as a representative of such an organization, by a supervisor, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee, nor shall a unit be established if it includes any management official or supervisor.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as

prescribed by law, will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Federal Personnel Manual as implemented by the Department of Transportation.

Section 7. Duty to Confer

7.1. If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 6 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organizations and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to

and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the labor organization or the Railroad announcing their desire to revise the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences shall not be on official times when negotiating an agreement with agency management.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation, in labor matters, the

Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Working rules, in the determination of which employees, through accredited organizations, have participated - will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplmentary Agreements as defined in Section 1 of this agreement.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of

outstanding differences through mutually agreeable procedures, except those that are dictated by over-riding Federal Law or Regulation.

Section 9. Scope of Negotiations

9.1. Management officials retain the right to direct employees in accomplishing the work of the agency; to hire, promote, transfer, assign, and retain employees in positions within the agency; to suspend, demote, discharge, or take other disciplinary action against employees; to relieve employees from duties because of lack of work or other legitimate reasons; to maintain the efficiency of the Government operations entrusted to them; to determine the methods, means, and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

9.2. Negotiable Items. The Alaska Railroad management shall negotiate with the unions, for the employees represented by the unions signatory hereto, for:

a. The establishment of craft working rules.
b. The establishment of grievance procedures and discussion of personnel policies and practices, or other matters affecting general working conditions.
c. NOTE: The wage fixing system applicable to the employees subject to this Basic Agreement will be set forth in Section 9.4.

9.3. All requests for negotiation conferences shall be in writing and specify the subjects for discussion and the times proposed for consideration. Conferences between the parties shall begin as promptly as practicable. Every effort will be made by the negotiators to agree.

9.4. Wage Fixing System. The wage fixing system applicable to Alaska Railroad blue collar employees represented by the International Association of Machinists and Aerospace Workers shall be the system currently followed for their wage board employees by Army-Air Force installations in the State of Alaska. As soon as a coordinated wage fixing policy is promulgated by the Civil Service Commission for the wage

board employees in Alaska, such Federal coordinated system shall be substituted for the Army-Air Force wage fixing system referred to above. Details as to the application of this system will be set forth in a supplementary agreement.

Section 10. Disputes and Grievance Procedures

10.1 The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates.

10.2. Detailed procedures for the handling of grievances shall be included in supplementary labor agreements between the parties signatory hereto.

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals, other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours

of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.
b. Conservation of materials, supplies, time, power and energy.
c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.
e. Health, safety, and morale standards.

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefits Plan
Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Effective Date and Duration

13.1. This agreement shall remain in

full force and effect for one year from the date executed, and thereafter until the expiration of sixty (60) calendar days following the giving of written notice by either party to the other of its desire to terminate this agreement in its entirety or to effect changes herein by agreement.

13.2. By mutual consent of the parties, this agreement may be opened at any time for amendment. Also, modification or amendment of this agreement may be required because of changes in applicable laws, rules, regulations or policies issued after the date of this agreement.

13.3. The Basic Labor Agreement between the International Association of Machinists and Aerospace Workers and The Alaska Railroad dated March 29, 1968, and which was negotiated under authority of Executive Order 10988, is hereby supplemented for compatability with the new Executive Order 11491, relative to Labor Management relations effective January 1, 1970.

continued

Dated at Anchorage, Alaska

March 29, 1968

For the Organization: International Association of Machinists and Aerospace Workers

(Sgd) Chas. C. Temple
Chas. C. Temple
Grand Lodge Representative

Sgd.
Luther R. Augenstein
Luther R. Augenstein
General Chairman
Lodge 1735

(Sgd.) James W. Moody
James W. Moody
Business Representative
Lodge 1735

For the Alaska Railroad

(Sgd.) John E. Manley
John E. Manley
General Manager

(Sgd.) R. R. Mack
Personnel Officer

continued

Includes Revised Sections
dated at Anchorage, Alaska
January 21, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Association of Machinists and Aerospace Workers:

Luther R. Augenstein
General Chairman, Local 1735

Frederick P. McLoud
President, Local 1735

COLLECTIVE BARGAINING AGREEMENT

between

THE ALASKA RAILROAD

and

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES LOCAL 183

covering
administrative, clerical, and technical employees

TABLE OF CONTENTS

PREAMBLE

ARTICLE #1 RECOGNITION AND COVERAGE

s 1 Recognition....2
s 2 Coverage....2
s 3 Exclusions....2

ARTICLE #2 RIGHTS OF EMPLOYER

s 1 Basic Provisions....3
s 2 Employers Retained Rights....3
s 3 Permissive Matters....3
s 4 Primacy of Agreement....4
s 5 Union Contact with Third Parties....4

ARTICLE #3 RIGHTS OF EMPLOYEES

s 1 Freedom to Join and Assist....4
s 2 Open Shop....4
s 3 Union Representation....5

ARTICLE #4 RIGHTS OF THE UNION

s 1 Authorization of Stewards....5
s 2 Use of Official Time....5
s 3 Responsibilities of Stewards....5
s 4 Union Official - Right of Access....6
s 5 Notification - Meetings and Grievances....6
s 6 Listing of Employees....6
s 7 Administrative Orders....6
s 8 Official Time for Training....7

ARTICLE #5 APPROPRIATE MATTERS

s 1 Notification....7
s 2 Fair Application of Benefits....7

ARTICLE #6 POSITION CLASSIFICATION

s 1 Procedure....7
s 2 Job Descriptions....7
s 3 Classification Appeal....8
s 4 Saved Pay....8

ARTICLE #17 TECHNOLOGICAL CHANGE

s 1 Information to Union.....25
s 2 Retraining.....25

ARTICLE #18 PUBLICITY AND BULLETIN BOARDS

s 1 New Employee Orientation.....26
s 2 Bulletin Boards.....26
s 3 Printing the Agreement.....26
s 4 ARR Telephone Directory.....26

ARTICLE #19 DISCREPANCIES IN PAY

s 1 Shortage - Payment.....26
s 2 Claim Procedure.....26
s 3 Waiver of Overpayment.....27

ARTICLE #20 LETTERS OF CAUTION OR WARNING

s 1 Purpose.....27
s 2 Maintenance.....27
s 3 Retention.....27

ARTICLE #21 DISCIPLINARY ACTIONS

s 1 Definition.....28
s 2 Just Cause.....28
s 3 Effective Date.....28
s 4 Temporary Employees.....28
s 5 Tardiness.....28

ARTICLE #22 MAJOR ADVERSE ACTIONS

s 1 Definition.....28
s 2 Prior Discussion.....29
s 3 Union Representation.....29
s 4 Union Presence at Hearing.....29
s 5 Appeals.....29

ARTICLE #23 GRIEVANCE PROCEDURE

s 1 Exclusive Procedure.....30
s 2 Settlement at Lowest Level.....30
s 3 Representation.....30
s 4 Time Limit.....30
s 5 Procedure.....31

ARTICLE #23 GRIEVANCE PROCEDURE (continued)

s 6 Extension of Time.....32
s 7 Union Grievance.....32
s 8 Statutory Appeals.....33

ARTICLE #24 ARBITRATION

s 1 Pre-Arbitration Conference.....33
s 2 Arbitral Matters.....33
s 3 Selection of Arbitrator.....33
s 4 Presentation of Issue.....34
s 5 Hearing.....34
s 6 Jurisdiction of Arbitrator.....34
s 7 Binding Award.....34
s 8 Fee of Arbitrator.....34

ARTICLE #25 NO STRIKE

s 1 Principle.....35

ARTICLE #26 VOLUNTARY DUES DEDUCTION

s 1 Conditions.....35
s 2 Amount.....35
s 3 Termination.....36
s 4 Responsibilities of Union.....36
s 5 Cost of Service.....37

ARTICLE #27 EFFECTIVE DATE AND DURATION

s 1 Duration and Reopening.....37
s 2 Periodic Review.....37
s 3 Conflict with Higher Authority.....38
s 4 Changes in Law and Regulations.....38

APPENDIX WC-A and WC-B Wage Schedules

LABOR-MANAGEMENT AGREEMENT

between

THE ALASKA RAILROAD

and

Clerical, Technical, and Administrative Employees
represented by

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
LOCAL #183

PREAMBLE

This Agreement is entered into by The Alaska Railroad, hereinafter referred to as the Employer, and the American Federation of Government Employees, Local No. 183, hereinafter referred to as the Union, and has as its purpose the promotion of harmonious relations between the Employer and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay, a job classification system, hours of work, and other conditions of employment.

The Employer and the Union mutually agree that the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate employee performance and efficiency.

The parties recognize that the participation of employees in the formulation and implementation of personnel policies and procedures which affect them will contribute substantially to the improvement and efficient administration of the public service.

ARTICLE 1
RECOGNITION AND COVERAGE

SECTION 1 RECOGNITION

The Employer recognizes that the Union is the exclusive representative of all employees in the bargaining unit defined in Section 2, and the Union recognizes the responsibility of representing the interests of all such employees.

SECTION 2 COVERAGE

The bargaining unit consists of clerical, technical, and administrativ employees, both permanent and temporary, whose positions are covered i a WC pay plan as of the effective date of this Agreement.

SECTION 3 EXCLUSIONS

The bargaining unit does not include:

a) any management official or supervisor,
b) any professional employee,
c) any employee engaged in Federal personnel work in other than clerical capacity,
d) any confidential employee.

The term "confidential employee" refers to an employee assigned to the position of Secretary to the General Manager, or Secretary to the Personnel Officer.

ARTICLE 2
RIGHTS OF THE EMPLOYER

SECTION 1 BASIC PROVISIONS

In the administration of all matters covered by this Agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including appropriate policies set forth in the Federal Personnel Manual, by published agency policies and regulations in existence at the time the Agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

SECTION 2 EMPLOYER'S RETAINED RIGHTS

The Employer retains the right, in accordance with applicable laws and regulations to:

a) direct employees of the agency;
b) hire, promote, transfer, assign, and retain employees in positions within the agency;
c) suspend, demote, discharge, or take other disciplinary action;
d) relieve employees from duties because of lack of work or for other legitimate reasons;
e) maintain the efficiency government operations entrusted to them;
f) determine the methods, means, and personnel by which such operations are to be conducted; and
g) take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

SECTION 3 PERMISSIVE MATTERS

In prescribing regulations relating to personnel policies and practices and working conditions, the Employer shall have due regard for the obligation imposed by Section 11, paragraph (a) of Executive Order 11491, as amended. However, the obligation to meet and confer does not include matters with respect to the mission of the agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit.

work project, or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

SECTION 4 PRIMACY OF AGREEMENT

To the extent that provisions of the Employer's Administrative Manual conflict with this Agreement, the provisions of this Agreement shall govern.

SECTION 5 UNION CONTACT WITH THIRD PARTIES

The Union agrees that before registering a complaint or charge against the Employer with anyone outside the bargaining unit, the Union agrees to provide the Employer with an opportunity to resolve the conditions which generated the complaint or charge. In administering this Section, the Union will notify the Personnel Officer in writing, in all cases, of its intention to register such complaints or charges. The Union further agrees to withhold registration of such complaints or charges for a period of five workdays from the date the Personnel Officer is notified of the Union's intent. This Section does not apply to notification of an AFGE National Officer or Representative.

ARTICLE 3
RIGHTS OF EMPLOYEES

SECTION 1 FREEDOM TO JOIN AND ASSIST

Employees in the unit shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join, and assist the Union or any other labor organization or to refrain from any such activity. Except as provided in Executive Order 11491, as amended, the freedom of such employees to assist any labor organization shall be recognized as extending to participation in the management of the Union, including presentation of its views to officials of the Executive Branch, the Congress, or other appropriate authority.

SECTION 2 OPEN SHOP

Nothing in this Agreement shall require an employee to become or to remain a member of a labor organization or to pay money to the Union except pursuant to a voluntary, written authorization by a member for payment of dues through payroll deduction.

SECTION 3 UNION REPRESENTATION

If an employee elects, the Union has the obligation to represent him/her in the course of adverse actions, grievances, and other appeal proceedings within the unit. The Employer will provide the Union with all necessary information for the Union to fulfill this obligation.

The Employer will advise an employee of his/her right to a Union representative (who is readily available) for the following situations:

a) an adverse action is initiated against an employee;
b) prior to taking a written or sworn statement from an employee;
c) when the Employer conducts a nonformal, investigatory interview, the employee being interviewed is entitled upon his/her request, to the presence of a Union representative, if he/she has reasonable grounds to believe that the interview may result in disciplinary action against him/her. This provision does not apply to investigatory interviews concerning accidents conducted by the Employer's safety inspectors, or interviews concerning criminal cases conducted by the Employer's security police.

ARTICLE 4
RIGHTS OF THE UNION

SECTION 1 AUTHORIZATION OF STEWARDS

The Employer agrees to recognize a reasonable number of Union stewards and alternates, who have been duly authorized by the Union, to represent employees on appropriate work-related matters. The Union will provide to the Employer (Personnel Officer) before February 1 of each year, an official master list of all Union officials and alternates. The Employer reserves the right to restrict use of official time to stewards and alternates whose names appear on this list. Changes to this official listing may be made only by notification to the Personnel Officer.

SECTION 2 USE OF OFFICIAL TIME

Union stewards will be allowed a reasonable amount of official time during duty hours to perform matters which directly relate to the work situation and/or presentation of grievances and appeals. No internal Union business will be conducted during working hours.

SECTION 3 RESPONSIBILITIES OF STEWARDS

When any Union Official or steward is required to leave his/her worksite

on appropriate matters related to his/her representational duties, he/she will request permission from his/her immediate supervisor, advise where he/she is going, how long he/she expects to be away from his/her work station, and state the general nature of his/her business. Permission shall also be obtained from the immediate supervisor of any employee being contacted. Permission in these instances will be granted unless the individual's work situation precludes such action. In any event, permission will be granted at the earliest opportunity. The Union steward will report his/her return to work to his/her supervisor.

Union officers, stewards, representatives, and employees shall be allowed to leave their assigned area to go to other departments, shops, or offices when it is necessary to do so in order to accomplish the purposes outlined in this section, and in order to bring about prompt and expeditious disposition of a complaint or grievance. Such activity shall be allowed without any loss in pay or benefits to the employees authorized to act in behalf of the Union under the terms of this Agreement or to the employees contacted.

SECTION 4 UNION OFFICIAL - RIGHT OF ACCESS

The Employer agrees that representatives of the American Federation of Government Employees, AFL/CIO, shall be allowed onto the Employer's premises at reasonable times on official business. The representative shall first make his/her presence known to the supervisor of the section he/she is visiting. Union officials who are not employees are recognized as employee representatives.

SECTION 5 NOTIFICATION - MEETINGS AND GRIEVANCES

The Union shall be notified by the Employer of grievances or disciplinary actions against employee(s) in the unit in accordance with limitations set forth by provisions of the Privacy Act (Public Law 93-579).

The Union shall be notified by the Employer and shall be given the opportunity to be represented at formal meetings held by officials of the Employer with representatives of other labor organizations when the subject to be discussed involves personnel policies or practices which would affect employees of the unit.

SECTION 6 LISTING OF EMPLOYEES

The Employer will furnish to the Union a current listing of all employees in the unit semi-annually. The listing will include the name, location, grade, and rate of pay.

SECTION 7 ADMINISTRATIVE ORDERS

The Employer agrees to furnish the Union with one copy of all ARR Orders. Supplements and changes thereto will also be furnished promptly.

SECTION 8 OFFICIAL TIME FOR TRAINING

An employee who is an official or authorized representative of the Union will normally be excused without charge to leave in conjunction with attendance at a training session sponsored by the Union, provided that the subject matter of such training is of mutual concern to the Employer and the employee in his/her capacity as a Union representative.

ARTICLE 5
APPROPRIATE MATTERS

SECTION 1 NOTIFICATION

The Employer will notify the Union on appropriate matters (personnel policies, practices, and matters affecting working conditions, including classification and pay systems) and will meet and confer with the Union upon its request.

SECTION 2 FAIR APPLICATION OF BENEFITS

All privileges and benefits provided in accordance with law, regulation or provisions of this Agreement will be applied fairly and equitably to all employees in the unit, except for those rights and benefits which are not applicable to temporary employees.

ARTICLE 6
POSITION CLASSIFICATION

SECTION 1 PROCEDURE

Positions will be classified by management according to the Factor Evaluation System using U. S. Civil Service Commission Booklet TS-27 dated May 1977 and supplements thereto.

SECTION 2 JOB DESCRIPTIONS

The Employer has the right to establish positions and to assign, reassign, or remove duties and responsibilities from positions. Position descriptions shall accurately reflect the major duties and responsibilities of the position and the skills and knowledges required in the

position, clearly stating the highest level required of the employee in all nine factors. Disputes between an employee and his/her supervisor over the accuracy of the position description shall be resolved through the provisions of Article 23, Grievance Procedure.

SECTION 3 CLASSIFICATION APPEAL

When an employee is dissatisfied with the classification of his/her position, he/she may appeal his/her position classification in accordance with the following procedure:

a) Step 1: The employee, or his/her representative, shall write to the Personnel Officer stating what he/she believes the classification of the position should be and the basis for that belief. The Personnel Officer shall give a written decision within seven working days of his receipt of the letter of appeal.
b) Step 2: If the employee is dissatisfied with the decision of the Personnel Officer, within seven working days of his/her receipt of the Personnel Officer's decision, he/she may file a written appeal to the General Manager. The General Manager shall give a written decision within fifteen working days from his receipt of the appeal of the Personnel Officer's decision.
c) Step 3: If the decision of the General Manager is not satisfactory to the Union, the decision may be referred to arbitration for resolution in accordance with the provisions of Article 24, Arbitration.

SECTION 4 SAVED PAY

When an employee is downgraded through no fault of his/her own due to reorganization or correction of a classification error, if the employee's existing rate of pay is exactly the same as the rate of pay for one of the steps of the new grade, that shall be the pay rate assigned. If the employee's existing rate of pay falls between two steps of the pay scale for the new grade, the employee shall be assigned the rate of the higher step. If the employee's existing rate of pay is higher than the pay for the highest step of the new grade, the employee shall be entitled to pay retention for as long as the employee remains in that position. However the employee whose pay is retained under this Section shall receive only one-half of future pay increases until the rate of pay for the highest step of the grade equals or exceeds the retained rate.

ARTICLE 7
WAGES AND BENEFITS

SECTION 1 WAGE SCHEDULES

There shall be two wage schedules. Wage schedule WC-A shall apply to

employees who were on the rolls of the Employer prior to the effective date of this Agreement. Wage schedule WC-B shall apply to employees entering on the rolls of the Employer on or after the effective date of this Agreement.

Wage schedules shall be issued by the Employer according to the format shown in Section 2. The wage schedules shall be approved by the Union prior to issuance, and upon issuance, shall be considered as appendices to this Agreement.

SECTION 2 PERIODIC ADJUSTMENTS

Periodic wage adjustments shall become effective as of the first day of the first full pay period in February, June, and October of each year. The adjustment shall be equal to the percentage change in the Anchorage, Alaska, Consumer Price Index for Urban Wage Earners and Clerical Workers, all items, (CPI-W), measured over a four-month period preceding the effective date of the adjustment. The February adjustment shall be based upon the percentage change in the CPI-W between July and November of the previous year. The June adjustment shall be based upon the percentage change in the CPI-W between November of the previous year and March of the current year. The October adjustment shall be based upon the percentage change in the CPI-W between March and July of the current year.

SECTION 3 SHIFT DIFFERENTIAL

Employees covered under this Agreement shall be paid shift differential as follows:

a) If the majority of shift hours (five or more) fall between the hours of 3:00 p.m. and 12:00 midnight, the differential is 7.5% of the basic wage for all hours in the shift.
b) If the majority of shift hours (five or more) fall between the hours of 11:00 p.m. and 6:00 a.m., the differential is 10% of the basic wage for all hours in the shift.

SECTION 4 NORTH END DIFFERENTIAL

Employees permanently located north of Healy shall receive an additional 6% of the basic rate in addition to all other pay and allowances.

SECTION 5 SUNDAY PREMIUM

Sunday premium pay of 25% will be paid for all regularly scheduled Sunday work in addition to all other pay to which an employee is entitled.

SECTION 6 STEP INCREASE ON PROMOTION

When promoted, an employee shall receive a wage increase at least

equivalent to a one-step increase in the grade from which promoted.

SECTION 7 MEDICAL AND DENTAL INSURANCE

The Employer shall continue to pay both the Employer's and the employee's contribution to the Federal Employee's Health Benefits Program.

The Employer shall pay the premiums for an employee Dental Insurance Program. The benefits of the program selected may be no less than the benefits provided under the Railroad Employees' National Dental Plan.

SECTION 8 TIME-IN-GRADE

Waiting periods for step increases are:

Between Steps:	WC-A Wage Schedule:	WC-B Wage Schedule:
1 and 2	104 weeks	13 weeks
2 and 3	104 weeks	26 weeks
3 and 4	104 weeks	65 weeks
4 and 5	104 weeks	104 weeks

SECTION 9 HOLIDAYS

Employees shall be excused for all days now prescribed by law as holidays and any that may later be added by law and all holidays designated by Executive Order of the President.

Pay for holiday work shall be computed in accordance with applicable regulations.

SECTION 10 DURATION OF THIS ARTICLE

Provisions of this Article shall remain in effect until a new Agreement is signed.

This Article is subject to change or negotiation only on the third anniversary date of the effective date, or sooner only by mutual consent.

SECTION 11 MEMORANDUM OF UNDERSTANDING

The parties shall execute a Memorandum of Understanding clarifying the computations, applications, and details of the understandings which have been arrived at during the negotiation of this Article.

ARTICLE 8
HOURS OF WORK

SECTION 1 BASIC WORK WEEK

The basic work week for full time employees is forty hours. The basic work week will be scheduled on five 8-hour days, and the two days outside the basic work week will be consecutive.

SECTION 2 ASSIGNMENTS TO TOURS OF DUTY

Assignments to tours of duty will be scheduled not less than one week advance. An employee whose days off are to be changed shall be notifi in writing no less than five workdays before the change becomes effect An employee whose days off will remain the same but whose tour of duty (hours of work) is to be changed more than one hour shall be notified writing no less than 48 hours before the change becomes effective.

ARTICLE 9
OVERTIME

SECTION 1 DIRECTION OF SUPERVISOR

No overtime shall be worked except by direction of proper authority.

SECTION 2 RATE

Time worked in excess of eight hours in any one day or forty hours in any administrative work week will be paid at the overtime rate of time and one-half on an actual minute basis.

SECTION 3 ASSIGNMENT

In the assignment of overtime work, preference shall be given to the senior employee regularly assigned to the position for which overtime is to be worked. (See Article 14.)

SECTION 4 REQUIREMENT

When necessary, employees will be required to work overtime unless the employee provides sufficient justification to the supervisor that overtime work would cause undue hardship. Employees may request not to work overtime when there are sufficient qualified volunteers available to accomplish the overtime work required.

SECTION 5 OUTSIDE REGULAR TOUR

Employees required to report for duty in advance of their assigned starting time, or required to remain on duty beyond their scheduled assigned duty hours on an assigned work day within the administrative work week will be paid at the overtime rate for such duty.

When an employee is directed to report for duty outside his/her assigned tour of duty, on rest days or holidays, he/she shall receive not less than four hours' pay at straight-time rates for two hours and forty minutes of work or less. If held on duty in excess of two hours and forty minutes, the overtime rate will be allowed.

SECTION 6 BREAK

When an employee's regular workday is extended for more than two hours, a paid twenty-minute break will be permitted.

ARTICLE 10
ABSENCE AND LEAVE

SECTION 1 ADMINISTRATION AUTHORITY

Absences and leave shall be administered in accordance with ARR Order 3600.1A dated January 16, 1978.

SECTION 2 APPLICATION FOR LEAVE

Application for annual leave for vacation purposes will be granted on a seniority basis. Enforced leave will be administered on a reverse seniority basis. (See Article 14.)

SECTION 3 DENIAL OF REQUEST

When a request for annual leave has been denied, the Form SF-71 will be returned to the employee with the reasons for denial noted thereon.

ARTICLE 11
TRAINING

SECTION 1 COMMITTEE

A Joint Training Committee shall be established, with one representative

appointed by the Employer and one representative appointed by the Un In addition, the Training Officer will be present at the meeting.

The Committee shall meet by mutual agreement not later than seven da after the request of either member.

The purpose of the Committee will be to review training programs and suggest improvements or additional programs for the general developm of employees within the bargaining unit.

SECTION 2 ACTION BY EMPLOYER

Consistent with the needs and requirements of the Employer, the Train Section will take necessary action to develop, integrate, and implem the programs or suggestions recommended by the Committee.

ARTICLE 12
MERIT PROMOTION

SECTION 1 POLICY

It is the policy of The Alaska Railroad to utilize employees' skills abilities to the fullest extent practicable. Employees will be promo on the basis of merit without regard to race, religion, color, sex, a marital status, political affiliation, national origin, non-disqualif physical handicap, membership or non-membership in an employee organi tion, or any other non-job related factor. The overall objective of merit promotion process is to assure that positions are filled with highly qualified persons and to assure that all employees have an equ opportunity to apply for advancement.

SECTION 2 PROCEDURES

How it works.

The manager or supervisor determines that a position is needed. He or she describes what tasks and duties need to be accomplished and writes them down. This listing of duties becomes the "job description." Aft this is done, and he/she has decided upon the skills the employee will need, a request is made to the Personnel Officer to begin procedures t fill the position.

The Personnel Office compares the duties of the position to standards which have been previously established. This comparison determines th grade or level of the position, and consequently, its pay level. Then

a vacancy announcement bulletin is published which describes the duties of the position, the qualifications which are required, and tells how, when, and where a person can apply.

Interested, eligible employees apply for consideration for the vacancy to the Personnel Office. Only employees with permanent status are eligible for consideration. Employees serving in a temporary status may not be considered unless they have established eligibility for the position applied for on a U. S. Civil Service Commission register and have provided proof of such eligibility to the Personnel Office.

If an applicant does not meet these requirements, he or she is informed of this and receives no further consideration.

A panel, composed of Railroad employees, reviews the applications of the persons who do meet the basic requirements and divides them into groups of "Qualified," "Highly Qualified," and "Best Qualified." The list of qualified candidates is sent to the supervisor for consideration for the vacancy. The supervisor may select anyone on this list from the "Best Qualified" group, or may decide not to select any of these applicants and to fill the vacancy by another method.

SECTION 3 OTHER METHODS OF FILLING POSITIONS

The Union recognizes that merit promotion is but one means of filling vacancies and other methods of staffing vacancies may properly be utilized by management to the exclusion of the merit promotion process. The Employer recognizes that promotion from within is a valuable and appropriate policy; accordingly, other methods of staffing will be used sparingly and only when the needs of the Railroad require. No loan, detail, or reassignment will be made for the purpose of evading the objectives of the Merit Promotion Program.

SECTION 4 APPLICATION OF PROCEDURES

Application.

(1) Competitive procedures apply to all promotions and to the following actions:

a) reassignment or demotion to a position with known promotion potential higher than the position currently held (except as required by reduction-in-force regulations);

b) selections for details of more than 30 days to a higher grade position or to a position with known promotion potential;

c) transfers to a higher grade position or position with known promotion potential;

d) reinstatement to a position at a higher grade than the person last held, or to one having potential for advancement to a higher grade;

e) appointment of a present or former nontemporary Federal employee from a Civil Service register to a position at a higher grade than the person holds or last held or to a position with known promotion potential;

f) selections for training required for promotion;

g) acquisition of, or addition to, a multiple appointment; and

h) reassignment of a nonsupervisor to a supervisory position.

(2) Procedures of this Merit Promotion Plan do not apply to:

a) career promotions which are --

1 promotions without current competition when at an earlier stage an employee was selected under competitive promotion procedures for an assignment intended to prepare him/her for the positions being filled if this intention was made a matter of record; or

2 promotions resulting from an employee's position being reconstituted at a higher grade because of unplanned accretion of additional duties and responsibilities.

b) Reassignment to a position with no greater promotion potential than that of the employee's current position. Management agrees that a reassignment which is made to a position outside the employee's commuting area will be only with the agreement of the employee.

c) A temporary promotion of 120 days or less.

d) An action taken as a remedy for failure to receive proper consideration in a competitive promotion action.

e) A promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to issuance of a new classification standard or the correction of a classification error.

f) A position change required by reduction-in-force regulations.

g) Repromotion to a grade or position from which an employee was

demoted within the Railroad without personal cause and not at his/her request. An employee demoted without personal cause will be advised in writing of his/her entitlement to special consideration for repromotion. An employee will be considered for promotion before other means are used to fill a position.

h) An assignment made within the Multiple Assignment System which provides for the movement of employees from one set of duties to another within a specific job-group or craft.

(3) Entry Level Positions. Employees who desire to change jobs within the Railroad or who wish to be considered for reassignment or transfer to entry level positions may make their wishes known to the Personnel Office. Their names will be placed in a "Skills File" for consideration when such vacancies arise. Entry level positions are those at grade WC-5 and below.

SECTION 5 AREA OF CONSIDERATION

Area of Consideration. The Alaska Railroad is the minimum area of consideration for locating candidates for promotional opportuniti[illegible] other areas of consideration may be used depending upon types of positions involved, qualification requirements, and availability of highly qualified candidates. When it is clearly evident that a sufficient number of highly qualified candidates will not be available from within the Railroad, the Employer may concurrently consider candidates from other sources. Outside candidates must meet the same qualification requirements as applicants for promotion. The Union will be notified in advance of expansion of the area of consideration.

Competition for temporary promotion will be restricted to the commuting area in which the vacancy exists.

The area of consideration may be extended when an announcement does not produce a desirable number of highly qualified candidates. The decision to expand the area of consideration will be documented in the merit promotion file.

SECTION 6 LOCATING CANDIDATES

Method of Locating Candidates.

(1) When a vacant position is to be filled through this promotion plan, the Personnel Office will first refer to the selecting official information on any employee entitled to special consideration because of demotion through no fault of his/her own, or oversight in a previous promotion action. If there is none, or none is selected, merit promotion procedures will be initiated.

(2) All employees within the unit have the right to submit applica in response to vacancy announcements and all completed applica submitted on a timely basis will be considered. Employees app for announced va[illegible]cies must submit a Request for Consideratio Vacant Position [illegible] Form 20[illegible]) to the Personnel Office. Appl tions must be received on or before the closing date specified the announcement and will not be accepted after the closing da cept in unusual circumstances. Employees are encouraged to su Standard Form 171, "Personal Qualifications Statement," to ass that their records are correct and complete, unless they have rent application in their Official Personnel Folder.

(3) Employees who are on leave of absence will receive automatic c eratio[illegible] if they file a current application with the Personnel before departing. The Personnel Office will file these applic on behalf of the employee, for appropriate vacancy consideratio

(4) A letter of acknowledgment of receipt of application will be s the employee on the same day as the application is received in Personnel Office.

SECTION 7 ANNOUNCEMENTS

Issuance of Announcements. All vacancies to which this plan applie cept seasonal positions, will be advertised through issuance of ann ments within the area of consideration. Announcements will be post official bulletin boards. Announcements will be open for at least working days.

As a minimum, all vacancy announcements will contain the foll wing formation:

a) Title, series, salary, and grade of the position.
b) Career promotion potential of the position.
c) Organizational and geographic location of the position.
d) Minimum area of consideration.
e) Brief description of duties.
f) If the position is an upward mobility or trainee position.
g) Minimum qualification requirements.
h) Number of vacancies.
i) What the applicant must do to be considered.
j) Where additional information can be obtained.

SECTION 8 QUALIFICATION STANDARDS

(1) Qualification standards used by The Alaska Railroad will confor the qualification standards established by the U. S. Civil Serv Commission.

(2) A qualification standard may not be changed or modified after the vacancy announcement has been posted unless an error has been made or an inappropriate standard has been used.

(3) Selective placement factors may be used when such a knowledge, skill, or ability is essential for successful performance in the position to be filled. If used, a selective placement factor becomes a part of the basic qualification standard.

A selective placement factor is a knowledge, skill, or ability essential for satisfactory performance on a particular job and one which can be objectively determined in the evaluation and performance of candidates. As such, it represents an addition to the basic qualification standard for the position being filled. Selective placement factors must be stated on the vacancy announcement for the position being filled.

When supervisory positions are to be filled, basic eligibility for consideration also depends upon possession of the abilities and personal attributes required in the supervisory standards in Handbook X-118 or X-118C.

(4) Candidates' qualifications will be evaluated on the basis of all pertinent information available, such as:

a) experience and training, including self-development efforts;
b) outside volunteer activities that supply experience relevant to the job;
c) awards showing relevant abilities; and
d) abilities demonstrated on the job.

The candidates' application forms and supervisors' evaluations are the usual sources of information.

When a supervisory position is being filled, the panel will carefully consider information denoting the possession of supervisory abilities and potential for supervisory duties.

The names of the candidates rated as best qualified will be listed alphabetically on a promotion certificate in one grouping. The candidates' promotion files will accompany the certificate.

SECTION 9 EVALUATION METHODS

The Personnel Office will review all applications filed in response to vacancy announcements to determine if the applicant meets the basic qualification requirements of the position, plus selective placement factors, if appropriate.

If there are fewer than three applicants meeting the qualification standards, the Personnel Office will refer all qualified candidates to the selecting official for consideration.

If there are three or more applicants meeting the qualification requirements, the Personnel Office will convene a Rating and Ranking Panel to make distinctions as to "Qualified," "Highly Qualified," and "Best Qualified" among the candidates.

The Personnel Office will utilize FPM Supplement 335-1 to prepare a Ranking Guide to be used by the panel in making distinctions among candidates. Only candidates who meet the guidelines supplied by the Ranking Guide will be identified as "Highly Qualified."

In addition to, or instead of, the normal method of evaluating candidates when filling trainee positions (especially those in a special training program) for which special qualification standards have been approved, it may be necessary to use special rating and ranking instruments such as supervisory appraisals, and structured interview to determine which employees have the required aptitudes to be considered for competitive assignment and training. Promotion will follow if performance on the after training warrants. When these special evaluation procedures are to be used, the vacancy announcement will explain all requirements and indicate the potential for promotion after successful completion of the program.

SECTION 10 RATING AND RANKING PANEL

The Rating and Ranking Panel will consist of three employees. Not more than one member of the panel may be from the same organizational unit in which the vacancy exists (normally the Branch). All panel members will be in a grade at or above the grade level of the vacant position. At least one panel member must be working in a related field, and none of the panel members may be candidates for the vacancy. Panel members will utilize the "Instructions for Promotion Panel Members" as a guide in rating and ranking candidates. The Personnel Office will provide technical advice and assistance.

At least two of the panel members will be from the bargaining unit. Selection must conform to the requirements in the preceding paragraph.

SECTION 11 MAKEUP OF CERTIFICATE

The certificate issued to the selecting official will contain:

a) If there are fewer than three qualified candidates, all names
b) If there are three or more qualified candidates, all names of those ranked "Best Qualified."

SECTION 12 SELECTION

The selecting official will make his/her decision in a prompt and expeditious manner and will complete Form ARR 2235 and return it to the Personnel Office. Each candidate will be notified of his or her selection or non-selection.

a) If an adequate number of highly qualified candidates (normally three or more), are certified to the selecting official, and he or she does not select any of these candidates, the position may not be filled from a Civil Service register unless:

1 The vacancy was initially advertised under the "grade-banding" concept (such as WC-5/7/9), or as an upward mobility opportunity.

2 The vacancy is readvertised under the grade-banding concept or as an upward mobility opportunity; the selecting official will provide his or her reasons in writing for selecting or non-selecting any candidate on the certificate.

3 The position is an entry-level position.

SECTION 13 PROMOTION RECORDS

(1) Standard Form 50. The notification of personnel action, documenting a promotion will show in the "Remarks" section the certificate number and a statement that the promotion was a competitive promotion or a statement showing the kind of career promotion or exception to the merit promotion plan that it was. The notification of personnel action for competitive reassignments will show the certificate number, and if applicable, the training agreement covering the placement. When a position was filled by appointment, transfer, or reinstatement in a competitive situation, the number of the promotion will be shown, even though the selection was not made from the promotion certificate, unless no promotion certificate was issued.

(2) Promotion File. When the promotion certificate is filed, it will have as attachments:

a) Notification of any selective placement factors applied;
b) evaluation factors used to determine the best qualified;
c) names of all the candidates considered and the categories to which they were placed;
d) the names of the promotion panel members; and
e) a record if the area of consideration was extended.

These records will be retained for two years.

SECTION 14 INFORMATION TO EMPLOYEES

Information about the Merit Promotion Plan will be given to employees when they enter on duty. The following information will be made available to an employee upon request:

a) Any record of production or any supervisory evaluation of current or past performance used in considering the employee.

b) Concerning a specific action:

1 Whether the employee was considered, and if so, whether the employee was found eligible on the basis of minimum qualification requirements for the position.

2 Whether the employee was one of those in the group from which selection was made.

3 Who was selected and why.

4 In what areas the employee should improve to increase chance of future promotion.

5 The evaluation criteria applied.

6 The names of the members of the Merit Promotion Panel.

SECTION 15 QUESTIONS AND COMPLAINTS

Employees who have questions or complaints about the operation of the Merit Promotion Plan should discuss them with the Personnel Officer. Every reasonable effort will be made to respond to the question or complaint and provide the employee with appropriate information or explanation.

If the matter cannot be resolved on an informal basis, the employee may file a grievance on the matter under Article 23. Mere failure to be selected for promotion when proper promotion procedures are used (non-selection from among a group of properly ranked and certified candidates) is not a basis for a grievance.

ARTICLE 13
REDUCTION IN FORCE

SECTION 1 NOTIFICATION TO UNION

The Employer will notify the Union of the necessity for a reduction in

force and of the reasons therefore as soon as it becomes definite that a reduction in force will occur. The Employer will inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

SECTION 2 EFFORT TO REASSIGN

The Employer, to the extent consistent with its manpower requirements, will make a reasonable effort to reassign employees whose positions are eliminated. All reasonable action will be taken to avoid or minimize the impact of the reduction in force prior to separating employees.

SECTION 3 COMPETITIVE AREA

The competitive area for reduction-in-force purposes of employees in this unit shall be the commuting area regarded as fifty miles one-way driving distance.

SECTION 4 REEMPLOYMENT PRIORITY LIST

Any career or career-conditional employee who is separated as a result of reduction in force shall be placed on the Reemployment Priority List, unless the employee states in writing that such consideration is not desired. Employees on this list shall be given preference for reemployment in accordance with applicable regulations. Acceptance of a temporary position by an employee on this list will not affect his/her status on the list or his/her eligibility for reemployment in a permanent position.

SECTION 5 LAST INCUMBENT RETURNED

When a position is abolished by reduction in force and reestablished within one year, the last regularly assigned incumbent, if still in the service of the Employer and applies for the position, will be returned to the position.

SECTION 6 RETURN TO WC-A SCHEDULE

If an employee who was on the rolls of the Employer in a WC classification on the effective date of this Agreement is subsequently RIFed from employment and is later rehired from the Reemployment Priority List, he or she shall re-enter the WC-A wage schedule and shall not be subject to the WC-B wage schedule.

ARTICLE 14
SENIORITY

SECTION 1 APPLICATION

Seniority (based upon an employee's continuous service with the Employer)

will apply in the assignment of preferred vacation times, overtime, of duty, and selection of shift assignment between similar or like positions within the same work unit.

SECTION 2 ROSTER

A seniority roster of bargaining unit employees will be prepared and posted in January of each year.

Where two or more employees start work at the same time, their stand on the seniority roster will be determined by the Alaska Railroad ID ber; the employee with the lowest ID number being senior.

ARTICLE 15
EMPLOYEE SERVICES

SECTION 1 LUNCHROOM

A lunchroom will be provided for employees in the General Office Bui ing. The lunchroom will contain refrigerator, microwave oven, stove sink with running water, adequate lighting and ventilation, and suff cient tables and chairs. Employees using the lunchroom must clean u after themselves. The Employer will provide janitorial service. Ve ing machines may be permitted.

SECTION 2 PERFORMANCE IMPROVEMENT

When an employee requests in writing a method to improve his/her per ance, the supervisor and the employee shall together discuss and out specific areas of improvement needed to accomplish a higher level of performance rating. At 90-day intervals, the supervisor will, in wr advise the employee of his/her progress towards his/her goal of impr his/her performance rating.

SECTION 3 HANDICAPPED PARKING

Unit employees handicapped to the extent that walking to and from a parking lot would create an undue hardship shall be assigned a reser parking space as close to their working areas as possible. Periodic evaluation of handicapped employees who are afforded this special pa ing consideration may be required where there is reason to believe t the employee's condition may have improved to the extent that specia parking consideration is no longer valid.

SECTION 4 TESTS AND INTERVIEWS

Tests and interviews required of employees to meet the needs of the Employer will be conducted during normal working hours.

SECTION 5 RAIL PASSES

Employees covered by this Agreement and those dependent upon them for support will be given free transportation consistent with pass regulations of The Alaska Railroad and "outside" railroads.

ARTICLE 16
SAFETY AND HEALTH

SECTION 1 OSHA GUIDANCE

The Employer will provide and maintain safe working conditions using Public Law 91-596, Occupational Safety and Health, as a guide. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

SECTION 2 OSHA COMMITTEE

The Union will appoint one representative and one substitute representative from the bargaining unit to attend the monthly OSHA Safety Committee meeting.

SECTION 3 OBSERVATION OF RULES

Each employee will observe all safety rules and regulations prescribed by the Employer.

SECTION 4 INFORMATION TO UNION

The Union will be supplied with a copy of the monthly injury-illness statistical report.

SECTION 5 ON-THE-JOB INJURY

If an employee is injured on the job, prime consideration will be given to the employee's welfare. Proper medical attention will be given at the earliest possible time.

SECTION 6 FIRST AID

The names of employees qualified to administer first aid and their locations shall be posted on all bulletin boards.

SECTION 7 NO DISCIPLINE FOR INJURY

No employee shall be disciplined or dismissed because of being injured unless the employee caused the injury through carelessness or negligence

SECTION 8 PROTECTIVE EQUIPMENT

No employee shall be required to work in areas where conditions detrimental to health and safety exist without proper personal protective equipment or other safety devices. Management shall determine when such equipment and devices are necessary and will provide them without cost to the employee. When such a device or equipment is issued to an employee, he/she will be required to use it in the proper manner.

SECTION 9 LIGHT DUTY

When an employee is injured on the job or is on sick leave as a result of personal injury or illness and is released for light duty by proper medical authority, the Employer will make an effort to provide light-duty assignments when such work is available.

ARTICLE 17
TECHNOLOGICAL CHANGE

SECTION 1 INFORMATION TO UNION

The Employer will advise the Union in advance of any proposed technological change. Technological change is defined as a change in equipment, materials, and/or methods which result in a reduction in the number of bargaining unit employees. Upon request, the Employer will promptly meet with the Union to discuss the effects of the proposed technological change upon the work force. It shall be the Employer's responsibility to provide the Union with full information regarding the effects of the proposed technological change in order to determine the effect upon the bargaining unit.

SECTION 2 RETRAINING

The Employer agrees that when technological changes take place that require additional knowledge and/or skills on the part of employees, the employees will be given the opportunity to acquire the knowledge and skill necessary to retrain. Employees affected by technological change shall be given first preference for retraining in accordance with the retention standing, provided they have the basic knowledge for retraining.

ARTICLE 18
PUBLICITY AND BULLETIN BOARDS

SECTION 1 NEW EMPLOYEE ORIENTATION

As a part of their orientation, new employees hired into a position included within the bargaining unit will be informed of the contractual relationship between the Employer and the Union, and will be introduced to the Union steward of the area to which they are assigned.

SECTION 2 BULLETIN BOARDS

The Employer will make a reasonable amount of space available on bulletin boards for use by the Union. The Union will assure that materials which are posted are removed in a timely manner and that bulletin boards do not become cluttered, crowded or unsightly. The Union will also assure, to the satisfaction of the Employer, that it will post no material which violates the security of the Employer, or relates to any partisan political matter, or which is derogatory to the management or supervision of The Alaska Railroad.

SECTION 3 PRINTING THE AGREEMENT

The Employer shall bear the cost of printing this Agreement, reducing it to a book form approximately 3½" x 5" with an appropriate soft cover with the Union seal affixed.

SECTION 4 ARR TELEPHONE DIRECTORY

The Employer agrees to list the name and telephone numbers of officers and stewards of the Union in The Alaska Railroad telephone directory.

ARTICLE 19
DISCREPANCIES IN PAY

SECTION 1 SHORTAGE - PAYMENT

When there is a shortage equal to one day's pay or more in the pay of an employee, payment covering the shortage will be made promptly if requested.

SECTION 2 CLAIM PROCEDURE

Claims for money payments alleged to be due, arising from any cause may

be made only by the employee or a representative on his/her behalf and must be presented in writing to the employee's immediate supervisor within 30 calendar days from the date giving rise to the alleged basis for claim. When such claim is made in writing and is not allowed, the employee will be notified in writing of the non-allowance within 30 days and the reason therefor. If claims are not made within the time limit specified in this Section, they will be neither entertained nor allowed.

If the Employer fails to meet the time limits of this Section, the employee shall win the claim by default.

SECTION 3 WAIVER OF OVERPAYMENT

Claims arising from an erroneous overpayment of pay or allowances may be waived in whole or part in accordance with applicable regulations.

When it is determined that an employee must repay an overpayment, the payment may be spread over a period of time to minimize financial hardship to the employee.

ARTICLE 20
LETTERS OF CAUTION OR WARNING

SECTION 1 PURPOSE

Letters of caution or warning may be issued to improve an employee's performance or conduct. The receipt of such a letter is not a grievable matter. The privacy of such letters must be protected to insure against misuse.

SECTION 2 MAINTENANCE

When a letter of caution or warning is issued, it shall be signed by the employee acknowledging receipt, and noting intent to respond. An employee who disagrees with the contents of such a letter may write a letter stating his/her views on the matter. The letter of response will be maintained together with the letter of caution or warning.

SECTION 3 RETENTION

Letters of caution or warning may be retained only until the employee's next annual performance evaluation. If the letter has failed to bring about improvement in the employee's performance or conduct, this fact will be noted on the performance evaluation form.

ARTICLE 21
DISCIPLINARY ACTIONS

SECTION 1 DEFINITION

Disciplinary actions are letters of reprimand and suspensions for thirty days or less.

SECTION 2 JUST CAUSE

Disciplinary actions will be taken only for just cause. All things being equal, there shall be like penalties assessed for like offenses. If the employee alleges, after such disciplinary action is proposed, that charges are untrue, facts misrepresented, or the penalty too severe, he or she may grieve the decision under the procedures of Article 23.

Prior to making a determination as to whether disciplinary action is warranted, the Employer may undertake preliminary investigations or discussions with the employee concerned, or others who may have knowledge of the situation.

SECTION 3 EFFECTIVE DATE

Disciplinary action will not become effective until the grievance procedure, if used, has been exhausted.

SECTION 4 TEMPORARY EMPLOYEES

Discharge of an employee in a temporary employment status is not a grievable matter.

SECTION 5 TARDINESS

An employee who is tardy by twenty minutes or less may be excused at the discretion of his/her supervisor if his/her reasons for tardiness are sufficient. Habitual tardiness is cause for disciplinary action.

ARTICLE 22
MAJOR ADVERSE ACTIONS

SECTION 1 DEFINITION

Major adverse actions are: removal or discharge, suspension for more than thirty days, furlough without pay, and reduction in rank or pay.

SECTION 2 PRIOR DISCUSSION

The Employer agrees to informally discuss with the employee and his/h Union representative, if any, the basis for a proposed adverse actio prior to its issuance. The Employer will carefully consider the employee's views and inform the employee and his/her representative, i any, of its intent before instituting formal action.

SECTION 3 UNION REPRESENTATION

When the Union is named in writing as the employee's representative, Employer will immediately furnish the Union with copies of the propo adverse action, and the decision on adverse action. Copies of corre pondence addressed to the employee on this subject will be furnished the Union.

SECTION 4 UNION PRESENCE AT HEARING

If the employee elects not to have Union representation, the Union m have an observer present at the adverse action hearing without charg leave. The parties recognize that the presence of an observer is a m ter within the discretion of the FEAA Appeals Officer in charge of th hearing.

SECTION 5 APPEALS

Appeals of adverse actions may be made directly to the Seattle Field Office, Federal Employee Appeals Authority. To be properly considere the appeal must:

a) be in writing;
b) indicate the reasons for contesting the adverse action, with fer of proof and pertinent documents;
c) indicate the relief sought;
d) be submitted no later than fifteen calendar days after the ef fective date of the adverse action; and
e) be addressed to: Seattle Field Office, Federal Employee App Authority, U. S. Civil Service Commission, Federal Building, Second Avenue, Seattle, Washington 98174.

A hearing must be requested if one is desired. The decision rendere the Federal Employee Appeals Authority is final.

ARTICLE 23
GRIEVANCE PROCEDURE

SECTION 1 EXCLUSIVE PROCEDURE

The purpose of this Article is to provide the exclusive procedure for Employer, Union, and employees in the unit for the settlement of grievances involving the interpretation or application of this Agreement, or disciplinary actions, and will be used for the resolution of the same types of grievances or disputes which would be processed through the agency grievance procedure. A grievance under this Article is defined as a dispute or complaint between the parties or the employees covered by this Agreement.

When a question arises concerning grievability, the parties shall stipulate to the facts and submit them to arbitration as a threshold issue to the merits of the grievance.

SECTION 2 SETTLEMENT AT LOWEST LEVEL

The parties agree that most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily at the first level of supervision. Every effort will be made to resolve grievances at the lowest level without fear of retaliation. The initiation of a grievance in good faith should not cast any reflection on an employee's standing with his/her supervisor or his/her loyalty or desirability to the Employer, nor should the grievance be considered as a reflection on the employee's supervisor.

SECTION 3 REPRESENTATION

An employee may represent himself/herself or be represented by the Union when presenting a grievance under this Article. Any employee or group of employees in the unit may present grievances to the Employer and have them adjusted without the intervention of the Union, as long as the adjustment is not inconsistent with the terms of this Agreement and a Union representative has been offered the opportunity to be present at the adjustment.

Employee participants in grievance meetings shall be administratively excused from their duties if they would otherwise be in a duty status; however, no overtime will be authorized for participation in grievance meetings.

SECTION 4 TIME LIMIT

To be processed, a grievance must be initiated within twenty working days

from:

a) the occurrence of the matter which gave rise to the grievance; or
b) the time the employee became aware of being aggrieved.

SECTION 5 PROCEDURE

a) INFORMAL STEP -- An employee shall first take up his/her problem with his/her immediate supervisor. If the problem is not resolved, the supervisor will meet with the grievant and his/her Union representative, if one is desired by the grievant, to attempt resolution. Within five working days from this meeting, the supervisor will give his/her decision and will assure that it is understood by the grievant. The parties expect that most grievances will be settled at this step.

b) FIRST FORMAL STEP -- If the employee elects to pursue his/her grievance, the grievance shall be reduced to writing and shall contain, at a minimum, the nature, time, and date of the action or incident giving rise to the grievance (when applicable), the Agreement provision alleged violated, the date of the discussion required at the informal step, the corrective action desired, and the signature of the grievant. Unsigned or anonymous grievances will not be acknowledged or entertained. If the employee desires a meeting on the matter, this statement must also appear on the written grievance. Grievances deficient in required details will be returned to the grievant for inclusion of additional necessary information.

The written grievance must be submitted to the Chief of the branch within seven working days following the supervisor's decision in the previous step. If a meeting is requested, the Branch Chief shall schedule a meeting within seven working days from receipt of the written grievance to attempt resolution. The employee may be accompanied by a Union representative. The written decision of the Branch Chief will be given to the employee within seven working days following receipt of the grievance, or of the meeting if one is held.

c) SECOND FORMAL STEP -- If the employee elects to pursue his/her grievance, he/she must submit the grievance to the Division Chief within seven working days from receipt of the first formal step decision. If a meeting is requested, the Division Chief shall schedule a meeting within seven working days from receipt of the written grievance to attempt resolution. The employee may be accompanied by a Union representative who may be assisted by an additional Union official, if necessary. The written decision of

the Division Chief will be given to the employee within seven working days following receipt of the grievance, or of the meeting if one is held.

d) THIRD FORMAL STEP -- If satisfactory settlement has not been reached, the Union or the Employer may request a meeting on the matter to be held in the presence of the General Manager. Request for such a meeting must be made within fifteen days of receipt of second formal step decision. The General Manager will schedule a meeting to include the principles in the grievance, a Union representative if desired by the employee, and other employees whose presence is deemed necessary. The General Manager will give his decision in writing to the employee within fifteen working days from the date of the meeting.

If the grievance is not satisfactorily settled by the decision of the General Manager, the Union may refer the matter to arbitration.

SECTION 6 EXTENSION OF TIME

If the Employer fails to reply to a grievance in a timely manner as prescribed in Section 5, the employee may process the grievance to the next step. If the grievant fails to process the grievance in a timely manner, the grievance shall be closed by the decision tendered at the previous step.

All time limits in this Article may be extended by mutual consent.

SECTION 7 UNION GRIEVANCE

The Employer recognizes the right of the Union to file grievances in its own name, directly to the General Manager or his designee. The following procedure will apply:

a) The grieving party will initiate informal discussion within ten working days of the occurrence giving rise to the grievance or from the date the grieving party became aware of the incident.

b) If the matter remains unresolved, a written grievance may be filed with the other party within ten working days of the informal discussion. The requirements of Section 5(b) are applicable.

c) The party to whom the grievance was submitted will give a written decision within ten working days from receipt of the grievance.

d) If the written decision is not satisfactory to the grieving party, the parties will meet within ten working days to discuss the matter.

e) If the grievance remains unresolved, it may be submitted to arbitration in accordance with provisions of Article 24.

SECTION 8 STATUTORY APPEALS

Matters for which statutory appeals procedures exist shall not be considered under this Article nor under Article 24. When such matters arise, the employee shall be notified of his/her appeal rights.

ARTICLE 24
ARBITRATION

SECTION 1 PRE-ARBITRATION CONFERENCE

The parties agree that prior to considering arbitration every effort will be made to resolve grievances inhouse, and will direct their resources towards achieving that goal. In addition, the parties will jointly explore settlement of the grievance at a pre-arbitration conference.

SECTION 2 ARBITRAL MATTERS

If the Employer and the Union fail to settle any grievance arising under Article 23, with respect to the interpretation, application, or alleged violation of this Agreement, or implementation of agency regulations, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to arbitration. Such written request must be submitted not later than twenty working days following the conclusion of the final step of the grievance procedure. Arbitration on an employee's grievance may be invoked only by the Union. Arbitration concerning an Employer or Union grievance may be invoked by the party initiating the grievance.

SECTION 3 SELECTION OF ARBITRATOR

Within ten working days from the date of receipt of the arbitration request, the parties shall meet for the purpose of selecting an arbitrator. The parties shall use the services of local arbitrators if available and mutually acceptable. If agreement cannot be reached, either party may request the Federal Mediation and Conciliation Service to submit a list of five impartial persons qualified to act as arbitrators. The parties shall meet within ten working days after the receipt of such list. If they cannot agree upon one of the listed arbitrators, the Employer and the Union will each strike one name from the list of the five and shall then repeat this procedure. The party to strike first will be determined by the flip of a coin. The name remaining shall become the duly selected arbitrator.

SECTION 4 PRESENTATION OF ISSUE

Following selection of the arbitrator and indication of his availability, the parties will prepare a joint letter submitting the issue in dispute. The letter shall present, in question form, the matter on which arbitration is sought and shall outline the agreement provisions governing the arbitration. It may contain mutually agreed upon stipulations of fact and it may be accompanied by any documents the parties mutually agree should be submitted to the arbitrator in advance of the hearing which may not necessarily be stipulations of fact. If the parties mutually agree, the entire matter may be submitted to arbitration for review and decision without a hearing.

SECTION 5 HEARING

The arbitration hearing will be held during the regular dayshift hours of the basic work week. Upon the request of either party, or the arbitrator, the arbitration proceedings will be recorded. The party requesting the recording shall bear the cost. Employee participants in the hearing shall be administratively excused from their duties if they would otherwise be in a duty status; however, no overtime will be authorized for participation in the arbitration hearing. The arbitrator will be requested to render a bench decision on the case with a written award within two weeks, but not later than thirty days following the conclusion of the hearing.

SECTION 6 JURISDICTION OF ARBITRATION

The arbitrator shall have jurisdiction and authority to interpret this Agreement and to apply it to the particular case under consideration, but shall have no authority to add to, subtract from, or modify the terms of this Agreement, and shall confine his findings to the question submitted.

In no event shall arbitration extend to the interpretation of any directive or regulation of higher authority, including but not limited to, the regulations or directives of the Federal Railroad Administration, the Department of Transportation, or the United States Civil Service Commission.

SECTION 7 BINDING AWARD

The award of the arbitrator shall be binding on the parties. However, each party reserves the right to file an appeal of the arbitrator's award with the Federal Labor Relations Council under its rules.

SECTION 8 FEE OF ARBITRATOR

The fee and expenses of the arbitrator shall be paid for by the loser of the arbitrator's award.

ARTICLE 25
NO STRIKE

SECTION 1 PRINCIPLE

The Union and the Employer recognize that strikes and other forms of work stoppages by employees are contrary to law and public policy. The Union and the Employer subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruption of scheduled work. The Union therefore agrees that there shall be no strikes, work stoppages, or other concerted refusal to perform work by the employees covered by this Agreement, or any instigation thereof.

ARTICLE 26
VOLUNTARY DUES DEDUCTION

SECTION 1 CONDITIONS

Union dues (the regular, periodic amount required to maintain an employee in good standing in the Union) shall be deducted by the Employer from the employee's pay each payroll period when the following conditions have been met:

a) The employee is a member in good standing of the Union or has signed up for membership subject to the payment of his/her dues through voluntary allotment as provided herein.

b) The employee's earnings, after all other deductions, are sufficient to cover the amount of allotment.

c) The employee has voluntarily authorized such a deduction on Standard Form 1187, Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization.

d) The appropriate official of the Union has completed and signed Section A of the form.

e) The completed form has been turned over to the Employer by the Union.

Deduction of dues shall begin with the first pay period which occurs after receipt of the Standard Form 1187 by the Employer.

SECTION 2 AMOUNT

The amount of union dues to be deducted each bi-weekly pay period shall

remain as originally certified on such allotment forms until a change in the amount of such dues is certified to by the authorized Union official, showing the new amount, is transmitted to the Employer by the Union. Such change will begin with the first pay period after receipt of the notice of change by the Employer, or a later date if the forms so designate. Such changes shall not be made more frequently than once each six months.

Multiple levels of dues withholding are permissible; however, the amount of dues to be withheld shall remain unchanged until the Union certifies that the amount of dues has changed for a particular member or members and showing the specific amount of the new deduction.

SECTION 3 TERMINATION

An employee's voluntary allotment for payment of union dues shall be terminated with the start of the first pay period following the pay period in which any of the following occur:

a) Loss of exclusive recognition by the Union.
b) Separation of the employee from the Alaska Railroad.
c) Receipt by the Employer of notice from the Union that the employee has been expelled or has ceased to be a member in good standing.
d) Termination of this Article of this Agreement.
e) The employee is promoted or otherwise removed from the bargaining unit.

An allotment for the deduction of an employee's union dues may be terminated by the employee through submission to the Employer of Standard Form 1188 (or individual substitute), properly executed in duplicate by the employee. Such duplicate shall be promptly forwarded by the Employer to the Union upon receipt from the employee. A termination of allotment under this Section shall be effective with the first full pay period following March 1 or September 1, whichever is the earlier, provided that the revocation is received by the Employer sufficiently in advance of such date.

SECTION 4 RESPONSIBILITIES OF UNION

The Union is responsible for purchasing the standard allotment form prescribed by the Comptroller General, distributing it to its members, certifying as to the amount of its dues, delivering completed forms to the Employer, and educating its members on the program for allotments for payment of dues, its voluntary nature, and the use and availability of the required forms.

SECTION 5 COST OF SERVICE

The Employer shall transmit to the Union Secretary-Treasurer or other allottee or financial organization as designated, after each regularly scheduled pay day, a payment to the Union in the amount equal to the grand total of all such monetary allotment deductions made, less $.02 per deduction, which shall be the Employer's fee for performing such service, together with a duplicate listing of members for whom deductions were made, and a copy of all revocation notices received in the payroll office during the preceding payroll period. The Employer shall also transmit an alphabetical remittance listing containing the following information:

a) Employee name and ID number.
b) Dues withholding amount.
c) The gross amount deducted, and the amount remitted.

ARTICLE 27
EFFECTIVE DATE AND DURATION

SECTION 1 DURATION AND REOPENING

This Agreement becomes effective as of the date shown on the last page and will remain in effect for a period of three years.

Either party may give notice to the other, not more than 90 nor less than 60 days prior to any anniversary date, of its intention to amend or modify this Agreement. Proper notice being given, the parties shall meet within a reasonable time to negotiate regarding such proposed amendments or modifications. This paragraph does not apply to Article 7, which may be reopened only upon mutual consent or three years from the effective date.

This Agreement may at any time be reopened, supplemented, or amended by mutual consent of the parties. The present agreement will remain in effect during any such renegotiation and until a new agreement is approved.

If neither party serves notice to renegotiate this Agreement, it shall be automatically renewed for two-year periods, and remains subject to the other provisions of this Article.

SECTION 2 PERIODIC REVIEW

A periodic review of this contract will be made by the parties at three-month intervals to ascertain that no problems in the interpretation of this Agreement arise.

SECTION 3 CONFLICT WITH HIGHER AUTHORITY

If any portion of this Agreement is determined to be in violation of any law, regulation, Executive Order, or published directive of higher authority, only that portion shall be affected, and all other provisions shall remain in full force and effect.

SECTION 4 CHANGES IN LAW AND REGULATION

During the duration of this Agreement, changes in applicable law and regulations from higher authority which affect this Agreement, including court decisions, decisions of the Federal Labor Relations Council, and the Assistant Secretary of Labor for Labor/Management Relations will subject the affected Article to negotiations within thirty days after proper notice has been given by either party.

Signed and effective this twenty-first day of July, 1978.

For American Federation of Government Employees, Local #183:

Burton Goldberg

Janice Blanchard

Jack Burton

Bruce Barnes

APPROVED:

Dennis Carmen
President

For The Alaska Railroad:

Ernest Eastman

Ronald Krueger

William Mullaly

Jack Hepworth

APPROVED:

William L. Dorcy
General Manager

AMERICAN TRAIN DISPATCHERS ASSOCIATION

BASIC LABOR AGREEMENT 1964

BASIC LABOR AGREEMENT

Between

The Alaska Railroad

and

The following recognized employee representation organization on The Alaska Railroad:

American Train Dispatchers Association

In accordance with the Labor Relations Policies of the United States Department of the Interior, as issued by the Secretary of the Interior, Departmental Manual, Part 376

MAY 1 5 1964

Date

RECEIVED
JUN 1 1964
TRANSPORTATION BRANCH

ALASKA RAILROAD LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Wage Policy

Section 10. Disputes, Board of Adjustment, Board of Arbitration

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Interpretation of Departmental Labor Policy

Section 14. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable rates of pay, hours regulations, and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and supplements thereto, in the Secretary of the Interior; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: The term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on wages, hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of wages and working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series of agreements which are negotiated and made effective between management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement. The periodic negotiation and adjustment of wages and related pay matters and detailed working rules and standards are characteristic of the subject matter of supplementary labor agreements. They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations, including the labor relations policies and regulations prescribed in Part 376 of the Department of the Interior Manual, all of which are regarded as paramount. This agreement shall at all times be applied subject to all such federal laws, Executive Orders, Secretarial instructions, or directives, related policies and regulations, and the public interest involved in the orderly, efficient and continuous progress of Department of the Interior operations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

Section 3. Scope

This agreement is applicable to those employees of the Railroad not subject to the Classification Act of 1949, as amended, a majority of whom in any particular trade or craft has designated as their representative a labor organization signatory to this agreement.

Section 4. Employee Rights to Labor Representation

4.1. Employees of the Railroad have the right to form or join organizations and designate representatives of their own choosing, provided they do not form or join organizations which assert that employees in the service of the United States Government may strike or which advocate the overthrow of the United States Government by force or violence.

4.2. In the exercise of the right to form or join organizations and designate representatives, employees shall be free from any and all restraint,

interference or coercion on the part of management, and the supervisory staff is prohibited from exercising any such restraint, interference or coercion. By the same token the designation of individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as prescribed by law, will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Departmental Manual, Department of the Interior, specifically Part 376, D.M. 2.

Section 7. Duty to Confer

7.1. If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 5 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organization and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the labor organizations or the Railroad announcing their desire to revise rates of pay or the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences will not be paid for by the Railroad. Labor organization representatives attending conferences for revision of pay rates or jointly promulgated agreements shall be granted leave as accrued, or leave without pay, to attend such meetings.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation, in labor matters, the Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Rates of pay, hours regulations and working rules in the determination of which employees, through accredited organizations, have participated will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplementary Agreements as defined in Section 1 of this agreement, and, in accordance with the applicable regulations of the Department of the Interior, need not be submitted to the Secretary for approval.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of outstanding differences through mutually agreeable procedures, except those that are dictated by the Department of the Interior for the public purpose.

Section 9. Wage Policy

9.1. The making of agreements in regard to rates of pay or modifications in rates of pay, including rules related thereto, shall be governed by the following wage policy.

a. To establish a means of understanding in reaching fair and equitable wage settlements on The Alaska Railroad, now and in the future, the following principles and procedures will govern the wage negotiations and become effective with the effective date of this agreement.

1. That the wage rates payable to the employees of the Northern Pacific Railway constitute a fair and equitable pattern to be used as the basis for determining wage rates for employees of The Alaska Railroad.

2. That the Alaska Railroad employees should receive, over and above the basic rate for comparable occupations on the Northern Pacific Railway, a percentage differential equal to the differential by which the weighted average of Anchorage-Fairbanks consumer prices exceeds average consumer prices in all cities in the lower forty-eight states for which place-to-place consumer price differentials are computed by the Bureau of Labor Statistics of the Department of Labor. It is agreed that the weighted average index of Anchorage and Fairbanks will be determined by the proportion of Alaska Railroad employees at Fairbanks and Healy and points between Fairbanks and Healy, as compared to employees south of Healy. Proportion of Alaska Railroad employees at Fairbanks and Healy and points between Fairbanks and Healy, as compared to employees south of Healy, will be computed as of effective date of the first wage adjustment subsequent to the date of this basic labor agreement and as of the effective date of each wage adjustment thereafter.

3. That basic wage increases on the Northern Pacific Railway shall be added to all Alaska Railroad employees' wage rates in accordance with the provisions of this agreement. The effective date of such increases shall be as of the effective date of such wage changes occurring on the Northern Pacific Railway, or the earliest effective date thereafter permissible under applicable Comptroller General rulings.

4. At the time of such increases referred to in paragraph 3 above, a cost-of-living differential will be added to the increase to the extent necessary to maintain a differential, by occupation, as outlined in paragraph 2 above; provided, that no differential will be added to the increase when the new Alaska Railroad wage rate already equals or exceeds the differential requirements as set forth in paragraph 2 above.

5. Changes in the Bureau of Labor Statistics cost-of-living differential index will not affect Alaska Railroad cost-of-living differential until the next following wage adjustment on the

Northern Pacific Railway and will be effective coincident with such Northern Pacific wage adjustment.

6. If the increases granted on the Northern Pacific Railway are in the form of percentage increases, such increases will be computed on a cents per hour basis for the purpose of this agreement.

7. It is agreed that wage increases as specified in this agreement will not be applied retroactively to any employee not employed by The Alaska Railroad as of the date final settlement is reached as a result of negotiations on the Northern Pacific Railway. Exceptions to this rule will be (a) employees who entered into military service, voluntarily or otherwise, after the effective date established, (b) employees who were separated for reasons of retirement under the Civil Service Retirement Act after the established effective date of the wage increase, (c) heirs of deceased employees.

8. In the event the Northern Pacific Railway merges with another carrier, the Alaska Railroad wage rates will be based on that portion of the merged carrier which consists of the trackage now operated by the Northern Pacific Railway.

9.2. Accredited labor organizations or the General Manager will give at least thirty days' notice of desire for conference to revise rates of pay. The time and place for the beginning of such conferences will be agreed upon within ten days of receipt of such notice.

Section 10. Disputes, Board of Adjustment, Board of Arbitration

10.1. The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates. In the event that disputes are not so resolved, they shall be handled in accordance with the procedures outlined below.

a. Grievances brought by employees or their representatives shall be handled in the first instance with the Railroad officials having primary responsibility for the subject matter of the grievance.

b. Appeals from the decision of the Railroad official with primary responsibility shall be to the next highest official in line, except that the last appeal prior to submission of the case to the General Manager shall be to the Personnel Officer. There shall be no exception to the carrying of appeals through channels, as described above, except by agreement or mutual assent.

c. Any grievance must be filed, in writing, within thirty days after the first occurrence which gives rise to said grievance. Grievances not filed within this time limit will not be entertained or allowed. A decision on said grievance must be made within thirty days from the date the grievance is received by the official having responsibility in each instance. An appeal to the next higher authority must be made within thirty days and a decision thereon must be made within thirty days. If a decision is not made by the responsible official within the time limit prescribed for him to make a decision, the decision will automatically be in favor of the employee or claimant.

10.2. Detailed procedures for the handling of such grievances shall be included in supplementary labor agreements between the parties signatory hereto.

10.3. Disputes over grievances arising from the interpretation of the provisions of Supplementary Agreements and which are not resolved to the satisfaction of the parties on appeal to the General Manager, in accordance with the provisions governing grievances in the Supplementary Agreements, shall be submitted to a Board of Adjustment. Such Board of Adjustment shall be established in accordance with the following terms and conditions.

a. The procedures for the settlement of grievances arising out of the interpretation of the agreement covering the rates of pay, (but not wage-setting policy), rules and working conditions, and operating and safety rules for the employees of The Alaska Railroad, as represented by the employee organization signatory hereto, will be as follows:

1. There shall be established on The Alaska Railroad as the occasion requires a Board of Adjustment to be composed of three members; one member to be designated by the carrier; one member by the labor organization involved; and the third member, not affiliated with either the carrier or the labor organization, and who need not be a resident of Alaska, to be selected by the agreement of both parties.

2. If selection of the third party from local sources cannot be agreed upon, the third party will be selected from a list of available neutrals submitted by the National Mediation Board, furnished by joint request of management and the union involved.

3. It shall be the duty of this Board to begin hearings on grievances submitted to it prior to the expiration of a period of ten days from the date on which the last member necessary to complete the Board is appointed. Unless both parties to this agreement agree upon some other location, all the hearings conducted by this Board shall be held in the city of Anchorage, Alaska. The Board shall make its award prior to the expiration of a period of thirty days from the date on which the Board concludes its hearings. The parties hereto may agree at any time prior to the making of such award by the Board to an extension of time.

4. The award of the Board shall be final and conclusive upon the parties hereto as to the facts determined by the Board and as to the merits of the controversy decided, unless disapproved by the Secretary of the Interior within thirty days from the receipt of the award in the Office of the Secretary. Should either party object to the findings of the Board and enter into correspondence or communications with the Secretary, other parties of the Board shall receive copies in advance of such correspondence or communications.

5. In the event a dispute arises involving an interpretation of the Board award, upon request of either party, the Board shall interpret the award in light of the dispute.

6. A majority of all members of the Adjustment Board shall be competent to make an award or interpret an award with respect to any dispute submitted to it.

7. The members of the Board representing the carrier and the labor organization shall be compensated by the party they represent. Each neutral party shall receive from The Alaska Railroad such compensation as the Railroad may fix, together with the necessary traveling expenses and expenses actually incurred for sustenance, or shall receive a per diem allowance in lieu thereof, subject to the provisions of law applicable thereto while serving as such third or neutral party.

8. The Board so constituted under the provisions of this agreement shall serve only for the case or cases submitted to it at the time of its organization and until such cases have been heard and award rendered. The above provisions shall not prohibit any member of a Board from serving in a similar capacity on a subsequent Board.

9. Nothing in this agreement will be construed to give the Adjustment Board any jurisdiction over the Operating Rules of the Railroad.

10.4. Disputes over wage rates or related wage rules shall be resolved in accordance with the provisions of arbitration contained in the following procedures.

a. If efforts to bring about agreement in disputes over general changes in wage rates or in related wage rules are unsuccessful, the Railroad and the labor organization involved agree to the submission of the facts to a Board of Arbitration established in accordance with the terms and conditions contained herein.

b. The Board shall consist of one neutral person and one member representative of the labor organization or organizations and one member representing the Railroad. The neutral member shall be selected from the lists of available neutrals maintained by the National Mediation Board.

c. The parties to a given dispute, referrable to an Arbitration Board, shall prepare jointly an Arbitration Agreement applicable to such dispute which shall contain at least the following:

1. A provision that the Arbitration Board and the representatives of management and labor, parties to the dispute being arbitrated, will adhere to the rules for arbitration contained in these procedures.

2. The effective date of the Arbitration Agreement and identification of the parties thereto.

3. A provision that the arbitration proceedings will be guided by the principles of the Railway Labor Act of 1926, as amended.

4. A clear and specific statement of the question to be submitted to the Arbitration Board, and a provision that the arbitration question or parts thereof may be withdrawn from arbitration by mutual agreement.

5. A provision that, within a reasonable time, hearings will commence at Anchorage, Alaska or Washington, D. C., as mutually agreed upon by the parties.

6. A time requirement as to the appointment of members of the Arbitration Board.

7. A time requirement for the decision of the Arbitration Board with provision for extension of time by mutual consent.

8. A provision that the award, a transcript record of the arbitration proceedings, and minutes of meetings of the Board of Arbitration shall constitute the full and complete record of the arbitration.

d. The award of the Board shall be final and conclusive upon the parties hereto as to the facts determined by the Board, and as to the merits of the controversy decided, unless disapproved by the Secretary of the Interior within thirty days from receipt in the Office of the Secretary, Department of the Interior, of the complete record and minutes of the findings and award of the Board. Should either party object to the findings of the Board and enter into correspondence or communications with the Secretary of the Interior, other parties of the Board shall receive copies of such correspondence and communications.

e. In the event a dispute arises involving an interpretation of the Board award, upon request of either party, the Board shall interpret the award in light of the dispute.

f. A majority of all members of the Board shall be competent to make an award or interpret an award with respect to any dispute submitted to it.

g. The members of the Board representing the carrier and the labor organization shall be compensated by the party they represent. The neutral arbitrator shall receive such compensation as the Department of the Interior may fix, including traveling expenses and expenses actually incurred for sustenance, or shall receive a per diem allowance in lieu thereof, subject to the provisions of the law applicable thereto, while serving as neutral party. Such expense shall be shared equally between the union involved and the Railroad.

h. The Board shall serve only for the case submitted to it specified in the Arbitration Agreement and until such case has been heard and award rendered. The above provisions shall not prohibit any member of a Board from serving in a similar capacity on a subsequent Board.

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals, other labor organizations, the Department of the Interior, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.
b. Conservation of materials, supplies, time, power and energy.
c. Improvements in quality of workmanship and services.
d. Correction of conditions making for grievances.
e. Health, safety, and morale standards.

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefits Plan
Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Interpretation of Departmental Labor Policy

It is understood and agreed that the intent of this Basic Agreement is to comply with the Labor Relations Policies of the United States Department of the Interior issued July 1, 1962 by the Administrative Assistant Secretary. Signatories to this agreement may request interpretation from the Department as may be required.

Section 14. Effective Date and Duration

This agreement shall become effective on the date on which it is approved by the Secretary of the Interior. After such approval renewal of this Basic Labor Agreement will be automatic from year to year and shall remain in full force and effect until cancelled by either party thirty days prior to its anniversary date.

Any modification or amendment may be presented for discussion and negotiation upon thirty days written notice by the authorized representatives of the labor organization and/or the General Manager. Within ten days after receipt of modification notice, the General Manager will notify when and where the negotiations will take place. Agreed to changes will not be effective until approved by the Secretary of the Interior.

Dated at Anchorage, Alaska
April 24, 1964

FOR THE ORGANIZATION:

L. E. LeQuire, General Chairman
American Train Dispatchers Assoc.

FOR THE ALASKA RAILROAD:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

Approved: MAY 15 1964
(Date)

For the Secretary of the Interior

SUPPLEMENT #1
1974

THE ALASKA RAILROAD

Supplement No. 1

to the

Basic Labor Agreement

AMERICAN TRAIN DISPATCHERS ASSOCIATION

Section 2. Compliance

Responsibilities and Rights of Management: The right to make reasonable rules and regulations shall be considered acknowledged functions of Management In making rules and regulations relating to personnel policies, and practices and procedures, and matters of working conditions, Management will give due regard and consideration to the rights of the Union and the employees and to the obligations imposed by this Agreement and the provisions of Executive Order 11491 as amended, and is subject to the following requirements:

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations --

(1) to direct employees of the agency;
(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;
(3) to relieve employees from duties because of lack of work or for other legitimate reasons;
(4) to maintain the efficiency of the Government operations entrusted to them;
(5) to determine the methods, means, and personnel by which such operations are to be conducted; and
(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

Section 3. Scope

3.1 This agreement is applicable to those employees of the Railroad not subject to the Classification Act of 1949, as amended, a majority of whom in any particular trade or craft has designated as their representative a labor organization signatory to this agreement.

3.2 Management recognizes that the Union is the exclusive representative of these Alaska Railroad officers, in the bargaining unit consisting of the Trick Train Dispatchers and Assistant Chief Train Dispatchers. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 8.4

Alaska Railroad Train Dispatchers and Assistant Chief Train Dispatchers are not subject to the Railroad Retirement Act or the Railroad Retirement Tax Act, except as covered under the acts by other than Alaska Railroad employment.

Section 8.5

Employees of this agreement are subject to the holiday benefits applicable to other Federal employees.

Section 11.

Basic Labor Agreement, Section 11:

a. "Distribution of literature of a labor organization shall be permitted,...."

b. Union Dues Witholding:

Subject to the terms and conditions of this agreement, the Railroad shall deduct from the wages of the employees subject to this Agreement, who acquire and maintain membership in the Organization, amounts equal to the dues uniformly required as a condition of retaining membership in the Organization, and shall pay the amounts so deducted to the designated Treasurer of the Organization: Provided, however, that this requirement shall not be effective with respect to any employee until he shall have furnished the Railroad with a prescribed written wage assignment authorization to the Organization of such membership dues, which wage assignment authorization shall be revocable in writing, as prescribed, or cancelled upon employee separation; termination of this agreement; of loss of employee organization recognition between the Railroad and the Organization signatory hereto.

The wage assignment authorization shall be on the Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, Standard Form No. 1187, as revised, attached hereto and identified as Attachment A, which by reference is made a part hereof.

The revocation of the wage assignment authorization shall be on the Revocation of Voluntary Allotment of Compensation for Payment of Employee Organization Dues, Standard Form No. 1188, attached hereto and identified as Attachment B, which by reference is made a part hereof.

The Organization shall assume full responsibility for procurement of the form and execution of the wage assignment authorizations and for delivery of such forms to the Chief, Budget and Accounting Branch, Accounting Section, Anchorage.

2.a.1 The employee members of the Organization may furnish voluntarily to the Railroad's Chief, Budget and Accounting Branch, Accounting Section, Anchorage, through their organization, the wage assignment authorization, indicating thereon the payroll deduction authorized. The Organization Treasurer or Financial Secretary shall certify the name of the employee, his membership in good standing in the Organization, and the amount to be deducted from the wages of the employee who has signed the wage assignment form. The annual dues shall be prorated over twenty-six (26) pay periods.

2.a.2. The payroll deduction authorized herein shall become effective the first full pay period following its receipt in the Accounting Section.

2.b. Deductions will be made from the wages earned beginning the first complete pay period following receipt of the allotment form in the Accounting Section for which the wage assignment authorization, specified in Sections 2.a.1 and 2.a.2, is furnished. The following deductions will have priority over deductions in favor of the Organization, as provided herein:

1. Retirement or FICA.
2. Federal income taxes
3. Health benefits
4. Group life insurance
5. Indebtedness due U.S. Government
6. State income taxes
7. Alaska Railroad Medical Association & Excess Benefits Plan
8. U.S. Savings Bonds

2.c. If the earnings of an employee are insufficient to remit the full amount of the pay period deduction for such employee, no deduction shall be made, and the same will not be accumulated on the following pay period.

2.d. No deductions will be made from other than regular payrolls.

2.e. Deduction shall cease when

1. The employee separates from the Railroad effective at the end of the pay period during which separation occurs.

2. The Organization loses recognition: effective beginning of first pay period after such loss.

3. The employee is permanently reassigned to a Railroad segment whose employees have representation by another employee organization: effective at the end of the pay period during which movement occurred provided revocation order is initiated by employee.

4. The employee is expelled or ceases to be a member of good standing in the Organization: effective with first complete pay period after receipt of written notice.

5. Revocation order is initiated by the employee: effective the beginning of the pay period following its receipt in the Accounting Section by March 1 or September 1. Revocation applies only on March 1 or September 1.

3. No charge shall be made against the Organization for dues withholding.

4. The Railroad will remit to the Treasurer of the Organization the amount deducted from the wages of the members who completed the wage authorization allotment. Remittance checks shall be forwarded to the Organization Treasurer consistent with established pay practices and shall be accompanied by a positive listing of employees' names who have authorized deductions, amounts withheld (or explanation why no money withheld), with proper identification of the employee organization.

5. The amount of dues certified on the original allotment form will remain unchanged until an appropriate official of the Organization certifies to the Accounting Section that the amount of regular dues has changed. Changes in the amount of allotments by reason of changes in the organization dues may not be made more frequently than once each twelve months, measured from the date of the first dues change made by the employee organization. Changes in deductions for employees shall be effective as of the first complete pay period after receipt of the certified change by the Railroad Accounting Section, or a later payroll period if requested by the Organization.

6. No part of this agreement or any other agreement between the Railroad and the Organization shall be used directly or indirectly as a basis for any grievance or claim by or in behalf of an employee, predicated upon any violation of, or misapplication, or non-compliance with, any part of this agreement.

7. The Organization shall indemnify, defend, and save harmless the Railroad from the execution of, or compliance with, the provisions of this agreement.

This agreement shall become effective pay period beginning August 4 1974 following mutual acceptance by the parties and shall remain in effect until modified or changed in accordance with established negotiation procedures for amending the Basic Agreement between the member parties of the Agreement. This Agreement is subordinate to and superseded by any conflicting Federal law, Executive Order, or directives that are now, or may be later, imposed pertinent to this service to the Organization.

FOR THE ORGANIZATION:

L. E. LeQuire
General Chairman

FOR THE ALASKA RAILROAD:

W. C. Davidson
Operations Officer

R. R. Mack
Personnel Officer

Approved:

W. S. Johnston
General Manager

SUPPLEMENT #2
1974

THE ALASKA RAILROAD

Supplement No. 2

to the

Basic Labor Agreement

AMERICAN TRAIN DISPATCHERS ASSOCIATION

Section 9, Wage Policy, is amended as follows:

The Federal Wage System's regular wage shcedule for blue collar employees shall be used for determining pay rates of Assistant Chief Train Dispatchers and Trick Train Dispatchers of The Alaska Railroad.

Procedures of the Federal Wage System (WS) shall apply for conversion from the existing pay system or other pay systems to the WS system, except that initially the Assistant Chief Train Dispatcher's pay shall be established at WS 13, Step 2 and the Trick Train Dispatcher's at WS 11, Step 2. Conversion begins the waiting period for the next step increase.

Procedures of the Federal Wage System (WS) shall apply for any saved pay provisions of current employees.

Increases awarded the Federal Wage System (WS) resulting from lead agency surveys shall be applied to these employees on the same effective dates as for other employees in the system and in same money amounts.

Step increases within the grades of the Federal Wage System shall apply as well as the waiting and time periods between the steps. Employees with multiple appointments, as Assistant Chief Train Dispatcher or Trick Train Dispatcher, will be placed in the same step of the different grades. Service as relief for the Chief Train Dispatcher position does not qualify for step increases when the employee returns to the dispatching position.

A change of positions within the same grade does not warrant a change of step, the employee would continue in the same grade and step. New employees or those re-hired begin service in step one of the applicable grade.

Wage increases will not be applied retroactively to any employee not employed by The Alaska Railroad as of the date the Department of Transportation issues the wage schedule. Exceptions to this rule will be (a) employees who entered into military service; (b) employees who were retired under the Civil Service Retirement Act, and; (c) heirs of deceased employees.

The labor organization representative or the General Manager of the Railroad will give at least thirty (30) days' notice of desire for conference to revise this Wage Policy.

This Agreement is effective August 4 1974 and supercedes other rules relative to pay fixing methods with which it may conflict.

FOR THE ORGANIZATION:

L. E. LeQuire
General Chairman

FOR THE ALASKA RAILROAD:

W. C. Davidson
Operations Officer

R. R. Mack
Personnel Officer

Approved:

W. S. Johnston
General Manager

FOR THE ORGANIZATION:

L. E. LeQuire
General Chairman

FOR THE ALASKA RAILROAD:

W. C. Davidson
Operations Officer

R. R. Mack
Personnel Officer

Approved:

W. S. Johnston
General Manager

ORIGINAL
AGREEMENT
1950

Dept. of Operation

AGREEMENT

BETWEEN

THE ALASKA RAILROAD

AND

THE AMERICAN TRAIN DISPATCHERS ASSOCIATION

REPRESENTING

TRAIN DISPATCHERS

This Agreement shall apply only to the
Train Dispatchers of The Alaska Railroad

EFFECTIVE April 18, 1950

RECEIVED
APR 25 1950
THE ALASKA RAILROAD
OPERATION OFFICE

INDEX

Rule 1	Scope
Rule 2	Definitions
Rule 3	Classification
Rule 4	Hours of Service
Rule 5	Overtime
Rule 6	Transfer Time
Rule 7	Starting time of Positions
Rule 8	Service Other Than Regular Assignment
Rule 9	Service in Advance of Regular Starting Time
Rule 10	Service by Extra Dispatchers
Rule 11	Rest Days
Rule 12	Work on Rest Days
Rule 13	Rest Day Duration
Rule 14	Change in Rest Day
Rule 15	Relief Service
Rule 16	Combining Territory for Relief
Rule 17	Sunday and Holiday Work
Rule 18	Seniority Datum
Rule 19	Rosters
Rule 20	Seniority Limits
Rule 21	Filling Positions
Rule 22	Displacement Rights
Rule 23	Waiving of Rights
Rule 24	Forfeiture of Seniority
Rule 25	Extra Work
Rule 26	Official Positions
Rule 27	Bulletining Positions

Rule 28	Temporary Vacancy
Rule 29	Assignment Requirements
Rule 30	Notice of Change in Force
Rule 31	Relocation of Offices
Rule 32	Changes in Starting Time of Positions
Rule 33	Leave of Absence
Rule 34	Return from Leave of Absence
Rule 35	Committeemen
Rule 36	Sick and Annual Leave
Rule 37	Basis of Employment - Rates of Pay
Rule 38	Determining Hourly Rates
Rule 39	Time lost account Hours of Service
Rule 40	Rates of New Positions
Rule 41	Attending Court or Inquest
Rule 42	Discipline
Rule 43	Hearings
Rule 44	Appeals
Rule 45	Reinstatement
Rule 46	Transcripts
Rule 47	Unjust Treatment
Rule 48	Privacy of Office
Rule 49	Transportation
Rule 50	Representation
Rule 51	Effective Date of Agreement
Rule 52	Changes in Agreement

UNITED STATES

DEPARTMENT OF THE INTERIOR

THE ALASKA RAILROAD

A G R E E M E N T

By and Between

THE ALASKA RAILROAD AND TRAIN DISPATCHERS

Represented by the American Train Dispatchers Association

Governing Hours of Service and Working Conditions

Effective April 18, 1950

ARTICLE I

Scope

(a) This agreement shall govern the hours of service and working conditions of Train Dispatchers, and the term, "Train Dispatcher", as hereinafter used shall include chief, assistant chief, trick, relief, and extra train dispatchers. It is agreed that one (1) chief dispatcher shall be appointive and not subject to the provisions of Article IV (a) to (i), inclusive and Article V (a).

Definitions

(b) 1. Chief, Assistant Chief Dispatcher. These classes shall include positions in which the duties of incumbents are to be responsible for the movement of trains on a division or other assigned territory, involving the supervision of train dispatchers and other similar employees; to supervise the handling of trains and the distribution of power and equipment incident thereto; and to perform related work. In filling the position of Chief Dispatcher consideration shall be given employees on the seniority roster before hiring new employees.

2. Trick and Relief. This class includes positions in which the duties of incumbents are to be primarily responsible for the movement of trains by train orders or otherwise; to supervise forces employed in handling train orders; to keep necessary records incident thereto; and to perform related work.

3. Assigned Train Dispatcher. An assigned train dispatcher is one who is assigned by bulletin, notice, or displacement to a permanent or temporary position.

4. Extra Train Dispatcher. An extra train dispatcher is one who is unassigned as train dispatcher.

Classification

(c). Section (b), i.e. items 1 and 2 thereof, shall not operate to restrict the performance of work as between the respective classes herein defined, but the duties of these classes may not be performed by other officers or employees for the purpose of avoiding employment of additional train-dispatchers.

ARTICLE II

Hours of Service

(a) Eight (8) consecutive hours shall constitute a day's work.

Overtime

(b) Time worked in excess of eight (8) hours on any day or in excess of forty (40) hours in any work week, exclusive of the time required to make transfer, will be considered overtime and shall be paid for at the rate of time and one-half on the minute basis.

Transfer Time

(c) The term "time required to make transfer" as used in section (b) above, includes the time it is necessary for the train dispatcher who is being relieved to turn over to the relieving train dispatcher the information necessary to permit the relieving train dispatcher to fully and completely begin dispatching service on the trick to which he is assigned. A train dispatcher who is required to remain in charge during the time transfer is being made will not be considered as having accrued overtime, except to extent provided herein with respect to transfer time. A train dispatcher required to remain on duty after the expiration of his tour of duty will be paid for such time as overtime.

Starting Time of Positions

(d) No shift shall be started between the hours of 12:01 a.m. and 4:00 a.m. except in an emergency.

Service Other Than Regular Assignment

(e) A train dispatcher who is required to perform service other than that comprehended by his regular assignment will be paid therefor at the rate of time and one-half on the minute basis. For example, a trick dispatcher regularly assigned by bulletin to a regular assignment and who has his assignment changed at the direction of the Management will be paid therefor at the rate of time and one-half on the minute basis while performing such service.

Service in Advance of Regular Starting Time

(f) A train dispatcher who is required to perform service in advance of the regular starting time but continuous with his regular assignment will be paid a minimum of three (3) hours for two (2) or less hours of such service.

Service by Extra Dispatchers

(g) ~~Extra train dispatchers called for train dispatchers service shall be compensated not less than a day's pay for such service.~~

ARTICLE III

Rest Days

(a) Each regularly assigned train dispatcher, including chief train dispatchers, will be entitled and required to take two regularly assigned days off per week as rest days, except when unavoidable emergency prevents furnishing relief. Such rest days shall be consecutive to the fullest extent possible. Non-consecutive rest days may be assigned only in instances where consecutive rest days would necessitate working any train dispatcher in excess of five days per week.

Work on rest day

(b) A regularly assigned train dispatcher who is required to perform service on the rest days assigned to his position will be paid at rate of time and one-half for service performed on either or both of such rest days. An extra train dispatcher who is required to work as train dispatcher in excess of five consecutive days shall be paid one and one-half the basic straight time rate for work performed on either or both the sixth or seventh days but shall not have the right to claim work on such sixth or seventh day.

Rest day Duration

(c) The term "rest days" as used in above sections (a) and (b) means that for a regularly assigned train dispatcher seventy-two (72) hours, and for a regularly assigned relief train dispatcher (who performs five (5) consecutive days' train dispatcher service) fifty-six (56) hours, shall elapse between the time required to report on the day preceding the "rest days" and the time required to report on the day following the "rest day". These definitions of the term "rest days" will not apply in case of transfer account of train dispatcher exercising seniority.

Change in Rest Day

~~(d) When necessity arises to change the rest days of a position, reasonable notice shall be given to all concerned and the senior men on a trick will have choice of rest days assigned to their trick.~~

Relief Service

~~(e) Where relief requirements regularly necessitate four (4) days or more of relief service per week, relief dispatchers will be employed, assigned and compensated at the rate applicable to positions worked.~~

When not engaged in dispatching service they shall be paid therefor at minimum rate applicable to trick train dispatchers in the office where relief service is performed. service regularly less than four (4) days per week shall be considered extra work and shall be performed by extra train dispatchers at the daily rate applicable to each position worked. Relief requirements not covered by regular relief dispatchers will be met by using extra dispatchers.

Combining Territory for Relief

(f) The combining of territory for relief purposes will not be permitted.

Sunday and Holiday Work

(g) Work performed on rest days and the following legal holidays: New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Armistice Day, Thanksgiving Day and Christmas, will be paid for at the rate of time and one-half, in lieu of their regular pay for that day. When the legal holiday falls on Sunday, the day observed by the Territory, nation, or by proclamation shall be considered the legal holiday.

ARTICLE IV

Seniority Datum

(A) After being properly qualified according to practices in effect, seniority as train dispatcher shall date from the time compensated service as such is first performed following last entrance into service in that capacity. Provided that, if two or more employees are qualified on the same date and the man senior in service of the railroad is prevented from being used as train dispatcher, he shall establish seniority ahead of and with the same dating as the man who is so used.

Rosters

(b) A seniority roster showing the names and seniority standing of all those entitled to hold seniority as train dispatcher under these rules shall be issued by the management and revised and reissued as of January 1st of each year. A copy of said roster shall be furnished each dispatcher holding seniority thereon, and be subject to correction upon proof of error or omission if protest in writing is made within thirty (30)days from date of issue upon which such entry appeared. Excepting that a dispatcher on leave of absence or sick leave during the whole or part of the thirty (30) days mentioned above shall have the right to submit, in writing, proof of error or omission for fifteen (15) days after date of return to duty from leave of absence.

Seniority Limits

(c) Seniority rights shall extend to all train dispatchers positions on The Alaska Railroad.

Filling Positions

(d) When filling positions covered by this Agreement, ability being sufficient, seniority as train dispatcher shall govern.

Displacement Rights

(e) A train dispatcher may exercise displacement rights to any position covered by these rules in the following instances:

1. When he is displaced by a senior train dispatcher or his position is abolished.

2. When there is a material change in the working conditions or more than one (1) hour in the starting time of any position.

A train dispatcher desiring to exercise his rights under item (1) or (2) above shall do so within ten (10) days, in writing, unless prevented by sickness or proper leave of absence, in which event he must do so within ten (10) days of his return. Failure to comply with the time limit herein prescribed shall cause him to revert to the extra list and he may thereafter exercise seniority in accordance with these rules. A train dispatcher whose position has been claimed by a senior train dispatcher, in accordance with these rules may hold the position until the displacing dispatcher actually takes it.

Waiving of rights

(f) Train dispatchers holding regular positions as such shall not lose seniority rights when they elect not to bid for a bulletined position.

Forfeiture of Seniority

(g) Failure to perform service as train dispatcher during a period of six (6) consecutive months shall cause forfeiture of seniority, except when such non-performance is due to lack of work, sickness, or otherwise provided in these rules. A train dispatcher who voluntarily relinquishes his position and enters other service, except as provided in section (i) hereof, shall forfeit his seniority as train dispatcher.

Extra Work

(h) The senior extra dispatcher who is qualified will be called for extra dispatching work whenever he is available, without regard for loss of time in changing shifts. The senior man will be considered available if he can fill the vacancy without violating the Hours of Service Law, and is so situated that he can get to the point where the dispatchers' office is located in time to commence work at the starting time of the vacant shift.

Official Positions

(i) Train dispatchers now filling, or who may hereafter accept, the position of Chief Dispatcher or official positions with the railroad shall retain and accumulate seniority.

If they return to positions covered by this agreement, they may

1. Return to the position held at time they accepted the official position,

2. If such position no longer exists, they may displace the junior regularly assigned train dispatcher on the seniority roster from which promoted, or

3. Bid on vacancies then or thereafter bulletined.

ARTICLE V

Bulletining Positions

(a) Permanent vacancies, new positions, or temporary positions of more than thirty (30) days' duration, shall be bulletined within five (5) days to all train dispatchers on the seniority roster, who shall have five (5) days from date bulletin is posted within which to file application. The application must be in writing. the successful applicant shall be awarded the position within seven (7) days from close of bids. If a train dispatcher is temporarily absent during the entire period applications are to be filed, Section (b) of Article VI shall apply.

Temporary Vacancy

(b) When filling a temporary vacancy resulting from sickness, vacation or leave of absence, known to be more than fifteen (15) days and less than thirty (30) days duration, it will not be bulletined but be given to the senior qualified applicant holding a regular position who will return thereto upon termination of such temporary service. Time lost in making changes under the provisions of this section will not be paid for. In the event no qualified regular train dispatcher applies, Article IV (b) will govern.

Assignment Requirements

(c) A train dispatcher who is awarded a position in accordance with the rules of this Agreement shall be placed thereon within seven (7) days. If not so placed he shall be compensated at overtime rate for each day he is held off such position after the seventh day at the rate of the position awarded.

Notice of change in force

(d) As much advance notice as possible but not less than six (6) days will be given of:

1. Reduction in regular positions, or

2. Consolidation of dispatching districts at same location. Before such change is made effective, conference upon request duly made shall be held to consider the adequacy of the force.

Relocation of Offices

(e) When changes are made in the location of any dispatching office requiring train dispatchers to move from one point to another, not less than fifteen (15) days' advance notice shall be given to the dispatchers affected. In such cases, time necessarily lost by regularly assigned train dispatchers will be allowed for traveling to the new point of employment at the rate of the last dispatcher's schedule position filled and they will be granted free transportation of household effects. Regularly assigned train dispatchers who are required to learn new territory will be allowed reasonable time within which to qualify without loss of pay, the superintendent to be the judge of time required. Upon request, the representatives of the train dispatchers will be afforded an opportunity to discuss with the management the contemplated changes herein provided.

Changes in Starting Time of Positions

(f) Forty-eight (48) hours' notice shall be given to the train dispatchers in the office affected of intended change in starting time of a permanent position.

ARTICLE VI

Leave of Absence

(a) A train dispatcher may be granted a leave of absence limited to six (6) months in any twelve (12) consecutive months period without loss of seniority. Leave of absence in excess of six (6) months may be granted only by agreement between the Superintendent and the Chairman of the Train Dispatchers. Leave of absence shall not be required in cases of known physical disability. Letter granting leave of absence shall be furnished the man on leave in each instance.

Return from Leave of Absence

(b) A train dispatcher returning from leave of absence shall return to his regular position, except that if changes were made during his absence he may, within five (5) days, exercise seniority to the same extent as he would have been entitled to if he had been in active service when such changes occurred.

Committeemen

(c) Committeemen of the organization party hereto will, upon request and if possible, be relieved from duty to handle organization matters on this railroad.

Sick and Annual Leave

(d) The sick and annual leave practices now in effect together with existing Federal law shall apply and continue in effect until changed by legislation or Federal regulations.

ARTICLE VII

Basis of Employment Rates of Pay

(a) Train dispatchers' basic rates of pay shall be as shown in the currently effective wage schedule and any supplements thereunto.

Determining Hourly Rates

(b) If the basic rate of compensation of the employee is fixed on a monthly basis, multiply such basic rate of compensation by twelve (12) to derive a basic annual rate of compensation, divide such basic annual rate of compensation by 260 to determine the daily rate and divide the annual rate of compensation by two thousand eighty (2080) to determine the basic hourly rate.

Time Lost Account Hours of Service

(c) Loss of time on account of the Hours of Service Rule, or in changing positions, by direction of proper authority, shall be paid for at the rate of the position for which service was performed immediately prior to such change. This does not apply in case of transfers account employees exercising seniority nor when dispatcher used off assignment as per Article II, section (e).

Rates of New Positions

(d) Rates of pay for additional dispatching positions which may be created or restored will be the same as for other train dispatchers' positions.

Attending Court or Inquest

(d) Train Dispatcher, who at request of the railroad, attends Court or appears as witness for the railroad will be furnished transportation and will be compensated at the daily rate of their assignment, or if an extra train dispatcher, at trick train dispatchers' daily rate for each day so engaged with a maximum of eight (8) hours for each calendar day, and if so used on rest days assigned to his position, Article III (b) shall apply; where meals and lodging are not furnished by the railroad, travel expenses will be allowed in accordance with current Government Travel Regulations. Employees attending Court and Jury Duty will be covered by the Act of June 29, 1940, and all rules pertaining thereto.

ARTICLE VIII

Discipline

~~(a) A train dispatcher shall not be disciplined without a proper hearing as provided in Section (b) of this Article.~~

Hearings

(b) A train dispatcher who is charged with an irregularity which might result in his being disciplined shall be notified in writing of the precise charge against him and given a fair and impartial hearing by the Superintendent or his designated representative within ten (10) days from date of such notice.

He shall have the right to be represented by a train dispatcher and/or an official of the American Train Dispatchers Association. He shall be given reasonable opportunity to secure the presence of necessary witnesses. The decision shall be rendered within ten (10) days from close of hearing.

Appeals

(c) If the decision is not satisfactory to the train dispatcher, the case may be appealed through the Committee to the next higher official within fifteen (15) days from the date decision is received by the train dispatcher. Hearing on appeal shall be granted within ten (10) days from date of appeal and decision rendered within fifteen (15) days from close of hearing.

Reinstatement

(d) If decision decrees that the charges against the train dispatcher were not sustained, his record will be cleared of such charge; if suspended or dismissed, he will be reinstated and will be compensated for net wage loss, if any, suffered by him. When appeals are made to the highest officer of the railroad designated to handle such matters, receipt thereof shall be acknowledged on the date of receipt. If hearing on appeal is deemed necessary it shall be held without unnecessary delay. A decision on appeal shall be rendered within fifteen (15) days from receipt of appeal, or within fifteen (15) days from close of hearing unless an extension of time is agreed to by the designated representative of the Train Dispatchers. If decision is not rendered within the time limit specified herein or extended hereby, the charges against the train dispatcher shall be considered as not having been sustained.

Transcripts

(e) If stenographic record of hearing is taken, copy will be furnished the employee or his representative on request.

Unjust treatment

(f) A train dispatcher who considers himself unjustly treated in any respect where no discipline is involved shall have the right of hearing and appeal as provided in this Article if written request is made to his superintendent within thirty (30) days from the date of cause of complaints.

ARTICLE IX

Privacy of Office

(a) Dispatching offices will be maintained as private as possible.

Transportation

(b) Train dispatchers and their dependents will be granted as liberal transportation privileges as are accorded other subordinate officials.

ARTICLE X

Representation

(a) The American Train Dispatchers Association is hereby recognized as the duly authorized and delegated representative of the train dispatchers in the service of The Alaska Railroad and for the Management to so consider and accordingly deal with the representatives of said association shall be construed as being one of the requirements of this Agreement. The System Committee of the American Train Dispatchers Association on the railroad will represent all train dispatchers thereon in the making of all Agreements, rules, wage rates, and working conditions, and formal interpretations thereof. The committee may be assisted by any duly authorized officer of the American Train Dispatchers Association.

ARTICLE XI

Effective Date

(a) This agreement shall be effective April 18, 1950 and continue in effect until it is changed in accordance with section (b) of this Article.

Changes

(b) Should either of the parties to this Agreement desire to revise or modify these rules, thirty (30) days' written notice containing the proposed changes shall be given, and conference thereon held within thirty (30) days from date of such notice unless other date is mutually agreed upon.

It is understood and agreed that this Agreement is superseded by and subordinate to any Federal legislation.

/s/ John D. Shaw
John D. Shaw, General Chairman
American Train Dispatchers Assn.

APPROVED:

/s/C. S. Matthews
C. S. Matthews, Vice President
American Train Dispatchers Assn.

/s/ J. P. Johnson
J. P. Johnson, General Manager
The Alaska Railroad

/s/ Roy V. Boyd
Roy V. Boyd, Supt. of Operations
The Alaska Railroad

/s/ Paul Shelmerdine
Paul Shelmerdine, Director of
Personnel, The Alaska Railroad

(Signed) Oscar L. Chapman
Secretary of the Interior

SUPPLEMENT #1

UNITED STATES
DEPARTMENT OF THE INTERIOR
THE ALASKA RAILROAD

Anchorage, Alaska
February 1, 1953

Supplement No. 1
to
Agreement by and between The Alaska Railroad and Train Dispatchers represented by the American Train Dispatchers Association governing hours of service and working conditions effective April 17, 1950.

The following revision of rules in the Agreement between The Alaska Railroad and the American Train Dispatchers Association effective April 17, 1950 is hereby agreed upon and made effective as of February 1, 1953.

ARTICLE I

(a) Revised.

This agreement shall govern the hours of service and working conditions of Train Dispatchers, and the term "Train Dispatcher" as herein used shall include chief, assistant chief, trick, relief and extra train dispatchers. It is agreed that one (1) chief train dispatcher shall be appointive and not subject to the provisions of Article IV, Section (3), 1, 2 and 3 thereof; Article V, Section (a) 1 and Section (b) 2 and 3. (All as revised.)

(b) 3. Revised.

Assigned Train Dispatcher: An assigned train dispatcher is one who is assigned by bulletin, notice, or displacement to a permanent or temporary position. The terms "bulletin", notice, or displacement" mean any method by which an assignment is made, but such assignment must be made in writing.

(c) Revised.

1. Section (b), i.e., items 1 and 2 thereof, shall not operate to restrict the performance of work as between the classes therein defined, but the duties of these classes may not be performed by other officers or employees.

2. Combining the duties of the classes defined in items 1 and 2 of Section (b), Article I, into one position, or when such combination position is abolished or otherwise discontinued, shall constitute a new position or positions, including the relief assignments affected, and shall be bulletined as such.

ARTICLE II

(g) Revised.

Extra and assigned train dispatchers called for extra dispatching service shall be compensated not less than a day's pay for such service.

ARTICLE III

(b) Revised by addition of paragraph 1.

1. Work required to be done on either or both of the rest days of a regular position will be performed first, by the assigned relief dispatcher when available; second, by an extra dispatcher, if available, and subject to Section (h) of Article IV; third, by the regular incumbent of the position, if available; fourth, by the senior regular dispatcher who would be rested to assume his regular assignment after having performed such extra work.

(d) Revised.

When necessity arises to change the rest days of a position, reasonable notice shall be given to all concerned.

(e) Revised.

1. Where relief requirements regularly necessitate four (4) days or more of relief service per week, relief dispatchers shall be employed, assigned and compensated at the rate applicable to the positions worked.

2. When not engaged in dispatching service such assigned relief dispatchers shall be paid therefor at minimum rate applicable to trick train dispatchers in the office where relief service is performed.

3. Relief requirements regularly less than four (4) days per week shall be considered extra work, and when performed by extra train dispatchers, they shall be compensated at the daily rate applicable to each position worked.

ARTICLE IV

(e) Revised.

1. A train dispatcher may exercise displacement rights to a position covered by this agreement in the following instances:

2. When he is displaced by a senior train dispatcher, or his position is abolished or discontinued.

3. When there is a change in the starting time of his position of more than one (1) hour.

4. A train dispatcher desiring to exercise seniority rights under items 2 or 3 above shall do so within five (5) days, in writing, unless prevented by sickness or proper leave of absence, in which event he must do so within five (5) days after his return. Failure to comply with the time limit herein prescribed shall cause him to revert to the extra list and he may thereafter exercise seniority in accordance with this agreement. A train dispatcher whose position has been claimed by a senior train dispatcher in accordance with these rules may hold the position until the displacing dispatcher actually takes it.

(f, Revised.

1. Train dispatchers holding regular positions as such shall not forfeit seniority rights when they elect not to bid for a bulletined position.

2. Train dispatchers not holding a regular position as such shall forfeit their seniority when they elect not to bid for a bulletined position.

(h) Revised.

1. The senior extra dispatcher who is qualified will be called for extra dispatching work whenever he is available, up to forty (40) hours per week, without regard for loss of time in changing shifts. The senior extra dispatcher will be considered available if he can fill the vacancy without violating the hours of service law, if so situated that he can get to the point where the dispatchers office is located in time to commence work at the starting time of the vacant shift, and is not then engaged in dispatching duties.

2. In the event no extra dispatcher is available, such extra work, except as provided for in Article III, Section (b), para. 1 (as added), will be performed by the senior regular dispatcher in turn who is available and who would be rested to assume his assigned position after having performed such extra work; and shall be compensated therefor at the rate of the position worked. (The Chief Train Dispatcher is excepted from the provisions of this rule.)

(i) Revised.

1. Train dispatchers now filling, or who may hereafter accept the position of Chief Train Dispatcher, or other official position with the Railroad, shall retain and accumulate seniority.

2. Train dispatchers so promoted may return to a position covered by this agreement by the exercise of displacement rights.

ARTICLE V

(a) Revised.

1. Permanent vacancies, new positions, and temporary positions of thirty (30) days or more duration, shall be bulletined within twenty-four (24) hours. Dispatchers shall have five (5) days to bid. Bids must be in writing. The successful applicant shall be awarded the position within twenty-four (24) hours from the close of bids. If a train dispatcher is temporarily absent on authorized leave during the entire period applications are to be filed, Section (b) of Article VI shall apply.

2. If no bids are received on a vacancy so bulletined, the senior extra dispatcher shall be assigned thereto. If there be more than one extra dispatcher, and all have forfeited seniority under the provisions of Article IV, Section (f) 2, the senior extra dispatcher will be considered as the one who first established seniority date.

Bulletins issued under the provisions of this agreement shall state the hours of service, rest days, rate of pay, and extent of dispatching territory defined by subdivisions, provided that the above details need not be given except when they differ from the previous bulletin.

4. Any change in existing positions as defined in para. 3 above, except as provided in Article III, Section (d) and Article IV, Section (e), para. 3, shall constitute a new position or positions and shall be bulletined as such. The old position or positions thus affected shall be abolished.

(b) Revised.

1. Temporary vacancies of not more than fifteen (15) days shall be considered as extra work.

2. Except as provided in para. 5 below, temporary vacancies of more than fifteen (15) days and less than thirty (30) days duration will not be bulletined, but will be given to the senior qualified applicant holding a regular position, who will return thereto upon the termination of such temporary service. Time lost in making changes under this rule will not be paid for. In the event no qualified regular train dispatcher applies, Article IV (h) will govern.

3. Notice of temporary positions under para. 2 above shall be posted in the Dispatchers office for a period of three (3) days. The successful applicant shall be awarded the temporary position immediately following the close of the three (3) day period, and he shall be placed on the position so awarded as soon thereafter as practicable, but not in violation of Article III (a). if it can be avoided. Applications must be made in writing.

4. Except when the Chief Train Dispatcher is absent for weekly rest day purposes, whenever the Chief Train Dispatcher's position is temporarily vacated by the regular incumbent, announcement, by issuance of appointment notice, will be made of who has been appointed as acting chief train dispatcher.

5. If the acting chief train dispatcher so appointed holds a regular assignment as train dispatcher, the provisions of Article II (e) will not apply to such individual, but in lieu thereof, and in such instances, the senior qualified applicant may apply for, and be given, such temporary vacancy as results therefrom without regard to the time limitations of Article V (b), para. 2.

6. The General Chairman of the American Train Dispatchers Association shall be furnished a copy of all bulletins, notices, award notices and assignment notices.

7. Notices or bulletins of positions available under Section (a), para. 1 and 3 of Article V shall, whenever possible, be posted sufficiently in advance to enable the successful applicants to transfer to such positions on the day they become vacant.

8. If a train dispatcher holding a temporary postion is the successful applicant for a different temporary position, he relinquishes his former temporary assignment and it becomes a vacancy. He shall not be eligible to bid for that vacancy unless he loses his new temporary assignment through abolishment or the operation of these rules.

(c) Revised.

A train dispatcher who is awarded a position in accordance with the rules of this agreement shall be placed thereon within five (5) days. If not so placed he shall be compensated at overtime rate for each day he is held off such position after the fifth day at the rate of the position worked.

FOR THE ORGANIZATION:

Paul Hines, General Chairman
American Train Dispatchers Ass'n

FOR THE ALASKA RAILROAD:

John E. Manley
Acting General Manager

R. H. Bruce
Superintendent of Operations

Paul Shelmerdine
Director of Personnel

SUPPLEMENT #2

UNITED STATES
DEPARTMENT OF THE INTERIOR
THE ALASKA RAILROAD
ANCHORAGE, ALASKA

November 9, 1954

Mr. Kerwin M. Frank
General Chairman
American Train Dispatchers Association
Anchorage, Alaska

Dear Mr. Frank:

Attached are two (2) copies of Supplement No. 2 to the Agreement between The Alaska Railroad and Train Dispatchers represented by the American Train Dispatchers Association Governing Hours of Service and Working Conditions, effective April 17, 1950.

Additional mimeographed copies of Supplement No. 2 will be available shortly.

Very truly yours,

Paul Shelmerdine
Director of Personnel

cc: Mr. John E. Manley
Mr. R. H. Bruce

RECEIVED
NOV 10 1954

UNITED STATES
DEPARTMENT OF THE INTERIOR
THE ALASKA RAILROAD

Anchorage, Alaska
July 1, 1954

Supplement No. 2
to
Agreement by and between The Alaska Railroad and Train Dispatchers represented by the American Train Dispatchers Association governing hours of service and working conditions effective April 17, 1950

The following revision of rules in the Agreement between The Alaska Railroad and the American Train Dispatchers Association effective April 17, 1950 and Supplement No. 1 dated February 1, 1953 is hereby agreed upon and made effective as of July 1, 1954.

ARTICLE V

Notice of change in force

(d) As much advance notice as possible but not less than five (5) days will be given of:

ARTICLE VI

Leave of Absence

(a) A train dispatcher may be granted a leave of absence limited to ninety (90) days in any twelve (12) consecutive months period without loss of seniority. Leave of absence in excess of ninety (90) days may be granted only by agreement between the Superintendent and the Chairman of the Train Dispatchers. Leave of absence shall not be required in cases of known physical disability. Letter granting leave of absence shall be furnished the man on leave in each instance.

Article V of Supplement No. 1, dated February 1, 1953, is amended as follows:

To Article V (a) add: "A dispatcher, having been assigned to a temporary position, after a period of ninety (90) days or more may, upon written request, relinquish his temporary position and go on his permanent assignment."

Section 4 of the same Article is changed by eliminating the words "Article III, Section (d) and".

Section 4 (b)(3) of the same Article is changed as follows:

"Notice of temporary positions under paragraph 2 above shall be posted in the Dispatchers office for a period of three (3) days. The successful applicant shall be awarded the temporary position immediately following the close of the three-day period and he shall be placed on the position so awarded within five (5) days, but not in violation of Article III (a) if it can be avoided. Applications must be in writing."

Section 4 (b)(6) of the same Article is revised by adding the following:

"If a train dispatcher, while working a temporary position, is the successful applicant for a permanent position, he may upon written request relinquish his temporary position and go to his permanent assignment."

FOR THE ORGANIZATION:

Kelsin H. Frank, Gen. Chairman
American Train Dispatchers
Association

FOR THE ALASKA RAILROAD:

F. E. Kalbrenner
General Manager

R. H. Bruce
Superintendent of Operations

Paul Shelmerdine
Director of Personnel

SUPPLEMENT #3

UNITED STATES
DEPARTMENT OF THE INTERIOR
THE ALASKA RAILROAD

Anchorage, Alaska
March 21, 1955

Supplement No. 23
to
Agreement by and between The Alaska Railroad and Train Dispatchers represented by the American Train Dispatchers Association governing hours of service and working conditions effective April 17, 1950.

The following revision of Article IV (h) of the agreement between The Alaska Railroad and the American Train Dispatchers Association is agreed to and made effective as of March 21, 1955:

ARTICLE IV

(h) The senior extra dispatcher who is qualified will be called for extra dispatching work whenever he is available, up to forty (40) hours per week, without regard for loss of time in changing shifts; the senior extra dispatcher will be considered available if he can fill the vacancy without violating the hours of service law, and is not then fulfilling the rest days requirement of his regular assignment in another craft, and is so situated that he can get to the point where the dispatchers office is located in time to commence work at the starting time of the vacant shift, and is not then engaged in dispatcher duties, and provided further, if then fulfilling his regular assignment in another craft, that an employee is available to relieve him without penalty payment of wages unless the dispatcher vacancy is to be more than three (3) days' duration.

FOR THE ORGANIZATION:

Kerwin M. Frank, General Chairman
American Train Dispatchers Assoc.

FOR THE ALASKA RAILROAD:

John E Manley
Acting General Manager

R. H. Bruce
Superintendent of Operations

Paul Shelmerdine
Director of Personnel

SUPPLEMENT #4

UNITED STATES
DEPARTMENT OF THE INTERIOR
The Alaska Railroad

Anchorage, Alaska
April 10, 1956

SUPPLEMENT NO. #3
to
Agreement by and between The Alaska Railroad and Train Dispatchers represented by the American Train Dispatchers Association governing hours of service and working conditions effective April 17, 1950.

The following revision of rules in the Agreement between the Alaska Railroad and the American Train Dispatchers Association effective April 17, 1950 is hereby agreed upon and made effective as of April 10, 1956.

ARTICLE I

.(a) Revised.

This agreement shall govern the hours of service and working conditions of train dispatchers. The term "train dispatcher", as herein used, shall include all train dispatchers except one chief train dispatcher in each dispatching office who is not regularly assigned to a shift performing train dispatcher's work.

NOTE: Two rest days per week shall be assigned to each excepted chief train dispatcher position as a part of the weekly schedule of work for any train dispatcher assignment.

Relief of excepted chief train dispatchers for their annual vacation, and other temporary periods of absence from their positions, shall be made by qualified train dispatchers from the seniority district involved.

FOR THE ORGANIZATION:

Kerwin M. Frank, General Chairman
American Train Dispatchers Association

FOR THE ALASKA RAILROAD:

R. N. Whitman
General Manager

R. E. Bruce
Superintendent of Operations

Paul Shelmerdine
Director of Personnel

SUPPLEMENT #5

UNITED STATES
DEPARTMENT OF THE INTERIOR
The Alaska Railroad

Supplement No. 5

Supplement No. 3 to the Agreement by and between The Alaska Railroad and Train Dispatchers, represented by the American Train Dispatchers Association, governing hours of service and working conditions, and which was made effective March 21, 1955, is revised, effective April 19, 1962, as follows:

ARTICLE IV

(h) When a vacancy occurs for extra dispatching work, the extra board incumbent will be used for vacancies known to be five (5) days or less. When a vacancy occurs for in excess of five (5) days, the senior extra dispatcher who is qualified will be called for dispatching work when he is available up to forty (40) hours per week, without regard for loss of time in changing shifts. When the extra board incumbent is not available for extra work in the dispatchers' office, the senior extra dispatcher will be called if he can fill the vacancy without violating the hours of service rule, and is not then fulfilling the rest day requirements of his regular assignment in another craft, and is so situated that he can get to the point where the dispatchers' office is located in time to commence work at the starting time of the vacant shift, and is not then engaged in dispatcher duties, and provided further, if then fulfilling his regular assignment in another craft, that an employee is available to relieve him without penalty payment of wages unless the dispatcher vacancy is to be more than three (3) days' duration.

Dated at Anchorage, Alaska, April 19, 1962.

FOR THE AMERICAN TRAIN DISPATCHERS ASSOC.:

L. E. LeQuire
General Chairman

FOR THE ALASKA RAILROAD:

John E. Manley
General Manager

W. C. Davidson
Supt. of Transportation

Paul Shelmerdine
Personnel Officer

MEMORANDUM OF UNDERSTANDING
between
THE ALASKA RAILROAD
and
THE AMERICAN TRAIN DISPATCHERS ASSOCIATION

We agree as follows:

I. PAY SYSTEM AND GRADE

Employees currently classified as Assistant Chief Dispatcher and employees currently classified as Train Dispatcher, shall henceforth be classified and paid as Assistant Chief Dispatcher and will perform the same work defined in the agreement as duties of Assistant Chief Dispatcher, and as performed prior to the effective date of this agreement with the exception of Crew Calling (Reference Article VI). The pay system and grade for Assistant Chief Dispatcher shall be WSE (Wage Supervisor Equivalent) Grade 10.

II. SHIFT DIFFERENTIAL

Rules for payment of shift differential under the WS pay system shall be applicable under the WSE pay system.

III. RELIEF OF CHIEF DISPATCHER

Mr. K. Greene, the present incumbent of the combined position of First Trick Train Dispatcher/Relief Chief Dispatcher shall continue to be paid at the rate of Chief Dispatcher (on the Chief Dispatcher's assigned days of rest) until Mr. Greene is displaced from this assignment, permanently vacates this assignment, or bids a permanent change of assignment as defined by the agreement.

Thereafter, the employee who performs the duties of Acting Chief Dispatcher for periods of three days or less shall be compensated for such periods of duty at an hourly rate which is equal to: the rate of that employee plus one-half of the cents per hour difference between the employee's rate and the rate of the Chief Dispatcher, at the same step. Chief Dispatcher's rate to be expressed in terms of RR pay system for this computation (currently RR-18).

Employees assigned to perform the duties of Acting Chief Dispatcher for continuous periods of more than three days shall be paid at the rate of grade RR-18, at the employee's corresponding step, for all time performing such higher level duties.

IV. AGREEMENT TO RENEGOTIATE

Within 90 days from the date of this Memorandum of Understanding the parties will meet to negotiate ground rules preparatory to revising and renegotiating all agreements, supplements, memorandums, letters, and understanding between them. EXCEPT that the terms and agreements specified in this document shall not be subject to renegotiation except by mutual consent of the parties.

V. SETTLEMENT OF CLAIMS

All claims and grievances now pending between the parties (except the issue of transfer time) will be withdrawn by the organization.

The organization agrees that it has no claim to payment for night shift differential prior to the effective date of this document.

VI. CREW CALLING

The Employer agrees that within 90 days from the effective date of this Agreement, that incidental duties of calling crews will not be required of Assistant Chief Dispatchers.

VII. PRIMACY OF THIS MEMORANDUM

This Memorandum of Understanding represents a full and final settlement with respect to wages, pay level, night shift differential, grievances regarding these and other matters, and supersedes any and all prior agreements and understandings with which it conflicts.

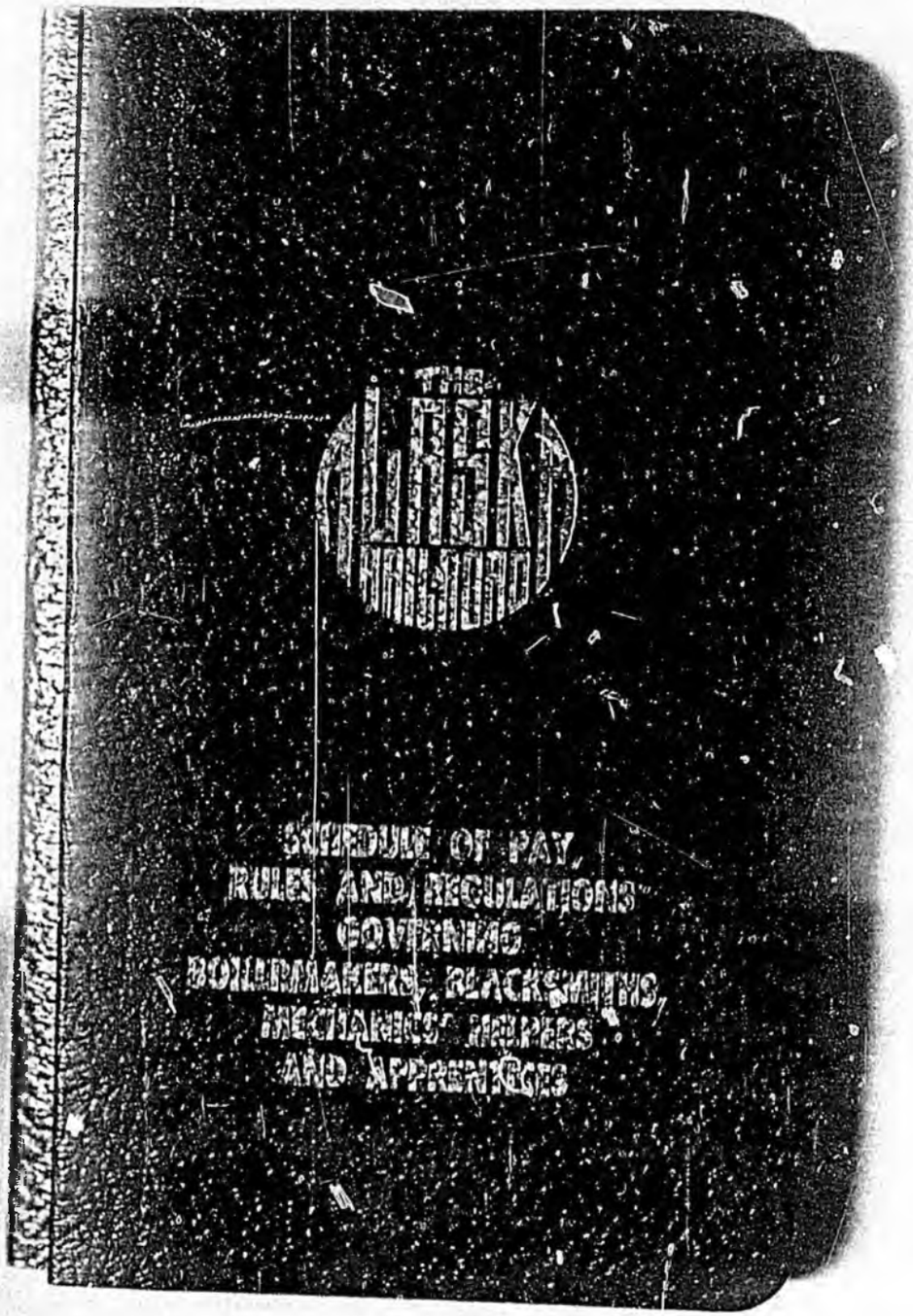
Dan Tennant for
L. E. LeQuire
General Chairman, ATDA

-S-
W. C. Davidson
Operations Officer, ARR

-S-
R. J. Irvin
Vice President, ATDA

-S-
R. W. Krueger
Personnel Officer, ARR

February 26, 1978
Effective Date


SCHEDULE OF PAY,
RULES AND REGULATIONS
GOVERNING
BOILERMAKERS, BLACKSMITHS,
MECHANICS' HELPERS
AND APPRENTICES

UNITED STATES

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Blacksmiths, Boilermakers, Iron Shipbuilders, Helpers and Apprentices

and

Basic Labor Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon Terminating Service.

Book Assigned to:

_____

_____

_____

_____

_____

Revised February 5, 1970

	Article Number
Recognition and Unit Designation	I
Responsibilities and Rights of Management	II
Rights of Employees	III
Provisions of Law and Regulation	IV
Appropriate Matters	V
Union Representation	VI
Hours of Work and Basic Work Week	VII
Emergency Road and Wrecking Service	VIII
Overtime	IX
Holiday Work	X
Sick Leave	XI
Annual Leave	XII
Leave of Absence	XIII
Merit Promotion	XIV
Reprom[illegible]ion	XV
Deadheading	XVI
Personnel Movements in RIF Situations and Rehiring	XVII
Reviews or Job Descriptions and Requirements	XVIII
Disposition of Unit Work	XIX
Apprentice Training Programs and Re-Train[illegible]g	XX
Safety	XXI
Committee Assignments	XXII
Civic Responsibilities	XXIII
Special Tools - Clothing - Services	XXIV
Grievance Procedure	XXV
Advisory Arbitration	XXVI
Seniority	XXVII
Bulletining Positions within Multiple Appointments	XXVIII
Duration and Changes	XXIX

ALPHABETICAL INDEX

A

Act of God	VII	5
Acting Status	XXVIII	5
Additional Units	I	3
Advance Approval of Leave	XI	2
Adverse Affect	V	4
Advice to Management	XI	2
Advice to Union re RIF	XVII	2
Advisory Arbitration	XXVI	
Annual Leave	XII	
Appeal Grievances	XXV	2
Apprentice Training	XX	
Arbitrator	XXVI	2
Attendance at Conventions	XIII	
Awards	XIV	6d

B

Benefits	III	2
Best Qualified	XIV	1,10
Blue Signals	XXI	13
Bumping	XXVII	5,7
Business Manager	VI	6

B

Basic Labor Agreement:	
Definitions	Sec. 1
Compliance	Sec. 2
Scope	Sec. 3
Employee Rights to Labor Representation	Sec. 4
Discrimination Prohibited	Sec. 5
Determination of Bargaining Rights	Sec. 6
Duty to Confer	Sec. 7
Written Agreements	Sec. 8
Scope of Negotiations	Sec. 9
Disputes, Board of Adjustment	Sec. 10
Bulletin Boards and Distribution of Literature	Sec. 11
Labor-Management Cooperation	Sec. 12
Effective Date and Duration	Sec. 13

C

Changes, Advice of	V 2
Clean Engine Parts	XXI 14
Clean Up Time	VII 6
Clean Working & Rest Areas	XXI 9
Committees	
Apprentice	XX 2
Charitable Solicitation	XXII 1
Safety	XXI 3
Suggestion	XX[illegible] 2
Compensation time off	IX 1
Complaint re Job Description	XVIII 2
Compliance	IV 1
Consultation	V 4
Continuous Daily Service	VII 3
Court Leave	XIII
Craft Work	XIX 3

D

Days Work	VII 7
Deadheading	XVI 1
Details (less than 30 days)	XIV 9
Directives Furnished	IV 2
Discipline	XIII 6
Discipline	XIII 9
Discipline by Demerit	XXV 8,1-6
Discrimination	XIV 1
Duration of Agreement	XXIX

E

Emergency - Wrecking Service	VIII 1
Equity	V 3
Exclusive Recognition	VI 1
Executive Order	II 1
Excused from Court Duty	XXIII 4a,b
Experience	XIV 6c

F

February 1	XII 3
Full Time Union Representatives	XIII 2

G

Grades, reduction of	XVIII 4
Grand Lodge Representative	VI 6
Grievance Procedure	XXV

H

Handbook X-118C	XXV 6
Handicapped Program	II 2
Health Benefit Plan	XIII 4
Hearing Defined	XXV 8
Holidays	X
Hot-Cold Work	XXI 8
Hours Changed	VII 11
Hours of Work	VII 1

I

Injury, Advice to Union XXI 6
Interviews XIV 10
Investigation defined XXV 8

J

Job Bulletins XXVIII 3
Job Descriptions XVIII
Jury Duty XXIII

L

Leave, Administrative VI 7
Administrative VII 5
Annual XII
Court XXIII
Emergency XIII 1
Military XIII 5
Sick XI
Voting XXIII 6
Without Pay XIII
Life Insurance XIII 3
Light Duty XI 5
Light Duty II 2
Limitations, Management I 1

M

Maintenance by Operators XIX 1
Management Options XIV 2
Meal Period VII 2,3
Meal Period VII 9
Meal Period IX 3
Mechanic's Work XIX 2
Merit Promotion XIV

Modified Promotion Announcements XIV 12
Multiple Position Assignments XXVIII

N

Negotiation V 1
Number of Stewards, Representatives VI 2

O

Official Bulletin Boards XXVIII 3
Official Bulletin Boards XXIV 3
Official Bulletin Boards XIV 3
Official Positions XXVII 3
Official Time for Grievance VI 4
Outlying Points VII 1
Outside Employment XIII 6
Overtime: Call Basis IX 1
Excused IX 1
Holiday Work) X 1
within assigned)
hours)
Meal Period VII 9
Notice IX 1
Notice Holiday X 1
Rate IX 2
Rotary Board IX 4
Split Shift VII 10
Wrecking Service VIII 1
24 Hour Period IX 6

P

Parking Spaces	II	2
Pay: Arbitrator	XXVI	3
Attendance at Arbitration	XXVI	3
Charges not sustained	XXV	7
Clean up	VII	6
Court Leave	XXIII	5a,b
Deadheading	XVI	1
Grade Reduction	XVIII	4
Grievances	VI	4
Holiday	X	1
Military leave	XIII	5
Protective Clothing	XXIV	1
Safety Shoes	XXIV	2
Training	VI	7
Wash-up	VII	6
4 Hours Work	XXVIII	4

R

Reduction in Force	VII	11
Reduction in Force	XIII	3
Reduction in Force	XVII	
Reduction in Force	XXVII	8
Repromotion	XIV	2
Repromotion	XV	1,2
Rest, Wrecking	VIII	1
Retirement	XIII	3
Return to Duty	XIII	3
Return to Duty	XIII	7,8
Return to Duty	XXVII	5
Review of Job Descriptions	XVIII	1
Rights of Management	II	1
Rights of Union	II	1
Rosters	XXVII	9

S

Safety	XXI	
Saturday, Sunday Work	VII	4
Selection - Release for Promotion	XIV	7
Seniority	XXVII	
Separation	XXV	8(6)
Sick Leave	XI	
Sick Leave - Abuse of sick leave	XI	3
Advanced	XI	6
Three days excused	XI	3
Special Skills	IX	4
Split Shift	VII	8
Standard Government Travel Regulations	XVII	2
	VIII	1
	XVI	1
Stewards	VI	1
Straight time pay deadheading	XVI	1
Supervisory Permission	VI	5
Supervisory Vacancy	XIV	9
Suspension	XXV	6

T

Ten days decisions	XXV	1
Ten days response	XXV	1
Ten Working days	XIV	3
Thirty days trial	XXVIII	2
Training	XIV	6e
Training RIF	XVII	3
Transportation, Free	III	4
Transportation, Sick	XI	4
Travel - regular part of assignment	XVI	1
Traveling - Wrecking	VIII	1

U

Union Membership III 1
Union Representatives VI 1
Union, Right to join III 1
Unit I 2

V

Vacancies XIV 3
Vacancies in Multiple Appointments XXVIII
Vacation XIII 2,3

W

Waiting - Wrecking VIII 1
Wash-up Time VII 6
Work Day VII 1
Work full shift XIX 4
Work Hot, Cold XXI 8
Work Week VII 1
Written Tests XIV 6a

UNITED STATES
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
THE ALASKA RAILROAD

Schedule of pay, rules and regulations governing Blacksmiths, Boilermakers, Iron Shipbuilders, Helpers, and Apprentices

This Agreement is made between The Alaska Railroad, Anchorage, Alaska, hereafter referred to as "Management" and the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders and Helpers, Lodge No. 708, AFL-CIO, hereafter referred to as the "Union.

The participants agree as follows:

It is the intent and purpose of the participants to promote and improve the efficient administration of the Federal Service, to promote the well being of employees within the framework of Executive Order 11491, to establish a basic understanding relative to personnel policies, practices and other matters affecting conditions of employment, and to provide a means for amicable discussion and adjustment of matters of mutual interest.

ARTICLE I

RECOGNITION AND UNIT DESIGNATION

Section 1. This Agreement is subject to the limitation on the discretionary powers of the Management Official of The Alaska Railroad over the area negotiated and it is applicable to the units for which the Union has been granted exclusive recognition.

Section 2. Management recognizes that the Union is the exclusive representative of all non-supervisory blue collar employees in the bargaining unit or units. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 3. Other units which are granted exclusive recognition may be covered by this agreement when mutually agreed upon by Management and the Union and placed in written form.

ARTICLE II

RESPONSIBILITIES AND RIGHTS OF MANAGEMENT

Section 1. The right to make reasonable rules and regulations shall be considered acknowledged functions of Management. In making rules and regulations

relating to personnel policies, and practices and procedures, and matters of working conditions, Management shall give due regard and consideration to the rights of the Union and the employees and to the obligations imposed by this Agreement and the provisions of Executive Order 11491; however, such obligation and regard shall not be construed to extend to such areas of discretion and policy as the functions or mission, the budget, organization, assignment of personnel, the technology of performing work, or matters pertaining to the National Security.

Section 2. Management shall maintain a continuing program for the placement of handicapped employees, or those employees temporarily limited to light duty and who cannot be utilized in their primary assignment. It is recognized that in some instances a brief period of indoctrination may be required. Special consideration will also be given to the assignment of reserved parking spaces for use by handicapped employees depending upon the degree and nature of the handicap, availability, and nature of assignment.

ARTICLE III

RIGHTS OF THE EMPLOYEES

Section 1. Management and the Union

agree that employees shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity. Except as expressly provided here and in Executive Order 11491, the freedom of such employees to assist any Union organization shall be recognized as extending to participation in the Union and acting for the Union in the capacity of a Union Representative, including presentation of Union views to officials of the Executive Branch, Congress, or other appropriate authority. Management shall take such action, consistent with law or with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this Article, and that no interference, restraint, coercion or discrimination is practiced to discourage membership in Union organization.

Section 2. Any employee covered by the provisions of this Agreement and during the period he is on the payroll of Management, shall not forfeit any benefits of this Agreement while on detail or assignment to another Activity or Division including off-site or satellite facilities for which Management has been delegated responsibility. Excludes assignment or

promotion to Supervisory positions.

Section 3. Employees shall have access to their respective personnel file and the personnel file shall contain a job description stating the work performed by the employee.

Section 4. Employees covered by this Agreement and those dependent upon them for support will be given the same consideration in granting free transportation as is granted other non-operating employees in service.

ARTICLE IV

PROVISIONS OF LAW AND REGULATION

Section 1. It is agreed by Management and the Union that nothing in this Agreement shall be so interpreted as to conflict with provisions of any existing or future law or regulation of the Federal Government. This includes, but is not restricted to, those rules and regulations issued by the Civil Service Commission and the Department of Transportation.

Section 2. Management agrees to furnish the Union with two copies of any directives from higher Headquarters which affect employees or which alter Management's discretionary authority with regard to any item dealt with in this Agreement

before implementing same. When such directives are not readily available Management agrees to requisition the two copies for the Union.

ARTICLE V

APPROPRIATE MATTERS

Section 1. It is agreed and understood that matters appropriate for negotiation in this Agreement, or for consultation between the parties are policies, programs and procedures related to working conditions which are within the discretion of Management, including but not limited to such matters as safety, training, labor-management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion practices, pay practices, reduction in force practices, and hours of work.

Section 2. Management agrees that the Union will be notified before changes are made to existing benefits, practices, and understandings which have been authorized by Management but which are not specifically covered by this Agreement.

Section 3. Management agrees that all privileges and benefits extended within the limits of its discretionary power will be applied fairly and equitably

to all employees in the unit. Management agrees to consult with the Union concerning alleged inequities in this connection.

Section 4. It is further recognized that this Agreement does not alleviate the responsibility of either party to meet with the other to discuss and consult on matters not covered by this Agreement, which come within the scope of consultation and negotiation. It is further agreed and understood that the Management will consult with the Union before issuing any official directives which adversely affect the general working conditions covering the employees within the bargaining unit but which are not specifically covered by this Agreement.

ARTICLE VI

UNION REPRESENTATION

Section 1. Management recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. Management further recognizes the right of the Union to designate Shop Stewards and Union Representatives from among the employees of the unit. Management agrees to recognize the Shop Stewards and Representatives designated by the Union.

Section 2. The number of Stewards and Representatives shall be only that number required to assure each employee of the unit ready access to a Steward in his work location. The designated number of stewards shall also be sufficient to assure that the Union can properly carry out its responsibilities under the terms of this Agreement. For the purposes outlined in Sections 1 and 2 of this Article, the Union agrees to supply Management in writing, and shall maintain with Management on a current basis, a complete list of all Union authorized Representatives, Stewards and any alternates.

Section 3. Management agrees to recognize the officers and duly designated representatives of the Union and shall be advised in writing by the Union of the names of its officers and representatives.

Section 4. An employee who alleges and feels that he has a grievance or complaint shall be, upon request to his supervisor, allowed time to report his grievance or complaint to the Shop Steward, and when a pending grievance is reported to the Shop Steward or Representative, that Steward or Representative shall be allowed the time necessary to investigate the reported grievance. This investigative procedure may require discussions with employee(s) within the bargaining unit or outside and representatives of Management (supervision) responsibilities or in some cases all three, in order to evaluate the facts and carry out the Union's responsibility under the terms of this Agreement.

Section 5. Management agrees that Stewards, Union officers, representatives and employees shall be allowed to leave their assigned areas to go to other departments, shops or offices when it is necessary to do so in order to accomplish the purposes outlined in Section 4 above, and in order to bring about a prompt and expedious disposition of a complaint or grievance. It is further agreed that such activity shall be engaged in without any loss in pay or benefits to the employees authorized to act in behalf of the bargaining agent under the terms of this Agreement or to the employees contacted. Permission, in these instances, will be granted unless the individuals work situation precludes such action. In any event, approval will be granted at the earliest opportunity.

Section 6. Management agrees that any representative of the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers, AFL-CIO, or Local Lodge, upon request to Management shall be allowed into the activity at reasonable times on official Union business.

Section 7. Administrative leave may be granted to an employee Union

epresentative to receive training, informa-
ion, briefing and orientation on matters
ithin the scope of Executive Order 11491--
ncluding statutory or regulatory provisions
elating to pay, working conditions, work
chedules, employee grievance procedures,
erformance rating, adverse action appeals
nd agency policy.

ARTICLE VII

HOURS OF WORK AND BASIC WORK WEEK

Section 1. Eight (8) hours shall
onstitute a normal work day. The normal
asic work week shall be Monday through
riday. When one shift is employed, the
tarting time shall not be earlier than
:00 a.m., or later than 8:00 a.m.,
xcept at outlying points. When two (2)
hifts are employed, the starting time of
he first shift shall not be earlier than
:00 a.m. or later than 8:00 a.m., and
he second shift shall start immediately
ollowing the close of the first shift.
hen three (3) shifts are employed, the
tarting time of the first shift shall not
e earlier than 7:00 a.m. or later than
:00 a.m., and the starting time of the
ther shifts shall be regulated accordingly.

Section 2. Assignments may be made
for eight (8) hours excluding an assigned
eal period which shall not be less than

thirty (30)minutes or more than one (1)
hour; except such assignments may be made
to consist of eight (8) consecutive hours
including an allowance for lunch on the
job s

Section 3. Where three (3) assign-
ments performing the same service are
coupled in continuous service covering the
twenty-four hour period, each such contin-
uous service assignment shall consist of
eight (8) consecutive hours including the
allowance for lunch on the job site and
lunch time shall be twenty (20) minutes
between the fourth and fifth hour.

Section 4. Management agrees not to
change the normal basic work week of
Monday through Friday of any employee
except in those cases where a regular tour
of duty would seriously handicap the
performance of function or would result
in substantially increased cost. It is
recognized that functions of The Alaska
Railroad operate on a seven-day work
basis and that certain five-day work
weeks will involve work on Saturday and
Sunday. In those cases when a change in
the normal work week is necessary, Manage-
ment shall consult with the Union in
determining which specific jobs fall with-
in the category for which a re-arranged

basic work week of other than Monday through Friday is appropriate. In no case shall an employee be required to work in excess of five (5) eight (8) hour consecutive days without payment of overtime.

Section 5. Where it is necessary to close the installation or an activity therein and administrative excused leave is granted because of inclement weather, breakdown of equipment, or other emergency "Act of God" situations, employees who report for work shall be given administrative excused leave for the period of the emergency situation.

Section 6. Management will permit adequate wash-up time before each lunch period, and adequate clean-up time at the end of each shift for the purpose of returning tools, cleaning the work area and machinery as necessary, and in each instance, wash-up time will not exceed five minutes on a straight time basis. No employee shall be required to remain after the end of his shift, without compensation, for the purpose of cleaning his designated area.

Section 7. Eight (8) hours of service will constitute a days work. All employees coming under the provisions of this agreement, except as otherwise provided in this schedule of rules, or as may hereafter be

legally established between the Railroad and employees, shall be paid in accordance with the present wage schedule and supplements thereto.

Section 8. At terminals where one shift only is worked, working hours may be established to meet local conditions providing, however, that the eight (8) hours of said shift may be worked within a spread of not more more than twelve (12 hours with but one interval of release of not less than two (2) hours.

Section 9. An employee required to work any part of the meal period will be allowed time therefor on the minute basis at rate of time and one-half. In the even there is not sufficient time remaining within the limits of the meal period in which to procure lunch (not less than twenty (20) minutes), employee will be alllowed not to exceed twenty (20) minutes including any time remaining within the meal period in which to eat, without deduction therefor.

This does not apply to employees who are assigned to eight (8) consecutive hours without meal period and who are allowed twenty (20) minutes in which to eat without deduction of pay.

Section 10. At small outlying points where the service is intermittent, not requiring continuous application, assignment may be made for employees to work eight (8) hours within a spread of twelve (12) consecutive hours with but one interval of not less than two (2) hours of release. Time actually worked in excess of eight (8) hours will be paid for at the rate of time and one-half.

Section 11. Not less than five (5) working days (exclusive of Sunday and holidays) notice will be given before hours or forces are reduced.

ARTICLE VIII

EMERGENCY ROAD AND WRECKING SERVICE

Section 1. An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when called for emergency work or road work away from such shop, engine house, repair track, or inspection point, will be paid from the time called to leave home station, until his return for all time worked, and will be paid straight time rates for traveling or waiting, except assigned rest days and holidays, which

will be paid for at the rate of time and one-half, whether waiting, working or traveling. If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) hours or more, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and lodging are not provided by the Railroad, travel expenses in accordance with the current Standard Government Travel Regulations will be allowed. Employees will be called as nearly as possible one (1) hour before leaving time, and on their return will deliver tools at point designated. A wrecking service employee will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on assigned rest days and holidays will be paid for at the rate of time and one-half.

ARTICLE IX

OVERTIME

Section 1. An employee shall receive

at least two (2) hours and forty (40) minutes pay at the applicable overtime rate if required to work overtime on a regular work day after he has completed his daily tour and has left his place of employment or on one of his scheduled non-workdays, even if his services cannot be utilized for two (2) hours and forty (40) minutes and shall exclude dead work. Management will endeavor to notify all employees who are to work overtime one day prior to the overtime period. Each employee is expected to work a reasonable amount of overtime when operating requirements necessitate. When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours solely for the purpose of equalizing the time. An employee may be excused from overtime for valid reasons or excused from overtime if an equally qualified employee is willing to work.

Section 2. All overtime shall be compensated for at time and one-half (1-1/2) the employee's regular hourly rate, including all shift premiums and other payments regarded by the employee as part of his regular hourly compensation. Such overtime rates shall be paid

for all hours worked over forty (40) hours per week and for all hours worked over eight (8) hours per day.

Section 3. In the event of a situation requiring the extension of a regular work shift into more than a two (2) hour over-time period, time for lunch will be permitted on the work site. Management will make the necessary arrangements that food will be made available for the employees involved.

Section 4. Overtime assignments will be made from a rotary board on a "first-in-first out" basis. Such a board will be set up to cover each seniority list in each shop. Employees will be accorded right of refusal to an overtime call unless his skill is specially needed for that call. An exception may be made to select an employee out of rotation if his special skill is required to perform a special assignment.

Section 5. Except in the case of an emergency, Management agrees not to work an employee in an overtime status beyond two (2) consecutive days or days of rest against his wishes.

Section 6. An employee regularly assigned to work at a shop, engine house,

repair track or inspection point and who reports out and in of said point within twenty-four (24) hours shall receive time and one-half hours in excess of eight in any twenty-four hour period involved.

ARTICLE X

HOLIDAY WORK

Section 1. Federal regulations applicable to Federal Holidays shall apply. Employees shall be excused for all holidays now prescribed by law and any that may be later added by law and all holidays designated by Executive Order shall be observed as regular holidays. If a holiday falls on the employee's first rest day within the normal work week, the preceding day shall be treated as the holiday for leave and pay purposes and if the holiday falls on the employee's second rest day, the following day shall be treated as the holiday for leave purposes. All hours worked within the hours of the assignment, shall be paid at the regular basic compensation rate plus premium pay. Eligible employees excused from duty on a holiday shall receive pay at the basic rate of compensation for the day. When possible, Management will

notify all employees who are to work on a holiday five (5) days prior to the holiday to be worked; a list of employees expected to work on a holiday shall be posted in their work area at least five (5) work days in advance of such holiday.

Section 2. Management agrees that employees will not be scheduled to work on a holiday; prescribed by Federal Law or Executive Order, solely to avoid overtime work that otherwise would be performed on a day outside the basic work week.

ARTICLE XI

SICK LEAVE

Section 1. Sick leave shall be granted employees when they are incapacitated for the performance of their duties by sickness, injury, or for medical, dental, or optical examination or treatment, or when a member of the immediate family or the employee is afflicted with a contagious disease.

Section 2. An employee who is absent on account of sickness shall notify his superiors or other appropriate person prior to the start of the shift on the

first workday of his absence, or as soon thereafter as possible. Second and third shift employees shall notify their department or shop prior to the start of their shift or as soon thereafter as possible. Requests for sick leave for medical, dental, or optical examination or treatment shall be submitted for approval prior to the beginning of the leave, except in the case of emergencies.

Section 3. A medical certificate for absence of three (3) workdays or less will not be required, except where there is reason to believe the employee is abusing sick leave privileges. In such cases the employee will be verbally advised that the sick leave privilege is being abused. When there is no improvement the employee will be advised, in writing, that he will be required to submit a medical certificate for each subsequent absence for illness. Medical certificates will not be required for holidays or days outside the employee's workweek. It is further agreed that Management and the employee will review the sick leave record of each employee required to furnish a medical certificate periodically, and where such review reveals no substantial evidence that the employee has abused sick leave

privileges during the review period, the employee will be notified in writing that a medical certificate will no longer be required for each absence which is claimed as due to illness for periods of three (3) workdays or less unless an abuse recurrs.

Section 4. An employee sent home by the Chief Medical Officer will be provided transportation by Management in those cases where the Medical Officer determines such transportation is necessary.

Section 5. When an employee is assigned a temporary restricted work classification, as determined by the Medical Officer, Management will make every effort to place the employee on a job, if available within the prescribed restrictions.

Section 6. Management agrees to advance sick leave in accordance with applicable regulations to permanent employees, not to exceed thirty days when there is reason to believe the advanced sick leave will be earned after return to work.

ARTICLE XII

ANNUAL LEAVE

Section 1. Annual leave is afforded by law. Employees shall accrue leave in accordance with regulations. Approval of an employee's request for annual leave will be granted when his request is submitted with reasonable advance notice. Approval of requests for annual leave for unforeseen reasons will be considered as the circumstances warrant.

Section 2. Every attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of extended annual leave for vacations. When Management finds it necessary to cancel previously approved leave, the reasons for such action will be explained to the affected employee(s).

Section 3. Applications for specific days of annual leave for vacation purposes will be granted on a seniority basis and in the event of a coinciding request date, the senior employee of the affected area of the Alaska Railroad shall receive preference. Filing date for vacation leave shall be February 1 of each year.

ARTICLE XIII

LEAVE OF ABSENCE

Section 1. A reasonable number of employees may be granted annual leave, leave without pay, to accept temporary Union positions or to attend conventions or meetings of the Union as defined in Executive Order 11491. Employees may be granted leave of absence with or without pay for other purposes.

Section 2. Management agrees to grant upon request of the Union, leave without pay for employees to act as full-time representatives for the Union.

Section 3. Management recognizes the obligation to provide employment at the end of the extended leave without pay granted for employees as full time Union representatives within the rating the employee held upon his request for leave and in the current pay status of such rating at the time the employee returns to work, also recognizing the bumping and retreating rights of an employee on approved leave of absence without pay in situations where the employee's status has been affected by reduction in force action during the period of leave of absence.

Section 4. All employees in approved leave of absence without pay status shall accrue all rights and privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employees Health Benefits Program in accordance with current law and regulations.

Section 5. Each Reservist of the Armed Forces or member of the National Guard who is a permanent employee is entitled to leave of absence from his duties without loss of pay or seniority for not exceeding fifteen (15) calendar days in any calendar year in which he has been called to active duty.

Section 6. Employees shall not be granted leave of absence without pay for the purpose of accepting outside employment unless given written permission prior to leave jointly by the Management and the Union. Employees giving false reasons for the purpose of obtaining leave will be subject to discipline.

Section 7. An employee on leave or temporarily absent from his assignment for any cause, must notify his foreman of his return thereto at least one (1) hour prior to the quitting time of his assignment on the working day next preceding his return, except in the case of sick leave.

Section 8. Duly accredited representatives of the employees and other employees employed exclusively by the organization shall be considered as in the service of the Carrier and may return to their former position or exercise seniority within thirty (30) calendar days after release from such emloyment.

Section 9. An employee unavoidably detained from work will not be discriminated against. Unless prior notice of expected absence has been given, notice to foreman must be given as quickly as possible, and failure to do so, or habitual absence from work without a good cause will be considered cause for discipline.

ARTICLE XIV

MERIT PROMOTION

Section 1. The Employer will utilize employees' skills and potentials to the fullest extent practicable. Employees will be promoted on the basis of merit without regard to race, color, religion, sex, age, or membership or nonmembership in employee organizations. The over-all objective of the merit promotion program

is to assure that positions are filled with the best qualified persons available and to assure that all employees have an equal opportunity to apply for advancement.

Section 2. The Union recognizes that the Employer has the option of filling positions by repromotion, or by methods other than promotion such as appointment, reinstatement, reassignment, or transfer provided the person selected is in the best qualified group using the same qualification standards as for evaluating applicants for promotion. Management agrees that whenever possible to utilize existing employees from within the activity to fill vacant positions when qualified employees are available.

Section 3. All Alaska Railroad merit promotion program opportunities will be advertised through issuance of announcements within the area of consideration on all Official Bulletin Boards. Announcements will be open for at least ten working days when advertising is confined to the Alaska Railroad.

Section 4. The Alaska Railroad will normally be the minimum area of consideration. If an announcement fails to provide a sufficient number of highly

qualified candidates the area will be expanded. The Union will be notified in advance of expansions of areas of consideration and upon request the Employer will consider the Unions views concerning the necessity for such expansions.

Section 5. Upon request, each applicant will be told whether he was eligible for promotion on the basis of minimum qualification requirements, whether he was in the group from which selection was made, who was selected for promotion, and in what areas he should improve himself to increase his chances for promotion.

Section 6. In accordance with Civil Service Commission directives qualification standards for promotion are those prescribed in Commission Handbook X-118-C for ungraded positions as supplemented by Department of Transportation directives. These standards prescribe elements for each occupational area and level of the occupation. In accordance with the Federal Personnel Manual the following consideration may be used in evaluating these job elements.

a. Written Tests. Appropriate validated written tests which are either required or approved by the Civil Service Commission may be used. Written tests may not be used as the sole means of evaluating candidates; they may be used as only one part of the evaluation process with due weight given to the appropriate factors.

b. Appraisals of Performance. Appraisals of performance must be considered as one factor in evaluation of basically eligible candidates. When an employee hs worked for a particular supervisor for less than six (6) months, a second, foreman (leadingman) supervisory appraisal will be obtained. An employee is entitled to see, upon his request, any production record or any supervisory appraisal of past performance used in considering him for promotion. An employee, however, is not entitled to see a supervisory report on potential which is a recorded judgement of the supervisor's estimate or prediction of how well the employee is likely to perform at a level or in a kind of work different from one in which he has already performed.

c. Experience. In evaluating experience the type and quality of experience is considered in relation to

[illegible] of highly

the requirements of the position to be filled. Length of service or length of experience is evaluated when there is a clear and positive relationship with quality of performance and for breadth of ties.

d. Awards. Due weight will be given awards received by employees in terms of qualifications indicated such as initiativ resourcefulness and planning ability and their bearing on the requirements of the positi n to be filled.

e. Training and Self-Development. Training and self-development which would increase the employee's potential for effective performance in the position to be filled must be considered.

Section 7. Employees selected for promotion will be notified promptly of their selection and released from their former positions as soon as practicable, normally with two weeks notice. An employee will be paid at the pay level of the position for which selected, starting with the effective date of promotion, in accordance with applicable regulations.

Section 8. Questions or complaints about the promotion program should be resolved informally if possible with immediate supervisors and the Personnel Officer. The formal means for resolving complaints is then through the grievance procedure.

Section 9. When practicable, the duties of a supervisor who is absent for a time less than thirty (30) days will be assumed by another supervisor. When this is not practicable, a qualified employee will be assigned as acting supervisor. When an employee is so assigned for a period of thirty (30) days or more, a temporary promotion will be made under applicable rules and regulations.

Section 10. When a vacancy occurs, a Certificate of Eligibles will be forwarded to the Selecting Official containing the names of the best qualified applicants and shall be grouped alphabetically and the certificate shall state that the names are not listed relative to qualifications. The Selecting Official may interview candidates on the Certificate of Eligibles. If one (1) candidate is interviewed, all candidates will be interviewed if available.

Section 11. Merit Promotion announcements will show the job requirements for which an applicant's qualifications are evaluated in terms of the skills, knowledge, abilities, and potential needed to perform the job for which the applicant is being considered. Merit promotion announcements shall not contain key or restrictive clauses that tend to favor one employee or a group of employees for a particular position.

Section 12. A merit promotion opportunities announcement may not be modified after the promotion process is under way unless an inappropriate announcement has been released. Modified announcements will be in accordance with Section 3 of this Article and all employees eligible under the modified announcement shall be considered for promotion.

Section 13. The Employer agrees to consult with the Union on any revisions or amendments to the Merit Promotion Plan.

ARTICLE XV

REPROMOTION

Section 1. Any employee demoted without cause will be advised in writing of his entitlement to special consideration for repromotion.

Section 2. An employee demoted without cause must be considered for repromotion before other means are used to fill a position. Although he is not guaranteed repromotion he should be repromoted as an exception to competitive procedures if he is well qualified for the position unless there are persuasive reasons for not doing so.

ARTICLE XVI

DEADHEADING

Section 1. Regularly assigned employees ordered by the Management to deadhead outside of assigned hours to or from a point to perform service shall be paid actual travel time at straight time rates not less than eight (8) hours per day. Travel in excess of eight (8) hours per day will be paid as travel time at straight time rates, and will not be counted against the basic work week of forty (40) hours. Where meals and lodging are not furnished by the Carrier, travel expenses will be allowed in accordance with Standard Government Travel Regulations.

Positions requiring travel as a regular part of their assigned duties will not be paid travel time in excess of their assigned hours.

ARTICLE XVII

PERSONNEL MOVEMENTS IN RIF SITUATIONS AND REHIRING

Section 1. It is agreed that all possible action will be taken to avoid or minimize the impact of a reduction-in-force prior to separating employees. Such action will include restricting recruitment, meeting ceiling limitations through attrition, reassigning employees in surplus positions and terminating limited appointments.

Section 2. Management agrees to notify the Union of the necessity for reduction-in-force as far in advance as practicable and of the reasons therefor. Management also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that Management, to the extent consistent with the installation's manpower requirements, will make an effort to reasssign employees whose positions are eliminated because of automation or adoption of labor saving devices. It is agreed that management will make practical effort to train employees, when necessary for reassignment, whose positions are eliminated because automation or adoption of labor saving devices.

ARTICLE XVIII
REVIEWS OR JOB DESCRIPTIONS AND REQUIREMENTS

Section 1. The activity program for determining the ratings of positions of employees in the unit is conducted in accordance with the applicable Department of Transportation regulations. To assure that ratings are appropriate to the work currently being performed by the employees in the bargaining unit, Management agrees to and shall conduct a continuing Review of such ratings throughout the activity. In any case where a modification of a job description of any position in the unit is proposed to the extent that either the rating, title, pay level, or qualification requirements for the rating

would be affected, the proposed change will be discussed verbally or in writing by Management with the Employee prior to the effective date of any such change.

Section 2. Any employee in the unit who alleges that his position is improperly described or rated may discuss the matter with his supervisor, who will, upon request, arrange for review of the employee's rating by personnel of the Personnel Office. The review shall include discussion with the employee and with his supervisor to determine the employee's actual regular work assignment over a representative current period and comparison of such assignments to the related job descriptions and/or rating definitions. Management agrees to consider fully all pertinent facts including those presented by the employee. If the employee's complaint is not resolved to the satisfaction of the employee, Management shall notify the employee in writing of the findings, the basis of the findings, and shall outline the employee's appeal rights. In requesting a review of his position rating and in the discussions described above, the employee may have and shall be entitled to representation by his Union.

Section 3. Upon request by the employee and/or his representative, Management agrees to produce all pertinent and current data on the grade and job standards of the employee's particular job. The information will include how the grades, job standards, and titles were established and the type of work actually required under these standards.

Section 4. It is agreed that Management will advise the Employee when a job rating is to be changed due to reclassification actions to a lower grade, and at least thirty (30) days prior to effecting personnel action.

Section 5. The Union may present supporting evidence to Management regarding the local application of position classification standards and the equity of classification results.

ARTICLE XIX

DISPOSITION OF UNIT WORK

Section 1. Nothing in this agreement shall be construed to prevent operators of equipment and machines from

making minor repairs to equipment they operate incidental to the continuous operation of their equipment and machinery, outside the shop.

Section 2. None but mechanics or apprentices regularly employed as such shall do mechanic's work of each craft. This rule does not prohibit foremen in the exercise of their duties, or foremen at points where no mechanics are employed, to perform work.

Section 3. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work of any craft (including welding) that may be necessary.

Section 4. An employee notified to work a full shift on his day of rest, Sundays or holidays, will be allowed to complete the shift unless relieved at his own request.

Section 5. Management agrees that as a matter of practice, supervisors at Anchorage shall not be assigned to perform the duties as outlined in job descriptions of Unit employees except

when instructing or training employees.

ARTICLE XX

APPRENTICE TRAINING PROGRAMS AND RE-TRAINING

Section 1. It is mutually agreed that the Apprentice Training Program is of vital interest to Management and the Union. The objective of the Program is to provide organized on-the-job and academic training and instruction to qualified employees to develop skilled journeymen and potential leaders in the trades areas necessary to the mission of this unit.

In this regard, cognizant Shop Heads will coordinate the on-the-job training in order to insure that apprentices receive broad and well-rounded experience in their respective trades. All apprentice training assignments shall be scheduled and recorded to insure that all apprentices are afforded the opportunity to qualify in each phase of training, as defined in the Apprentice Training schedule developed by Management and the Union for each trade.

Section 2. Management agrees to recognize a Union apprentice training committee within the Boilermakers/

Blacksmith bargaining Unit of not more than three (3) members appointed by the Union and three members appointed by Management to serve on such committee. This committee shall have the right to a reasonable review of apprentice training programs affecting employees in the bargaining unit for the purpose of assisting Management in insuring a continuing effort to strengthen and improve the apprentice training program. It is further agreed that the Union apprentice and training committee shall meet once every two (2) months or upon the request of either party for the purpose of discussing the overall effectiveness of the apprentice training program.

Section 3. Management agrees that apprentices will be assigned to either an apprentice instructor or a skilled journeyman who will be under the personal supervision of a supervisor, who shall be responsible for their training while so assigned. Assignments will be made, to the extent permitted by work requirements, primarily to expose the apprentice to a variety of jobs with increasing complexity and responsibility during the programmed apprentice term.

Section 4. The time a journeyman is engaged in instructing apprentices, when

assigned, will not be considered by the immediate supervisor in judging productivity of that particular journeyman.

Section 5. Whenever technological changes require the use of a composite job rating which will utilize the skills of more than one (1) craft or trade, Management agrees to make every reasonable effort to train employees from trades affected by the new rating and to secure employees for such training from within the activity. In securing employees for such on-the-job training, Management agrees to the use and principles of a merit promotion system with respect to their selection and appointment to such training programs.

Section 6. In recognition of the mutual advantages to Management and to the employees, Management agrees to utilize existing employees from within the activity when training for any new job ratings which may be determined necessary for establishment within the activity to carry out the mission.

ARTICLE XXI

SAFETY

Section 1. Management will exert every effort to provide and maintain safe working conditions and industrial health protection for the employees. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his own safety and an obligation to know and observe safety rules and practices as a measure of protection for himself and others. Management will welcome from any individual employee or from the Union, suggestions which offer ways of improving safety conditions.

Section 3. It is agreed that the Union will appoint an appropriate number of qualified employees to serve as the Union's representatives on Management's Safety Committees.

Section 4. In the course of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in their immediate area which represent industrial health hazards. When unsafe or unhealthy conditions

are observed by the Union representatives they should report them to the immediate supervisor. When such safety and industrial health matters are of general interest, the Union may present the problem to Management's safety committees or bring the matter to the attention of appropriate supervision for mutual consideration by Management and the Union.

Section 5. The Union and Management will make every effort to prevent accidents of any nature. Should such accidents occur, however, a prime consideration will be the welfare and comfort of injured personnel.

Section 6. When it becomes known that an accident has resulted in a disabling injury, management agrees to notify the Union promptly of the circumstances.

Section 7. Employees injured while at work will not be required to make accident reports before they are given medical attention, but will make them as soon as practicable thereafter. Proper medical attention will be given at the earliest possible moment, and, when able, employees shall be permitted to return to work without signing a release pending

final settlement of the case. Settlements will be made in accordance with Employee's Compensation benefits.

Section 8. When employees covered by this agreement are required to transfer from hot work to cold work, they will be allowed sufficient time to cool off before such transfer is made.

Section 9. Pits and floors, lockers, toilets, washrooms and lunchroom will be kept in good repair and in a clean, dry and sanitary condition.

Section 10. Operators of sandblast or paint sprayers will be required to use utmost care not to disturb other employees working in immediate vicinity.

Section 11. All acetylene or electric welding or cutting will be protected by a suitable screen when its use is required.

Section 12. Shop employees will not be required to work on engines or cars outside of shops during inclement weather, if shop room and pits are available. This does not apply to emergency work required to trains or in train yards.

Section 13. No employee will make repairs to engines or cars standing on main

track or side track in yards without being protected by a blue signal in place provided thereto on engine and car at both ends of the train to prevent cars from being coupled to or moved while he is making repairs. If signals are placed by the employee, he alone must remove them.

Section 14. When circumstances permit every effort will be made to clean locomotives prior to truck changes or other major work.

ARTICLE XXII

COMMITTEE ASSIGNMENTS

Section 1. The Union agrees to cooperate with Management in the development of policies and procedures for programs which involve charitable solicitations to include qualified Union representation on Management committees for such purposes.

Section 2. The Union will appoint qualified representatives to assist Management in evaluating suggestions and incentive awards.

ARTICLE XXIII

CIVIC RESPONSIBILITIES

Section 1. When an employee is absent from duty and in attendance in court as witness in behalf of the United States, or for jury duty in any State court or court of the United States, the absence from duty shall not be charged against annual leave but shall be recorded as "court leave" for the employee's regular tour or tours of duty.

Section 2. On receipt of a summons to appear for jury duty, the employee shall advise his supervisor. While the duty to serve as a juror is one of the precious privileges and responsibilities of American citizenship, with which the Railroad management concurs, there are instances when the absence of the employee from duty would work an undue hardship. The Personnel Officer shall investigate these hardship cases when brought to his attention by the branch head.

Section 3. An employee answering summons for jury duty shall require written certification of attendance from the clerk of the court. This form shall be attached to Standard Form 71 and presented by the employee to timekeeper as authority for allowance of court leave.

Section 4.

a. Since court does not ordinarily convene until 10:00 a.m., an employee called for jury duty shall be required to report on his Railroad assignment at the starting hour and continue work until such time as it is necessary to leave for court. The only exception to this requirement shall be in those instances where the foreman or other supervisor finds it would be an undue hardship to comply therewith and so informs the appropriate timekeeper in writing.

b. When an employee is excused from duty by the court for as much as one and one-half (1-1/2) hours prior to time for stopping work at noon or evening, he shall return to duty unless advance authority for non-return, due to definite hardship being involved, is obtained from foreman or other supervisor.

Section 5.

a. An employee serving as a juror in State or municipal courts shall be instructed to collect all fees and allowances payable on account of the jury service. The employee must forward the

fees so collected to the Treasury Section, Accounting Branch, The Alaska Railroad, endorsed with "Pay to The Alaska Railroad"; otherwise, payroll deduction shall be made from compensation due him. The employee may keep allowances for mileage and subsistence to cover his actual expenses incident to the jury service; however, payment of per diem is prohibited since it is a form of compensation for services rendered.

b. An employee who performs jury service on rest or layover days is entitled to retain the fees received for such service.

Section 6. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without charge to annual leave. When the polls are not open at least three hours either before or after an employee's regular hours of work, he may be granted an amount of excused leave which will permit him to report for work three (3) hours after the polls open or leave work three hours before the polls close, whichever requires lesser amount of time off.

- 47 -

ARTICLE XXIV

SPECIAL TOOLS - CLOTHING - SERVICES

Section 1. Management agrees to bear the full expense of all special tools, protective clothing and equipment that employees use in the performance of their duties.

Section 2. Management agrees to bear the expense of paying the difference between work shoes and safety shoes.

Section 3. Management agrees to provide space on official bulletin boards and offices for the posting of union notices and similar information material.

ARTICLE XXV

GRIEVANCE PROCEDURE

Section 1. An employee who has passed his probationary period satisfactorily or whose application has been formally approved shall not be disciplined or dismissed without a fair hearing by the designated officer of the Railroad. He may, however, be held out of service pending hearing. At a reasonable time prior to the hearing and not less than forty-eight (48) hours, such employee shall be apprised, in writing, of the precise charge against him within thirty

(30) calendar days of knowledge by the Management of the alleged offense. The hearing shall be held within ten (10) calendar days of the date when charged with the offense. A decision will be rendered within ten (10) days after completion of hearing. The time limits in this rule may be extended by mutual agreement.

Section 2. The right of appeal by employees or their duly accredited representatives in the regular order of succession up to and including the highest officer designated by the Management to whom appeals may be made is hereby established. When appeal is taken, further hearing shall be granted, if requested of the official to whom appeal is made. Appeals will be registered within a reasonable time after decision is given and a copy furnished official whose decision is appealed. Hearings and decisions on appeals will be given within ten (10) calendar days from date appeal notice is received by the officer to whom appeal is taken. The time limits in this rule may be extended by mutual agreement.

Note: No appeal will be handled except in accordance with the above procedure.

Section 3. At hearings an employee

may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest official designated by the Management to whom appeals may be made. At each step Management will render a decision within ten (10) days.

Section 4. Investigations and hearings shall be held whenever possible at home terminals of employees involved and at such time as to not cause employees to lose rest or time. Employees shall have reasonable opportunity to secure the presence of duly accredited representatives and/or necessary witnesses. Upon request of the employee or his representative all necessary existing records of Management pertinent to the case at hand shall be made available for their use. In the process of the hearing,

the Union will be permitted a court recorder or a tape recorder.

Section 5. A copy of all statements made a matter of record at investigations or hearings shall be furnished to the employee and to his duly accredited representative.

Section 6. If an employee is suspended the suspension shall date from the time he was taken out of service.

Section 7. If the final decision decrees that charges against the employee were not sustained, the record shall be cleared of the charge. If suspended or dismissed, the employee shall be reinstated and paid for all time lost.

Section 8. An employee who considers himself unjustly treated, or that any of the provisions of this agreement have been violated, shall have the right of investigation, hearing, appeal and representation as provided in Rules (Sections) (1), (2), (3), (4) and (5), if written request, which sets forth the employee's grievance is made to his superior within thirty(30) calendar days of knowledge by the employee of the alleged unjust treatment.

Definition of Investigation: An inquiry conducted by the Management to determine cause and responsibility and to make search or inquiry for truth, or facts prior to conducting a hearing. Employees are not disciplined as a result of an investigation except new employees who have not passed their probationary period of employment.

Definition of Hearing: A hearing (a trial) conducted after an investigation has developed cause and responsibility. At such hearings an employee or employees must be given proper notice under these rules and apprised in writing of the precise charge or charges against him. Employees may be disciplined or discharged as a result of a hearing. Appeals are based on hearings, not on investigations.

The enforcement of discipline by demerit record will apply to employees of the unit.

The advantages of this system are:

1. (a) To the employee, enabling him by good conduct to insure permanency of employment.

1. (b) To the Railroad, in increased efficiency of such permanent employees.

(c) To avoid loss of wages and consequent hardships to employees and their families because of being deprived of their regular income.

(d) To promote good conduct and encourage careful and efficient service.

2. No discipline by record will be made for less than five (5) or more than sixty (60) demerits.

3. Where demerits are given for unsatisfactory service, cancellations upon record will be given as follows:

(a) A clear record for six months will cancel five (5) demerits.

(b) A clear record for one (1) year will cancel thirty (30) demerits.

(c) A clear record for eighteen (18) months will cancel sixty (60) demerits.

4. When an employee's demerits have accumulated to the number of ninety (90), he will be dismissed from the service.

5. An accumulation of demerits showing that an employee is not desirable for the service will first be given special consideration, but when the service of an employee is so generally unsatisfactory as to unfit him for further service, dismissal will follow.

6. Any permanent employee, who is not serving a probationary period and has completed one year of continuous employment, subject to discipline resulting from hearings or hearings and accumulation of demerits involving removal, suspension for more than thirty (30) days, furlough without pay or reduction in pay shall be afforded the provisions of Civil Service Commission regulations relative to adverse actions. These regulations shall be quoted to the employee, including but not limited to a Notice of Proposed Action,

Receipted Delivery Notice, Thirty Day Pay status, time for employees response and evaluation of same and Notice of Decision.

ARTICLE XXVI

ADVISORY ARBITRATION

Section 1. If Management and the Union fail to settle any grievance arising under Article XXV titled Grievance Procedure with respect to the interpretation, application, or alleged violation of this Agreement or of any policy or decision of Management, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to Advisory Arbitration. Such written notice must be served not later than thirty (30) days following the conclusion of the last step of the grievance procedure.

Section 2. Within seven (7) days from the date of receipt of the arbitration request, the parties shall meet for the purpose of endeavoring to agree on the selection of an arbitrator, and the wording of the question to be resolved. If agreement cannot be reached, then either party may request the Federal Mediation and

Conciliation Service to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after the receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then Management and the Union will each strike one arbitrator's name from the list of five (5) and shall repeat this procedure. The remaining name shall be the duly selected arbitrator.

Section 3. The fee and expenses of the arbitrator shall be borne equally by Management and the Union provided that the cost to Management for arbitrater's fee shall not exceed that amount authorized by rules and regulations. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, not to exceed two (2), employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings.

Section 4. The arbitrator is requested by the parties to render his decision as quickly as possible but in any event no later than thirty (30) days after the conclusion of the hearings unless the parties otherwise agree.

Section 5. It is agreed and recognized that arbitration as provided herein is advisory in nature.

Section 6. The arbiter shall have jurisdiction and athority to interpret this Agreement and to apply it to the particular case under consideration, but shall, however, have no authority to add to, subtract from, or modify the terms of this Agreement and shall confine his findings to the question submitted.

Section 7. In those cases where either party deems it necessary, it may arrange that a transcript of the hearing be made by a qualified court reporter. The party making such arrangement shall bear the full cost thereof. If both parties request a copy the cost will be shared equally. If the arbiter requests that he be furnished with a copy, the expense of the original copy and the reporter's attendance charge shall be borne equally by Management and the Union.

Section 8. The Head of the activity shall render his decision on the advisory arbitration within twenty (20) calendar days from receipt of the arbitrator's decision.

ARTICLE XXVII

SENIORITY

Section 1. Mechanics, helpers or apprentices permanently transferred from one point to another will, after thirty (30) days, lose their seniority at the point they left, and their seniority at the point to which transferred will be established as of the date service is first performed at point to which transferred. Junior employees will be compelled to accept a permanent transfer to another point.*

*Senior employees temporarily transferred will not be compelled to accept a permanent transfer to another point.

Section 2. Employees temporarily transferred to fill vacanacies of less than thirty (3) days at the direction of the Management under a forced rule will be allowed expenses in accordance with Standard Government Travel Regulations for not to exceed thirty (30) days.

Section 3. Employees now filling or promoted to official positions beyond the scope of this agreement shall retain and continue to accumulate seniority in the class from which promoted.

Section 4. An employee taken from any craft for assignment to special service will retain his seniority and be considered on leave of absence from his department while performing such special service.

Section 5. Employees on extended leave of absence for vacation, sickness, or other authorized leave, upon returning to service will be permitted to return to their former positions or may exercise displacement rights on new jobs or vacancies created during his absence. If such employee returns to his regular position, the employee who was relieving him will return to regular position. If a returning employee displaces another employee assigned during his absence, the displaced employee may exercise seniority in like manner to other positions for which he is qualified. Such actions are to be accomplished upon return or within three (3) days thereafter.

Section 6. Seniority of Mechanics, helpers and apprentices covered by this agreement in each craft shall be confined to the point at which employed.

Section 7. The indiscriminate exercise of seniority to displace junior employees, which practice is usually called

"rolling" or "bumping", will not be permitted. However, an employee whose assignment is discontinued, or who may be displaced from his position by other causes, will be permitted to exercise seniority on any job occuppied by a junior employee on his seniority list.

Section 8. When the force is reduced, seniority will not govern. Civil Service Commission Regulations shall apply for Reduction in Force.

Section 9. Separate seniority rosters, at their respective points will be maintained for Blacksmiths, Boilermakers, and Mechanic's Helpers.

ARTICLE XXVIII

BULLETINING POSITIONS WITHIN MULTIPLE APPOINTMENTS

Section 1. Vacancies of thirty (30) days or more shall be bulletined for five (5) days before being permanently filled. The oldest employee in point of service in the respective craft, if qualified by

experience to efficiently handle the work, will be assigned. Employees desiring to avail themselves of this rule will make bid, in writing, to the official in charge, duplicate copy to local chairman, the management to make assignment.

Section 2. An employee exercising his seniority rights under this rule will do so without expense to the Carrier; he will not lose his right to the job he left, and if after a fair trial not to exceed thirty (30) days he fails to qualify for the new position, he will return to his former position. The next senior qualified man bidding will be assigned. In the event there are no bids, the youngest employee will be assigned. (INTERPRETATION: For Blacksmith and Boilermakers not in multiple assignments, the assignment of the youngest man to other points than his existing home station, shall be restricted to situations where the youngest man would otherwise be displaced by cancellation of his assignement.)

Section 3. Official Bulletin Boards shall be used at all shops, repair points, and roundhouses where proper notices of interest to employees and job bulletins, may be posted. Access to such board will be made

available to accredited union representatives for posting such notices as are necessary.

Section 4. Employees covered by this agreement, who have been assigned in a multiple appointment, performs work for four (4) hours or more in a position authorized with a multiple appointment shall be paid for the rate of the work performed consistent with the grade assignments authorized in multiple appointment.

Section 5. Advertised vacancies may be filled in acting status pending an assignment.

ARTICLE XXIX

DURATION AND CHANGES

Section 1. This agreement when approved by the parties for the Union and the Management shall become effective on February 5, 1970. After such approval renewal of this agreement will be automatic from year to year, provided that this agreement shall terminate automatically effective with any date on which it is determined that the Union is no longer entitled to exclusive recognition in accordance with Executive Order 11491.

Section 2. By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing to the General Manager and must be accompanied by a summary of the amendment or amendments proposed. Within sixty (60) days after receipt of such request, representatives of Management and the Union will meet to negotiate the matter and no changes other than those covered by the summary shall be considered. A written notice of desire to alter and amend by renegotiation shall not have the effect of terminating this Agreement.

Section 3. This agreement supersedes all previous agreements for employees covered by this Agreement.

Section 4. The Articles of this agreement have been negotiated in good faith and are presumed to be consistent with existing laws enacted by the U. S. Congress, applicable Department of Transportation and Civil Service Commission regulations and Executive Orders. The provision of any existing or future contrary decree with respect to and which affect this agreement shall become a part thereof.

Section 5. It is agreed that this agreement shall take precedent and no other agreement shall be the basis for grievances.

Dated at Anchorage, Alaska February 5, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers:

Jay L. Nelson
President, Local 708

Dan A. Kraft
Secretary-Treasurer, Local 708

ALASKA RAILROAD
LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Scope of Negotiations

Section 10. Disputes, Board of Adjustment

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. The public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable hours regulations and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these

public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and by the Transportation Act of 1967, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: the term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series

of agreements which are negotiated and made effective betweeen management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement.

They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "Collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

ection 3. Scope

his agreement is applicable to those mployees of the Railroad represented y the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders nd Helpers, blue collar category as enumerated in the Handbook of Blue Collar Occuational Families and Series.

ection 4. Employee Rights to Labor Representation

1. Employees of the Railroad have the ght to form or join organizations and signate representatives of their own oosing, provided they do not form or in organizations which assert that ployees in the service of the United ates Government may strike or assist such strike, or which advocate the erthrow of the United States Governit by force or violence.

2. In the exercise of the right to m or join organizations and designate resentatives, employees shall be e from any and all restraint, interence or coercion on the part of agement, and the supervisory staff prohibited from exercising any such traint, interference or coercion. che same token the designation of

individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

4.4. This section does not authorize participation in the management of a labor organization or acting as a representative of such an organization, by a supervisor, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee, nor shall a unit be established if it includes any management official or supervisor.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as

prescribed by law, will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Federal Personnel Manual as implemented by the Department of Transportation.

Section 7. Duty to Confer

7.1. If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 6 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organizations and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to

and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the labor organization or the Railroad announcing their desire to revise the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences shall not be on official times when negotiating an agreement with agency management.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation, in labor matters, the

Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Working rules, in the determination of which employees, through accredited organizations, have participated - will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplmentary Agreements as defined in Section 1 of this agreement.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of

outstanding differences through mutually agreeable procedures, except those that are dictated by over-riding Federal Law or Regulation.

Section 9. Scope of Negotiations

9.1. Management officials retain the right to direct employees in accomplishing the work of the agency; to hire, promote, transfer, assign, and retain employees in positions within the agency; to suspend, demote, discharge, or take other disciplinary action against employees; to relieve employees from duties because of lack of work or other legitimate reasons; to maintain the efficiency of the Government operations entrusted to them; to determine the methods, means, and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

9.2. Negotiable Items. The Alaska Railroad management shall negotiate with the unions for the employees represented by the unions signatory hereto, for:

a. The establishment of craft working rules.
b. The establishment of grievance procedures and discussion of personnel policies and practices, or other matters affecting general working conditions.
c. NOTE: The wage fixing system applicable to the employees subject to this Basic Agreement will be set forth in Section 9.4.

9.3. All requests for negotiation conferences shall be in writing and specify the subjects for discussion and the times proposed for consideration. Conferences between the parties shall begin as promptly as practicable. Every effort will be made by the negotiators to agree.

9.4. Wage Fixing System. The wage fixing system applicable to Alaska Railroad blue collar employees represented by the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers, shall be the system currently followed for their wage board employees by Army-Air Force installations in the State of Alaska. As soon as a coordinated wage fixing policy is promulgated by the Civil Service Commission for the wage

board employees in Alaska, such Federal coordinated system shall be substituted for the Army-Air Force wage fixing system referred to above. Details as to the application of this system will be set forth in a supplementary agreement.

Section 10. Disputes and Grievance Procedures

10.1 The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates.

10.2. Detailed procedures for the handling of grievances shall be included in supplementary labor agreements between the parties signatory hereto.

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals, other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours

of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.
b. Conservation of materials, supplies, time, power and energy.
c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.
e. Health, safety, and morale standards.

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefits Plan
Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Effective Date and Duration

13.1. This agreement shall remain in

full force and effect for one year from the date executed, and thereafter until the expiration of sixty (60) calendar days following the giving of written notice by either party to the other of its desire to terminate this agreement in its entirety or to effect changes herein by agreement.

13.2. By mutual consent of the parties, this agreement may be opened at any time for amendment. Also, modification or amendment of this agreement may be required because of changes in applicable laws, rules, regulations or policies issued after the date of this agreement.

13.3. The Basic Labor Agreement between the International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers and The Alaska Railroad dated April 15, 1968, and which was negotiated under authority of Executive Order 10988, is hereby supplemented for compatibility with the new Executive Order 11491, relative to Labor Management relations effective January 1, 1970.

continued

Dated at Anchorage, Alaska April 15, 1968.

FOR THE ALASKA RAILROAD:

Sgd. John E. Manley
John E. Manley, General Manager

Sgd. R. R. Mack
R. R. Mack, Personnel Officer

FOR THE ORGANIZATION:
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS:

Sgd. Harold J. Buoy
Harold J. Buoy, Legislative Assistant to the International President

Sgd. Jay L. Nelson
Jay L. Nelson, President, Local 708
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS

- continued -

Dated at Anchorage, Alaska February 5, 1970.

For the Railroad:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

For the Organizations: International Brotherhood of Blacksmiths, Boilermakers, Iron Shipbuilders & Helpers:

Jay L. Nelson
President, Local 708

Dan A. Kraft
Secretary-Treasurer, Local 708

STANDARDS OF APPRENTICESHIP

for

THE ALASKA RAILROAD
APPRENTICEABLE TRADES

Developed by the Local
Joint Apprenticeship Committee

Representing
THE ALASKA RAILROAD
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
ANCHORAGE, ALASKA

and

INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS

BROTHERHOOD RAILWAY CARMEN OF
UNITED STATES AND CANADA

INTERNATIONAL BROTHERHOOD OF BLACKSMITHS,
BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS

Registered & approved by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Washington, D. C.

Assisted by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Room 46, Federal Bldg.
Anchorage, Alaska

OBJECTIVE

The purpose of apprentice training is to encourage a more careful selection of men coming into the trade; to train apprentices now in the trade; to assist in providing training that will equip them for profitable employment and citizenship; and to further the assurance to the employer of the most proficient workmen to the end that the public may receive the best possible workmanship.

1. DEFINITIONS:

a) The term "Committee" shall mean the Joint Apprenticeship and Training Committee, as set up in these apprenticeship standards.

b) The term "Employer" shall mean The Alaska Railroad, Department of Transportation, Federal Railroad Administration.

c) The term "Union" shall mean the local union signatory to these apprenticeship standards.

d) The term "Registration Agency" shall mean the Bureau of Apprenticeship and Training, U. S. Department of Labor.

e) The term "Apprenticeship Agreement" shall mean a written agreement between the Committee and a person employed as an apprentice, which agreement shall be registered by the Registration Agency.

f) The term "Apprentice" shall mean a person who has signed an Apprenticeship Agreement with the Committee to learn a trade, as outlined in these apprenticeship standards.

g) The term "General Supervisor of Apprenticeship" shall mean a person appointed by the Committee to carry out the program under its direction.

h) The term "Supervisor of Apprentices" shall mean a person appointed by the individual employer to direct apprenticeship training in or on a specific establishment or job. He shall be subject to approval of the Committee.

i) The term "Apprenticeship Standards" shall mean this entire document, including these definitions.

II. JOINT APPRENTICESHIP AND TRAINING COMMITTEE:

The Committee shall be composed of three members representing employers, and three members representing Labor. Labor and Management shall be equal in all cases.

Members of the Committee shall be selected by the groups they represent. The term of office shall be for three years or less -- the term of one employer and one journeyman to expire each year. The first appointments by each group will be designated for one, two, or three years.

III. SELECTION PROCEDURES:

Selection of apprentices under the program shall be made from qualified applicants on the basis of qualifications alone and without regard to race, creed, color, national origin, sex, or occupationally irrelevant physical requirements in accordance with objective standards which permit review, after full and fair opportunity for application, and this program shall be operated on a completely nondiscriminatory basis. Apprentices will be carefully selected from applicants between 18 and 28

years of age whose background, education, personality, and physical conditions indicate that they are suitable candidates.

Information regarding apprenticeship openings and requirements shall be furnished to the local state employment service and to the local schools.

Such information will also be posted at the program sponsor's normal place of application for apprenticeship. Applications of responding candidates will be recorded. Those meeting the basic qualifications such as age, residence, education, and physical condition will be referred to the apprenticeship committee.

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

The local state employment service will supply the aptitude testing and grading. Such test measures general intelligence, manual dexterity, hand/eye coordination, perception, finger dexterity, and numerical and verbal comprehension.

Applicants who qualify in the aptitude tests will be interviewed by the program sponsor or his designated representative. The interview shall cover such factors as educational record, attitude towards work and apprenticeship, sense of responsibility, previous work experience, whether related or unrelated to the trade, reasons for interest in the trade, hobbies, and physical factors.

Qualified applicants will be rated numerically on the basis of the following factors:

		Maximum
1.	Aptitude test results (If actual scores are used, rank in relation to minimum qualifying score.)	25
2.	Educational background (High school diploma or certificate of equivalency) (Subjects studied pertinent to the trade or grades attained.)	15
3.	Reference and conduct record	10

4. Interview (personal impression of interest, sincerity, and adaptability to the trade.) 25

5. Previous working experience (related and unrelated.) 25

Selection of qualified applicants shall be in descending order of ranking. Records of the selection process shall be retained for a period of two (2) years.

IV. TERM OF APPRENTICESHIP:

Apprentices will serve a minimum term of four consecutive years (approximately 8,000 hours) of reasonably continuous employment during such term, and include the probationary period and the required hours of supplemental school instruction. (Exception: Helpers with two (2) years helper experience shall be eligible for indenturing as helper apprentice of a respective craft, ability to govern in all cases, for a period of three (3) years.)

V. RELATED INSTRUCTION:

International Correspondence School and Railway Education Bureau Courses will be substituted for related classroom instruction.

No apprentice will be allowed to work overtime when such work will interfere with the related instruction course. In case of failure of any apprentice to fulfill his obligations as to school attendance and conduct, without due cause, the local Joint Apprenticeship and Training Committee shall take necessary disciplinary action.

VI. SUPERVISION OF APPRENTICES:

The Alaska Railroad shall designate a particular person, who may be the Superintendent, Foreman, or Journeyman, to be responsible for the training of apprentices. He shall, with the advice and assistance of the local joint apprenticeship and training committee, be responsible for the apprentices' work experience on the job, for their attendance at related classes, and the recording of same on record forms provided for this purpose.

VII. RATIO OF APPRENTICES TO JOURNEYMEN:

The ratio shall be 1 apprentice to each 5 journeymen.

VIII. ACCIDENT PREVENTION:

Each apprentice shall be provided with initial indoctrination and instruction in

order to enable him to perform his work in a safe manner. Such instruction shall be coordinated with the actual work being performed on the job and the tools and equipment being used.

Initial indoctrination shall include instructions relative to pertinent company safety regulations, reporting of accidents, and availability of first aid and medical facilities.

The employer shall at all times exercise reasonable precautions for the health and safety of the apprentices engaged in the performance of the work hereinafter described as "Work Processes" . . .so far as possible. He shall comply with all applicable provisions of Federal, state and municipal safety, health, and sanitation statutes and codes.

In addition, as an integral part of this training program, the apprentice supervisor and/or instructor shall provide such training and instruction pertaining to safe work habits to insure that the apprentice will be protected against avoidable accidents. Also, that they understand the methods necessary to properly perform all phases of the work in a safe manner.

IX. PROBATIONARY PERIOD

Apprentices will be subject to the probationary period applicable to Federal employment. During this probationary period, annulment of the Apprenticeship Agreement will be made by the Committee upon request of any of the parties concerned. After the probationary period the Committee may cancel the Apprenticeship Agreement for just cause, but due notice shall be given the Registration Agency of such action. The Apprenticeship Agreement may also be canceled if the apprentice fails to fulfill his obligations as to the related instruction courses.

X. ADJUSTING DIFFERENCES:

In accordance with the present working agreement, the railroad and the apprentice shall have the right and privilege of appeal to the local joint apprenticeship and training committee in the event of disputes and controversies arising over any provision of the local apprenticeship standards which cannot be satisfactorily settled between them. The local committee shall hear all the parties and make such adjustments as it may consider necessary.

XI. WORK EXPERIENCE:

During his apprenticeship, the apprentice shall be taught the use, care, and effective and safe handling of all tools and equipment commonly used in the trade. He shall be given work experience and training in all branches of his trade considered necessary to develop a skilled and productive worker.

WORK SCHEDULE FOR
AUTOMOTIVE MACHINIST
APPRENTICE

	Years of Service
Engine rebuild room, gas and diesel	1 Year
General repair, automotive test and electrical work	1 Year
Heavy equipment repairs . .	1 Year
Gas car repairs and trouble shooting	6 Months
Welding, electric and acetylene	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
ELECTRICIAN
APPRENTICE

	Years of Service
Electrical repair shop; servicing motors and generators, rewinding and repairing motors and generators, repairs to electrical equipment, all types	1 Year
Battery Shop	4 Months
Car shop, coaches, heating, and lighting	8 Months
Electric and acetylene welding	6 Months
Diesel locomotives, traction motor, main and auxiliary generator repairs	6 Months

ELECTRICIAN

	Years of Service
Engine circuits, voltage regulators, and relay repairs, Vapor-Clarkson generators and power car equipment	6 Months
Trouble shooting, inspections, and running repairs	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
MACHINIST
APPRENTICE

	Years of Service
Machine shop practice	1 Year
Engine rebuild and parts repairs	1 Year
General repair, truck and roller bearing repairs, locomotive and cars	6 Months
Welding, electric and acetylene	6 Months
Air room	6 Months
Running repairs, trouble shooting, diesel shop . . .	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
SHEETMETAL
APPRENTICE

	Years of Service
Shop and bench sheetmetal work, including layout and design, brazing, soldering, tinning, leading, and babbitting . . .	2-1/2 years
Locomotive Department - Pipefitting and Sheetmetal	6 Months
Car Department - Pipe and sheetmetal work on passenger cars and sheetmetal in freight department	1 Year
TOTAL	4 Years

WORK SCHEDULE FOR
CARMAN
APPRENTICE

	Years of Service
General freight car rebuilding and repairs, wood and metal	1 Year
General passenger car repairs and rebuilding	1 Year
Air room, cleaning and testing, and repairs	6 Months
Rip track, air cleaning, installation and repairs . .	6 Months
Carpenter shop, machine and bench work	6 Months
Electric and acetylene welding	6 Months
TOTAL	4 Years

XII. WAGE SCHEDULE:

The wage rate paid apprentices and journeymen shall be that which is negotiated by The Alaska Railroad officials and the local unions involved. This wage schedule shall be kept current by a supplement attached to the standards.

XIII. PERIODIC EXAMINATION:

An examination of apprentices as to their progress in learning the trade may be given at such times as determined by the committee. In these examinations, consideration shall be given to the related instruction, as well as to the daily employment records of the apprentices.

XIV. EMPLOYMENT RECORDS OF APPRENTICES:

Records of the progress of all apprentices in the trade processes enumerated in the work processes will be maintained by The Alaska Railroad, and shall be made available to the Bureau of Apprenticeship and Training upon request.

XV. JOINT MANAGEMENT-LABOR APPRENTICESHIP COMMITTEE:

The Alaska Railroad agrees that a joint management-labor apprenticeship

committee will be established as recommended by the Bureau of Apprenticeship and Training.

XVI. CERTIFICATE OF COMPLETION OF APPRENTICESHIP:

Apprentices who complete their apprenticeship, and make passing grades on the ICS and REB courses shall be awarded a certificate by The Alaska Railroad. Certificates of Completion are also available from the registration agency for all apprentices completing their apprenticeship under registered standards.

XVII. MODIFICATION OF STANDARDS:

These standards shall automatically be amended to conform with any changes in subsequent bargaining agreements, and none of these provisions shall be construed contrary to the present, or subsequent, bargaining agreements. These standards may be modified subject to the approval of management and labor participants in the program and the Bureau of Apprenticeship and Training, U. S. Department of Labor.

All changes and modifications made as provided shall automatically become a part of apprenticeship agreements in effect at the time of the change.

XVIII. OFFICIAL APPROVAL:

These standards of apprenticeship and all modifications shall be approved officially by formal action of the respective employer-employee organizations and the registration agency. Original Standards of Apprenticeship approved and accepted July 20, 1965, and amendments thereto incorporated October 14, 1971.

EMPLOYER REPRESENTATIVES:

/s/ John Norby

/s/ C. W. Poor

/s/ C. O. Brown

APPROVED: July 20, 1965

EMPLOYEE REPRESENTATIVES:

/s/ Richard L. Moyer

/s/ Walter E. King

/s/ John Bozinoff

APPROVED: July 20, 1965

APPROVED AND ACCEPTED BY THE ALASKA RAILROAD:
Anchorage, Alaska, July 20, 1965

/s/ John E. Manley
General Manager

/s/ R. R. Mack
Personnel Officer

/s/ G. V. Randall
Chief Mechanical Officer

APPROVED AND ACCEPTED BY THE ORGANIZATIONS:
Anchorage, Alaska, July 20, 1965

/s/ Luther Augenstein
International Association
of Machinists, Local 1735

/s/ Richard L. Moyer
International Brotherhood of
Boilermakers and Blacksmiths, Local 708

/s/ Walter E. King
Railway Carmen of America
Lodge No. 67

PROGRAM REGISTERED AS INCORPORATING THE BASIC STANDARDS RECOMMENDED BY THE BUREAU OF APPRENTICESHIP AND TRAINING:

Approved: August 30, 1965

/s/ Hugh C. Murphy
Administrator, Bureau of Apprenticeship
and Training
U. S. Department of Labor
Washington, D.C.

Consultant:

/s/ Joseph F. Finla, State Sup[illegible]isor
Bureau of Apprenticeship & Trai[illegible]
U. S. Department of Labor
Anchorage, Alaska

Approved: Octobe[illegible] 14, 1971

/s/ William F. Wadsworth
Consultant
Alaska State Supervisor
Bureau of Apprenticeship and Training
Department of Labor

Consultant:

/s/ Joseph F. Fiala, State Supervisor
Bureau of Apprenticeship & Training
U. S. Department of Labor
Anchorage, Alaska

Approved: October 14, 1971

/s/ William F. Wadsworth
Consultant
Alaska State Supervisor
Bureau of Apprenticeship and Training
Department of Labor

AK.
Railroad
Employee
Info.
#2

UNITED STATES
DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Carmen, Carmen Helpers, Apprentices and Coach Cleaners

and

Basic Labor Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon Terminating Service.

Book Assigned to:
NAME:

_____

_____

_____

_____

Revised July 2, 1970

ALPHABETICAL INDEX

A

Act of God	VII 5
Acting Status	XXVIII 5
Additional Units	I 3
Advance Approval of Leave	XI 2
Adverse Affect	V 4
Advice to Management	XI 2
Advice to Union re RIF	XVII 2
Advisory Arbitration	XXVI
Annual Leave	XII
Appeal Grievances	XXV 2
Apprentice Training	XX
Arbitrator	XXVI 2
Attendance at Conventions	XIII
Awards	XIV 6d

B

Benefits	III 2
Best Qualified	XIV 1,10
Blue Signals	XXI 13
Bumping	XXVII 5,7
Business Manager	VI 6

Basic Labor Agreement:	
Definitions	Sec. 1
Compliance	Sec. 2
Scope	Sec. 3
Employee Rights to Labor Representation	Sec. 4
Discrimination Prohibited	Sec. 5
Determination of Bargaining Rights	Sec. 6
Duty to Confer	Sec. 7
Written Agreements	Sec. 8
Scope of Negotiations	Sec. 9
Disputes, Board of Adjustment	Sec. 10
Bulletin Boards and Distribution of Literature	Sec. 11
Labor-Management Cooperation	Sec. 12
Effective Date and Duration	Sec. 13

C

Changes, Advice of	V	2
Clean Engine Parts	XXI	14
Clean Up Time	VII	6
Clean Working & Rest Areas	XXI	9
Committees		
Apprentice	XX	2
Charitable Solicitation	XXII	1
Safety	XXI	3
Suggestion	XXII	2
Compensation time off	IX	1
Complaint re Job Description	XVIII	2
Compliance	IV	1
Consultation	V	4
Continuous Daily Service	VII	3
Court Leave	XIII	
Craft Work	XIX	3

D

Days Work	VII	7
Deadheading	XVI	1
Details (less than 30 days)	XIV	9
Directives Furnished	IV	2
Discipline	XIII	6
Discipline	XIII	9
Discipline by Demerit	XXV	8,1-6
Discrimination	XIV	1
Duration of Agreement	XXIX	

E

Emergency - Wrecking Service	VIII 1
Equity	V 3
Exclusive Recognition	VI 1
Executive Order	II 1
Excused from Court Duty	XXIII 4a,b
Experience	XIV 6c

F

February 1	XII 3
Full Time Union Representatives	XIII 2

G

Grades, reduction of	XVIII 4
Grand Lodge Representative	VI 6
Grievance Procedure	XXV

H

Handbook X-118C	XXV 6
Handicapped Program	II 2
Health Benefit Plan	XIII 4
Hearing Defined	XXV 8
Holidays	X
Hot-Cold Work	XXI 8
Hours Changed	VII 11
Hours of Work	VII 1

I

Injury, Advice to Union XXI 6
Interviews XIV 10
Investigation defined XXV 8

J

Job Bulletins XXVIII 3
Job Descriptions XVIII
Jury Duty XXIII

L

Leave, Administrative VI 7
Administrative VII 5
Annual XII
Court XXIII
Emergency XIII 1
Military XIII 5
Sick XI
Voting XXIII 6
Without Pay XIII
Life Insurance XIII 3
Light Duty XI 5
Light Duty II 2
Limitations, Management I 1

M

Maintenance by Operators XIX 1
Management Options XIV 2
Meal Period VII 2,3
Meal Period VII 9
Meal Period IX 3
Mechanic's Work XIX 2
Merit Promotion XIV

Modified Promotion Announcements XIV
Multiple Position Assignments XXVIII

N

Negotiation V
Number of Stewards, Representatives VI

O

Official Bulletin Boards XXVIII
Official Bulletin Boards XXIV
Official Bulletin Boards XIV
Official Positions XXVII
Official Time for Grievance VI
Outlying Points VII
Outside Employment XIII
Overtime: Call Basis IX
Excused IX
Holiday Work within assigned hours X
Meal Period VII 9
Notice IX 1
Notice Holiday X 1
Rate IX 2
Rotary Board IX 4
Split Shift VII 10
Wrecking Service VIII 1
24 Hour Period IX 6

P

Parking Spaces	II	2
Pay: Arbitrator	XXVI	3
Attendance at Arbitration	XXVI	3
Charges not sustained	XXV	7
Clean up	VII	6
Court Leave	XXIII	5a,b
Deadheading	XVI	1
Grade Reduction	XVIII	4
Grievance	VI	4
Holiday	X	1
Military leave	XIII	5
Protective Clothing	XXIV	1
Safety Shoes	XXIV	2
Training	VI	7
Wash-up	VII	6
4 Hours Work	XXVIII	4

R

Reduction in Force	VII	11
Reduction in Force	XIII	3
Reduction in Force	XVII	
Reduction in Force	XXVII	8
Repromotion	XIV	2
Repromotion	XV	1,2
Rest, Wrecking	VIII	1
Retirement	XIII	3
Return to Duty	XIII	3
Return to Duty	XIII	7,8
Return to Duty	XXVII	5
Review of Job Descriptions	XVIII	1
Rights of Management	II	1
Rights of Union	II	1
Rosters	XXVII	9

S

Safety	XXI	
Saturday, Sunday Work	VII	4
Selection - Release for Promotion	XIV	7
Seniority	XXVII	
Separation	XXV	8(6)
Sick Leave	XI	
Sick Leave - Abuse of sick leave	XI	3
Advanced	XI	6
Three days excused	XI	3
Special Skills	IX	4
Split Shift	VII	8
Standard Government Travel)	XVII	2
Regulations)	VIII	1
)	XVI	1
Stewards	VI	1
Straight time pay deadheading	XVI	1
Supervisory Permission	VI	5
Supervisory Vacancy	XIV	9
Suspension	XXV	6

T

Ten days decisions	XXV	1
Ten days response	XXV	1
Ten Working days	XIV	3
Thirty days trial	XXVIII	2
Training	XIV	6a
Training RIF	XVII	3
Transportation, Free	III	4
Transportation, Sick	XI	4
Travel - regular part of assignment	XVI	1
Traveling - Wrecking	VIII	1

U

Union Membership	III 1
Union Representatives	VI 1
Union, Right to join	III 1
Unit	I 2

V

Vacancies	XIV 3
Vacancies in Multiple Appointments	XXVIII
Vacation	XIII 2,3

W

Waiting - Wrecking	VIII 1
Wash-up Time	VII 6
Work Day	VII 1
Work full shift	XIX 4
Work Hot, Cold	XXI 8
Work Week	VII 1
Written Tests	XIV 6a

	Article Number
Recognition and Unit Designation	I
Responsibilities and Rights of Management	II
Rights of Employees	III
Provisions of Law and Regulation	IV
Appropriate Matters	V
Union Representation	VI
Hours of Work and Basic Work Week	VII
Emergency Road and Wrecking Service	VIII
Overtime	IX
Holiday Work	X
Sick Leave	XI
Annual Leave	XII
Leave of Absence	XIII
Merit Promotion	XIV
Repromotion	XV
Deadheading	XVI

	Article Number
Personnel Movements in RIF Situations and Rehiring	XVII
Reviews or Job Descriptions and Requirements	XVIII
Disposition of Unit Work	XIX
Apprentice Training Programs and Re-Training	XX
Safety	XXI
Committee Assignments	XXII
Civic Responsibilities	XXIII
Special Tools - Clothing - Services	XXIV
Grievance Procedure	XXV
Advisory Arbitration	XXVI
Seniority	XXVII
Bulletining Positions within Multiple Appointments	XXVIII
Duration and Changes	XXIX

UNITED STATES
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Carmen, Carmen Helpers, Apprentices and Coach Cleaners

This AGREEMENT is made between THE ALASKA RAILROAD, Anchorage, Alaska, hereafter referred to as "Management" and the Brotherhood Railway Carmen of the United States and Canada, hereafter referred to as the "Union".

The participants agree as follows:

It is the intent and purpose of the participants to promote and improve the efficient administration of the Federal Service, to promote the well being of employees within the framework of Executive Order 11491, to establish a basic understanding relative to personnel policies, practices, and other matters affecting conditions of employment, and to provide a means for amicable discussion and adjustment of matters of mutual interest.

ARTICLE I

RECOGNITION AND UNIT DESIGNATION

Section 1. This Agreement is subject to the limitation on the discretionary powers of the Management Official of The Alaska Railroad over the area negotiated and it is applicable to the units for which the Union has been granted exclusive recognition.

Section 2. Management recognizes that the Union is the exclusive representative of all non-supervisory blue collar employees in the bargaining unit or units. The Union recognizes the responsibility of representing the interests of all such employees by the provisions of this agreement.

Section 3. Other units which are granted exclusive recognition may be covered by this agreement when mutually agreed upon by Management and the Union and placed in written form.

ARTICLE II

RESPONSIBILITIES AND RIGHTS OF MANAGEMENT

Section 1. The right to make

reasonable rules and regulations are considered acknowledged functions of Management. In making rules and regulations relating to personnel policies, and practices and procedures, and matters of working conditions, Management shall give due regard and consideration to the rights of the Union and the employees and to the obligations imposed by this Agreement and the provisions of Executive Order 11491; however, such obligation and regard shall not be construed to extend to such areas of discretion and policy as the functions or mission, the budget, organization, assignment of personnel, the technology of performing work, or matters pertaining to the National Security.

Section 2. Management shall maintain a continuing program for the placement of handicapped employees, or those employees temporarily limited to light duty and who cannot be utilized in their primary assignment. It is recognized that in some instances a brief period of indoctrination may be required. Special consideration will also be given to the assignment of reserved parking spaces for use by handicapped employees depending upon the degree and nature of the handicap, availability, and nature of assignment.

ARTICLE III

RIGHTS OF THE EMPLOYEES

Section 1. Management and the Union agree that employees shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity. Except as expressly provided here and in Executive Order 11491, the freedom of such employees to assist any Union organization shall be recognized as extending to participation in the Union and acting for the Union in the capacity of a Union Representative, including presentation of Union views to officials of the Executive Branch, Congress, or other appropriate authority. Management shall take such action, consistent with law or with directives from higher authority, as may be required in order to assure that employees are apprised of the rights described in this Article, and that no interference, restraint, coercion or discrimination is practiced to discourage membership in Union organization.

Section 2. Any employee covered by the provisions of this Agreement and during the period he is on the payroll of Management, shall not forfeit any benefits of this Agreement while on detail or assignment to another Activity or Division including off-site or satellite facilities for which Management has been delegated responsibility. Excludes assignment or promotion to Supervisory positions.

Section 3. Employees shall have access to their respective personnel file and the personnel file shall contain a job description stating the work performed by the employee.

Section 4. Employees covered by this Agreement and those dependent upon them for support will be given the same consideration in granting free transportation as is granted other non-operating employees in service.

ARTICLE IV

PROVISIONS OF LAW AND REGULATION

Section 1. It is agreed by Management and the Union that nothing in this Agreement shall be so interpreted as

to conflict with provisions of any existing or future law or regulation of the Federal Government. This includes, but is not restricted to, those rules and regulations issued by the Civil Service Commission and the Department of Transportation.

Section 2. Management agrees to furnish the Union with two copies of any directives from higher Headquarters which affect employees or which alter Management's discretionary authority with regard to any item dealt with in this Agreement before implementing same. When such directives are not readily available Management agrees to requisition the two copies for the Union.

ARTICLE V

APPROPRIATE MATTERS

Section 1. It is agreed and understood that matters appropriate for negotiation in this Agreement, or for consultation between the parties are policies, programs and procedures related to working conditions which are within the discretion of Management, including but not limited to such matters as safety, training, labor-

management cooperation, employee services, methods of adjusting grievances, appeals, leave, promotion plans, demotion practices, pay practices, reduction in force practices, and hours of work.

Section 2. Management agrees that the Union will be notified before changes are made to existing benefits, practices, and understandings which have been authorized by Management but which are not specifically covered by this Agreement.

Section 3. Management agrees that all privileges and benefits extended within the limits of its discretionary power will be applied fairly and equitably to all employees in the unit. Management agrees to consult with the Union concerning alleged inequities in this connection.

Section 4. It is further recognized that this Agreement does not alleviate the responsibility of either party to meet with the other to discuss and consult on matters not covered by this Agreement, which come within the scope

of consultation and negotiation. It is further agreed and understood that the Management will consult with the Union before issuing any official directives which adversely affect the general working conditions covering the employees within the bargaining unit but which are not specifically covered by this Agreement.

ARTICLE VI

UNION REPRESENTATION

Section 1. Management recognizes the Union as the exclusive collective bargaining agent for all employees covered by this Agreement. Management further recognizes the right of the Union to designate Shop Stewards and Union Representatives from among the employees of the unit. Management agrees to recognize the Shop Stewards and Representatives designated by the Union.

Section 2. The number of Stewards and Representatives shall be only that

number required to assure each employee of the unit ready access to a Steward in his work location. The designated number of stewards shall also be sufficient to assure that the Union can properly carry out its responsibilities under the terms of this Agreement. For the purposes outlined in Sections 1 and 2 of this Article, the Union agrees to supply Management in writing, and shall maintain with Management on a current basis, a complete list of all Union authorized Representatives, Stewards and any alternates.

Section 3. Management agrees to recognize the officers and duly designated representatives of the Union and shall be advised in writing by the Union of the names of its officers and representatives.

Section 4. An employee who alleges and feels that he has a grievance or complaint shall be, upon request to his supervisor, allowed time to report his grievance or complaint to the Shop Steward, and when a pending grievance is reported to the Shop Steward or Representative, that Steward or Representative shall be allowed the time necessary to investigate the reported grievance. This investigative procedure

may require discussions with employee(s) within the bargaining unit or outside and representatives of Management (supervision) responsibilities or in some cases all three, in order to evaluate the facts and carry out the Union's responsibility under the terms of this Agreement.

Section 5. Management agrees that Stewards, Union officers, representatives and employees shall be allowed to leave their assigned areas to go to other departments, shops or offices when it is necessary to do so in order to accomplish the purposes outlined in Section 4 above, and in order to bring about a prompt and expedious disposition of a complaint or grievance. It is further agreed that such activity shall be engaged in without any loss in pay or benefits to the employees authorized to act in behalf of the bargaining agent under the terms of this Agreement or to the employees contacted. Permission, in these instances, will be granted unless the individuals work situation precludes such action. In any event, approval will be granted at the earliest opportunity.

Section 6. Management agrees that any representative of the Brotherhood Railway Carmen of the United States and Canada, or Local Lodge, upon request to Management shall be allowed into the activity at reasonable times on official Union business.

Section 7. Administrative leave may be granted to an employee Union representative to receive training, information, briefing and orientation on matters within the scope of Executive Order 11491--including statutory or regulatory provisions relating to pay, working conditions, work schedules, employee grievance procedures, performance rating, adverse action appeals and agency policy.

ARTICLE VII

HOURS OF WORK AND BASIC WORK WEEK

Section 1. Eight (8) hours shall constitute a normal work day. The normal basic work week shall be Monday

through Friday. When one shift is employed, the starting time shall not be earlier than 7:00 a.m., or later than 8:00 a.m., except at outlying points. When two (2) shifts are employed, the starting time of the first shift shall not be earlier than 7:00 a.m., or later than 8:00 a.m., and the second shift shall start immediately following the close of the first shift. When three (3) shifts are employed, the starting time of the first shift shall not be earlier than 7:00 a.m. or later than 8:00 a.m., and the starting time of the other shifts shall be regulated accordingly.

Section 2. Assignments may be made for eight (8) hours excluding an assigned meal period which shall not be less than thirty (30) minutes or more than one (1) hour; except such assignments may be made to consist of eight (8) consecutive hours including an allowance for lunch on the job site.

Section 3. Where three (3) assignments performing the same service are coupled in continuous service covering the twenty-four hour period, each such

continuous service assignment shall consist of eight (8) consecutive hours including the allowance for lunch on the job site and lunch time shall be twenty (20) minutes between the fourth and fifth hour.

Section 4. Management agrees not to change the normal basic work week of Monday through Friday of any employee except in those cases where a regular tour of duty would seriously handicap the performance of a function or would result in substantially increased cost. It is recognized that functions of The Alaska Railroad operate on a seven-day work basis and that certain five-day work weeks will involve work on Saturday and Sunday. In those cases when a change in the normal work week is necessary, Management shall consult with the Union in determining which specific jobs fall within the category for which a re-arranged basic work week of other than Monday through Friday is appropriate. In no case shall an employee be required to work in excess of five (5) eight (8) hour consecutive days without payment of overtime.

Section 5. Where it is necessary to close the installation or an activity therein and administrative excused leave is granted because of inclement weather, breakdown of equipment, or other emergency "Act of God" situations, employees who report for work shall be given administrative excused leave for the period of the emergency situation.

Section 6. Management will permit adequate wash-up time before each lunch period, and adequate clean-up time at the end of each shift for the purpose of returning tools, cleaning the work area and machinery as necessary, and in each instance, wash-up time will not exceed five minutes on a straight time basis. No employee shall be required to remain after the end of his shift, without compensation, for the purpose of cleaning his designated area.

Section 7. Eight (8) hours of service will constitute a day's work. All employees coming under the provisions of this agreement, except as otherwise provided in this schedule of rules,

or as may hereafter be legally established between the Railroad and employees, shall be paid in accordance with the present wage schedule and supplements thereto.

Section 8. At terminals where one shift only is worked, working conditions may be established to meet local conditions, providing however, that the eight (8) hours of said shift may be worked within a spread of not more than ten (10) hours with but one interval of release of not less than two (2) hours.

Section 9. An employee required to work any part of the meal period will be allowed time therefor on the minute basis at rate of time and one-half. In the event there is not sufficient time remaining within the limits of the meal period in which to procure lunch (not less than twenty (20) minutes), employee will be allowed not to exceed twenty (20) minutes including any time remaining within the meal period in which to eat, without deduction therefor.

This does not apply to employees who are assigned to eight (8) consecutive hours without meal period and who are allowed twenty (20) minutes in which to eat without deduction of pay.

Section 10. At small outlying points where the service is intermittent, not requiring continuous application, assignment may be made for employees to work eight (8) hours within a spread of ten (10) consecutive hours with but one interval of not less than two (2) hours of release. Time actually worked in excess of eight (8) hours will be paid for at the rate of time and one-half.

Section 11. Not less than five (5) working days (exclusive of Sunday and holidays) notice will be given before hours or forces are reduced.

ARTICLE VIII

EMERGENCY ROAD AND WRECKING SERVICE

Section 1. An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when called for emergency work or road work away from such shop, engine house, repair track, or inspection point, will be paid from the time called to leave home station, until his return for all time worked in accordance with practice at home station and will be paid straight time rates for traveling or waiting, except assigned rest days and holidays,

which will be paid for at the rate of time and one-half, whether waiting, working or traveling. If, during the time on the road, a man is relieved from duty and permitted to go to bed for five (5) hours or more, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each calendar day, when such irregular service prevents the employee from making his regular daily hours at home station. Where meals and lodging are not provided by the Railroad, travel expenses in accordance with the current Standard Government Travel Regulations will be allowed. Employees will be called as nearly as possible one (1) hour before leaving time, and on their return will deliver tools at point designated. A wrecking service employee will be paid under this rule, except that all time working, waiting or traveling on week days after the recognized straight time hours at home station and all time working, waiting or traveling on assigned rest days and holidays will be paid for at the rate of time and one-half.*

*Payments under this Article subject to Article XXIX, Section 4.

Section 2. Wrecking crews will be composed of regularly assigned carmen, crane engineers, cooks, and helpers, and will be paid for such service in accordance with provisions of this Article.

Section 3. When called for wrecks or derailments outside of yard limits the regularly assigned crew will accompany the outfit; for wrecks or derailments within yard limits, sufficient number of carmen will be furnished to perform the work.

Section 4. For derailments within yards, where carmen are employed, when rerailing can be done by the use of frogs, wedges, and/or blocking, and it is necesssary to call men to assist the trainmen and such call would result in overtime payment to the men called, carmen will be called. If carmen are not called, they will be paid an overtime call of two (2) hours and forty (40) minutes on a man-to-man basis.

Section 5. Where needed, men of any class may be taken to assist members of the wrecking crew.

ARTICLE IX

OVERTIME

Section 1. An employee shall receive at least two (2) hours and forty (40) minutes pay at the applicable overtime rate if required to work overtime on a regular work day after he has completed his daily tour and has left his place of employment or on one of his scheduled non-workdays, even if his services cannot be utilized for two (2) hours and forty (40) minutes and shall exclude dead work. Management will endeavor to notify all employees who are to work overtime one day prior to the overtime period. Each employee is expected to work a reasonable amount of overtime when operating requirements necessitate. When it becomes necessary for employees to work overtime they shall not be laid off during regular working hours solely for the purpose of equalizing the time. An employee may be excused from overtime for valid reasons or excused from overtime if an equally qualified employee is willing to work.

Section 2. All overtime shall be compensated for at time and one-half (1-1/2) the employee's regular hourly rate, including all shift premiums and other payments regarded by the employee as part of his regular hourly compensation. Such overtime rates shall be paid for all hours worked over forty (40) hours per week and for all hours worked over eight (8) hours per day.

Section 3. In the event of a situation requiring the extension of a regular work shift into more than a two (2) hour overtime period, time for lunch will be permitted on the work site. Management will make the necessary arrangements that food will be made available for the employees involved.

Section 4. Overtime assignments will be made from a rotary board on a "first in-first out" basis. Such a board will be set up to cover each seniority list in each shop. Employees will be accorded right of refusal to an overtime call unless his skill is specially needed for that call. An exception may be made to select an employee out of rotation if his special skill is required to perform a spectal assignment.

Section 5. Except in the case of an emergency, Management agrees not to work an employee in an overtime status beyond two (2) consecutive days or days of rest against his wishes.

Section 6. An employee regularly assigned to work at a shop, engine house, repair track or inspection point, and who reports out and in of said point within twenty-four (24) hours shall receive time and one-half hours in excess of eight in any twenty-four hour period involved.

Section 7. An employee required to come on duty in advance of his regular starting time will be allowed time and one-half on the minute basis with a minimum time allowance of forty (40) minutes at the overtime rate for such service, the advance period to be not more than one (1) hour. If called more than one (1) hour in advance of regular starting time, paragraph (c) will apply.*

*Payments under this Article subject to Article XXIX, Section 4.

ARTICLE X

HOLIDAY WORK

Section 1. Federal regulations applicable to Federal Holidays shall apply. Employees shall be excused for all holidays now prescribed by law and any that may be later added by law and all holidays designated by Executive Order shall be observed as regular holidays. If a holiday falls on the employee's first rest day within the normal work week, the preceding day shall be treated as the holiday for leave and pay purposes and if the holiday falls on the employee's second rest day, the following day shall be treated as the holiday for leave and pay purposes. All hours worked within the hours of the assignment, shall be paid at the regular basic rate of compensation for the day. When possible, Management will notify all employees who are to work on a holiday five (5) days prior to the holiday to be worked; a list of employees expected to work on a holiday shall be posted in their work area at least five (5) work days in advance of such holiday.

Section 2. Management agrees that employees will not be scheduled to work on a holiday; prescribed by Federal Law or Executive Order, solely to avoid overtime work that otherwise would be performed on a day outside the basic work week.

ARTICLE XI

SICK LEAVE

Section 1. Sick leave shall be granted employees when they are incapacitated for the performance of their duties by sickness, injury, or for medical, dental, or optical examination or treatment, or when a member of the immediate family of the employee is afflicted with a contagious disease.

Section 2. An employee who is absent on account of sickness shall notify his superiors or other appropriate person prior to the start of their shift on the first workday of his absence, or as soon thereafter as possible. Second and third shift employees shall notify their department or shop prior to the start of their shift or as soon thereafter as

possible. Requests for sick leave for medical, dental, or optical examination or treatment shall be submitted for approval prior to the beginning of the leave, except in the case of emergencies.

Section 3. A medical certificate for absence of three (3) workdays or less will not be required, except where there is reason to believe the employee is abusing sick leave privileges. In such cases the employee will be verbally advised that the sick leave privilege is being abused. When there is no improvement the employee will be advised, in writing, that he will be required to submit a medical certificate for each subsequent absence for illness. Medical certificates will not be required for holidays or days outside the employee's workweek. It is further agreed that Management and the employee will review the sick leave record of each employee required to furnish a medical certificate periodically, and where such review reveals no substantial evidence that the employee has abused sick leave privileges during the review period, the employee will be notified in writing that a medical certificate will no longer be required for each absence which is claimed as

due to illness for periods of three (3) workdays or less unless an abuse recurs.

Section 4. An employee sent home by the Chief Medical Officer will be provided transportation by Management in those cases where the Medical Officer determines such transportation is necessary.

Section 5. When an employee is assigned a temporary restricted work classificati[illegible], as determined by the Medical Offi[illegible], Management will make every effort to place the employee on a job, if available, within the prescribed restrictions.

Section 6. Management agrees to advance sick leave in accordance with applicable regulations to permanent employees, not to exceed thirty days when there is reason to believe the advanced sick leave will be earned after return to work.

ARTICLE XII

ANNUAL LEAVE

Section 1. Annual leave is

afforded by law. Employees shall accrue leave in accordance with regulations. Approval of an employee's request for annual leave will be granted when his request is submitted with reasonable advance notice. Approval of requests for annual leave for unforeseen reasons will be considered as the circumstances warrant.

Section 2. Every attempt consistent with the workload will be made to satisfy the desires of the employees with respect to the approving of extended annual leave for vacations. When Management finds it necessary to cancel previously approved leave, the reasons for such action will be explained to the affected employee(s).

Section 3. Applications for specific days of annual leave for vacation purposes will be granted on a seniority basis and in the event of a coinciding request date the senior employee of the affected area of The Alaska Railroad shall receive preference. Filing date for vacation leave shall be February 1 of each year.

ARTICLE XIII

LEAVE OF ABSENCE

Section 1. A reasonable number of employees may be granted annual leave, leave without pay, to accept temporary Union positions or to attend conventions or meetings of the Union as defined in Executive Order 11491. Employees may be granted leave of absence with or without pay for other purposes.

Section 2. Management agrees to grant upon request of the Union, leave without pay for employees to act as full-time representatives for the Union.

Section 3. Management recognizes the obligation to provide employment at the end of the extended leave without pay granted for employees as full time Union representatives within the rating the employee held upon his request for leave and in the current pay status of such rating at the time the employee returns to work, also recognizing the bumping and retreating rights of an employee on approved leave of absence without pay in situations where the employee's status has been affected by reduction in force action during the period of leave of absence.

Section 4. All employees in approved leave of absence without pay status shall accrue all rights and privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employees Health Benefits Program in accordance with current law and regulations.

Section 5. Each Reservist of the Armed Forces or member of the National Guard who is a permanent employee is entitled to leave of absence from his duties without loss of pay or seniority for not exceeding fifteen (15) calendar days in any calendar year in which he has been called to active duty.

Section 6. Employees shall not be granted leave of absence without pay for the purpose of accepting outside employment unless given written permission prior to leave jointly by the Management and the Union. Employees giving false reasons for the purpose of obtaining leave will be subject to discipline.

Section 7. An employee on leave or temporarily absent from his assignment for any cause, must notify his

foreman of his return thereto, at least one hour prior to the quitting time of his assignment on the working day next preceding his return, except in the case of sick leave.

Section 8. Duly accredited representatives of the employees and other employees employed exclusively by the organization shall be considered as in the service of the Carrier and may return to their former position or exercise seniority within thirty (30) calendar days after release from such employment.

Section 9. An employee unavoidably detained from work will not be discriminated against. Unless prior notice of expected absence has been given, notice to foreman must be given as quickly as possible, and failure to do so, or habitual absence from work without a good cause will be considered cause for discipline.

ARTICLE XIV

MERIT PROMOTION

Section 1. The Employer will

utilize employees' skills and potentials to the fullest extent practicable. Employees will be promoted on the basis of merit without regard to race, color, religion, sex, age, or membership or nonmembership in employee organizations. The over-all objective of the merit promotion program is to assure that positions are filled with the best qualified persons available and to assure that all employees have an equal opportunity to apply for advancement.

Section 2. The Union recognizes that the Employer has the option of filling positions by repromotion, or by methods other than promotion such as appointment, reinstatement, reassignment, or transfer provided the person selected is in the best qualified group using the same qualification standards as for evaluating applicants for promotion. Management agrees that whenever possible to utilize existing employees from within the activity to fill vacant positions when qualified employees are available.

Section 3. All Alaska Railroad merit promotion program opportunities will be advertised through issuance of

announcements within the area of consideration on all Official Bulletin Boards. Announcements will be open for at least ten working days when advertising is confined to the Alaska Railroad.

Section 4. The Alaska Railroad will normally be the minimum area of consideration. If an announcement fails to provide a sufficient number of highly qualified candidates the area will be expanded. The Union will be notified in advance of expansions of areas of consideration and upon request the Employer will consider the Unions views concerning the necessity for such expansions.

Section 5. Upon request, each applicant will be told whether he was eligible for promotion on the basis of minimum qualification requirements, whether he was in the group from which selection was made, who was selected for promotion, and in what areas he should improve himself to increase his chances for promotion.

Section 6. In accordance with Civil Service Commission directives, qualification standards for promotion

are those prescribed in Commission Handbook X-118C for ungraded positions as supplemented by Department of Transportation directives. These standards prescribe elements for each occupational area and level of the occupation. In accordance with the Federal Personnel Manual the following consideration may be used in evaluating these job elements.

a. Written Tests. Appropriate validated written tests which are either required or approved by the Civil Service Commission may be used. Written tests may not be used as the sole means of evaluating candidates; they may be used as only one part of the evaluation process with due weight given to the appropriate factors.

b. Appraisals of Performance. Appraisals of performance must be considered as one factor in evaluation of basically eligible candidates. When an employee has worked for a particular supervisor for less than six (6) months, a second, foreman (leadingman) supervisory appraisal will be obtained. An employee is entitled to see, upon his request, any production record or any supervisory appraisal of past performance used in considering him for

promotion. An employee, however, is not entitled to see a supervisory report on potential which is a recorded judgment of the supervisor's estimate or prediction of how well the employee is likely to perform at a level or in a kind of work different from one in which he has alread performed.

c. Experience. In evaluating experience the type and quality of experience is considered in relation to the requirements of the position to be filled Length of service or length of experience is evaluated when there is a clear and positive relationship with quality of performance and for breaking ties.

d. Awards. Due weight will be given awards received by employees in terms of qualifications indicated such as initiative, resourcefulness and planning ability and their bearing on the requirements of the position to be filled.

e. Training and Self-Development. Training and self-development which would increase the employee's potential for

effective performance in the position to be filled must be considered.

Section 7. Employees selected for promotion will be notified promptly of their selection and released from their former positions as soon as practicable, normally with two weeks' notice. An employee will be paid at the pay level of the position for which selected, starting with the effective date of promotion, in accordance with applicable regulations.

Section 8. Questions or complaints about the promotion program should be resolved informally if possible with immediate supervisors and the Personnel Officer. The formal means for resolving complaints is then through the grievance procedure.

Section 9. When practicable the duties of a supervisor who is absent for a time less than thirty (30) days will be assumed by another supervisor. When this is not practicable, a qualified employee will be assigned as acting supervisor. When an employee is so assigned for a period of thirty (30) days or more, a temporary promotion will be made under applicable rules and regulations.

Section 10. When a vacancy occurs, a Certificate of Eligibles will be forwarded to the Selecting Official containing the names of the best qualified applicants and shall be grouped alphabetically and the certificate shall state that the names are not listed relative to qualifications. The Selecting Official may interview candidates on the Certificate of Eligibles. If one (1) candidate is interviewed all candidates will be interviewed if available.

Section 11. Merit promotion announcements will show the job requirements for which an applicant's qualifications are evaluated in terms of the skills, knowledge, abilities, and potential needed to perform the job for which the applicant is being considered. Merit promotion announcements shall not contain any or restrictive clauses that tend to favor one employee or a group of employees for a particular position.

Section 12. A merit promotion opportunities announcement may not be modified after the promotion process is under way unless an inappropriate

announcement has been released. Modified announcements will be in accordance with Section 3 of this Article and all employees eligible under the modified announcement shall be considered for promotion.

Section 13. The Employer agrees to consult with the Union on any revisions or amendments to the Merit Promotion Plan.

ARTICLE XV

REPROMOTION

Section 1. Any employee demoted without cause will be advised in writing of his entitlement to special consideration for repromotion.

Section 2. Any employee demoted without cause must be considered for repromotion before other means are used to fill a position. Although he is not guaranteed repromotion he should be repromoted as an exception to competitive procedures if he is well qualified for the position unless there are persuasive reasons for not doing so.

ARTICLE XVI

DEADHEADING

Section 1. Regularly assigned employees ordered by the Management to deadhead outside of assigned hours to or from a point to perform service shall be paid actual travel time at straight time rates not less than eight (8) hours per day. Travel in excess of eight (8) hours per day will be paid as travel time at straight time rates, and will not be counted against the basic work week of forty (40) hours. Where meals and lodging are not furnished by the Carrier, travel expenses will be allowed in accordance with Standard Government Travel Regulations. Positions requiring travel as a regular part of their assigned duties will not be paid travel time in excess of their assigned hours.

ARTICLE XVII

PERSONNEL MOVEMENTS IN
RIF SITUATIONS AND REHIRING

Section 1. It is agreed that all

possible action will be taken to avoid or minimize the impact of a reduction-in-force prior to separating employees. Such action will include restricting recruitment, meeting ceiling limitations through attrition, reassigning employees in surplus positions and terminating limited appointments.

Section 2. Management agrees to notify the Union of the necessity for reduction-in-force as far in advance as practicable and of the reasons therefor. Management also agrees to inform the Union of the affected competitive levels and the number of employees affected, when this information is available.

Section 3. It is agreed that Management, to the extent consistent with the installation's manpower requirements, will make an effort to reassign employees whose positions are eliminated because of automation or adoption of labor saving devices. It is agreed that management will make practical effort to train employees, when necessary for reassignment, whose positions are eliminated because automation or adoption of labor saving devices.

ARTICLE XVIII

REVIEWS OR JOB DESCRIPTIONS AND REQUIREMENTS

Section 1. The activity program for determining the ratings of positions of employees in tha unit is conducted in accordance with the applicable Department of Transportation regulations. To assure that ratings are appropriate to the work currently being performed by the employees in the bargaining unit, Management agrees to and shall conduct a continuing Review of such ratings throughout the activity. In any case where a modification of a job description of any position in the unit is proposed to the extent that either the rating, title, pay level, or qualification requirements for the rating would be affected, the proposed change will be discussed verbally or in writing by Management with the Employee prior to the effective date of any such change.

Section 2. Any employee in the unit who alleges that his position is improperly described or rated may discuss

the matter with his supervisor, who will, upon request, arrange for review of the employee's rating by personnel of the Personnel Office. The review shall include discussion with the employee and with his supervisor to determine the employee's actual regular work assignment over a representative current period and comparison of such assignments to the related job descriptions and/or rating definitions. Management agrees to consider fully all pertinent facts including those presented by the employee. If the employee's complaint is not resolved to the satisfaction of the employee, Management shall notify the employee in writing of the findings, the basis of the findings, and shall outline the employee's appeal rights. In requesting a review of his position rating and in the discussions described above, the employee may have and shall be entitled to representation by his Union.

Section 3. Upon request by the employee and/or his representative, Management agrees to produce all pertinent and current data on the grade and job standards of the employee's

particular job. The information will include how the grades, job standards, and titles were established and the type of work actually required under these standards.

Section 4. It is agreed that Management will advise the Employee when a job rating is to be changed due to reclassification actions to a lower grade, and at least thirty (30) days prior to effecting personnel action.

Section 5. The Union may present supporting evidence to Management regarding the local application of position classification standards and the equity of classification results.

ARTICLE XIX

DISPOSITION OF UNIT WORK

Section 1. Nothing in this agreement shall be construed to prevent operators of equipment and machines from making minor repairs to equipment they operate incidental to the continuous operation of their equipment and machinery, outside the shop.

Section 2. None but mechanics or apprentices regularly employed as such shall do mechanics work of each craft. This rule does not prohibit foremen in the exercise of their duties, or foremen at points where no mechanics are employed, to perform work.

Section 3. At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work of any craft (including welding) that may be necessary. The selection of mechanics shall be based upon the preponderance of work to be performed within the crafts.

Section 4. An employee notified to work a full shift on his day of rest, Sundays or holidays, will be allowed to complete the shift unless relieved at his own request.

Section 5. Management agrees that as a matter of practice, supervisors at Anchorage shall not be assigned to perform the duties as outlined in job descriptions of Unit employees except when instructing or training employees.

ARTICLE XX

APPRENTICE TRAINING PROGRAMS AND RE-TRAINING

Section 1. It is mutually agreed that the Apprentice Training Program is of vital interest to Management and the Union. The objective of the Program is to provide organized on-the-job and academic training and instruction to qualified employees to develop skilled journeymen and potential leaders in the trades areas necessary to the mission of this unit.

In this regard, cognizant Shop Heads will coordinate the on-the-job training in order to insure that apprentices receive broad and well-rounded experience in their respective trades. All apprentice training assignments shall be scheduled and recorded to insure that all apprentices are afforded the opportunity to qualify in each phase of training, as defined in the Apprentice Training schedule developed by Management and the Union for each trade.

Section 2. Management agrees to recognize a Union apprentice training committee within the Carmen bargaining Unit of not more than three (3) members appointed by the Union and three members appointed by Management, to serve on such committee. This committee shall have the right to a reasonable review of apprentice training programs affecting employees in the bargaining unit for the purpose of assisting Management in insuring a continuing effort to strengthen and improve the apprentice training program. It is further agreed that the Union apprentice and training committee shall meet once every two (2) months or upon the request of either party for the purpose of discussing the overall effectiveness of the apprentice training program.

Section 3. Management agrees that apprentices will be assigned to either an apprentice instructor or a skilled journeyman who will be under the personal supervision of a supervisor, who shall be responsible for their training while so assigned. Assignments will be made, to the extent permitted by

work requirements, primarily to expose the apprentice to a variety of jobs with increasing complexity and responsibility during the programmed apprentice term.

Section 4. The time a journeyman is engaged in instructing apprentices, when assigned, will not be considered by the immediate supervisor in judging productivity of that particular journeyman.

Section 5. Whenever technological changes require the use of a composite job rating which will utilize the skills of more than one (1) craft or trade, Management agrees to make every reasonable effort to train employees from trades affected by the new rating and to secure employees for such training from within the activity. In securing employees for such on-the-job training, Management agrees to the use and principles of a merit promotion system with respect to their selection and appointment to such training programs.

Section 6. In recognition of the mutual advantages to Management and to the employees, Management agrees to utilize existing employees from within the activity when training for any new

job ratings which may be determined necessary for establishment within the activity to carry out the mission.

ARTICLE XXI

SAFETY

Section 1. Management will exert every effort to provide and maintain safe working conditions and industrial health protection for the employees. The Union will cooperate to that end and will encourage all employees to work in a safe manner.

Section 2. It is recognized that each employee has a primary responsibility for his own safety and an obligation to know and observe safety rules and practices as a measure of protection for himself and others. Management will welcome from any individual employee or from the Union, suggestions which offer ways of improving safety conditions.

Section 3. It is agreed that the Union will appoint an appropriate number of qualified employees to serve as the Union's representatives on Management's Safety Committees.

Section 4. In the c[illegible] of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in their immediate area which represent industrial health hazards. When unsafe or unhealthy conditions are observed by the Union representatives they should report them to the immediate supervisor. When such safety and industrial health matters are of general interest, the Union may present the problem to Management's safety committees or bring the matter to the attention of appropriate supervision for mutual consideration by Management and the Union.

Section 5. The Union and Management will make every effort to prevent accidents of any nature. Should such accident occur, however, a prime consideration will be the welfare and comfort of injured personnel.

Section 6. When it becomes known that an accident has resulted in a disabling injury, management agrees to notify the Union promptly of the circumstances.

Section 7. Employees injured while at work will not be required to make accident reports before they are given

medical attention, but will make them as soon as practicable thereafter. Proper medical attention will be given at the earliest possible moment, and, when able, employees shall be permitted to return to work without signing a release pending final settlement of the case. Settlements will be made in accordance with Employee's Compensation benefits.

Section 8. When employees covered by this agreement are required to transfer from hot work to cold work, they will be allowed sufficient time to cool off before such transfer is made.

Section 9. Pits and floors, lockers, toilets, washrooms and lunchroom will be kept in good repair and in a clean, dry and sanitary condition.

Section 10. Operators of sandblast or paint sprayers will be required to use utmost care not to disturb other employees working in immediate vicinity.

Section 11. All acetylene or electric welding or cutting will be protected by a suitable screen when its use is required.

Section 12. Shop employees will not be required to work on engines or cars outside of shops during inclement weather, if shop room and pits are available. This does not apply to emergency work required to trains or in train yards.

Section 13. No employee will make repairs to engines or cars standing on main track or side track in yards without being protected by a blue signal in place provided thereto on engine and car at both ends of the train to prevent cars from being coupled to or moved while he is making repairs. If signals are placed by the employee, he alone must remove them.

Section 14. When circumstances permit every effort will be made to clean locomotives prior to truck changes or other major work.

ARTICLE XXII

COMMITTEE ASSIGNMENTS

Section 1. The Union agrees to cooperate with Management in the development of policies and procedures for programs which involve charitable

solicitations to include qualified Union representation on Management committees for such purposes.

Section 2. The Union will appoint qualified representatives to assist Management in evaluating suggestions and incentive awards.

ARTICLE XXIII

CIVIC RESPONSIBILITIES

Section 1. When an employee is absent from duty and in attendance in court as witness in behalf of the United States, or for jury duty in any State court or court of the United States, the absence from duty shall not be charged against annual leave but shall be recorded as "court leave" for the employee's regular tour or tours of duty.

Section 2. On receipt of a summons to appear for jury duty, the employee shall advise his supervisor. While the duty to serve as a juror is one of the precious privileges and responsibilities of American citizenship, with which the Railroad management concurs, there are instances when the absence of the employee from duty would work an undue hardship. The Personnel Officer shall investigate these hardship cases when brought to his attention by the Branch head.

Section 3. An employee answering summons for jury duty shall require written certification of attendance from the clerk of the court. This form shall be attached to Standard Form 71 and presented by the employee to timekeeper as authority for allowance of court leave.

Section 4.

a. Since court does not ordinarily convene until 10:00 a.m., an employee called for jury duty shall be required to report on his Railroad assignment at the starting hour and continue work until such time as it is necessary to leave for court. The only exception to this requirement shall be in those instances where the foreman or other supervisor finds it would be an undue hardship to comply therewith and so informs the appropriate timekeeper in writing.

b. When an employee is excused from duty by the court for as much as one and one-half (1-1/2) hours prior to time for stopping work at noon or evening, he shall return to duty unless advance authority for nonreturn, due to definite hardship being involved, is obtained from foreman or other supervisor.

Section 5.

a. An employee serving as a juror in State or municipal courts shall be instructed to collect all fees and allowances payable on account of the jury service. The employee must forward the fees so collected to the Treasury section, Accounting Branch, The Alaska Railroad, endorsed with "Pay to The Alaska Railroad"; otherwise, payroll deduction shall be made from compensation due him. The employee may keep allowances for mileage and subsistence to cover his actual expenses incident to the jury service; however, payment of per diem is prohibited since it is a form of compensation for services rendered.

b. An employee who performs jury service on rest or layover days is entitled to retain the fees received for such service.

Section 6. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without charge to annual leave. When the polls are not open at least three hours

either before or after an employee's regular hours of work, he may be granted an amount of excused leave which will permit him to report for work three (3) hours after the polls open or leave work three hours before the polls close, whichever requires lesser amount of time off.

ARTICLE XXIV

SPECIAL TOOLS - CLOTHING - SERVICES

Section 1. Management agrees to bear the full expense of all special tools, protective clothing and equipment that employees use in the performance of their duties.

Section 2. Management agrees to bear the expense of paying the difference between work shoes and safety shoes.

Section 3. Management agrees to provide space on official bulletin boards and offices for the posting of union notices and similar information material.

ARTICLE XXV

GRIEVANCE PROCEDURE

Section 1. An employee who has passed his probationary period satisfactorily or whose application has been formally approved shall not be disciplined or dismissed without a fair hearing by the designated officer of the Railroad. He may, however, be held out of service pending hearing. At a reasonable time prior to the hearing and not less than forty-eight (48) hours, such employee shall be apprised, in writing, of the precise charge against him within thirty (30) calendar days of knowledge by the Management of the alleged offense. The hearing shall be held within ten (10) calendar days of the date when charged with the offense. A decision will be rendered within ten (10) days after completion of hearing. The time limits in this rule may be extended by mutual agreement.

Section 2. The right of appeal by employees or their duly accredited representatives in the regular order of succession up to and including the highest officer designated by the Management to whom appeals may be made

is hereby established. When appeal is taken, further hearing shall be granted, if requested of the official to whom appeal is made. Appeals will be registered within a reasonable time after decision is given and a copy furnished official whose decision is appealed. Hearings and decisions on appeals will be given within ten (10) calendar days from date appeal notice is received by the officer to whom appeal is taken. The time limits in this rule may be extended by mutual agreement.

Note: No appeal will be handled except in accordance with the above procedure.

Section 3. At hearings an employee may be assisted by one or more duly accredited employee representatives. Disputes growing out of personal grievances and/or out of the interpretation or application of agreements or practices concerning wages, rules or working conditions between the parties hereto may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest offical designated

by the Management to whom appeals may be made. At each step Management will render a decision within ten (10) days.

Section 4. Investigations and hearings shall be held whenever possible at home terminals of employees involved and at such time as to not cause employees to lose rest or time. Employees shall have reasonable opportunity to secure the presence of duly accredited representatives and/or necessary witnesses. Upon request of the employee or his representative all necessary existing records of Management pertinent to the case at hand shall be made available for their use. In the process of the hearing, the Union will be permitted a court recorder or a tape recorder.

Section 5. A copy of all statements made a matter of record at investigations or hearings shall be furnished to the employee and to his duly accredited representative.

Section 6. If an employee is suspended, the suspension shall date from the time he was taken out of service.

Section 7. If the final decision decrees that charges against the employee were not sustained, the record shall be cleared of the charge. If suspended or dismissed, the employee shall be reinstated and paid for all time lost.

Section 8. An employee who considers himself unjustly treated, or that any of the provisions of this agreement have been violated, shall have the right of investigation, hearing, appeal and representation as provided in Sections (1), (2), (3), (4) and (5), if written request, which sets forth the employee's grievance is made to his superior within thirty (30) calendar days of knowledge by the employee of the alleged unjust treatment.

Definition of Investigation:
An inquiry conducted by the Management to determine cause and responsibility and to make search or inquiry for truth or facts prior to conducting a hearing. Employees are not disciplined as a result of an investigation except new employees who have not passed their probationary period of employment.

Definition of Hearing: A hearing (a trial) conducted after an investigation has developed cause and responsibility. At such hearings an employee or employees must be given proper notice under these rules and apprised in writing of the precise charge or charges against him. Employees may be disciplined or discharged as a result of a hearing. Appeals are based on hearings, not on investigations.

The enforcement of discipline by demerit record will apply to employees of the unit.

The advantages of this system are:

1. (a) To the employee, enabling him by good conduct to insure permanency of employment.

   (b) To the Railroad, in increased efficiency of such permanent employees.

   (c) To avoid loss of wages and consequent hardships

1. (c) cont'd.

to employees and their families because of being deprived of their regular income.

(d) To promote good conduct and encourage careful and efficient service.

2. No discipline by record will be made for less than five (5) or more than sixty (60) demerits.

3. Where demerits are given for unsatisfactory service, cancellations upon record will be given as follows:

(a) A clear record for six (6) months will cancel five (5) demerits.

(b) A clear record for one (1) year will cancel thirty (30) demerits.

(c) A clear record for eighteen (18) months

3. (c) cont'd.
will cancel sixty (60) demerits.

4. When an employee's demerits have accumulated to the number of ninety (90), he will be dismissed from the service.

5. An accumulation of demerits showing that an employee is not desirable for the service will first be given special consideration, but when the service of an employee is so generally unsatisfactory as to unfit him for further service, dismissal will follow.

6. Any permanent employee, who is not serving a probationary period and has completed one year of continuous employment, subject to discipline resulting from hearings and accumulation of demerits involving removal, suspension for more than thirty (30) days, furlough without pay or reduction in pay shall be afforded the provisions of Civil Service Commission regulations relative to adverse

actions. These regulations shall be quoted to the employee, including, but not limited to a Notice of Proposed Action, Receipted Delivery Notice, Thirty day Pay status, time for employees response and evaluation of same and Notice of Decision.

ARTICLE XXVI

ADVISORY ARBITRATION

Section 1. If Management and the Union fail to settle any grievance arising under Article XXV titled Grievance Procedure with respect to the interpretation, application, or alleged violation of this Agreement or of any policy or decision of Management, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to Advisory Arbitration. Such written notice must be served not later than thirty (30) days following the conclusion of the last step of the grievance procedure.

Section 2. Within seven (7) days from the date of receipt of the arbitration request, the parties shall

meet for the purpose of endeavoring to agree on the selection of an arbitrator, and the wording of the question to be resolved. If agreement cannot be reached, then either party may request the National Mediation Board to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after the receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then Management and the Union will each strike one arbitrator's name from the list of five (5) and shall repeat this procedure. The remaining name shall be the duly selected arbitrator.

Section 3. The fee and expenses of the arbitrator shall be borne by the Management or the Union, whoever loses such case before the Board, provided that the cost to Management for arbitrator's fees shall not exceed that amount authorized by rules and regulations. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, not to exceed two (2), employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings.

Section 4. The arbitrator is requested by the parties to render his decision as quickly as possible but in any event no later than thirty (30) days after the conclusion of the hearings unless the parties otherwise agree.

Section 5. It is agreed and recognized that arbitration as provided herein is advisory in nature.

Section 6. The arbiter shall have jurisdiction and authority to interpret this Agreement and to apply it to the particular case under consideration, but shall, however, have no authority to add to, subtract from, or modify the terms of this Agreement and shall confine his findings to the question submitted.

Section 7. In those cases where either party deems it necessary, it may arrange that a transcript of the hearing be made by a qualified court reporter. The party making such arrangement shall bear the full cost thereof. If both parties request a copy the cost will be shared equally. If the arbiter requests that he be furnished with a copy, the expense of the original copy and the reporter's attendance charge shall be borne equally by Management and the Union.

Section 8. The Head of the activity shall render his decision on the advisory arbitration within twenty (20) calendar days from receipt of the arbitrator's decision.

ARTICLE XXVII

SENIORITY

Section 1. Seniority of employees covered by this agreement shall be system-wide and will be established as of the date service is performed. Junior employees will be compelled to accept a permanent transfer to another point. Senior employees temporarily transferred will not be compelled to accept a permanent transfer to another point.

Seniority rosters shall be posted as of January of each year for Carmen, Mechanics' Helpers, Coach Cleaners, and Apprentices, copies of which are to be furnished the General Chairman and posted where Carmen are employed.

Section 2. Employees temporarily transferred to fill vacancies of less than thirty (30) days at the direction

of the Management under a forced rule will be allowed expenses in accordance with Standard Government Travel Regulations for not to exceed thirty (30) days.

Section 3. Employees now filling or promoted to official positions beyond the scope of this agreement shall retain and continue to accumulate seniority in the class from which promoted.

Section 4. An employee taken from any craft for assignment to special service will retain his seniority and be considered on leave of absence from his department while performing such special service.

Section 5. Employees on extended leave of absence for vacation, sickness or other authorized leave, upon returning to service will be permitted to return to their former positions or may exercise displacement rights on new jobs or vacancies created during his absence. If such employee returns to his regular position, the employee who was relieving him will return to regular position. If a returning employee displaces another employee assigned

during his absence, the displaced employee may exercise seniority in like manner to other positions for which he is qualified. Such actions are to be accomplished upon return or within three (3) days thereafter.

Section 6. The indiscriminate exercise of seniority to displace junior employees, which practice is usually called "rolling" or "bumping", will not be permitted. However, an employee whose assignment is discontinued, or who may be displaced from his position by other causes, will be permitted to exercise seniority on any job occupied by a junior employee on his seniority list.

Section 7. When the force is reduced, seniority will not govern; Civil Service Commission Regulations shall apply for Reduction in Force. For reduction in force purposes, the competitive area for employees of this unit shall be The Alaska Railroad.

ARTICLE XXVIII
BULLETINING POSITIONS
WITHIN MULTIPLE APPOINTMENTS

Section 1. Vacancies of thirty (30) days or more shall be bulletined for five (5) days before being permanently filled. The oldest employee in point of service in the respective craft, if qualified by experience to efficiently handle the work, will be assigned. Employees desiring to avail themselves of this rule will make bid, in writing, to the official in charge, duplicate copy to local chairman, the Management to make assignment.

Section 2. An employee exercising his seniority rights under this rule will do so without expense to the carrier; he will not lose his right to the job he left, and if after a fair trial, not to exceed thirty (30) days he fails to qualify for the new position, he will return to his former position. The next senior qualified man bidding will be assigned. In the event there are no bids, the youngest employee will be assigned.

Section 3. Official Bulletin Boards shall be used at all shops, repair points, and roundhouses where proper notices of interest to employees and job bulletins may be posted. Access to such board will be made available to accredited Union representatives for posting such notices as are necessary.

Section 4. Employees covered by this Agreement, who have been assigned in a multiple appointment, performs work for four (4) hours or more in a position authorized with a multiple appointment shall be paid for the rate of the work performed consistent with the grade assignments authorized in multiple appointment.

Section 5. Advertised vacancies may be filled in acting status pending an assignment.

ARTICLE XXIX

DURATION AND CHANGES

Section 1. This agreement when approved by the parties for the Union and the Management shall become effective on September 20, 1970. After such approval renewal of this Agreement will be automatic from year to year, provided that this Agreement shall terminate

automatically affective with any date on which it is determined that the Union is no longer entitled to exclusive recognition in accordance with Executive Order 11491.

Section 2. By mutual consent of the parties, this Agreement may be opened at any time for amendment. Any request for amendment shall be in writing to the General Manager and must be accompanied by a summary of the amendment or amendments proposed. Within sixty (60) days after receipt of such request, representatives of Management and the Union will meet to negotiate the matter, and no changes other than those covered by the summary shall be considered. A written notice of desire to alter and amend by renegotiation shall not have the effect of terminating this Agreement.

Section 3. This Agreement supersedes all previous Agreements for employees covered by this Agreement.

Section 4. The Articles of this Agreement have been negotiated in good faith and are presumed to be consistent with existing laws enacted by the U. S. Congress, applicable Department of

Transportation and Civil Service Commission regulations and Executive Orders. The provision of any existing or future contrary decree with respect to and which affect this agreement shall become a part thereof.

Section 5. It is agreed that this Agreement shall take precedent and no other Agreement shall be the basis for grievances.

Dated at Anchorage, Alaska July 2, 1970

FOR THE ALASKA RAILROAD:

John E. Manley
General Manager

R. R. Mack
Personnel Officer

FOR THE ORGANIZATION: Brotherhood Railway Carmen of the United States and Canada

Leonard O. Black
Chairman

Donald R. Koch
Vice-Chairman

ALASKA RAILROAD
LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determination of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Scope of Negotiations

Section 10. Disputes, Board of Adjustment

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. The public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable hours regulations and working rules; in the prevention of grievances and in the prompt and orderly settlement of all differences between labor and management; in stabilizing employment, and in developing systematic labor-management cooperation for safety, mutual benefit and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these

public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President No. 11107, dated April 25, 1963, and by the Transportation Act of 1967, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: the term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the Railroad in dealing with the management officials on hours, conditions of employment, grievances, disputes and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representatives of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization, in both line and staff capacities, who have significant responsibilities in supervising, directing and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreement: This term refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series

of agreements which are negotiated and made effective between management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement.

They may not delete, modify or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "Collective bargaining".

Section 2. Compliance

2.1. It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable federal laws and regulations.

2.2. If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

Section 3. Scope

This agreement is applicable to those employees of the Railroad represented by the Brotherhood Railway Carmen of the United States and Canada,

Section 4. Employee Rights to Labor Representation

4.1. Employees of the Railroad have the right to form or join organizations and designate representatives of their own choosing, provided they do not form or join organizations which assert that employees in the service of the United States Government may strike or assist in such strike, or which advocate the overthrow of the United States Government by force or violence.

4.2. In the exercise of the right to form or join organizations and designate representatives, employees shall be free from any and all restraint, interference or coercion on the part of Management, and the supervisory staff is prohibited from exercising any such restraint, interference or coercion. By the same token the designation of

individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3. The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

4.4. This section does not authorize participation in the management of a labor organization or acting as a representative of such an organization, by a supervisor, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee, nor shall a unit be established if it includes any management official or supervisor.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as

prescribed by law, will be required of any employee, or considered in his appointment, promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1. The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2. In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate section of the Federal Personnel Manual as implemented by the Department of Transportation.

Section 7. Duty to Confer

7.1. If a craft or group of employees h properly designated an organization to represent them in accordance with the provisions of Section 6 above, the representatives of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter treat with such organizations and its officers for the purposes described in the preamble to this agreement.

7.2. Representatives of labor organizations or employees desiring to confer with management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter which is the subject of conference.

7.3. Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to

and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4. Conferences may be requested by the labor organization or the Railroad announcing their desire to revise the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences shall not be on official times when negotiating an agreement with agency management.

7.5. Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation, in labor matters, the

Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1. Working rules, in the determinacion of which employees, through accredited organizations, have participated - will be reduced to writing and will be promulgated as schedules over the joint signature of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplmentary Agreements as defined in Section 1 of this agreement.

8.2. The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures herainafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3. The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of

outstanding differences through mutually agreeable procedures, except those that are dictated by over-riding Federal Law or Regulation.

Section 9. Scope of Negotiations

9.1. Management officials retain the right to direct employees in accomplishing the work of the agency; to hire, promote, transfer, assign, and retain employees in positions within the agency; to suspend, demote, discharge, or take other disciplinary action against employees; to relieve employees from duties because of lack of work or other legitimate reasons; to maintain the efficiency of the Government operations entrusted to them; to determine the methods, means, and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

9.2. Negotiable Items. The Alaska Railroad management shall negotiate with the unions, for the employees represented by the unions signatory hereto, for:

a. The establishment of craft working rules.
b. The establishment of grievance procedures and discussion of personnel policies and practices, or other matters affecting general working conditions.
c. NOTE: The wage fixing system applicable to the employees subject to this Basic Agreement will be set forth in Section 9.4

9.3. All requests for negotiation conferences shall be in writing and specify the subjects for discussion and the times proposed for consideration. Conferences between the parties shall begin as promptly as practicable. Every effort will be made by the negotiators to agree

9.4 Wage Fixing System. The wage fixing system applicable to Alaska Railroad blue collar employees represented by the Brotherhood Railway Carmen of the United States and Canada, shall be the system currently followed for their wage board employees by Army-Air Force installations in the State of Alaska. As soon as a coordinated wage fixing policy is promulgated by the Civil Service Commission for the wage

board employees in Alaska, such Federal coordinated system shall be substituted for the Army-Air Force wage fixing system referred to above. Details as to the application of this system will be set forth in a supplementary agreement.

Section 10. Disputes and Grievance Procedures

10.1 The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates.

10.2. Detailed procedures for the handling of grievances shall be included in supplementary labor agreements between the parties signatory hereto.

'BLA'

Section 11. Bulletin Boards and Distribution of Literature

Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity or motives of individuals, other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours

of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

Section 12. Labor-Management Cooperation

12.1. The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.
b. Conservation of materials, supplies, time, power and energy.
c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.
e. Health, safety, and morale standard

12.2. In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefits Plan
Joint Labor-Management Committee

12.3. Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Effective Date and Duration

13.1. This agreement shall remain in

full force and effect for one year from the date executed, and thereafter until the expiration of sixty (60) calendar days following the giving of written notice by either party to the other of its desire to terminate this agreement in its entirety or to effect changes herein by agreement.

13.2. By mutual consent of the parties, this agreement may be opened at any time for amendment. Also, modification or amendment of this agreement may be required because of changes in applicable laws, rules, regulations or policies issued after the date of this agreement.

13.3. The Basic Labor Agreement between the Brotherhood Railway Carmen of the United States and Canada, and The Alaska Railroad, dated April 11, 1968, and which was negotiated under authority of Executive Order 10988, is hereby supplemented for compatibility with the new Executive Order 11491, relative to Labor-Management relations effective January 1, 1970.

- continued -

Dated at Anchorage, Alaska, April 11, 1968.

FOR THE ALASKA RAILROAD:

(Sgd.) John E. Manley
John E. Manley, General Manager

(Sgd.) R. R. Mack
R. R. Mack, Personnel Officer

FOR THE ORGANIZATION: Brotherhood Railway Carmen of United States and Canada

(Sgd.) Irvin L. Barney
Irvin L. Barney
General Vice-President & National Legislative Representative

(Sgd.) Donald R. Koch
Donald R. Koch, Chairman
Local Protective Board
Far North Lodge No. 67

Dated at Anchorage, Alaska, July 2, 1970

FOR THE ALASKA RAILROAD:

John E. Manley, General Manager

R. R. Mack, Personnel Officer

FOR THE ORGANIZATION: Brotherhood Railway Carmen of United States and Canada

Leonard O. Black, Chairman

Donald R. Koch, Vice-Chairman
Local Protective Board
Far North Lodge No. 67

Effective September 20, 1970

STANDARDS OF APPRENTICESHIP

for

THE ALASKA RAILROAD
APPRENTICEABLE TRADES

Developed by the Local
Joint Apprenticeship Committee

Representing
THE ALASKA RAILROAD
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
ANCHORAGE, ALASKA

and

INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS

BROTHERHOOD RAILWAY CARMEN OF
UNITED STATES AND CANADA

INTERNATIONAL BROTHERHOOD OF BLACKSMITHS,
BOILERMAKERS, IRON SHIPBUILDERS AND HELPERS

Registered & approved by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Washington, D. C.

Assisted by the

BUREAU OF APPRENTICESHIP AND TRAINING
U. S. Dept. of Labor
Room 46, Federal Bldg.
Anchorage, Alaska

OBJECTIVE

The purpose of apprentice training is to encourage a more careful selection of men coming into the trade; to train apprentices now in the trade; to assist in providing training that will equip them for profitable employment and citizenship; and to further the assurance to the employer of the most proficient workmen to the end that the public may receive the best possible workmanship.

I. DEFINITIONS:

a) The term "Committee" shall mean the Joint Apprenticeship and Training Committee, as set up in these apprenticeship standards.

b) The term "Employer" shall mean The Alaska Railroad, Department of Transportation, Federal Railroad Administration.

c) The term "Union" shall mean the local union signatory to these apprenticeship standards.

d) The term "Registration Agency" shall mean the Bureau of Apprenticeship and Training, U. S. Department of Labor.

e) The term "Apprenticeship Agreement" shall mean a written agreement between the Committee and a person employed as an apprentice, which agreement shall be registered by the Registration Agency.

f) The term "Apprentice" shall mean a person who has signed an Apprenticeship Agreement with the Committee to learn a trade, as outlined in these apprenticeship standards.

g) The term "General Supervisor of Apprenticeship" shall mean a person appointed by the Committee to carry out the program under its direction.

h) The term "Supervisor of Apprentices" shall mean a person appointed by the individual employer to direct apprenticeship training in or on a specific establishment or job. He shall be subject to approval of the Committee.

i) The term "Apprenticeship Standards" shall mean this entire document, including these definitions.

II. JOINT APPRENTICESHIP AND TRAINING COMMITTEE:

The Committee shall be composed of three members representing employers, and three members representing Labor. Labor and Management shall be equal in all cases.

Members of the Committee shall be selected by the groups they represent. The term of office shall be for three years or less -- the term of one employer and one journeyman to expire each year. The first appointments by each group will be designated for one, two, or three years.

III. SELECTION PROCEDURES:

Selection of apprentices under the program shall be made from qualified applicants on the basis of qualifications alone and without regard to race, creed, color, national origin, sex, or occupationally irrelevant physical requirements in accordance with objective standards which permit review, after full and fair opportunity for application, and this program shall be operated on a completely nondiscriminatory basis. Apprentices will be carefully selected from applicants between 18 and 28

years of age whose background, education, personality, and physical conditions indicate that they are suitable candidates.

Information regarding apprenticeship openings and requirements shall be furnished to the local state employment service and to the local schools.

Such information will also be posted at the program sponsor's normal place of application for apprenticeship. Applications of responding candidates will be recorded. Those meeting the basic qualifications such as age, residence, education, and physical condition will be referred to the apprenticeship committee.

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

The local state employment service will supply the aptitude testing and grading. Such test measures general intelligence, manual dexterity, hand/eye coordination, perception, finger dexterity, and numerical and verbal comprehension.

Applicants who qualify in the aptitude tests will be interviewed by the program sponsor or his designated representative. The interview shall cover such factors as educational record, attitude towards work and apprenticeship, sense of responsibility, previous work experience, whether related or unrelated to the trade, reasons for interest in the trade, hobbies, and physical factors.

Qualified applicants will be rated numerically on the basis of the following factors:

		Maximum
1.	Aptitude test results (If actual scores are used, rank in relation to minimum qualifying score.)	25
2.	Educational background (High school diploma or certificate of equivalency) (Subjects studied pertinent to the trade or grades attained.)	15
3.	Reference and conduct record	10

4. Interview (personal impression of interest, sincerity, and adaptability to the trade.) 25

5. Previous working experience (related and unrelated.) 25

Selection of qualified applicants shall be in descending order of ranking. Records of the selection process shall be retained for a period of two (2) years.

IV. TERM OF APPRENTICESHIP:

Apprentices will serve a minimum term of four consecutive years (approximately 8,000 hours) of reasonably continuous employment during such term, and include the probationary period and the required hours of supplemental school instruction. (Exception: Helpers with two (2) years helper experience shall be eligible for indenturing as helper apprentice of a respective craft, ability to govern in all cases, for a period of three (3) years.)

V. RELATED INSTRUCTION:

International Correspondence School and Railway Education Bureau Courses will be substituted for related classroom instruction.

No apprentice will be allowed to work overtime when such work will interfere with the related instruction course. In case of failure of any apprentice to fulfill his obligations as to school attendance and conduct, without due cause, the local Joint Apprenticeship and Training Committee shall take necessary disciplinary action.

VI. SUPERVISION OF APPRENTICES:

The Alaska Railroad shall designate a particular person, who may be the Superintendent, Foreman, or Journeyman, to be responsible for the training of apprentices. He shall, with the advice and assistance of the local joint apprenticeship and training committee, be responsible for the apprentices' work experience on the job, for their attendance at related classes, and the recording of same on record forms provided for this purpose.

VII. RATIO OF APPRENTICES TO JOURNEYMEN:

The ratio shall be 1 apprentice to each 5 journeymen.

VIII. ACCIDENT PREVENTION:

Each apprentice shall be provided with initial indoctrination and instruction in

order to enable him to perform his work in a safe manner. Such instruction shall be coordinated with the actual work being performed on the job and the tools and equipment being used.

Initial indoctrination shall include instructions relative to pertinent company safety regulations, reporting of accidents, and availability of first aid and medical facilities.

The employer shall at all times exercise reasonable precautions for the health and safety of the apprentices engaged in the performance of the work hereinafter described as "Work Processes" . . .so far as possible. He shall comply with all applicable provisions of Federal, state and municipal safety, health, and sanitation statutes and codes.

In addition, as an integral part of this training program, the apprentice supervisor and/or instructor shall provide such training and instruction pertaining to safe work habits to insure that the apprentice will be protected against avoidable accidents. Also, that they understand the methods necessary to properly perform all phases of the work in a safe manner.

IX. PROBATIONARY PERIOD:

Apprentices will be subject to the probationary period applicable to Federal employment. During this probationary period, annulment of the Apprenticeship Agreement will be made by the Committee upon request of any of the parties concerned. After the probationary period the Committee may cancel the Apprenticeship Agreement for just cause, but due notice shall be given the Registration Agency of such action. The Apprenticeship Agreement may also be canceled if the apprentice fails to fulfill his obligations as to the related instruction courses.

X. ADJUSTING DIFFERENCES:

In accordance with the present working agreement, the railroad and the apprentice shall have the right and privilege of appeal to the local joint apprenticeship and training committee in the event of disputes and controversies arising over any provision of the local apprenticeship standards which cannot be satisfactorily settled between them. The local committee shall hear all the parties and make such adjustments as it may consider necessary.

XI. WORK EXPERIENCE:

During his apprenticeship, the apprentice shall be taught the use, care, and effective and safe handling of all tools and equipment commonly used in the trade. He shall be given work experience and training in all branches of his trade considered necessary to develop a skilled and productive worker.

WORK SCHEDULE FOR
AUTOMOTIVE MACHINIST
APPRENTICE

	Years of Service
Engine rebuild room, gas and diesel	1 Year
General repair, automotive test and electrical work	1 Year
Heavy equipment repairs . .	1 Year
Gas car repairs and trouble shooting	6 Months
Welding, electric and acetylene	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
ELECTRICIAN
APPRENTICE

	Years of Service
Electrical repair shop; servicing motors and generators, rewinding and repairing motors and generators, repairs to electrical equipment, all types	1 Year
Batt[illegible]y Shop	4 Months
Car shop, coaches, heating, [illegible] lighting	8 Months
Electric and acetylene welding	6 Months
Diesel locomotives, traction motor, main and auxiliary generator repairs	6 Months

ELECTRICIAN

	Years of Service
Engine circuits, voltage regulators, and relay repairs, Vapor-Clarkson generators and power car equipment	6 Months
Trouble shooting, inspections, and running repairs	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
MACHINIST
APPRENTICE

	Years of Service
Machine shop practice	1 Year
Engine rebuild and parts repairs	1 Year
General repair, truck and roller bearing repairs, locomotive and cars	6 Months
Welding, electric and acetylene	6 Months
Air room	6 Months
Running repairs, trouble shooting, diesel shop . . .	6 Months
TOTAL	4 Years

WORK SCHEDULE FOR
SHEETMETAL
APPRENTICE

	Years of Service
Shop and bench sheetmetal work, including layout and design, brazing, soldering, tinning, leading, and babbitting . . .	2-1/2 years
Locomotive Department - Pipefitting and Sheetmetal	6 Months
Car Department - Pipe and sheetmetal work on passenger cars and sheetmetal in freight department	1 Year
TOTAL	4 Years

WORK SCHEDULE FOR
CARMAN
APPRENTICE

	Years of Service
General freight car rebuilding and repairs, wood and metal	1 Year
General passenger car repairs and rebuilding	1 Year
Air room, cleaning and testing, and repairs	6 Months
Rip track, air cleaning, installation and repairs . .	6 Months
Carpenter shop, machine and bench work	6 Months
Electric and acetylene welding	6 Months
TOTAL	4 Years

XII. WAGE SCHEDULE:

The wage rate paid apprentices and journeymen shall be that which is negotiated by The Alaska Railroad officials and the local unions involved. This wage schedule shall be kept current by a supplement attached to the standards.

XIII. PERIODIC EXAMINATION:

An examination of apprentices as to their progress in learning the trade may be given at such times as determined by the committee. In these examinations, consideration shall be given to the related instruction, as well as to the daily employment records of the apprentices.

XIV. EMPLOYMENT RECORDS OF APPRENTICES:

Records of the progress of all apprentices in the trade processes enumerated in the work processes will be maintained by The Alaska Railroad, and shall be made available to the Bureau of Apprenticeship and Training upon request.

XV. JOINT MANAGEMENT-LABOR APPRENTICESHIP COMMITTEE:

The Alaska Railroad agrees that a joint management-labor apprenticeship

committee will be established as recommended by the Bureau of Apprenticeship and Training.

XVI. CERTIFICATE OF COMPLETION OF APPRENTICESHIP:

Apprentices who complete their apprenticeship, and make passing grades on the ICS and REB courses shall be awarded a certificate by The Alaska Railroad. Certificates of Completion are also available from the registration agency for all apprentices completing their apprenticeship under registered standards.

XVII. MODIFICATION OF STANDARDS:

These standards shall automatically be amended to conform with any changes in subsequent bargaining agreements, and none of these provisions shall be construed contrary to the present, or subsequent, bargaining agreements. These standards may be modified subject to the approval of management and labor participants in the program and the Bureau of Apprenticeship and Training, U. S. Department of Labor.

All changes and modifications made as provided shall automatically become a part of apprenticeship agreements in effect at the time of the change.

XVIII. OFFICIAL APPROVAL:

These standards of apprenticeship and all modifications shall be approved officially by formal action of the respective employer-employee organizations and the registration agency. Original Standards of Apprenticeship approved and accepted July 20, 1965, and amendments thereto incorporated October 14, 1971.

EMPLOYER REPRESENTATIVES:

/s/ John Norby

/s/ C. W. Poor

/s/ C. O. Brown

APPROVED: July 20, 1965

EMPLOYEE REPRESENTATIVES:

/s/ Richard L. Moyer

/s/ Walter E. King

/s/ John Bozinoff

APPROVED: July 20, 1965

APPROVED AND ACCEPTED BY THE ALASKA RAILROAD:
Anchorage, Alaska, July 20, 1965

/s/ John E. Manley
General Manager

/s/ R. R. Mack
Personnel Officer

/s/ C. V. Randall
Chief Mechanical Officer

APPROVED AND ACCEPTED BY THE ORGANIZATIONS:
Anchorage, Alaska, July 20, 1965

/s/ Luther Augenstein
International Association
of Machinists, Local 1735

/s/ Richard L. Moyer
International Brotherhood of
Boilermakers and Blacksmiths, Local 706

/s/ Walter E. King
Railway Carmen of America
Lodge No. 67

PROGRAM REGISTERED AS INCORPORATING THE
BASIC STANDARDS RECOMMENDED BY THE
BUREAU OF APPRENTICESHIP AND TRAINING:

Approved: August 30, 1965

/s/ Hugh C. Murphy
Administrator, Bureau of Apprenticeship
and Training
U. S. Department of Labor
Washington, D.C.

Consultant:

/s/ Joseph F. Fiala, State Supervisor
Bureau of Apprenticeship & Training
U. S. Department of Labor
Anchorage, Alaska

Approved: October 14, 1971

/s/ William F. Wadsworth
Consultant
Alaska State Supervisor
Bureau of Apprenticeship and Training
Department of Labor

UNITED STATES
DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Locomotive Engineers, Locomotive Firemen, Conductors, Brakemen, Baggagemen, and Hostlers

and

Basic Labor Agreement

This book has been printed for use of The Alaska Railroad and its employees. Please return upon terminating service.

Book assigned to:

_____

_____

_____

_____

Revised January 1980

UNITED STATES
DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Locomotive Engineers, Locomotive Firemen, Conductors, Brakemen, Baggagemen, and Hostlers

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Revised January 1980

Copy of Schedule 45
Copy Train Orders - Arbitrary 49
Coupling & Uncoupling Air Hose 43(a)
Coupling & Uncoupling Units 6(y)
Court Leave 31
Crew Consist - Freight, Yard
Work, Snow 14(b)
Local, Mixed 14(a)
Motor Cars 14(d)
14(e)
Passenger 14(c)
Yard 25(g)
Crews Deadhead & Work 19(c)
Crews Divided 14(f)

D

Day:
Basic 2(a)
Basic Day & Week - Hostler 26(c)
26(h)
Beginning & Ending 5
Calendar 3(b)
Ends at Anchorage 9(g)
Minimum 3(b)
Yard 25(b)
Deadheading 19(a)
Deadheading (Assignment Discontinued) 11(d)
Deadheading - Hostlers 26(p)
Disallowed Time Claims 35(a)
Discharge & Return to Duty 30(b)
Discipline & Investigations 29(a)
Displace Youngest Extra Board
Engineers-Conductors 9(c)
-1

Double Over - Sack Down & Head Out 6(t)
6(x)
Doubling Hills 27
Duties - Hostlers 26(o)
25(q)

E

Electric or Motor Service Modifications	38
Emergency Defined	52
Engine Watching by Enginemen	50
Engine Watchman Assignments	26(v)
Engineer-Hostler Extra Work	9(c) -3 26(f)
Engineer-Hostlers are Hostlers	26(s)
Enginemen Delay/Switching Starts After Preparatory Time	6(q)
Enginemen Required to Service Engines at Outlying Points	23(e)
Exercise Seniority When Displaced	11(j)
Extra Boards:	9(a)-1
Bumping On	9(c)-1
Protect Own Board First	9(c)-6
Computation Calls	9(a)-7
Conductor - Anchorage	9(a)-2
Conductor - Fairbanks	9(a)-3
Conductor - Seward	9(a)-4
Engineer - Anchorage	9(a)-5
Engineer - Fairbanks	9(a)-8
Engineer - Seward	9(a)-8
Exhausted	9(c)-14
Exhausted Use of Men Within Same Grade	9(c)-15
Firemen & Brakemen - Anchorage	9(a)-6
Mileage - Hours Registration	9(b)-1
Regulation of	9(a)-6 -7, -9 9(n)
Extra Man Due Pay of Assignment	3(c) 3(a) -10
Extra Road Crews in Work Service	23(a)
Extra Work for Men Assigned, Fairbanks - Anchorage Passenger	11(h)
Extra Yard Service	10(a)

F

Final Freight Work Allowable 6(m)
Final Freight Work & Delay 6(k)
Final Passenger Delay & Automatic Tie-up 6(d)
Final Tie-up - Rules Applicable 6(c)
First In - First Out 10(b)
Force Assignment - Bid Off 11(k)
-1, -2
Force Assignment Deadhead 19(b)

G

Give Up Job 11(g)
Grievances - How Handled 30(a)
Guarantee - All Classes 3(a)
- Hostlers 26(i)
- Through Trains 3(a)
-3
- Weekly 1(b)

H

Handling of Caboose 44(a)
Handling Side Doors, Aprons, etc. 47
Held Away from Home Terminal 4(a)
4(d)
Held Off Bulletined Assignment 11(a)
Helper Service 24(b)
Highest Occupation Rate Paid 7(e)
Hiring - Conductors, Engineers 28(f)
-1, -2
Hiring - Rehire 30(c)
Hog Book 9(c)
-13
-16
Hog Book Exhausted 9(c)
-15
Holidays Pages 5-6
Hostlers Extra Work 9(c)
-3
26(f)
Hostlers on Road 9(c)

Hostling Positions	26(b)
Hours of Service	20
I	
Initial Freight Delay	6(g)
Initial Freight Switching, Then Delay	6(h)
Initial Freight Work & Delay	6(f)
Initial Passenger Delay	6(b)
Initial Passenger Makeup	6(a)
Intermediate Work at Whittier	6(u)
Irregular Service - Made Up Crews	10(a)
L	
Lawful Time	20(a)
Lawful Time, Less Than	20(b)
Layoff & Reporting for Duty	40(a)
Layoffs - Missing Calls	9(e)
Layoff of Yard Men at Seward & Whittier	25(1)
Leave - Committeemen	33(b)
Leave Exceeding 6 Months	33(a)
Leave - Extra Board	9(e)
Leave - Recall	40(b)
Leave - 30 Days	11(a)
Legal Rest	20(c)
Length of Train Pay	1(e)
Light Engines & Helper Districts	24(b)
Line Point Vacancies Filled by Hostlers	26(f)
Living Accommodations	53(a)
Loss or Damage to Equipment	41
Lunch Period - Hostlers	26(n)
Lunch Period - Yard Crews	25(f)
M	
Made Up Crews, Irregular Service	10(a)
Meals on Duty	39
Meeting with General Officers	54
Messenger Service	9(c)

-5
Mileage Allowance 35(b)
Mileage - Hours Registration 9(b)
-2
Mileage Limitation 11(c)
Missing Calls - Layoffs 9(e)
Multiple Units 15(i)

N

New Assignments & Extra Men 9(c)
-10
Ninety-Day Limitation on Stucents 28(e)

O

Officers Will Not Do Trainman Work 48
Officials - Hostler Work 26(u)
Overtime or Switching on
Minute Basis 6(j)
Overtime - Yard 25(j)
Overtime (Yard, Hostling,
Passenger, Engine Watching) 2(b)
Road and Yard Work Week
Computation
Straight Time Minimum
Overtime Arbitrary

P

Pass Transportation 32
Passenger Service Ticketing 6(p)
Pay Act of March 28, 1934
U. S. Court of Claims Decision
Work Hours Act of 1962 Pages 1-3
Pay:
Engine Watchmen 26(w)
Extra Man on Assigned Runs 3(c)
For Qualifying 29(b)
Freight Switching and Delay 6(1)
Head Brakeman 6(p)
Helper Service 24(b)
Highest Rate Paid 7(e)
Hours of Service 20(e)

Length of Train 1(e)
Local Freight Service 7(f)
1(f)

Pay:
Conductors & Eng. Extra Board 9(a)
-10
Passenger Makeup & Movement 6(a)
Passenger Switching & Delay 6(e)
Piloting Service 24(a)
Snow Pilots 24(d)
Rates of & Minimum Daily 1(a)
Tied Up Between Terminals 20(g)
Payroll Shortage - Claims 35(c)
35(d)
Performance Ratings 55(b)
Power Vans 43(b)
Preparatory Engine Time 6(a)
Computation Delay or Switching Time 6(q).
Preparatory or Final Time Limitation 6(s)
Promotion - Fireman 26(t)
Promotion - Brakeman 28(f)
-1
Promotion - Fireman 28(f)
-2
Promotion - Decline or Failure 28(g)
Promotion Notice 28(h)
29(i)
Protect During Life of Bulletin 11(f)
Protected Employees - Firemen 28(d)

Q

Qualifications:
Baggagemen 9(c)
-11
Brakemen 90 Days 14(a)
Engineers 9(a)
-5
Engineer-Hostlers 26(1)
Hostlers 26(j)
Students 90-Day Limitation 28(e)

R

Reemployment	30(c)
Reduction in Force	11(1)
	55(a)
Rest Day at Home Terminal	13
	3(e)
	15(c)
Rest Day - Snow Crew	23(b)
Road Crew Switching	25(k)
Road Crews - Switching to Military Bases	16(b)
	16(c)
Rotary Assistants Retirement Comp.	56
Rotary Crew	23(d)
Roundhouse Vacancies	26(g)
Rules Governing Hostler Service	26
Runarounds - Extra/Regular	9(d)
Runarounds - Irregular or Unassigned Service	10(c)

S

Safety Appliances - Yard Equipment	25(i)
Schooling Prior to Examination	28(j)
Seats on Engines	44(b)
Second Call in 24 Hours - Yard Service	25(b)
Seniority and Promotion	28(a)
Seniority-Baggagemen/Brakemen	28(b)
Seniority-Engine Watchmen	26(x)
Seniority, Optional, Conductors	11(k) -1
Seniority, Optional, Engineers	11(k) -2
Seniority Rights	28(1)
Seniority Work Trains	22(c)
Service Call Preference	9(c) -4
Setting Out & Picking Up, Clear Snow for	24(e)
Shuttle Service Portage - Whittier	14(i)

Snow Crew Rest Days	23(b)
Snow Pilot Assignment	24(h)
Snow Pilots	24(c)
Snow Service Equipment Assignments	24(f)
Special Passenger Trains	12
Standing Call	17(a)
Students - Limitation	28(c)
	28(e)
	28(k)
Switching Exceptions	6(x)
Switch Shanties	53(b)
Switching Intermediate Point	6(w)
Switching on Minute Basis or Overtime	6(j)
Switching-Road Crew - 4 Hour	25(k)
	6(i)
Switching Terminal Penalty	16(b)
	6(n)
Switching Between Spur & Siding	7(g)
T	
Temporary Hostlers	26(e)
Terminal Switching, Freight & Mixed Crews	6(n)
Termination Pay	36
Through Trains	3(a)
Turnaround Days	3(a)-1
Guarantee	3(a)-2
Used on Days Off	3(a)-3
	-4
Tied up and Deadhead Under Law	20(f)
Tie-up Between Terminals-a/c Wrecks, Washouts or Snow Blockades	21(a)
Tie-Up Between Terminals - Recall	21(c)
Time Slips & Time Allowances	35(a)
Time Slips - Hostlers	26(r)
Tour of Duty - Hostlers	26(c)
	26(d)
Tour of Duty - Yard	25(d)

Track Obstruction & Used Off Assignment 15(e)
Train Boxes & Supplies 46
Transportation of Household Goods 53(c)
Transportation - Passes 32(a)
32(b)
Two Classes of Service 7(a)
Two Classes of Service - Exception 7(c)
Two Classes of Service - Limitation 7(b)

U

Uniforms Pages 3-6
Uniform Procurement 9(c)
-11
Unit Pay, Multiple - Road 1(c)
Use of Regular Men Extra 1[illegible]
Use of Promoted Men Off a Firing or Braking Assignment 9(c)
-14
Used Off Assignment 15(a)
Used Off Assignment Penalty 15(c)
15(d)
Used on Days Off - Through Train 3(a)
-3
-4
Used on Rest Day 3(d)

V

Vacancy Limitation from Board 9(f)

W

Work and Snow Service 23
Work and Snow Service Crew Delay 6(v)
Work and Snow Tie-up Points 21(b)
Work-Pilot Outside of Yards 24(g)
Work-Snow Crew Preference 9(c)
-2
Work-Snow Train - Held Away from Home Terminal 4(b)
Work-Snow Train - Home Terminal 4(c)
Work Train Service by Road

and Yard Crews 7(d)
Work Train Subdivision 22(b)
Work, Wreck & Snow Plow Trains Tied Up Between Terminals 22(a)
Wying of Equipment at Whittier 6(u)

Y

Yard and Road - Whittier-Portage 25(n)
Yard Crews at Military Bases 16(d)
Yard Limits 25(j)
Yard Service - Yard Crews 25
Yard Switch Engines 25(i)

UNITED STATES
DEPARTMENT OF TRANSPORTATION
The Alaska Railroad

Schedule of pay, rules and regulations governing Locomotive Engineers, Locomotive Firemen, Conductors, Brakemen, Baggagemen, and Hostlers.

Work Hours Act of 1962 (Public Law 87-581)

By virtue of Public Law 87-581, "Work Hours Act of 1962," effective October 12, 1962, The Alaska Railroad is covered by Section 201 of this law. It is the intent of this rule that wage payments shall not be less than the straight time and overtime requirements of the above said law. Compensation for a given day or week of work shall be computed, therefore, first, under the rules in this agreement relating to the dual system, including arbitraries, and again, under the requirement of paragraphs (a), (b), (c), and (d) of this rule. The compensation paid shall be the higher of these two amounts.

(a) For employees on duty during a given week of work, compensation shall be computed on the basis that overtime work in excess of 8 hours per day or in excess of 40 hours per week shall be compensated for at not less than time and one-half the basic rate of compensation, except that employees subject to this section who are regularly required to remain at or within the confines of their post of duty in excess of 8 hours per day in a standby or on-call status shall be paid overtime rates only for hours of duty, exclusive of eating and sleeping time, in excess of 40 hours per week.

(b) Hours of work, for purposes of this rule, are defined as actual time spent in the performance of work and shall exclude all hours

paid for under other rules contained in this agreement which do not represent actual hours of work.

(c) Payment for overtime work as provided for under this rule will be at the rate for the class of service performed on the basis of time in excess of 8 hours in a day or 40 hours in a work week, whichever is greater.

(d) No wage payments under any of the rules in this agreement relating to arbitraries shall be made to any train and engine service employees for any day or week of work with respect to which compensation is due and payable under this rule. Under this paragraph, arbitraries shall mean:

1. The amount by which payments under any guarantee rule exceeds the pay due, except for such guarantee, for all time worked. Such guarantee rules are calendar day, minimum day, and weekly guarantee.
2. Called and not used.
3. Runaround.
4. Tie up between terminals.
5. Deadheading.
6. Used off assignments.
7. More than one class of service.
8. Running through a terminal.
9. Initial delay.
10. Initial work.
11. Terminal delay.
12. Terminal work.
13. Copying a train order.
14. Coupling and uncoupling air hose.
15. Any other compensation earned under the rules of this agreement to the extent that such compensa-

tion would result in an amount computed on a daily or weekly basis exceeding the sum of straight time pay plus overtime at time and one-half for all hours worked in excess of 8 hours per day or 40 hours per week.

Uniforms

(a) The management of The Alaska Railroad may designate a passenger uniform to be worn by such employees as may be specified at all times while such employees are on duty, and such uniform may be subject to change from time to time as required by the Carrier, but for the present, at least consists of the following:

1. A uniform consists of cap, with appropriate insignia, coat, and trousers.

2. A white shirt with black four-in-hand tie.

3. Black shoes.

(b) The employees will assume and pay the entire cost of shirts, neckties, and shoes as specified by the Carrier to be worn with such uniform.

(c) The Carrier will supply free of charge such insignia as may be required of the employees for wear upon such uniforms.

(d) When it is considered necessary by the office of the Carrier charged with such responsibility for an employee subject to this agree-

ment to procure a new uniform, an order therefor will be furnished by the Carrier upon a clothier designated by the Carrier. The Carrier will assume and pay a sum equal to fifty (50) per cent of the cost of each such uniform consisting of cap, coat, and trousers (two pairs if desired) and the employee will assume and pay the balance of the cost of each suit where obtained through the designated clothier. In the event an employee desires to obtain his uniform through sources other than the clothier designated by the Carrier, it will be permissible for him to do so provided that such uniform meets the specifications prescribed by the Carrier, and in such instances the Carrier will likewise assume fifty (50) per cent of the cost, but not to exceed fifty (50) per cent of what the cost would be if secured through the designated clothier, upon presentation of receipted bill.

(e) The employees agree to keep their uniforms properly cleaned and neatly pressed at all times at their own expense, except the Carrier will pay for the cleaning of the head brakeman's uniform when assigned to mixed service and uniform is soiled on account of being required to perform such brakeman duties as reorassing, chaining crawbars, taking down brake rigging, etc. Paid receipt for the cleaning of the uniform to be submitted to the Transportation Branch, showing date and train number.

(f) It is agreed that in cases where a uniform or any portion thereof is lost, stolen, damaged, or destroyed as a result of carelessness on the part of the employee, the employee will repair such damage or replace such uniform at his own expense.

(g) It is agreed that an employee whose uniform is secured under the terms of this

agreement, and subsequently voluntarily disqualifies himself or declines to accept passenger service within a period of one (1) year from days such uniform as received, will thereupon refund to the Railroad the amount it paid toward the cost of such uniform. This may be done by payroll deduction.

(h) Employees securing uniforms under this rule and who leave the service for any reason in less than twelve (12) months from date of purchase will be required to refund to the Railroad one-twelfth (1/12) of the Railroad's portion for each month or fraction thereof, of service less than one (1) year.

Holidays

Trainmen and Enginemen, except extra board men, shall receive one basic day's pay (holiday premium pay) at the rate of the class and craft of service assigned for each of the following enumerated holidays, in addition to the earnings for the work performed:

New Year's Day, January 1
Washington's Birthday, Third Monday in February
Memorial Day, Last Monday in May
Independence Day, July 4
Labor Day, First Monday in September
Columbus Day, Second Monday in October
Veteran's Day, November 11
Thanksgiving Day, Fourth Thursday in November
Christmas Day, December 25

Men called from the extra board to protect a regular assigned vacancy will be entitled to holiday premium pay in accordance with the assignment of the regular crew, or, when called for and perform work on the calendar day of the holiday.

Only one basic day's pay shall be paid for each holiday irrespective of the number of shifts worked.

Men subject to holiday premium pay will be notified prior to end of shift of last work day before the holiday if they are not to work. If not notified, they will report for work and will be paid according to this rule. When necessary to work yard crews' on holidays at yards where crews' tours of duty lap over, crew starting work at 8:00 a.m., 4:00 p.m., and midnight will first be required to work.

Dual Pay System
Rule 1(a) Rates of Pay

Rates of pay for all service will be as shown in wage schedule. Effective July 1, 1969, the minimum daily earnings from all sources, for each calendar day, to which service payments are credited to employees serving all classes of service, shall be as follows:

On any day an employee works, or is called for service with entitlement to a day's pay, payment for the calendar day shall not be less than the Daily Earnings Minima as shown in wage schedule. The combined earnings of the calendar day including all arbitraries, miles and/or time earned for service during the calendar day are to apply against the Daily Earnings Minima.

Rule 1(b)

For road service employees in assigned service, who do not lay off, the weekly pay shall not be less than 48 times the applicable straight time rate per hour (mileage rate times 12-1/2). Weekly pay shall be computed for weeks beginning 12:00 a.m. Sunday and ending Saturday

at midnight, except that in the starting week of the assignment the guarantee will be the remaining assigned days in that week times 100 miles.

Rule 1(c) Multiple Unit Pay (Revision)

It is agreed that for pay purposes all units presently in service on The Alaska Railroad weigh between 250,000 and 300,000 lbs.

Enginemen will be paid according to the number of locomotive units operated in their train. Authorized rates establish one unit operation, which shall be extended $1.38 for each additional unit in road service or yard service when used for motive power. The basic rate of pay will be for the maximum number of units operated during the day or trip. Passenger head and power cars when used in passenger trains will be considered additional units.

Engines handled dead in tow (not used as motive power of train) will be the responsibility of the Engineer. He will be paid an additional one dollar thirty-eight cents ($1.38) per unit for each such unit per one hundred (100) miles.

Rule 1(d) (deleted)

Rule 1(e) Train Length Pay

Road freight conductors and trainmen will be paid according to the maximum number of cars (including caboose) handled in road movement at any one time on road trip anywhere between in-

itial starting point and point of final release. The basic daily rate of pay for cars hauled will be as shown in The Alaska Railroad wage schedule covering trainmen and enginemen and will become part of this agreement.

Rule 1(f) Local Freight Service

Rate of pay for local freight service will be established at the freight service rate plus 7.5 %.

Rule 2(a) Basic Day

In all classes of service one hundred (100) miles or less, eight (8) hours or less, (straightaway or turn-around), shall constitute a day's work. Miles in excess of one hundred miles will be paid for at the mileage rates provided.

Rule 2(b) Overtime

Computation of dual service overtime will be on a weekly basis, as follows:

When all work performed during work week is in yard service, hostling service or engine watching, overtime at the rate of [illegible] of the daily rate will be paid for those hours worked in excess of 40 hours.

When a work week results in both road and yard service, or in road service which results in miles on some days of the week and hours on others, the work week will be recorded and computed as follows:

1. The actual hours worked each day will be credited toward the week's total hours. This includes deadhead when combined with work.

2. The actual miles run each day will be credited toward the week's total miles. On each day that actual miles run total less than one hundred (100) miles, or that service performed is all in yard service, or that annual or sick leave is taken, one hundred (100) miles will be credited toward week's total mileage.

Overtime at the rate of 3/16 of the daily rate will be paid for each hour worked, except passenger service which will be at 1/8 of the daily rate, in excess of the quotient of the weekly mileage total divided by 12-1/2, provided forty (40) hours or more have been worked during the week. On any day of the week worked, payment shall not be less than the straight time hourly rate times the number of hours worked, with a minimum of eight (8) hours.

Payment for overtime work as provided for under this rule will be at the rate for the class of service performed during the period of the week which overtime payments are due.

Computation of dual service overtime will not necessarily be computed on the basis of Section 23 of the Act of March, 28, 1934, but may be computed as an arbitrary on a daily basis if such arbitrary produces the greater payment, in which case dual service overtime will be computed as follows:

On runs of one hundred (100) miles or less, overtime will begin at the expiration of eight (8) hours; on runs of over one hundred miles, overtime will begin when the

time on duty exceeds the miles run divided by twelve and one-half (12-1/2), all time to be computed daily. Overtime shall be paid for on the minute basis at an hourly rate of one-eighth (1/8) of the daily rate for passenger service and at an hourly rate of three-sixteenths (3/16) of the daily rate for all other classes of service.

Rule 3(a) Guarantee All Classes

Regularly assigned train and enginemen who do not lay off will be guaranteed not less than forty-eight (48) hours pay at straight time rates per calendar week, except trainmen and enginemen in yard service will be guaranteed not less than five (5) days per calendar week. On any of assignment day when employee is not used, except day or days of rest, he will be credited with not less than one hundred (100) miles or one (1) minimum day, and will be paid not less than the weekly minimum as provided in Rule 1, in addition to any compensation received under Rule 3(d). No assignment in road service will be for less than five (5) consecutive days or more than six (6) days. Yard asignments will be for five days.

Regularly assigned trainmen and enginemen in passenger and through freight service between Seward and Fairbanks will not be subject to the assignment portion of this rule. Regularly assigned trainmen and enginemen in mixed service between Anchorage and Fairbanks also will not be subject to the assignment portion of this rule. Such mixed trains will not handle more than twenty-five (25) freight cars, exclusive of cabooses, power cars, passenger and baggage cars. Power cars are limited to those furnishing power to cars in the train, otherwise the power car(s) shall be considered as one of the twenty-five

(25) freight cars. Such assignments may be assigned to tie up at Healy. Such trainmen and enginemen, assigned less than five (5) days, who do not lay off, will be guaranteed not less than six hundred (600) miles per calendar week and will be paid not less than one hundred (100) miles or one minimum day for each day not used as assigned.

Service in the Anchorage Yard, and/or branch line service (Jonesville, Whittier) may be combined with assignments under this rule, provided the general chairmen concur, and the total mileage does not exceed the trainmen's mileage limitation of nine hundred fifty (950) miles per week.

The following rules apply only to trainmen and enginemen in passenger and through freight service between Seward and Fairbanks, assigned less than five (5) days per week.

1. In the event the regularly assigned crew is assigned to make a turnaround and both the going and return trips are assigned to begin on the same calendar day, no additional payment will be made if circumstances require the return trip to be made on the day following the going trip. When the return trip is so delayed to the extent that it cannot begin on the day following the going trip, one hundred (100) miles will be paid the crew for each day not worked following the day the going trip was initiated until the return trip is made.

2. Miles in excess of one hundred (100) per subdivision or portion thereof will not be used to make up the weekly minimum guarantee on job in the category of passenger

and through freight service between Seward and Fairbanks; except, that in instances where mileage of subdivision exceeds two hundred (200) miles, or two (200) miles turnaround on turnaround runs on such subdivisions, miles in excess of two hundred (200) miles per subdivision or portion thereof will not be used to make up the weekly minimum guarantee of jobs in the category of passenger and through freight service between Seward and Fairbanks. Off days on these assignments will be given at the home terminal unless otherwise mutually agreed.

3. Men assigned to jobs in this category will not be used on days off when other men are available. When no other men are available and it is necessary to use men assigned to these jobs on their off days, it will first be determined that he can be returned to his job prior to the next assigned run. Extra men and/or yard men will be doubled over to protect yard work in preference to using men assigned to jobs in this category off their assignment.

4. Men assigned to positions in this category who are used on their days off, will be paid in accordance with Rule 15(c), and in any event not less than they would have earned during the period used off their assignment until their return to their regular assignment, except when used in extra passenger service originating in Anchorage involving the handling of military personnel and/or their dependents. When men are so used and are unable to fulfill their assignment, they will be compensated not less than they would have earned if they had remained on their assignment.

All earnings in such service off their assignment will be used to equal or offset the earnings they would have earned had they fulfilled their assignment. Such assignment in payment will be computed from the time so used off their assignment. Men so used will be called in order of reverse seniority, unless senior men have indicated they desire to work on off days. The ability to return to assignment without missing a trip shall govern, other factors being equal.

5. Rule 4(a) will apply when men are so used off their assignment in extra service.

6. Through freight crews assigned to run out of Healy to connect with another train and not called on day assigned due to late arrival of connection will be considered on duty for pay purpose at 11:59 p.m., and will be called later for connections and will be paid for all time from 11:59 p.m. to the time of call in addition to road trip, but not to exceed eight (8) hours. If called after the expiration of eight (8) hours, one hundred (100) miles under Rule 15 (c) will be paid in addition to miles run.

Example: Crew at Healy assigned to depart for Fairbanks on same day as arrival of connection from Anchorage. Train from Anchorage does not arrive at Healy until 2:00 a.m. following day. Crew at Healy would be placed on pay status at 11:59 p.m. on day of assigned departure but would be called for 2:00 a.m. the following day, with the time from 11:59 p.m. to the fol-

lowing 2:00 a.m. to be paid for in addition to road trip on an actual time basis.

Rule 3(b) Calendar Days and Minimum Days

Calendar days and minimum days paid for under Rule 3(a) will count as time on duty for purposes of computing overtime under Rule 2(b).

Rule 3(c) Extra Men Protecting Vacancies

When a regularly assigned man lays off of his own accord, or is held out of service, the extra man will be subject to the same pay rules as the regular man had he remained on his assignment.

Rule 3(d) Used on Rest Day

Assigned road crews will not be required to work in excess of six (6) days per week and assigned yard crews five (5) days per week, except in the case of necessity. When used on rest day or days in any class of service they will be paid one hundred (100) miles in addition to miles run on rest day or days.

Rule 3(e) Home on Rest Day

Trainmen and enginemen in assigned service given their day of rest at intermediate points away from home will be permitted to go home, provided transportation is available in both directions. If instructed to remain at intermediate point, or outlying point, they will be paid a minimum of one (1) day for each day so held.

It is agreed under this rule that trainmen and enginemen will make request by wire prior to 12:00 noon for permission to come home for day or days of rest. Request will be granted or

cenied not less than one (1) hour before departure time of last available train as shown in timetable schedule. Failure to reply shall be construed as being instructed to remain.

Instruction will be given by wire for crew's record. This will apply only to assigned work train service.

Rule 3(f) Firemen

1. All firemen listed on the January 1, 1964, seniority list, remaining in service without a break in service, will be designated as "protected employees."

2. No "protected employee" shall be furloughed or laid off because of any change in manning requirements of crew consist.

3. Management will submit a list of assignments on which firemen will be used and will be manned and designated as two-man assignments regardless of penalty or deadhead payments involved. This list may be reviewed on request by management or the organization for the purpose of adding or subtracting positions and revision, provided ten (10) days notice by either party is presented. All passenger assignments will be two-man jobs.

4. All assignments not designated as two-man assignments will be considered as one-man assignments and management will have the prerogative of operating them as either one-man or two man assignments, dependent entirely or the the following factors:

a. The necessity of operating as a two-man assignment to provide employment for a "protected emoloyee."

b. Temporary conditions justify the use of two men in the eyes of management.

Note: It is understood that a one-man job may have a fireman assigned to it because of either (a) or (b) above, but at any time it may be operated as a one-man job if the assigned fireman lays off for any reason.

5. No change will be made in the presently existing extra board rules.

6. All assignments will be made as per present rules and will designate the jobs as one-man or two-man jobs. The listing of two-man assignments is as follows:

a. All through mixed service job assignments as authorized in Rule 3(a).

b. Assigned through freight service between Anchorage and Healy.

Rule 4(a) Held Away from Home Terminal

Trainmen and enginemen in all classes of unassigned and irregular service held at other than home terminal will be allowed continuous time for all time so held after the expiration of sixteen (16) hours from the time relieved from previous duty. If held sixteen (16) hours after expiration of the first twenty-four (24) hour period, they will be allowed continuous time for the next succeeding eight (8) hours or until the end of the twenty-four (24) hour period, and similarly for each twenty-four (24) hour period thereafter. Should a trainman or engineman be called for duty after pay begins, time will be computed continuously. It is the intention of this section to allow each member

of the crew eight (8) hours out of each twenty-four (24) hours so held. No double payments will be made under this rule. Time paid under this rule will not be counted as time on duty for the purpose of computing dual system overtime under Rule 2(b), except when time paid under this rule is the only compensation for that day. Such time will be treated as a calendar day.

Rule 4(b) Assigned Work Train Crews

Rule 4(a) will apply to all assigned work train crews on the regular working days of their assignment. This does not apply to assigned snow crews.

Rule 4(c) Home Terminal Assigned Work and Snow Crews

Anchorage shall be the home terminal for all assigned work trains and assigned snow crews.

Rule 4(d) Payment of Held Away from Home Terminal

Held-away-from-home-terminal time accruing in accordance with Section (a) of this rule cannot thereafter be reduced or run off. Payment of initial terminal switching will not be used to absorb held-away-from-home-terminal time under this rule.

Rule 5 Beginning and Ending of Day

In all classes of service trainmen and enginemen's time will commence at the time they are required to report for duty and will continue until the time the engine is placed on the designated track, or when they are relieved at terminal. It is agreed that this rule not be

applied to deny rest under the hours of service rule.

Rule 6(a) Passenger Service Terminal Switching Delays

Trainmen and enginemen in passenger service required to make up their own train or handle their train to depots will be paid for all time consumed.

Rule 6(b) Initial Delay

Passenger crews delayed for any cause in excess of thirty (30) minutes after time called to leave or after work is completed under Section (a) of this rule will be paid for all time held in excess of thirty (30) minutes.

Rule 6(c) Final Work

Trainmen and enginemen in passenger service required to do switching after arrival at final terminal will be paid for all time consumed. It is agreed that the following work only is permissible under this rule:

> Putting heater cars to depot, freight house or roundhouse. Putting cars containing perishable freight or mail to freight house or depot. Turning or putting passenger equipment away.

Rule 6(d) Terminal Delay

Extra trainmen and enginemen in passenger service delayed for any cause in excess of fifteen (15) minutes after arrival of train at final terminal station will be paid for all such time delayed in excess of fifteen (15) minutes.

Extra passenger crews arriving at Curry or Healy on through passenger movements will be tied up on arrival and will be automatically on duty as of the tie-up time, except as otherwise instructed.

Trainmen and enginemen in assigned passenger service delayed for any cause in excess of fifteen (15) minutes after arrival of train at final terminal station will be paid for all such time delayed in excess of fifteen (15) minutes. This will only apply at final terminal as bulletined and assigned under Rule 11.

Assigned passenger crews arriving at Curry or Healy on through passenger movement will not be tied up on arrival and will not automatically be on duty as of tie-up time. This portion of Rule 6(d) does not apply to assigned crews unless Healy or Curry is designated as terminal under Rule 11(c).

Rule 6(e) How Paid

Initial and final terminal switching and delay will be paid for on the minute basis at an hourly rate of one-eighth (1/8) of the daily rate.

In computing road time, time on road will be computed from the time required to report for duty less time allowed for switching or delay.

Rule 6(f) Freight Service Initial Work or Delay

Trainmen and enginemen in freight and mixed service required to do switching, load livestock, etc., or when delayed for any cause before leaving initial terminal station will be

paid in addition to miles or hours made on road trips.

Rule 6(c) Initial Delay

When switching is not required and trains are delayed more than thirty (30) minutes from the time called to report until departure of train, all time in excess of thirty (30) minutes will be paid for in addition to miles or hours made on road trip.

Rule 6(h) Initial Switching and Delay

When initial switching is required, it is understood that crews will be paid in addition to miles or hours made on road trip from the time work is begun until completed and engine is coupled to train. When crews are further delayed, all time held in excess of thirty (30) minutes after engine is coupled to train will be paid for on the minute basis in addition to miles or hours made on road trip.

Rule 6(i) Initial Switching Freight and Mixed Crews

Freight and mixed crews, when required to perform initial switching, will be allowed actual time on a minute basis; if more than four (4) hours' service is performed, actual time will be allowed with a minimum of eight (8) hours. Actual time only will be used for computation of overtime under Rule 2(b).

Rule 6(j) Payment Initial Terminal Switching or Delay

In initial terminal switching or delay, time on the road will be computed from the time required to report for duty less time allowed for

switching or delay and will be paid on a minute basis at an hourly rate of one-eighth (1/8) of the daily rate. When overtime accrues, the allowance for switching or delay, or the overtime, whichever is the greater, will be paid in accordance with Rule 2(b).

Rule 6(k) Final Work and Delay

Trainmen and enginemen in freight or mixed service required to do switching, or delayed for any cause, after arrival at final terminal will be paid for all such time in addition to miles or hours made on the road trip. Final terminal service, except as provided for in paragraph (n) of this rule, shall be computed from the time the engine reaches the designated main track switch connecting with the yard track and paid for the full time at the end of the trip on a minute basis of one-eighth (1/8) of the daily rate per hour when no overtime accrues until the time of release.

Rule 6(l) How Paid

Initial delay, initial switching, terminal delay and terminal switching will be paid to crews on miles on a weekly basis but not to crews paid overtime on a weekly basis under Rule 2(b).

Rule 6(m) Final Work

In the final terminal switching for freight and mixed crews, the following work only is contemplated under above rules:

Putting heater cars to depot, freight house, or roundhouse.
Putting cars containing perishable freight or mail to freight house or depot.
Putting passenger equipment away.

Setting out coal destined to Elmendorf Air Force Base and/or Fort Richardson at Whitney.

Rule 6(n) Terminal Switching Freight and Mixed Crews

Freight and mixed crews, when required to perform switching service other than specified above upon arrival at final terminal will be paid in accordance with paragraph (k) or (l) of this rule, with a minimum of two (2) hours at an hourly rate of one-eighth (1/8) of the daily rate in addition to the miles or hours on their road trip.

If more than two (2) hours and less than four (4) hours service is performed, actual time will be allowed. If more t four (4) hours service is performed, actual ! will be allowed, with a minimum of eight (8) hours, at an hourly rate of one-eighth (1/8) of the daily rate.

Where terminal switching is required under this paragraph, time will be computed from the time the engine reaches the designated track switch connection to the yard track and will continue until the engine is placed on the designated track or crews are relieved. Actual time only will be used in computation of overtime under Rule 2(b).

Rule 6(o) Preparatory Engine Time

Enginemen in all classes of service who are called in advance of the time trainmen are called for the purpose of preparing engines, or are required to work after the train crews are tied up, will be paid for all such time on a minute basis in addition to miles or hours made on the road trip.

When engine crew is called at the same time train crew is called and receive engine co-

livered on train, no allowance for preparatory time will be made.

Rule 6(b) Passenger Service Ticketing

Passenger conductors required to report at their initial terminal station for the handling of rail and/or sleeping car tickets one hour prior to the schedule leaving time will be paid for such time at the regular passenger conductor rates.

Head brakeman on passenger trains or mixed trains when required to assist the baggageman in handling mail, baggage, express or company green tags in section houses, depots, baggage rooms, etc., shall be paid passenger brakeman rate in passenger service and freight brakeman rate in mixed service, plus one and one-quarter (1-1/4) cents per mile in addition to miles or hours earned in service performed.

In order to provide a clear understanding of the intent and purpose of green tag shipments (company material tendered for movement on passenger or mixed service trains loaded to the baggage car) the following establishes the rights and restrictions of management within the scope of negotiated agreement.

The Transportation Officer or his designee will be responsible for control of green tag shipments. Green tagged company material will be recorded on baggage waybill.

1. Through movements of company material between Anchorage and Fairbanks may be handled without regard to conditions of Paragraph 2 of this agreement when contained in boxes provided, caged or placed in confined area of the baggage car specifically identified for this purpose. Such company material shall be placed

aboard and removed by other than trainmen and enginemen.

2. Company material tendered for green tag movements between initial and final terminal will be restricted to items of an urgent or emergency nature deemed necessary to sustain functional operating elements of the Railroad. Items of normal resupply will not be tendered for green tag shipment. Company material tendered for movement not authorized by the Transportation Officer or his designee will not be accepted nor handled without clearance from proper authority. Acceptance by train baggageman of company material when tendered for movement which has not been authorized by the Transportation Officer or his designee will not subject the carrier to penalty claims submitted under Rule 7(a).

Rule 6(c) Computation Delay or Switching Time

Delayed time or switching time will be computed from the end of prepatory time.

Rule 6(r) Rules Applicable

Final tie-up time of trainmen and enginemen in passenger service will be as per paragraph (c) or (d); for freight or mixed service as per paragraph (k) and (l), or (n); for work, yard and snow service, final tie-up time when engine reaches the designated track and crews are relieved from duty.

Rule 6(s) Preparatory or Final Time Limitation

On runs of less than one hundred (100) miles or service less than eight (8) hours, no preparatory time or final tie-up time will be allowed.

Rule 6(t) Initial and Terminal Work

If necessary to couble over or to back down and head out, such movement will not be considered switching. Putting caboose on train, or taking caboose off train, or putting on and taking off engine will not be considered switching.

Rule 6(u) Intermediate Work at Whittier

Road crews required to perform switching at Whittier will be paid actual time consumed, with a minimum of four (4) hours for such service, in addition to their road trip allowance and with no deduction therefrom. Actual time on duty will be used for computation of overtime under Rule 2(b).

Wying of engines and/or passenger equipment (including mixed train equipment) and the shoving of such equipment to dock or depot for the handling of passengers and the placing of mixed train equipment on train will not be considered switching under the above rule. Reversing of equipment will be considered switching under this rule. Switching exceptions outlined in the first paragraph of Rule 6(x) are also excepted under this rule.

Rule 6(v) Assigned Work and Snow Service Crews

Initial and final terminal delay and/or work rules do not apply to assigned work and snow crews. See Rules 22(a) and 23(a). Exception: Assigned work or snow crews used in road service will be paid at road rules. Also, see Rule 6(r).

Rule 6(w) Switching Performed by Assigned Through Freight Crews

Assigned through freight crews when required to perform switching at the following points: Fairbanks, Healy, Anchorage and Seward, when such point constitutes a turning or intermediate point, will be allowed actual time on a minute basis; if more than four (4) hours service, actual time will be allowed with a minimum of eight (8) hours in addition to their earnings for the day or trip. Actual time only will be used for computation of overtime under Rule 2(b).

Rule 6(x) Revised - Road-Yard Movements

If necessary to double over or to back down and head out, such movement will not be considered switching. Putting caboose on train or taking caboose off train, or putting on or taking off engine, handling engine to and from train to ready track and engine house, including all units coupled and connected in multiple; and exchanging engine of its own train, will not be considered switching.

Road freight crews may be required at any point where yard crews are employed to do any of the following as part of the road trip, paid for as such without any additional compensation and without penalty payments to yard crews, hostlers, etc: one straight pickup at another location in the initial terminal (in addition to picking up train) and one straight setout at another location in the final terminal (in addition to yarding the train); one straight pickup and/or setout at each intermediate point between terminals; switch out defective cars from their own trains regardless of when discovered; handle engines to and from train to ready track and engine house including all units coupled to the

operating unit (units); pick up and set out cars of their trains from or to the minimum number of tracks which could hold the cars provided, however, that where it is necessary to use two or more tracks to hold the train, it is not required that any track be filled to capacity; and exchange engine of its own train.

NOTE: Rules or regulations not affected include, but are not limited to, initial and final terminal delay rules and conversion rules.

Rule 6(v) Coupling and Uncoupling Diesel Locomotive Units

Trainmen and Enginemen when required to setout or pickup an additional unit or units, when no mechanic is on duty to perform this service, will perform all service necessary to such setout or pickup. Trainmen and enginemen will be paid one (1) hour at the pro rata rate of the trip for performing this service at up to and including three separate points. If setouts or pickups are made at more than three points, an additional hour will be paid. Setting out or picking up multiple units is considered as one setout or pickup.

This payment is in addition to all other compensation for the trip. When the crew is paid under Rule 6(u) at Whittier, the actual time performing this service will be deducted from the switching time paid under Rule 6(u) in excess of the four (4) hour minimum when such switching time exceeds the four (4) hour minimum.

Rule 7(a) More Than One Class of Service in One Day

Assigned or extra crews or men being used in

more than one class of service (road, yard or work) will be paid not less than one minimum day in each class of service. The use of yard crews in road service will be restricted to bringing road crew into the terminal where the yard crew is employed provided there is no extra board available to make up a crew and no unassigned crew available, and the distance straightaway to the point where the road crew is located does not exceed twenty-five (25) miles and the trip is occasioned by engine failure on the train to be helped. Yard crews so used will be paid actual time from time they leave the yard until they return to the yard, with a minimum of four (4) hours in addition to the regular yard pay, and without deduction therefrom for the time consumed in said service.

Should an off-duty yard crew be used, they will be paid not less than a basic day under yard conditions.

Rule 7(b) Limitation

The above will not apply to men or crews used in more than one class of road service, such as freight, passenger, mixed.

Crews in work service may be used in snow service and vice versa without payment of additional pay, but work crews so used will be paid snow service rates for the day or trip.

Assigned or extra crews in passenger service will not be required to handle freight equipment, and if so used, will be paid for two classes of service under Rule 7(a). Except assigned crews in passenger service between Anchorage and Fairbanks may handle three (3) tour buses when such buses are used in connection with revenue passengers carried aboard such

trains and may be handled on the number of flat cars required to handle three buses without payment of two classes of service. Crew will be paid at the freight rate of pay for such handling.

Rule 7(c) Classes of Service--Exception

Crews called for road service and performing initial terminal switching prior to the departure from initial terminal, or final terminal switching after arrival at final terminal, will not be considered as having performed two classes of service, and will be compensated in accordance with road rules and Rule 6, Terminal Switching.

Freight crews (road or mixed) switching or delayed at Portage for any reason will be paid, exclusive of eating time and coal and water time on steam power, for all time in excess of thirty (30) minutes in addition to and without deduction therefrom of their road trip allowance.

Rule 7(d) Work Train Service--Exception

Road crews required to distribute ties, rails, angle iron, spikes, or required to dump gravel, rock or cinders between terminals, will be paid for actual time engaged in such work, with a minimum of one (1) hour in addition to all other allowances for the trip or day's work. Provided, however, that company material billed to and unloaded or set out at stations enroute will not be regarded as distributed.

Road crews when required to re-rail cars or engines will be paid for actual time engaged in such work, with a minimum of two (2) hours, in addition to all other allowances for the trip or day's work. Yard crews or crews being paid un-

der Rule 6 (u) will not be paid additional payment for the derailment of cars or engines.

Yard crews required to dump cinders, gravel or rock for commercial purposes will be paid for actual time engaged in such work with a minimum of one (1) hour in addition to all other allowances, and without deduction therefrom, for that day. Gravel so dumped, if used in track construction, maintenance or repair, will be considered work train service and Rule 7(a) will apply. This rule also applies at terminals where yard crews are not employed.

Crews assigned or called in designated Commercial Work Train Service for the purpose of handling revenue producing loads of rock, sand, gravel, cinders, aggregate of any kind or refuse may be operated under existing work train rules with regard to picking up and/or setting out at one or more locations within the limits of the assignment. Crews in this service may be operated into and through terminals without regard to automatic release provisions of the Agreement and may handle train in any direction during each trip or succession of trips as may be necessary to perform the loading, unloading, spotting and movement of equipment used in this service within the limits of the assignment. Crews assigned or called in Commercial Work Train Service will be guaranteed not less than eleven (11) hours per day of assignment or call, regardless of whether or not actual service is performed, time to be computed on a miles or hours basis. It is not intended nor contemplated that crews assigned or called in this service will be required to perform other services; however, should other services be performed, all rules with regard to two classes of service and payment thereof will apply.

Yard crews required to dump cars handled in consist of designated commercial work train will be allowed a maximum of three (3) hours pay, regardless of total time required to perform such work, this payment to be in addition to other earnings for that day.

Rule 7(e) Highest Rate Paid

Trainmen or enginemen performing service in more than one occupation in a day or trip will be paid for the entire service at the highest rate applicable. Assigned yard men used in road service when extra men are not available will be paid mileage and overtime at yard rates, and in any event will be paid not less than they would have earned on their assignment.

This rule will not apply when assigned yard brakemen holding conductor's seniority are used under Rule 9(c)-14. Such men used under Rule 9(c)-14 will be paid the rate applying to the class of service in which used.

Rule 7(f) Payment Local Freight Rate, Through or Irregular Freight Crews

Crew on through or irregular freight service required to load or unload freight at more than two points enroute or pick up or set out or do station switching or rebrass hot boxes at three or more points enroute (between initial and final terminal), or when the time actually consumed in picking up and/or setting off and/or station switching and/or rebrassing hot boxes exceeds one hour and thirty minutes in the aggregate for the entire trip during any one trip or tour of duty will be paid local freight rates for the entire service performed. If payment is claimed under other rules, such as Rule 6(u), etc., for work or time, such station

work or time will not be considered under this rule. Repressing a hot box shall constitute one "unit" if performed in train. If performed on set out car, subsequent pick up will constitute an additional unit of work.

The following shall not be considered picking up and/or setting off cars for the purpose of this rule:

(1) Setting out or picking up of train according to Rule 6(x), handling caboose or wying engines at turning point.

(2) Picking up cars at first point or setting off cars at last point at which cars are picked up or set off, respectively, within the initial or final terminal.

(3) Setting out defective car except setting out of cars with hot boxes.

(4) Doubling hills.

(5) Setting out or picking up cars (but not setting out or picking up at the same point) for the purpose of adjusting tonnage for established engine ratings.

This rule will not be used to abolish presently assigned local crews. Union committee will have the right to request consideration be given to assignment of other local crews when excessive payments are made under this rule for the loading and unloading of freight. Payment under this conversion rule will not be considered as used off assignment or performing two classes of service for payment under Rule 15(c). Payment under this rule will not be considered for leave purposes.

Rule 7(c) Switching Between Spur and Siding

Road crews when required to set out or pick up cars which cannot be set out or picked up in the usual manner, due to one of the tracks being a spur or a track which cannot for some reason be switched from both ends, shall be paid, for each movement, miles or hours, whichever is the greater for all time consumed, with a minimum of one (1) hour, in addition to miles or hours earned on road trip.

Exceptions:

(a) Movement conducted entirely within Yard limits.

(b) When the distance from the near siding switch and the spur or other track switch is less than one-half (1/2) mile.

Rule 8 Book Rest

Trainmen and enginemen who have been working long hours for a succession of trips and on arrival at terminal register request longer periods of rest than eight hours will be granted such request except in emergency cases. Men will not be required to go out when they need rest. Rest in excess of twelve (12) hours will not be granted. When rest in excess of legal period is requested and such request results in the call time falling after midnight, no claim may be made for the lost calendar day.

A succession of trips under this rule is interpreted to mean two or more trips of twelve (12) hours or more, providing crews are called on rest on succeeding trips. In such event, they will be granted ten (10) hours if requested.

Rule 9(a)-1 Handling Extra Boards and Extra Men

Separate extra boards for engineers, firemen, conductors, and brakemen will be maintained at Anchorage.

Rule 9(a)-2 Conductors' Extra Board - Anchorage

There will be established at Anchorage, a Rotary Conductors' extra board of five men who will be paid not less than 700 miles per week at freight service rate (all miles earned to apply against guarantee including arbitraries, straight time and overtime, hours to be converted to equivalent miles of pay), time to be computed on a weekly basis, provided they do not lay off or otherwise miss time. The difference in miles earned and 700 miles will be paid at freight service rate. Time so lost will be deducted at the rate of one hundred (100) miles for each day laid off except that, when such man has performed service entirely within the calendar day in question and such lay off is because of sickness or is not later than 3:30 p.m., no deduction will be made for such layoff. Deductions will be made for missing a call or laying off on call for any reason. In the event guarantee payments exceed 700 miles per week, one conductor for each 700 miles paid may be reduced from the board. Conductors' rotating extra board will be considered a regular assignment and will be governed by seniority rules covering regular assigned jobs. In the event a vacancy occurs on this board and no bids are received, the youngest conductor working as brakeman or baggageman on brakeman's extra board will be assigned. These jobs will be 7-day assignments with no rest day. Men bidding on these jobs must be qualified baggagemen and have passenger

uniforms. Rule 3(d) will not apply to jobs established under this rule.

Rule 9(a)-3 Conductors' Extra Board - Fairbanks

There will be established at Fairbanks an extra board consisting of three qualified conductors for relief purposes for trainmen whose home terminal is designated as Fairbanks or Healy. Conductors assigned under this rule may be used as brakemen or baggagemen if conditions require. This board will be regulated in accordance with Rule 9(a)-2. This conductors' extra board at Fairbanks will be considered a regular assignment covering regular assigned jobs. Men bidding on these jobs must be qualified baggagemen and have passenger uniforms.

Rule 9(a)-4 Conductors' Extra Board - Seward

One qualified conductor will be maintained at Seward for relief purposes for trainmen whose home terminal is designated as Seward. Conductor assigned under this rule may be used as brakeman or baggageman if conditions require. This board will be regulated in accordance with Rule 9(a)-2. This conductors' extra board will be considered a regular assignment and men bidding on this job must be qualified baggagemen and may be required to have passenger uniforms. This rule will only apply when there are more than two crews assigned with home terminal Seward.

Rule 9(a)-5 Engineers' Extra Board - Anchorage

There will be established at Anchorage an Engineers' Rotary extra board of five men who will be paid not less than 700 miles per week at

freight service rate (all miles earned to apply against guarantee including arbitraries, straight time and overtime, hours to be converted to equivalent miles of pay, except weight on drivers), time to be computed on a weekly basis, provided they do not lay off or otherwise miss time. The difference in miles earned and 700 miles will be paid at freight service rate. Time so lost will be deducted at the rate of one hundred miles (100) miles for each day laid off except that, when such lay off is because of sickness or is not later than 3:30 p.m., no deduction will be made for such layoff. Deductions will be made for missing a call or laying off on call for any reasons. In the event guarantee payments exceed 700 miles per week, one engineer for each 700 miles paid may be reduced. Engineers' board will be considered a regular assignment and will be governed by seniority rules covering regular assignments. In the event a vacancy occurs on the Engineers' board and no bids are received, the youngest engineer working as fireman will be assigned. These jobs will be 7-day assignments with no rest day. Men bidding on these jobs must be qualified firemen. Rule 3(d) will not apply to jobs established under this rule. (Engineers on engineers' extra board who are not qualified for passenger service, rotary service and branch service on the Jonesville branch will be runaround and will retain their position on the board. Rule 9(d) "Runarounds" will not apply.)

Engineers will be required to qualify themselves for all classes of motive power covered by these rules and there will be no expense to the railroad by reason therefor.

Hired engineers with six (6) months' experience in road or road work service on this railroad

MEMORANDUM OF UNDERSTANDING
Between
THE ALASKA RAILROAD
And
UNITED TRANSPORTATION UNION

The parties signatory hereto mutually agree in a joint cooperative effo to provide an opportunity for those Engineers not yet qualified between Portage and Seward.

This Agreement is predicated on future increases in volume of traffic between Anchorage and Seward and our infrequent service to Seward curre providing restricted opportunity to qualify Engineers between Portage a Seward.

1. On Assignments of which an Engineer is called to make qualifying trips between Anchorage and Seward, the Engineer of that crew will be entitled to the W/D Fireman rate of pay and the calling of the second Engineer to qualify will not affect the regular assigned or qualified Engineer's rate of pay.

2. As available, Engineers (not qualified) will be called from the board or used off their regular assigned positions to qualify as Engineers between Anchorage and Seward. Engineers called from the board will be called in respect to seniority to qualify without respect to positions on the board. Rule 9(d), Runaround, will not be applicable.

3. Engineers used off regular assigned positions to qualify will not be called or used on days of rest or layover day unless the individual employee requests or concurs in making a qualifying trip on his day or days of rest. Employees used on off days or off regular assigned position, Rule 3(d) and 15(c), will not be applicable.

4. Engineers making qualifying trips will be paid the rate of Engineer operating with Fireman.

5. For regularly assigned Engineers making qualifying trips, compensation for said trip will not be less than miles run or an amount equal to the individual's regular assignment, had he worked his regular assignment, whichever is greater.

6. Differences or disputes regarding the application or interpretation of this document will be resolved through joint discussion and consultation between the parties. It is further understood that this Memorandum of Understanding may be cancelled upon thirty (30) calendar days written notice by either party.

FOR THE ORGANIZATION:

Michael W. Olson
United Transportation Union

FOR THE ALASKA RAILROAD:

J. A. Hepworth
Acting Supt. of Transportation

Date

are eligible for passenger service. Engineers having 300 calendar days firing or running in road service from the date of promotion will be eligible to qualify with the Road Foreman of Engines for passenger or Jonesville branch service.

Rule 9(a)-6 Firemen's and Brakemen's Extra board - Anchorage

There will be established at Anchorage separate rotating extra boards for firemen and brakemen. Men on these boards will be guaranteed 700 miles at freight service rates per week, (all miles earned to apply against guarantee including arbitraries, straight time and overtime hours to be converted to equivalent miles of pay, except weight on drivers) provided they do not lay off or otherwise miss time. (The difference in miles earned and 700 miles will be paid at freight service rates.) Time so lost will be deducted at the rate of one hundred (100) miles for each day laid off except that, when such man has performed service entirely within the calendar day in question and such layoff is because of sickness or is not later than 3:30 p.m., no deduction will be made for such layoff. Deductions will be made for missing a call or laying off on call for any reason. Men on these boards will be considered as regularly assigned; but will not prevent youngest man on the board from being force assigned.

Men on this board will be subject to call seven (7) days per week with no rest day. Rule 3(d) will not apply to jobs established under this rule. The management will control sole right to regulate these boards and the regulation will be made as soon as possible following the close of the calendar week.

No protected fireman will be separated from the service provided one-man crews are operating with one man except protected fireman may be separated from the service, even though one-man crews are operating with one man, if the protected man refuses to exercise seniority rights over a non-protected employee holding an assignment at the time force reductions are made.

All other extra boards are revised accordingly.

All extra boards will be regulated only at weekly intervals except firemen and brakemen may be added before the end of the week and will be guaranteed pro rata the balance of the pay period and will be retained on the board the succeeding pay period.

Rule 9(a)-7 Computation Calls

In the event promoted men on firemen's or brakemen's extra boards are used a total of five (5) or more calls a week, in promoted status, one conductor or engineer will be added to conductors' and engineers' board respectively. It is understood that if a promoted man from non-promoted board is called and either worked or deadheaded to an outlying point, calls will be computed as follows:

Turnaround service - where time is computed continuously, one call will be credited.

Straightaway trip - to distant terminal - credit one call and from distant terminal - credit one call.

Snow - Work and Yard - if tied up away from extra board, each day so used - credit one call.

In the event management desires to increase conductors' or engineers' extra board, as per Rule 9(a)-9, they may take the oldest promoted available man from the firemen's or brakemen's extra board and use him temporarily, for the life of the bulletin, on the conductors' or engineers' board. When assignment is made and man assigned to conductors' or engineers' board is available to protect assignment, the brakeman or fireman so used will be returned to his respective board.

Rule 9(a)-8 Engineers' Extra Board - Seward and Fairbanks

At management's prerogative, an extra board may be established at Seward and Fairbanks of one (1) engineer at each point for relief purposes, who will be paid in accordance with Rule 9(a)-5. When conditions require a reduction in force, the positions will be abolished in preference to the assigned engineer-hostler or assigned terminal hostler. These boards will be considered regular assignments and will be governed by seniority rules governing regular assignments. Men assigned to these jobs will be fully qualified in all services.

Rule 9(a)-9 Board Regulation

All extra boards shall be regulated by management by 12:01 a.m. Monday following the close of the prior week.

Rule 9(a)-10 Extra Board Assigned Conductors and Engineers

Men assigned to conductors' or engineers' extra boards will be paid conductors' or engineers' rate if used at a lower rate of pay.

Rule 9(b)-1 Rotary Board Rules

All extra train and enginemen are required to register their mileage and hours on duty at the completion of each trip in a book provided for that purpose in the Anchorage Yard Office, Fairbanks Yard Office, and Seward Yard Office. Extra men working or deadheading into terminal where book of registration is maintained are required to register mileage and hours on duty within one (1) hour after tie-up. Men failing to comply will be held off from respective board for a period of 24 hours from the time actual registration is made, time so held off to be deducted from the weekly guarantee. Each trainman and engineman will be responsible for registering at the completion of his trip.

Rule 9(b)-2

Extra train and enginemen at outlying points, where no book of registration is maintained, must wire or telephone Anchorage Crew Dispatcher total mileage and hours on duty for the week after the completion of last service rendered each Saturday. Failure to do so will subject employee to disciplinary action, and will void guarantee provisions for that pay period.

Rule 9(c)-1

Trainmen and enginemen bumping on conductors' or engineers' extra board will displace the youngest man and will stand last out on the extra board.

Rule 9(c)-2

When it is necessary to run a work train or

snow fleet on their day or days of rest, preference will be given to the regular crew, except at Anchorage where extra boards are maintained.

Regular crew will be used out of Anchorage on rest day or days if the call is to an outlying point where crew is to be tied up to continue assignment the following week.

Rule 9(c)-3

Engineer-hostler at outlying terminals, where no extra board is maintained, will be called for extra work originating at their home terminal unless a regular assigned crew has been called as a unit to perform service.

Rule 9(c)-4

When two or more jobs are called at the same time, calls will be determined on the following basis: (1) Deadhead; (2) Freight; (3) Passenger; (4) Work or Snow Service; (5) Yard; (6) Hostling.

Rule 9(c)-5

When a live diesel unit, not coupled in tandem, is passengered, a fireman or an engineer will be called.

Rule 9(c)-6

Trainmen and enginemen assigned or working off an extra board roster will be called in such order as to protect their respective board first. When it becomes necessary to call an engineer or conductor from the board for a firing or braking job, the man first out on his respective board will be called. When necessary to call a promoted engineer or conductor from

fireman's or brakeman's extra board, the promoted man first out will be called.

Extra Crew Called in Road or Yard Service

Example #1 Order of Call: Conductors' and Engineers' extra board are both exhausted.

Brakeman's Extra Board
First out called as brakeman #1
Second out called as Brakeman #2
Promoted man first out on the remaining roster will be called as conductor.

Fireman's Extra Board
First out called as fireman (if called - for illustration of example)
Promoted man first out on the remaining roster will be called as engineer.

Example #4 Order of Call: Brakeman's and Fireman's extra board are both exhausted.

Conductor's Extra Board

Conductor first out called as conductor.
Conductor second out called as Brakeman #1
Conductor third out called as brakeman #2.

Engineer's Extra Board
Engineer first out called as engineer.
Engineer second out called as fireman (if called - for illustration of example)

Rule 9(c)-7

Rule 26 will apply when hostlers are used in road service.

Rule 9(c)-9

Trainmen and enginemen who have been laying off and mark up for duty on the extra board will not be used ahead of men who are on rest or whose rest is up prior to a call being placed. This also applies to extra men deadheading into Anchorage, or any other point where an extra board is maintained, and marking up on the extra board, provided they have received a basic day's pay for the calendar day involved.

Example: A man deadheads to Anchorage from Healy, departing Healy at 1:00 a.m. and arriving Anchorage at 8:00 a.m. In this case, he will have received eight (8) hours' pay for the deadhead for the calendar day and upon working up will not be used except in turn. Men displaced who lose pay as a result, will be paid for the workweek which includes the day or days of time lost under Rule 11(j).

Rule 9(c)-10

New assignments not already protected by regularly assigned men will be protected by men off the respective extra boards and no regularly assigned men will be protecting such assignment. Assignments made to avert separation of protected employees need not be covered by men off the firemen's extra board.

Rule 9(c)-11

All brakemen now in service and who subject themselves to extra board service must be qualified baggagemen. All newly hired brakemen must qualify themselves as baggagemen prior to marking up on extra board. Brakemen must obtain a passenger uniform within sixty (60) days from date of hire.

All brakemen must obtain the required passenger uniform before bids will be accepted on assignments which require such uniform, and in the event brakemen with less than sixty (60) days' service are force assigned to passenger assignments, such assignment shall be made in seniority order and an appropriate passenger uniform must be obtained immediately.

Rule 9(c)-12 Conductors' or Engineers' Extra board exhausted

When the conductors' or engineers' extra board is exhausted, the brakeman or fireman on the brakemen's or firemen's extra board holding conductor's or engineer's seniority who is first out and rested at the time of the call will be used.

Rule 9(c)-13 Hoo Book

When all extra boards are exhausted of qualified men, assigned men who have indicated their desire for extra work will be used. These men will register with the Chief Crew Dispatcher or with the Yardmaster, at outlying points. The senior man will be used according to their seniority which they are exercising on their regular assignment, provided the senior man who can be returned to his assignment without undue penalty payment will be called. Men so registered will be considered permanently registered until withdrawn in writing. If such men wish to be temporarily laid off, they must give Crew Dispatcher or Yardmaster forty-eight (48) hours notice prior to rest days. Men who lay off on call will be removed from register and not allowed to register again for ninety (90) days. Example: When a conductor is needed, the oldest registered man, holding conductor's seniority,

who is exercising his conductor seniority on a regular assignment will be called.

At Anchorage, enginemen called under this rule will be called from Enginemen's Rotary Hog Book.

Men will be called in turn and when so used will advance to the bottom of the rotary hog book. Men not called and bypassed by qualifications, ability to return to regular assignment, rest or other restrictive requirements shall retain their positions until used.

a. Assigned hostlers and enginemen assigned on assignments involving only yard work who have indicated their desire for such work will be considered for all enginemen or fireman vacancies under this rule in preference to incumbents registered and assigned other classes of service or mixed yard-road assignments.

b. Yard engineers assigned only yard work will have preference for engineer vacancies only.

Where the word "hostler" is used in this rule, it includes engineer hostlers, terminal hostlers, and hostler helpers.

Rule 9(c)-14 Use of Promoted Men off a Firing or Braking Assignment

In the event all extra boards are exhausted of qualified men and no qualified men are available in Hog Book, and an engineer or conductor is needed, the youngest qualified man holding a brakeman or fireman's assignment which ties up in Anchorage each night will be called except that such man will not be called on his day of

rest if other qualified men in the same category are available, and when not called, Rule 9(d) "Runaround" will not apply. When used on their day of rest, Rule 3(d) will apply. Men used off assignment under this rule will be compensated for 8 hours at brakeman's or fireman's rate for each calendar day held waiting for his regular assignment.

Rule 9(c)-15 Use of Men Within Same Grade

If all extra boards are exhausted and no qualified men are available in Hog Book and it is necessary to use a man off his assignment in same grade (i.e. engineer used as engineer), the senior man who can be returned to his assignment without undue penalty payment will be called. This rule includes hostlers and hostler helpers.

Rule 9(c)-16 Use of Men Assigned Jobs Under Rule 3(a)

The use of men assigned to jobs in category of Rule 3(a) will be as outlined in Rule 3(a) of agreement.

Rule 9(d) Runarounds

Extra men not called in turn will be credited with four (4) hours if used within twelve (12) hours from time of runaround. If not used within twelve (12) hours from time of runaround, they will be credited with eight (8) hours, provided, however, that on any crew, regular or extra, not more than one brakeman with less than ninety (90) days' experience as a brakeman or switchman on this or any other railroad operated under standard rules will be called, if other qualified extra men are available and no runaround payment shall accrue to such extra men. In the event there is one vacancy on a regular assignment and extra man first out is not qualified under this rule, extra man will be called in turn and regular man called as flagman. No firemen with less than six (6) months' experience on this or any other railroad operating under standard rules will be called for passenger service. No runaround shall accrue but man runaround will retain position on board. Firemen with six (6) months or more experience must qualify with the proper official before becoming eligible for passenger service.

Regularly assigned men not called in proper turn under Rule 9(c) will be paid four (4) hours only as a runaround.

Rule 9(e) Missing Calls - Layoffs

Extra men, either train or enginemen, laying off of their own accord, or extra men missing a proper call will be held off extra board for twenty-four (24) hours from time call is missed, or time of lay-off and will not be used for twenty-four (24) hours if other extra men are available. Extra men who lay off of their own accord, or miss call at time of call for any

reason, will be held off board for twenty-four (24) hours and will, upon returning to board, be required to go to point of previous call and return on their own time, if the call was to deadhead to an outlying point and extra man is still fufilling this position. Time laid off under this rule will be deducted from weekly guarantee.

Engineers and firemen who miss a call from the board at Anchorage will be held off their respective boards until both engineers' and firemen's boards are exhausted of qualified men. The only exception will be if there are no qualified men available on either board. Firemen used as engineers, as outlined here, will not be computed as calls under Rule 9(a)-7.

Rule 9(f) Outside Points - Limitation

Extra men sent to points outside Anchorage to fill a job or vacancy may be held to fill not more than one (1) additional job or vacancy Curry south to and including Seward; for jobs or vacancies originating north of Curry to and including Fairbanks, such extra men may be held to fill not more than two (2) additional vacancies. The held-away-from-home-terminal rule will apply between times tied up and time brought on duty when going from one job or vacancy to another. Additional reliefs as provided for herein are limited to the number permissible at the point where first used, and if deadheaded into Curry from the north to make a relief, the same is permissible provided it is the second since sent from the extra board.

This rule will be interpreted to apply so that the extra man first out on the extra board at the time another extra man is used in excess of the relief permissible, such extra man will be

paid the difference in earnings, if any, that he would have received had he been deadheaded in his proper turn, including deadhead earnings, until such time the other extra man returns to the Anchorage extra board.

Rule 9(e) Day Ends at Anchorage

Extra trainmen and enginemen will not be run through Anchorage terminal when other extra qualified men are available. This will not apply to extra men filling an assigned position. Assigned hostlers at outside points permitted to perform extra service as enginemen out of their terminal, when handling an assigned position into Anchorage terminal, will be relieved by an extra man, except when run is known to be vacant for one round trip. When handling extra run into Anchorage terminal, they will return to their terminal on the same run brought in.

Rule 9(h) Management and Committee Regulate Boards

Except where otherwise provided herein, extra boards will be handled in accordance with agreed upon understanding between the superintendent and the committee of the organization having jurisdiction.

Rule 10(a) Made Up Crews, Irregular Service

Extra crews for use in all classes of irregular or unassigned service will be made up from the extra boards at Anchorage, and Anchorage will be the home terminal for such crews. Fairbanks, Healy, Curry, and Seward will be the distant or away-from-home terminals for irregular or unassigned crews, except that crews may be made up for yard, freight, mixed and passenger service, and initial call in wrecker service

from extra and regularly assigned men at Healy and Fairbanks. Made up extra crews called at Healy or Fairbanks will be returned to point of call without penalty accruing to extra or regularly assigned men at Healy or Fairbanks. Such crews may be used between Fairbanks and Broad Pass without men from Anchorage boards accruing penalty; however, if such crews are used south of Broad Pass, an entire crew from Anchorage extra boards will be paid 100 miles. Men fulfilling vacancies on regular assignments may be used as far as the assignment requires. Rules 2(d) and 15(c) will apply to regular men used on such made up crews.

When service is required in Yard service on rest days at Seward, Whittier, and Healy, extra board men available at these points will be used. If additional men are required, men registered in the Hog Book will be used in accordance with Rule 9(c)-13 with no penalty from the Anchorage extra board.

All passenger enginemen assignments will be two-man jobs and the use of firemen on extra crews will not be required, except on passenger crews.

Rule 10(b) First In - First Out

Train crews in irregular or unassigned road service will be run first in-first out in the same class of service (freight, work train, snow service, helper or pilot service, and passenger service), tie-up time from last service and on-duty time of next service to govern.

Example: Helper Service-Pilot. Assigned pilot is rested and available at Curry. Two extra conductors are also rested and available at Curry.

MEMORANDUM OF UNDERSTANDING
Between
THE ALSAKA RAILROAD
And
UNITED TRANSPORTATION UNION

The parties signatory hereto have met and mutually agreed on the follow
a joint cooperative effort to improve and enhance the efficiency of the
Service in respect to bulletining of assignments.

Changes on Rule 11(a) are hereby agreed as follows:

All passenger, freight, mixed, work, snow, rotary, yard, helper,
and pilot service jobs using the main line for three (3) consecuti
days or called for service three (3) consecutive days will be
bulletined. All job assignments and vacancies in assigned service
be bulletined for three (3) days. Claims for runs or jobs will be
addressed to the Chief Crew Dispatcher in writing or wire and must
such office by 3:00 a.m. on the fourth (4th) day. Assignments will
made on the fourth (4th) day effective at 7:00 a.m. Successful
applicants, if available, will be notified as soon as possible on t
day assignment is made If successful applicant is held for new
assignment more than five (5) calendar days following date of assig
through no fault of his own, he will be allowed diffence in earning
any, after the fifth (5th) day.

Differences or disputes regarding the application or interpretation of
document will be resolved through joint discussion and consultation betw
the parties. It is further understood that this Memorandum of Understand
may be cancelled upon thirty (30) calendar days written notice by either
party.

FOR THE ORGANIZATION:

Michael F. Olson
United Transportation Union

FOR THE ALASKA RAILROAD:

J. A. Depuoton
Supt. of Transportation

5/18/82
Date

Question: Should assigned pilot be called in preference to extra man?

Answer: Yes. He is assigned to Pilot-Helper Service and not to any specific train or schedule.

Question: If extra man were used first under the above example, would assigned pilot have runaround due him?

Answer: Yes.

Rule 10(c) Runarounds Irregular or Unassigned Road Crews

Road crews in irregular or unassigned service not called in turn will be credited with four hours and stand first out for twelve (12) hours. If not used within twelve (12) hours from time runaround, they will be credited with eight (8) hours and stand last out.

Rule 11(a) Assigned Service - Bulletin of Runs

All passenger, freight, mixed, work, snow, rotary, yard, helper and pilot service using main line for five (5) consecutive days or its equivalent, not including Sundays or holidays where service not operated, will be bulletined for five (5) days. Existing vacancies in assigned service will be bulletined for three (3) days, except fireman vacancies on one-man jobs may be excluded from this portion of the rule. Claims to runs or jobs will be addressed to the proper designated department officials in writing or wire and must be in writing or wire and must be in such office by 7:00 a.m. on the fifth (5th) day. Assignments will be made on the

fifth (5th) day, except where such day is a Sunday or a holiday, in which case assignment will be made on the following day. Successful applicants, if available, will be notified on day assignment is made. If successful applicant is held off new assignment more than five (5) calendar days following date of assignment through no fault of his own, he will be allowed difference in earnings, if any, after the fifth (5th) day.

Examples: Difference in earnings if held more than five (5) days after date of assignments are made.

Question: When does the first day of difference in earnings start?

Answer: The sixth (6th) day after the assignment is made.

Question: Is the difference in earnings, if any, to be computed daily, or total time spread?

Answer: Total earnings over the time held as between two assignments.

Question: If a man is held for five (5) days after date assignment is made and released to go on his new assignment on the sixth (6th) day, will the time or days consumed in going to his new assignment be paid as time held off of his new assignment?

Answer: No, such time is the same as coaches ending in the exercise of his seniority, the same as if he had not been held more than five (5) days.

In this rule and in other rules in this schedule, the terms noted below shall be interpreted as follows:

1. "Assigned service" shall be construed to mean service, whether road, yard, work, etc., to which crews are assigned by bulletin under the first paragraph of this rule, whether such service operates on a time table schedule or is operated as an extra train.

2. "Unassigned or irregular service" shall be construed to mean service, whether road, yard, work, etc., for which crews are made up off the extra board, whether such service operates on a time table schedule or is operated as an extra train.

3. "Regularly assigned man" or "assigned crews" shall be construed to mean a man or men assigned to jobs or runs other than the extra board.

4. ""Extra man" or "extra board man" shall be construed to mean a man assigned to one of the extra boards.

Except at Fairbanks, if successful applicant is held off new assignment through no fault of his own, when extra board man is rested and available, he will be allowed the difference in earnings, if any, on the day assignment is made and each succeeding day so held until relieved to protect new assignment.

Rule 11(b) Revised - Consist of Bulletins

Bulletins for passenger, freight, mixed, yard, or combination of such runs will specify each day of service. When job on which a fireman is required (two-man job) is combined with a one-man job, the fireman of the two-man job will be retained with the assigned crew of the two-man job, except by mutual consent firemen may be assigned a combination of two-man jobs as agreed

upon by the General Chairman and representatives of the carrier.

Bulletins specifying road service, or changing existing service will show points between which assigned, whether straightaway or turnaround, number of trips and turning points, home and far terminals, days of the week assigned to work, and if assigned to operate carded trains, bulletin will specify the train numbers. All vacancies on existing assignments will be bulletined as soon as the vacancy is known to exist, and will be posted at all points where train or yard crews tie up. No assignment in any class of service except conductors and engineers' extra boards, and through freight and passenger as per Rule 3(a), will be for less than five (5) days nor more than six (6) days per week.

Rule 11(c) Assignment Limitation

No assignment for trainmen and enginemen will be made in excess of nine hundred and seventy-six (976) miles per week except that assignments made under exception to Rule 3(a) may be made to operate mileage generated by not more than five days per week or its equivalent on a biweekly basis.

Example: Rotating assignments four (4) days one week and six (6) days one week during a biweekly period.

Assignments made under this exception to the mileage limitation will be subject to review after 30 days and each subsequent 30-day period thereafter upon written request of the General Chairman.

It is mutually agreed, all other assignments will, to the extent possible, be scheduled to achieve the maximum mileage permissible under

this rule, consistent with sound management practices, efficient utilization of personnel and operational requirements of the Carrier.

Baggageman assignments in excess of mileage mentioned above may be made by mutual agreement between the committee and the carrier.

Rule 11(d) Rebulletin - Limitation

Any passenger, freight, mixed (yard) or regular runs except work service having been bulletined, the schedule of which is changed to an increase or decrease of twenty-five (25) miles or more, change of home terminals, or a change in the leaving or starting time of two (2) hours and thirty (30) minutes or more, or the changing of one class of service to another, will be classed as a new run and bulletined as per Rule 11(a).

When an existing assignment is abolished or rebulletined as a change in assignment per Rule 11(d), men will be paid deadhead to the home terminal of the assignment upon which they next exercise their seniority, or to Anchorage, whichever is the lesser, amount of deadhead payment to be determined under Rule 19(a).

Rule 11(e) Layoff Vacates Assignment

When an assigned man lays off for any cause whatsoever for fourteen (14) days or more, his assignment will be immediately bulletined for seniority choice as a permanent vacancy. Trainmen and enginemen when returning to service under this rule will be privileged to exercise their seniority. Assignments vacant for less than fourteen (14) days will be fulfilled by trainmen or enginemen from their respective extra boards.

Rule 11(f) Protect During Life of Bulletin

When an assignment or run is changed, the assigned man then on the new run would continue on the run during the life of the bulletin covering the new run. Assigned men may be displaced by a senior man with a legal bump. The man bumping on the job then becomes the assigned man.

Rule 11(c) Give Up Job

A regularly assigned man, train or engineman, may relinquish his regular assignment or run to go on the firemans' or brakemans' extra board thirty (30) days after date of assignment, provided there is a man junior to him on the extra board. This application must be in writing to the proper designated official, after which the run or job will be bulletined for seniority per Rule 11(a) and such man will remain thereon until properly relieved. Men giving up assignment under this rule cannot displace another regularly assigned man and will be placed on the extra board as of the date relieved from assignment.

Brakemen and firemen who have been force assigned under provisions of Rule 11(k) and upon making request for relief through proper authority prior to thirty (30) days after date of assignment, may do so, however, no deadhead allowance will be paid to the senior man if relieved within thirty (30) days after date of assignment. Junior brakemen or firemen marking up on the extra board will be immediately force assigned to relieve the senior man. Deadhead allowance is payable to the most junior man who protects the assignment in excess of thirty (30) days.

Conductors and engineers who have been force assigned under provisions of Rule 11(k) may request relief by notice to proper authority

Anchorage, Alaska
February 18, 1981

MEMORANDUM OF AGREEMENT
between
THE ALASKA RAILROAD
THE UNITED TRANSPORTATION UNION REPRESENTING TRAINMEN AND ENGINEMEN

It has been mutually agreed between the Alaska Railroad and the United Transportation Union that a regularly assigned trainman or engineman making request for relief prior to thirty (30) days after date of assignment as provided for in Rule 11 (g) paragraph 2, 3 and 4, the following interpretat and application will apply:

1. Trainmen and Enginemen who have been force assigned under provisions of Rule 11 (k) may request relief by notice to proper authority prior to thirty (30) days after date of assignment, when a junior employee marks up or a junior employee returns to duty status.

2. The position for which relief is requested will be bulletined in accordance with Rule 11 (a).

3. If no bids are received, the junior employee will be force assigned.

4. Trainmen or Enginemen requesting relief will protect assignment during life of bulletin and until properly relieved.

5. Deadhead allowance will be paid to the most junior employee who protects the assignment in excess of thirty (30) days.

FOR THE ALASKA RAILROAD

Robert W. Davison
Supt. of Transportation

FOR THE UNITED TRANSPORTATION UNION

R. L. Shake
General Chairman

ALPHABETICAL INDEX

A	Rule
Appeal of Adverse Action	29(c)
Application Approval	51
Appointments	11(1)
Army Crews on Railroad Property	16(d)
Assigned Meeting Points	15(f)
Assigned Service-Bulletin of Runs	11(a)
Assigned to Other Than Train Service	34
Assignment - Change of	11(d)
Automatic Release	16(a)
	15(b)
B	
Bidding & Bumping Vacancy	11(k)
	-3
Bidding While Off	11(i)
Bond Premiums	37
Book Rest	8
Bulletin, Consist of	11(b)
Bulletin - Hostler Jobs	26(k)
	26(m)
Bulletin, Protect During	11(f)
Bulletin - 30 Day Vacancy	11(e)
Bulletin Positions Requiring Firemen	14(g)
C	
Calendar Day & Hours of Service	29(g)
Call & Tie-up Point - Yard	25(e)
Call Men with Rest	9(c)
	-9
Called & Not Used	17(a)
Calling of Crews	10
Chain Lost	44(c)
Claims - Payroll Shortage	35(c)
	35(d)
Conductors or Engineers Extra Board Exhausted	9(c) -12
Continuous Trip (Hours of Service)	29(d)

time on duty exceeds the miles run divided by twelve and one-half (12-1/2), all time to be computed daily. Overtime shall be paid for on the minute basis at an hourly rate of one-eighth (1/8) of the daily rate for passenger service and at an hourly rate of three-sixteenths (3/16) of the daily rate for all other classes of service.

Rule 3(a) Guarantee All Classes

Regularly assigned train and enginemen who do not lay off will be guaranteed not less than forty-eight (48) hours pay at straight time rates per calendar week, except trainmen and enginemen in yard service will be guaranteed not less than five (5) days per calendar week. On any of assignment day when employee is not used, except any or days of rest, he will be credited with not less than one hundred (100) miles or one (1) minimum day, and will be paid not less than the weekly minimum as provided in Rule 1, in addition to any compensation received under Rule 3(d). No assignment in road service will be for less than five (5) consecutive days or more than six (6) days. Yard asignments will be for five days.

Regularly assigned trainmen and enginemen in passenger and through freight service between Seward and Fairbanks will not be subject to the assignment portion of this rule. Regularly assigned trainmen and enginemen in mixed service between Anchorage and Fairbanks also will not be subject to the assignment portion of this rule. Such mixed trains will not handle more than twenty-five (25) freight cars, exclusive of cabooses, power cars, passenger and baggage cars. Power cars are limited to those furnishing power to cars in the train, otherwise the power car(s) shall be considered as one of the twenty-five

prior to thirty (30) days after date of assignment and if so relieved no deadhead allowance will be paid.

Junior conductors or engineers marking up or returning to duty status or exercising seniority in a brakeman's or fireman's capacity will be immediately assigned to relieve the senior conductor or engineer forces assigned. Deadhead allowance is payable to the most junior man who protects the assignment in excess of thirty (30) days.

The purpose of this portion of the rule is to allow a senior man to hold the extra board, yet allow deadhead payment to the man who actually fulfills the requirements of the first paragraph of this rule.

Rule 11(h) Passenger Assignment Limitation

Brakemen or firemen on Fairbanks-Anchorage passenger assignments, holding conductor's and engineer's seniority, respectively, and residing at Fairbanks, will not be used out of Anchorage in extra or other assigned service.

Rule 11(i) No Bidding While Off

Men laying off are not entitled to bid on any vacancy for the exercise of seniority until such time as they have actually reported for immediate service.

Rule 11 (j) Exercise Seniority When Displaced

When exercising seniority according to this rule as a result of being displaced or assignment discontinued, a calendar day will be paid for each day on which pay is lost, providing such day is not covered with leave, and providing the payment for such time lost shall equal

but not exceed the amount by which payment to the employee for the current work week is less than the equivalent of forty-eight (48) hours at straight time rates in road freight service for the position to which assigned. When leave without pay is taken, eight (8) hours for each day of leave without pay will be deducted from current workweek of forty-eight (48) hours. The current workweek for the purpose of this rule shall be the administrative workweek beginning 12:01 a.m. Sunday and ending Saturday at midnight. The amount paid to the employee for the current workweek shall include all earnings for that week and all other wage payments, arbitraries as well as straight time and overtime to be converted to equivalent hourly pay in determining whether forty-eight (48) hours straight time has been earned. This rule shall not apply to employees exercising their seniority after return from leave of thirty (30) days or more. Unless leave is granted after being displaced or assignment is abolished, men must exercise their seniority within twelve (12) hours after end of last tour of duty. If notified while off duty, seniority must be exercised within twelve (12) hours after being notified. When necessary to go to a terminal before exercising seniority, the twelve (12) hour period will begin on arrival at terminal. First transportation must be taken going to terminal. After seniority is exercised, man will be considered available for next call of assignment except when it is necessary for him to deadhead to the assignment, in which case the first transportation must be used. Men displaced at line points where extra boards are not maintained may be held to protect assignment until properly relieved. Used off assignment would not apply until after arrival of first available rail transportation which would enable the senior man exercising seniority to protect the next call of assignment. Men failing to exercise seniority according to this rule will not receive the calendar day payments

provided for by this rule. Man laying off and men failing to properly lay off under this rule will be force assigned in their proper seniority unless such layoff is for scheduled vacation or of emergency nature that has been approved by the Transportation Officer. Men force assigned under this rule will be recalled to work for force assignment. If necessary to deadhead relief for force assignment, no deadhead allowance will be paid the man force assigned.

Man laying off for scheduled vacation or emergency reasons for periods of less than fourteen (14) days, who are junior to conductor or engineer who has been force assigned, must upon return to work exercise their conductor's or engineer's seniority and displace a senior or junior conductor or engineer who has been force assigned under this rule during period of layoff, provided it is agreeable to the senior conductor or engineer. No deadhead allowance will be paid junior conductor or engineer in the event deadhead has been paid to senior conductor or engineer under this rule.

Rule 11(k)-1 Optional Seniority for Conductors

Conductors will be privileged to exercise their seniority as either conductor, brakeman, or baggageman, on any assignment or run at any time by properly bidding or bumping. When no bids are received for conductor assignments on runs bulletined for seniority choice, the youngest conductor working as brakeman or baggageman will be assigned. When no bids are received for brakeman or bagagageman assignments on runs bulletined for seniority choice, the youngest qualified brakeman assigned the brakeman's extra board will be assigned (except that no more than one brakeman with less than ninety (90) days' experience as a brakeman or switchman on this or any other railroad operated under standard rules

will be assigned to the same crew if other men so qualified are available). Men assigned under this rule will be paid deadhead allowance per Rule 19(a) going to the run. Conductors, brakemen, or baggagemen assigned under this rule will be required to fulfill such assignment for a period of thirty (30) calendar days before being privileged to relinquish assignment under Rule 11(g). This rule can be repetitious. Nothing under this rule will prevent men from properly bidding off such assignments, except a man assigned as a conductor, that is the youngest conductor, will be restricted from being reassigned back as a brakeman more than one time when there is not a junior conductor working as a brakeman. If, after reassignment back the one time, he is again assigned to the same conductor position, he will not be paid deadhead payment for any deadheading necessary to again place him in the assignment, and will be required to fulfill the assignment for thirty (30) calendar days. (Applies to bidding and forced assignments). In the event of the assignment of the youngest conductor, brakeman, or baggageman, senior conductors holding brakeman or baggageman assignments will not be forced to the conductor's extra board.

Conductors, when force assigned as a conductor, must protect their assignment but they shall have the right to properly bid on any other assignment. In the event no one senior to the man force assigned bids his vacancy, the man initially assigned must return to point of forced assignment on his own time, with no deadhead payment being allowed. It is understood that, if a man is forced to a new or different position, he will be paid the initial deadhead to point of assignment. This rule is to allow a promoted man force assigned to bid on a brakeman position; however, the rebidding of the non-promoted vacancy created by the force assignment, by the man force assigned, is limited to

one bid and in the event he is force assigned back to the position originally force assigned to, he will deadhead on his own time, and protect the forced assignment for thirty (30) days before bidding to his non-promoted vacancy.

Rule 11(k)-2 -- Optional Seniority for engineers

Engineers will be privileged to exercise their seniority as either engineer, fireman, hostler, hostler helper, or engine watchman on any assignment or run at any time by properly bidding or bumping. When no bids are received for engineer assignments on runs bulletined for seniority choice, the youngest qualified engineer working as a fireman will be assigned. When no bids are received for fireman assignments or runs bulletined for seniority choice the youngest qualified fireman assigned to the fireman's extra board will be assigned. Men assigned under this rule will be paid deadhead allowance per Rule 19(a) going to the run. Engineer, fireman, hostler, hostler-helper, or engine watchman assigned under this rule will be required to fulfill such assignment for a period of thirty (30) calendar days before being privileged to relinquish assignment under Rule 11(g). This rule can be repetitious. Nothing under this rule will prevent men from properly bidding off such runs or assignments. In the event of assignment of the youngest engineer or fireman, senior engineers holding fireman assignments will not be forced to the engineer's extra board.

When no bids are received for the second man on one-man assignments, the youngest qualified unassigned fireman may be assigned. Men who are force assigned under this rule will remain on the assignment until properly bidding off or displaced.

Engineers, when force assigned as an engineer, must protect their assignment, but they shall have the right to properly bid on any other assignment. In the event no one senior to the man force assigned bids his vacancy, the man initially assigned must return to point of forced assignment on his own time, with no deadhead payment being allowed. It is understood that, if a man is forced to a new or different position, he will be paid the initial deadhead to point of assignment. This rule is to allow a promoted man force assigned to bid on a fireman position, but in the event he is force assigned back to the position originally force assigned to, he will deadhead on his own time.

Rule 11(k)-3 Bidding and Bumping Vacancy

Trainmen and enginemen with legal bump may bid and bump any existing vacancy, except new assignments. This bid and bump will be limited to one (1), and if job is assigned to senior man, person bidding and bumping must exercise seniority upon release of bulletin.

Trainmen and enginemen bidding and/or bumping vacancy will not be considered assigned to that position until bulletin closes and by virtue of seniority declared successful bidder, and are subject to force assignment under Rule 11(k).

Rule 11(l) Multiple Appointments and Reduction in Force

In accordance with the optional seniority principle established in Rule 11(k) and in accordance with regulations set forth by the U. S. Civil Service Commission governing competitive service, train and engine service employees will work under the terms and conditions of multiple appointments covering duties and services, respectively, for which they are qualified. They shall be required as a condition of

employment or continued employment to perform the duties of the various assignments in the various services listed in their multiple appointments, at the pay rates provided for such services and assignments in the applicable wage schedule, and in accordance with wage rules contained in this agreement.

Train-and-engine-service-employee multiple appointments shall be established in the following competitive levels:

a. Brakeman, baggageman - All classes of service

b. Conductor, conductor pilot, brakeman baggageman - All classes of service

c. Fireman, hostler, hostler-helper, engine watchman - All classes of service

d. Engineer, fireman, engineer-hostler, hostler, hostler-helper, engine watchman - All classes of service

All classes of service, as referred to above, shall include road passenger service, road freight service, mixed train service, work train service, helper service, snow service and yard service.

Reduction in force of and engine service employees will be made ding to retention rights, first, in the com tive levels of (a) brakeman, baggageman - all classes of service (for trainmen) and (c) fireman, hostler, hostler-helper, engine watchman - all classes of service (for enginemen); second, in the competitive level of (b) conductor, conductor pilot, brakeman, baggageman - all classes of service (for trainmen) and (d) engineer, fireman, engineer hostler, hostler, hostler-helper, engine

watchman - all classes of service (for enginemen). The reduction in force will be accomplished in the first step when possible. If the reduction in force results in a vacancy in an assigned position, this position will be filled by the appointment of the youngest train or engineman, as the case may be, on the Anchorage extra board. He may, after reporting on the assignment, relinquish the assignment in less than thirty (30) days; however, if no bids are received, he will be assigned by bulletin. Trainmen and enginemen separated from the service will be given a service letter upon request.

Rule 12 Use of Regular Men Extra

Regularly assigned trainmen and enginemen may be held or used in preference to extra men on special passenger trains handling government or railroad officials, fraternal or convention trains, and regularly assigned qualified engineers may be used in passenger service in lieu of extra engineers who have had less than one year's experience as a locomotive engineer. Men so called will be credited with one (1) calendar day for each day so held or used, but will not receive an amount less than they would have received on their regular assignment.

Examples: Use of Regular Men

Question: A regularly assigned man enroute from Fairbanks to take his assignment is used in an emergency to relieve and fulfill another regular man's assignment out of Curry. Will such man be paid deadhead Fairbanks to Curry or Curry to Anchorage?

Answer: He will be paid deadhead Curry to Anchorage.

Question: Would a regularly assigned man at Seward who had bid off his assignment and properly relieved and is held and used to fulfill another regular assignment be entitled to deadhead Seward to Anchorage when relieved?

Answer: Yes.

Question: Will such regularly assigned men be used in lieu of extra men?

Answer: No, except in actual emergencies, sickness or injury, or lack of available extra men.

Question: If regularly assigned men are used under the above conditions and extra men are available, will the extra men be entitled to what they would have earned?

Answer: Yes, extra men must be deadheaded at the first available opportunity and the regular men relieved.

Rule 13 Day of Rest Road Crews

Road crews will not be given their day or days of rest at points other than specified in their assignment and will not be given their day or days of rest away from home terminal.

Question: If, due to interruption to traffic, it is necessary to hold crew away from their home terminal on their day of rest, will they be compensated whether used or not?

Answer: Yes, if held and not used, 100 miles held for service.

Rule 14(a) Crew Consist

Regularly assigned local freight crews doing local freight work consisting of loading and unloading freight and station switching will be

provided with three (3) brakemen. Assigned mixed crews will be provided with two (2) brakemen and one (1) train baggageman. No man with less than 90 days' experience as a brakeman on this or any other railroad operated under standard rules shall be used as a flagman if other men so qualified are available.

NOTE: Where 90 days' experience is mentioned in Rule 9(d), 11(k), and 14(a), this will be interpreted that, in the case of students, this will mean 90 days' seniority on this railroad.

Rule 14(b)

Crews in other freight, yard work, or snow service will consist of not less than one (1) conductor and two (2) brakemen, when available.

Rule 14(c)

Passenger crews on local trains handling local baggage, mail and express will consist of not less than one (1) conductor, two (2) brakemen, and one (1) baggageman, except that official trains, steam or other motive power handling not to exceed two (2) cars will be manned by one (1) conductor; passenger crews on trains handling through baggage, mail or express will consist of not less than one (1) conductor and two (2) brakemen.

Crews in charter or special passenger service not required to work mail, baggage, and express between terminals may be manned by one conductor and one brakeman when train consist is not more than five (5) passenger cars plus baggage equipment.

Rule 14(d)

Motor cars (bus car type) not to exceed fif-

teen (15) passengers may be manned by one engineer.

Engineers used in motor car service (bus, gas car type) under this rule on short turnaround passenger runs, no single trip of which exceeds twenty-five (25) miles, shall be paid at the Yard Engineer's rate for all time actually on duty or held for duty, with a minimum of eight (8) hours. Time will be computed continuously from the time first required to report to final release at end of last run.

Rule 14(e)

Motor cars of the 200 type will be provided with one (1) conductor, and when handling a trailer will be provided with one (1) brakeman or one (1) baggageman.

The management will designate the position to be filled, as traffic may justify. Train baggagemen will be provided, with or without trailer, when mail, baggage or express is handled enroute and reports are required to be made. Conductors will not be required to perform the duties of train baggagemen.

Rule 14(f)

Crews will not be divided to move trains from one point to another on the main line, except when necessary to double hills, or in cases of emergency.

Question: In the use of regularly assigned crews, local and through freights, should such crews be called on a first in, first out basis, or in accordance with their scheduled assignment; that is, local or through freight?

Answer: In accordance with their scheduled assignment. However, local freights will be

given preference if way car is available and local crew is rested, if both are fulfilling same schedule, such as 29 and 30, except in instances where such practice would impede traffic.

Question: Would either crew have a runaround against the other?

Answer: No.

Question: If two or more through freight crews are fulfilling the same schedule out of a terminal, should they then be called on a first in, first out basis?

Answer: Yes.

Question: Would such crews have runaround cue them?

Answer: Yes, if fulfilling the same schedule and on the same district.

Rule 14(a)

The bulletin and engine consist of crew shall designate two-man assignments as:

1. All through mixed service job assignments authorized in Rule 3(a).

2. Assigned through freight service between Anchorage and Healy.

Fireman vacancies in assigned two-man assignments under this rule will be filled.

This list may be reviewed on request by management or the organization for purpose of adding or subtracting positions and revision, provided that it shall not be mandatory upon management to create two-man jobs to an extent greater than

ten percent (10%) of the jobs in each category of service, and provided further that it will not be mandatory upon management to change one-man jobs to two-man jobs if such action requires the hiring of new men.

Rule 14(i) Shuttle Service

In order to establish shuttle service between Portage and Whittier, mixed service crews for this service will originate and tie up at Anchorage and may be used on turnarounds between Portage and Whittier with time (hours or miles) to be computed continuously from the time required to report for duty to final release at the end of run. Crew will be paid local freight service rates of pay and will be manned by a two-man engine crew, one (1) conductor, two (2) brakemen, and will not be required to handle checked baggage, mail, or express except when train baggageman is provided. Trainmen will handle jump boards and ramp aprons when necessary in the loading and unloading of vehicles. Rule 6(u) will not apply, except when crew switches other than the equipment of their train at Whittier. Crews required to handle equipment to and from Whittier and points in between, in addition to shuttle equipment, will be paid 50 miles in addition to their road trip allowance.

Crews used to handle cars other than shuttle equipment to or from Whittier without payment of 6(u) are restricted as follows: to double over to the minimum number of tracks which could hold cars within the main yard, and in addition place shuttle equipment to shuttle track or to double from the minimum number of tracks which could hold cars within the main yard and in addition pick up shuttle equipment from shuttle track.

Placement of cars within the main yard track structure will be at the direction of the carrier. Crews required to set out or pick up

on industry tracks, i.e. Army track, tail of wye, dock track (outside main yard track structure) will be compensated in accordance with Rule 6(u).

Rule 15(a) Used Off Assignment

An assigned crew used in an emergency in other temporary service will be compensated in accordance with the rules applying to their assignment, and when so used, will be returned to their regular assignment at the earliest possible opportunity. Crews or men used under this paragraph will be compensated not less than they would have earned on their regular assignment.

Rule 15(b)

When an assigned crew is used in work service, "Automatic Release" will not apply. If tied up between terminals, "Tied Up Between Terminals and Hours of Service" will apply.

Rule 15(c)

When a regularly assigned man is used off his assignment, he will be compensated for such service in addition to his assignment, with a minimum of one (1) day. This rule will not apply on rest days, except as provided in Rule 3(d). Men returned to the point of assignment and are again used off their regular assignment will be paid as stated above. On men used under Rule 9(c)-14, this rule will not apply.

Rule 15(d)

Men used under section (c) of this rule will be paid a minimum day in addition to their assignment for the first day so used and for each succeeding day used will be paid an amount not less than they would have earned on their regular assignment.

Rule 15(e)

In the event of track construction, assigned road crews may be used off their assigned districts out of terminals where extra lists are not maintained to make connections in the same class of service.

Rule 15(f)

When assignments are made for crews to run to an intermediate point and there exchange train with a crew from the opposite terminal (both crews turning back at meeting point to the originating terminal), such crews may be run to a point over or short of the assigned meeting point for the purpose of exchanging trains to prevent delays to trains and the mileage on such runs will be paid for on a continuous basis. Crews run short of the bulletined turning point will be paid the miles to the bulletined turning point and return to the point of exchange in addition to the actual miles or hours made on the road trip.

Assigned road freight crews whose initial station and/or intermediate final terminal station of their assigned scheduled run is Portage will not be run into Whittier unless necessary to do so. When so run into Whittier and/or return, they will be considered as having been used off of their assignment and will be compensated not less than eight (8) hours, or one hundred (100) miles, for such service. All time consumed on such trip to be deducted from the time of their road assignments for purposes of computing overtime of their road trip, unless total hours on duty computed in accordance with Rule 2(b) produces the greater amount, in which case the greater amount will be paid.

Rule 15(i)

Diesel locomotives, when operated in multiple, may be operated as either a two-man job or as a one-man job. When passenger power and heat cars are utilized in passenger trains, such passenger power and heat cars will be considered as an additional unit and payment made therefor as per Rule 1(c).

Rule 16(a) Automatic Release

Automatic release will not apply to assigned freight and passenger crews between Anchorage and Fairbanks assigned to run to meeting points between Healy and Curry. This rule also will not apply to assigned crews as to terminals except such terminals as are specified when regular assignments are bulletined and made under Rule 11(c) above.

Extra road crews arriving at terminals or end of run are automatically released. Road crews required to run through a terminal will begin a new day.

Rule 16(b)

Road crews required to perform switching or other terminal service upon arrival at terminal, including passenger or troop trains delivered to Elmendorf, Fort Richardson, Ft. Wainwright, or Eielson by road crews, will be compensated in accordance with Rule 6 (Terminal Service).

Rule 16(c)

Northbound road crews arriving at Anchorage or Fairbanks, or departing from Anchorage or Fairbanks, southbound, required to move cars to or from military bases will be paid a new day independent of the road trip, except that this will

not apply to passenger crews arriving or departing Anchorage or Fairbanks.

Rule 16(d)

Yard crews required to perform switching service or other services at military bases at Anchorage, Ft. Wainwright, and/or Elelson, will be paid yard rates for all services performed. Upon entering on Army track, no arbitraries or penalties provided under this contract will be allowed or paid except as provided in Rule 43 (Coupling and Uncoupling Air Hose) and Rule 1 (Weight on Drivers) and Rule 2(b) (Overtime). Crews so used will perform all service as directed by the Army Yardmaster.

Upon release and return to Alaska Railroad yards, arbitraries or penalties as provided in this agreement, as applied to other yard crews, will be paid.

Yard service in Alaska Railroad yards and at military bases in Fairbanks may be combined. Assigned Anchorage yard crews required to go beyond designated interchange track at Fort Richardson and Elmendorf will be paid actual time from designated interchange track until return to interchange with a minimum of one (1) hour in addition to all other earnings for that day or trip.

Fairbanks yard crews servicing Ladd and/or Elelson will not be worked in the Fairbanks' yard after working at Ft. Wainwright and/or Elelson if they have spent more than eight (8) hours on duty, if a Fairbanks yard crew or crews are on duty.

Crews servicing Ft. Wainwright and/or Elelson will be allowed the use of cabooses.

Army crews will not be given permission to switch in Fairbanks or Anchorage yards; it is understood, however, in such instances where Army crews do move beyond designated interchanged tracks for emergencies or maneuvers beyond the control of the Railroad, no penalties will be allowed. When Army crews perform work in Anchorage or Fairbanks yards normally belonging to railroad employees, a minimum of one hundred (100) miles or eight (8) hours will be allowed to the men available at Anchorage or Fairbanks for such work.

Rule 17(a) Called and Not Used

When a train for which trainmen and enginemen have been called to report for service at a specified time is annulled, they will, when reporting for duty, be credited with time held until relieved from duty. If no service is performed, they will be allowed a minimum of two (2) hours and stand first out. If service is performed, they will be allowed eight (8) hours or one hundred (100) miles and stand last out. No duplicate payments will be made under this rule. If they are called and released before leaving home or place where called, no allowance will be made, provided the call and release was between the hours of 6:00 a.m. and 10:00 p.m.

On crews having regularly assigned call time, such call will stand if set back less than two hours. If set back more than two hours, they will be paid two hours called and not used. If notified prior to tie-up time, no penalties will accrue.

Rule 19 Calling of Crews

Train and enginemen living within one and one-half (1-1/2) miles of passenger depot, Anchorage, Fairbanks, and Seward, will be called when

practical one and one-half (1-1/2) hours before time required to report for duty.

Rule 19(a) Deadheading

Trainmen and enginemen when deadheading on Railroad business will be compensated on the basis of miles or hours (whichever is greater) at the rate of class of service assigned with a minimum of eight (8) hours or one hundred (100) miles. When deadheading on Railroad business, when other than rail transportation is available, the carrier may elect to utilize other modes of surface transportation or commercial air services. Deadheading and service may be combined in any manner that traffic conditions require and when so combined will be allowed actual miles (between stations as established in timetable) or hours on a continuous time basis with not less than a minimum of eight (8) hours or one hundred (100) miles for the combined service and deadheading.

EXCEPTION: Trainmen and enginemen deadheading via air will be allowed actual time with a minimum of eight (8) hours for deadheading when actual mileage between stations exceeds 100 miles.

Rule 2(b) (overtime) will apply to men when deadheading on Railroad business. Deadheading time will be computed continuously and Rule 16(a) will not apply.

Rule 19(b)

Trainmen and enginemen going to take a run at their request, to which they are entitled through seniority, will not be paid for deadheading to take run. Trainmen and enginemen going to runs under a forced rule will be considered deadheading on Railroad business.

Rule 19(c)

Crews will go with their cabooses and when cabooses are deadheading, crews first out will deadhead, second crew run train, deadhead crew to be first out at end of run.

EXAMPLES

1. Deadheading Only

Payment when called to deadhead by other than air transportation:

Between:

Anchorage & Seward	114 miles
Anchorage & Whittier	100 miles
Anchorage & Healy	244 miles
Anchorage & Fairbanks	356 miles
Fairbanks & Healy	112 miles

When called to deadhead and air transportation is provided, actual time with a minimum of eight (8) hours will be paid.

Question: When assignment involves deadheading to Fairbanks and the carrier elects to provice air transportation, what payment for deadheading shall be made should the employees elect to drive their own private venicle with concurrence of proper authority?

Answer: 100 miles, the same as if air transportation had been utilized.

1. Deadheading and Work Combined

Payment for deadhead when called to combine deadhead and work by other than air transportation:

Between:

Anchorage & Seward	114 miles
Anchorage & Whittier	63 miles
Anchorage & Wasilla	46 miles
Fairbanks & Healy	112 miles

Payment for deadhead when called to combine deadhead and work when air transportation is provided:

Between:

Anchorage & Seward	100 miles
Anchorage & Whittier	63 miles
Anchorage & Portage	50 miles
Fairbanks & Healy	100 miles

Examples provided are for the purpose of illustration under normal operating conditions representing the intended application and payment of negotiated revision of Rule 19(a).

Rule 20(a) Hours of Service

Under the rules limiting hours on duty, crew in road service will not be tied up unless it is apparent that the trip cannot be completed within the lawful time, and then not until after the expiration of twelve (12) hours on duty under the rule, or within two (2) hours of the time limit provided by law.

Rule 20(b)

If road crews are tied up in a number of hours less than provided in the preceding paragraph, they will not be regarded as having tied up under the rule, and their services will be paid for under this schedule.

Rule 20(c)

When road crews are tied up between terminals under the rule, they will be considered on-duty and under pay immediately upon the expiration of the minimum legal rest period required by the crew, and the longest period of rest required by any member of the crew, either eight (8) or ten (10) hours, will be the period of rest for the entire crew.

Rule 20(d)

A continuous trip will cover movement, straightaway or turnaround, from initial point to destination train is making when ordered to tie up. If any change is made in the destination after the crew is released for rest, a new trip will commence when the crew resumes duty.

Rule 20(e)

Road crews tied up under the rule will be paid time or mileage of their schedule from initial point to tie-up point. When such crews resume duty on a continuous trip, they will be paid from the tie-up point to the terminal on the following basis: For fifty (50) miles or less, or four (4) hours or less, one-half day; for more than fifty (50) miles or more than four (4) hours, actual miles or hours, whichever is the greater, with a minimum of one (1) day. It is understood that this paragraph does not permit crews to be run through terminals.

Rule 20(f)

Road crews tied up for rest under the law and then towed or deadheaded into terminals, with or without engine or caboose, will be paid therefore the same as if they had run train to such terminal.

Road crews tied up under the law except in case of delays due to wrecks, washouts, snow blockades or other track constructions held awaiting arrival of relief crew will be paid for all such time on a minute basis in addition to miles or hours made on the road trip.

Rule 20(c)

When regularly assigned crews are tied up between terminals account hours of service and resume service, the completion of the trip from the tie-up point to the next terminal will be considered as the completion of the trip from the originating terminal, and crew will be paid for existing calendar day in accordance with their assignment, whether service is performed or not.

Rule 21(a) Tie Up Between Terminals - Account Wrecks, Washouts, or Snow Blockades

Road crews will not be tied up between terminals except in case of delays due to wrecks, washouts, snow blockades, or other track obstruction, in which case they will be credited with the first eight (8) hours so held in addition to time or miles made that day, with a minimum of one hundred (100) miles for the service rendered, and for each succeeding calendar day will be allowed not less than eight (8) hours or one hundred (100) miles. No duplicate payments will be made under this rule.

A yard crew out of Whittier that is tied up at Portage for any reason whatsoever will be paid in accordance with this rule.

Rule 21(b)

Except in cases of wrecks, washouts, snow blockades, or other track constructions, work and snow crews will not be tied up between terminals

other than the assigned working points, including Portage, Whittier, and Nenana. Snow crews may be tied up at Broad Pass, however, when weather conditions require it. Work and snow crews will not be tied up at points where eating and sleeping accommodations are not available for the entire crew. Snow crews may also be tied up at Tunnel, except on their assigned rest day or days.

Rule 21(c)

Crews tied up between terminals will begin a new day when called, except as provided in Rule 20(g).

Rule 22(a) Work, Wreck and Snow Plow Trains May be Tied Up Between Terminals

Except as provided in section (b) of Rule 21, work, wreck and snow plow service trains may be tied up between terminals and time tied up deducted, providing eating and sleeping accommodations are available. Upon resuming duty will begin a new day.. Initial and final terminals allowances and automatic release at terminals will not apply on this service.

Rule 22(b) Bulletined

Assigned work trains moving from one subdivision to another will be classed as new runs and may be bulletined as per Rule 11(a).

Rule 22(c) Seniority Choice

When two (2) or more work trains are working in or out of a terminal or intermediate tie-up point in the same class of work, the senior man will have the preference of crews. When crews are pulled off, the senior men may, if they so elect, exercise their seniority on the remaining crew or crews.

At work train points when two or more crews are assigned and only one crew is to be used on a day of rest, the senior crew should be given preference. Seniority of the crew to be governed by seniority of the conductor. However, if a crew is assigned to the pit as a loading crew and the work to be performed is loading only, then the assigned pit crew should be used. If the crew to be used on day of rest does both loading, hauling and dumping, then seniority of crews will govern.

Rule 23(a) Work and Snow Service

Initial and final terminal allowances, tie-up between terminals restrictions, automatic release at terminals and hours of service restrictions as to tie-ups are applicable to extra road crews used to move work train, bridge and building equipment, snow service equipment, or wrecking equipment from terminal with pick-ups or set out of the same between terminals; but if actual work train, snow, or wrecking service is performed enroute, they may be tied up between terminals when sleeping and eating accommodations are available at point of tie-up for all of the crew. The above will not apply to regularly assigned work train crews.

Rule 23(b)

Regularly assigned snow crews may be given their day of rest at Seward, Portage, Anchorage, Whittier, Curry, Healy, and Fairbanks.

Rule 23(d)

When extra snow fleets are called, the management will be permitted to select the rotary crew.

Rule 23(e)

In work or snow service at outlying points, when a hostler or engine watchman is employed, when enginemen are required to service engines such as adding lube oil, water, fuel oil, sand, they will be paid an arbitrary payment of thirty (30) minutes in addition to all other allowances for trip or day work. When required to start engines, the engineer only will be paid under this rule.

Rule 24(a) Piloting

Conductors and engineers, acting as pilots, will be paid their respective rates in their respective classes.

Rule 24(b)

Conductors will be furnished to pilot light engines running over district or portion of district, and on assigned helper engines working in helper districts.

It is hereby agreed that a helper district be established between Portage and Seward and that home terminal be designated as Portage or Seward. It is also agreed that a helper district be established between Curry and Windy with home terminal at Curry.

Trainmen and enginemen assigned exclusively to helper service will be paid in accordance with Rule 2(a), Rule 2(b), and Rule 3, and such other rules as are applicable to road service. Rates of pay will be at freight rates unless used in snow service, in which case snow service rates will apply.

Time will be paid on a continuous basis and no payment will be made for inside turns or for

second or succeeding starts out of helper terminal.

Rule 24(c)

Qualified conductor-pilots will be called when Russel plows and Jordan spreader are used, handling nose flangers and wings, or other snow plow appurtenances. It will not be the duty of the train crews to do this except in emergencies. Before either conductors or engineers may be assigned as pilots in snow removal equipment they must be qualifeid for such service by having previously performed similar service or made the necessary student trips.

Rule 24(d)

Conductor-pilots on snow plows will be paid rates in accordance with Rule 1.

Rule 24(e)

Light engines may be run to flange out and remove snow. Freight crews will not be required to plow snow at stations for the purpose of clearing sidings except for the purpose of setting out or picking up cars.

Rule 24(f)

In snow service, when two pieces of snow equipment, such as a rotary, Russel plow, or spreader, are used jointly by two engines, one handling the plow and the other a spreader or rotary, the regular pilot will be used to pilot the plow and the other piece of equipment will be manned by a shop man or a maintenance-of-way employee when available. If two pieces of equipment are used intermittently, that is, one piece of equipment used and set out, then the other piece of equipment picked up and used, the pilot will be required to man each one of the

pieces of equipment at the time used. When the rotary is used by itself, a conductor-pilot is not required.

Rule 24(a)-1

Pile drivers, ditchers, cranes, or other self-propelled locomotive type rail equipment, operating with not more than nine (9) rail cars (including caboose and idler) when used in maintenance, repair, construction, or inspection work need not be manned with a conductor-pilot. The Railroad will not be subject to penalty when such equipment is utilized in the maintenance, repair, or construction exclusively for the Railroad's purpose.

It is concurred the usage of Y orders will be restricted to their present application.

Rule 24(a)-2

A conductor-pilot will be called or assigned when pile drivers, ditchers, cranes, or other self-propelled locomotive type rail equipment operating with not more than seven (7) rail cars (including caboose and idler) are used to move contractor's equipment or supplies who, acting as an agent for the Railroad, is engaged in maintenance, repair or construction. The Railroad will not be subject to penalty by other rules contained in this agreement when contractor's equipment and supplies are moved in accordance with provisions contained herein, and Rule 7(a) does not apply.

Rule 24(h)

Regularly assigned snow plow pilots will not be used in extra conductor's positions.

Rule 25(a) Yard Service Yard Crews

Rates of pay for yard service will be as shown in current wage schedule.

Rule 25(b) Eight (8) Hours or Less Will Constitute a Day's Work

Effective March 25, 1956, there will be established, for all classes or crafts of yard service employees covered by this agreement, a workweek of forty hours, consisting of five consecutive days of eight (8) hours each, with two days off in seven, except as hereinafter provided.

The parties hereto, having in mind conditions which exist or may arise in the application of a five-day workweek, agree that the General Chairman or his designated representative and the Railroad may enter into any additional understandings to implement the purpose of this article.

The term "workweek" for regularly assigned or extra employees shall mean a period of seven consecutive days starting with Sunday.

Unassigned or extra board men used on a second tour of duty in a twenty-four (24) hour period shall be paid time and one-half for the second tour of duty.

It is agreed that the twenty-four (24) hour period shall be governed by the time first called. Twenty-four (24) hour periods shall not run in continuity so as to provide repetitious penalty payments. In other words, the twenty-four (24) hour period shall commence with the call time of the tour of duty immediately prior to the penalty tour of duty.

Rule 25(d) Tour of Duty

Regularly assigned yard crews will each have a fixed starting time, and the starting time of the crew will not be changed without at least forty-eight (48) hours' notice.

In cases where there is a combination of road and yard assignments, such crews will be paid in accordance with Rule 25(d) and if worked beyond their assigned tour of duty such time will be paid at overtime rates.

Rule 25(e)

Yard crew will have a designated point for going on and off duty. Pay of yard men will continue until they reach point at which they start work.

Rule 25(f)

Yard crews will be allowed twenty (20) minutes for lunch between four and one-half (4-1/2) to six (6) hours after starting work without deduction in pay.

Rule 25(g)

Yard crews will consist of a conductor and two (2) brakemen, and will not be required to work with less than a full crew as specified in this section if other trainmen are available. It is understood that this rule will not be abused and yard crews required to work shorthanded beyond reason. Provided, however, that yard crews at Whittier started within the hours of their assignment in snow service inside switching limits will be paid for four (4) hours or less, and if used more than four (4) hours will be paid not less than a basic day, in addition to the regular yard pay and without deduction therefrom for the time consumed in said service.

MEMORANDUM OF UNDERSTANDING
Between
THE ALASKA RAILROAD
And
UNITED TRANSPORTATION UNION

The parties signatory hereto have met and mutually agreed on the followi
in a joint cooperative effort to improve and enhance the efficiency of t
Service in respect to unassigned yard crews used at Whittier.

It is hereby agreed as follows:

(Add as paragraph two to 25(h) addressing use of unassigned yard crews
Whittier.)

> Unassigned yard crews (Extra Board crew) at Whittier may be used between Whittier and Portage for taking loads and/or empties, or any other equipment, and for the purpose of switching Portage. Unassigned yard crews, when so used, will be paid actual time on a minute basis with a minimum of two (2) hours in addition to miles or hours earned. This allowance shall be in addition to the regular yard pay and without any deduction therefrom. Actual time on duty will be used for computation of overtime under Rule 2(b).

Differences or disputes regarding the application or interpretation of t
document will be resolved through joint discussion and consultation betw
the parties.

FOR THE ORGANIZATION:

Michael W. Olson
United Transportation Union

FOR THE ALASKA RAILROAD:

J. A. Hepworth
Acting Supt. of Transportation

Feb 1, 1982
Date

Should an off duty yard crew be used after tie-up from its assignment, they will be paid not less than a basic day under yard rules and conditions.

Trainmen and enginemen reporting for duty late, especially consistent violators, will be disciplined.

Rule 25(h)

Where crews are called to perform yard service within switching limits they will not be used in road service when road crews are available, and when so used will be paid not less than the minimum day in each class of service, except that assigned yard crews at Whittier when started within the assigned hours of their tour of duty, may be used between Whittier and Portage for taking loads and/or empties, or any other equipment, and for the purpose of switching Portage, except due to blockade conditions. This rule will not apply to handling special troop movements outside of Whittier yard limits.

Rule 25(i)

All engines assigned to switching service will be so equipped as to be in compliance with Federal Railroad Administration safety standards. Engines equipped with plows will not be used in yard service when other motive power is available.

Rule 25(j) Combination Road-Yard Service Zones

Yard crews may be used outside yard limits without payment of two classes of service between:

Anchorage and 105
Anchorage and Birchwood
Healy and McKinley Park
Healy and Ferry
Fairbanks and Saulich until such time as north switch installed at Happy. (No penalty will be paid to road crews required to set out or pick up at Saulich during this interim period.)

for switching, and can perform the same work as allowed within yard limits, except rerailing equipment derailed on main track by road crews. Yard crews working under this rule instructed to couple air hose will be allowed one (1) hour in addition to their regular earnings. Road crews, when required to set out and pick up within these limits (except setting out of bad order cars) will be paid actual time on a minute basis with a minimum of two (2) hours in addition to miles or hours on their road trip.

Road crews called in local service and crews called for Anchorage-Palmer turn would not be subject to the penalty provision of Rule 25(j) when required to set out or pick up within these limits.

It is further understood for example, crews switching within these limits may run beyond the far switch without penalty for the purpose of executing switching movements.

Yard crews will not be required to work in excess of eight (8) hours when other crews are available except in case of necessity, in which case the time may be extended and paid for on a continuous basis. The difficulty in scheduling an exact eight hours' work for a yard crew is acknowledged in this rule, and overtime not more than thirty (30) minutes in excess of the normal eight (8) hour tour of duty shall not be construed as a violation of this rule nor the spirit thereof. Except when, for more than

three (3) consecutive days, one designated Anchorage Yard crew performing service primarily between Anchorage Yard and Milepost 105 are required to work in excess of eleven (11) hours per day, additional crews will be called if available.

Rule 23(1)-2

At points where yard crews are employed, combination road-yard service zones may be established within which yard crews may be used to perform specified service outside of yard limits under the following conditions:

(a) Road-Yard Service Zones for purposes of this rule are defined as between:

Seward - Primrose
Anchorage - Potter
Anchorage - Birchwood
Healy - Outfit Siding 342.7
Healy - Browne
Fairbanks - Saulich

for the purpose of handling disabled trains tied up under the Hours of Service Act.

(b) Within Road-Yard Service Zones, yard crews may be used to handle disabled road trains or those tied up under the Hours of Service Act outside their final terminal without penalty to road crews. For such service yard crews shall be paid miles or hours, whichever is greater, with a minimum of one (1) hour for the class of service performed for all time consumed outside of yard limits. This allowance shall be in addition to the regular yard pay and without any deduction therefrom for the time consumed outside of yard limits.

(c) Nothing in this rule is intended to impose restrictions with respect to handling disabled road trains or those tied up under the Hours of

Service Act beyond defined road-yard service zones, established under this rule. The carrier will not be penalized under provision of Rule 25(j)-1 (overtime) when crews are used to handle road train to terminal and encounter mechanical difficulties or circumstances beyond the control of the carrier which results in crew exceeding eight (8) hours. Accordingly, crews will not be used to handle road trains to terminal unless it is known work can be accomplished within assigned eight (8) hour tour of duty.

Rule 25(k)

When road crews are required to perform more than four (4) hours initial switching at Anchorage terminal within any ten hour spread or less that yard crews are not on duty, an entire yard crew from the extra board will be paid a minimum day.

Rule 25(l)

Assigned yard men at Seward and Whittier may be permitted to lay off not to exceed three (3) days. When so permitted to lay off, their positions may be filled by other regular assigned yard men, provided no extra men are available in Seward or Whittier. The oldest conductor or brakeman will be given preference in fulfilling such relief.

Rule 26(a) Revised

Terminal hostlers, hostler helpers, and engine watchman rates will be shown in current wage schedules.

Rule 26(b) Revised

Terminal hostlers and hostler helpers will be regularly employed at the following points:

Anchorage - Four (4) terminal hostlers
Four (4) hostler helpers
Fairbanks - One (1) terminal hostler

Rule 26(c) Revised

Terminal hostler and hostler helper assignments shall be forty (40) hours a week, consisting of five (5) consecutive days of eight (8) hours each, with two (2) days off in seven (7).

Rule 26(d) Revised

Regularly assigned terminal hostler and hostler helper will each have a fixed starting time and starting time will not be changed without forty-eight hours' notice.

Rule 26(e) Revised

As conditions may justify, the management will bulletin other permanent or temporary positions of terminal hostler and hostler helper in addition to the positions listed above.

Rule 26(f) Revised

1. At Fairbanks the terminal hostlers (if promoted qualified engineers) may be used to fill an engineer's vacancy when no extra men are available.

2. Terminal hostlers will be used to protect engineers' and firemen's vacancies before the use of hog book men, which includes the use of terminal hostlers on their layover days.

3. When a vacancy exists, the senior terminal hostler will be called. He may be aggregated in any manner necessary to exhaust him of hours of service. If the senior terminal hostler cannot

be used for any reason, then the junior terminal hostler must be called.

4. Vacancies created in the roundhouse by using terminal hostlers in road or yard service must be protected whenever a hostler's regular time of duty is vacant for any reason. Vacancies will be filled first by extra board engineer if available, second by the assigned hostler, and if not available or cannot be used account hours of service exhausted, vacancy will be filled by employee registered in hog book in accordance with Rule 9(c)-13.

5. Hours of service apply to a hostler who is working any job or protecting a vacancy, including yard or road service.

6. Men who are not used in their rightful turn as outlined in the foregoing will be paid in accordance with Rule 9(d) "Run-rounds."

Rule 26(a) Revised

Assigned terminal hostler and hostler helper used in road service when extra men are not available will be paid mileage and overtime at their respective rates, and in any event will be paid not less than they would have earned on their assignment. Hostlers used on rest days in yard or road service will be paid in accordance with Rule 3(d).

Rule 26(h)

Eight (8) hours or less will constitute a day's work.

Rule 26(i) Revised

Regularly assigned terminal hostlers, hostler helpers and engine watchmen who are ready for service the entire week and do not lay off of

their own accord will be paid not less than the weekly minimum as provided in sections (a) and (c) of this rule.

Rule 26(j) Revised

Terminal hostlers and hostler helpers must be qualified by Road Foreman of Engines/Trainmaster.

Rule 26(k) Revised

Terminal hostlers and hostler helpers will be bulletined as required by this agreement, and will be assigned from the fireman's seniority list and will be regarded as fireman positions for the purpose of force assignments under Rule 11(k).

Rule 26(l) Revised

Terminal hostlers, hostler helpers and engine watchmen will be allowed twenty (20) minutes for lunch as near the middle of the shift as possible without deducting therefor.

Rule 26(m) Revised

Hostlers will do roundhouse and shop switching only. Hostlers will switch powerhouse coal if there is no yard engine on duty.

Rule 26(n) Revised

Where the word "hostler" is used in this rule, it will also apply to terminal hostlers.

Rule 26(o) Revised

Officials or employees other than terminal hostlers or hostler helpers will not be used in assigned terminal hostler or hostler helper jobs when extra men are available.

Rule 26(p)

Engine watchman assignments will be for six (6) days and will be guaranteed forty-eight (48) times the applicable straight time rate each week. Time so lost will be deducted at the rate of eight (8) times the applicable rate for each day so lost.

Rule 26(q) Revised

Engine watchmen will be employed or assigned only on connection with work, snow, or wrecker service, and will be paid the firemen's rate applicable for the service so assigned. Engine watchmen used at line points in connection with work other than work, snow, or wrecker service will be paid hostler's rate for the day or days such work is performed in lieu of engine watchman's rate.

Rule 26(r) Revised

Engine watchmen will be furnished from the fireman's seniority lists, and will not be required to handle locomotives or other self-propelled equipment.

Rule 26(s) Revised

Unassigned or extra men used as hostler, or combination of yard and hostling service, shall be paid time and one-half for the second call in twenty-four hours as the 24-hour period is defined in Rule 25(b).

Rule 26(t)

Firemen forced on hostler or hostler helper jobs subsequent to the time they have worked six (6) months or more as a hostler or hostler helper will not have such excess time deducted

from the nine hundred (900) days required for promotion.

Rule 27 Doubling Hills

When trainmen and enginemen are required to double hills or run for fuel or water, actual miles run, including doubling mileage, will be the mileage of the trip. Example: Crew called at "S" for 10:00 a.m. Depart at 10:20 a.m. Runs "S" to "A" doubling Woodrow to Divide and Hunter to Grandview, doubling mileage twenty (20) miles. Arrive "A" 7:45 p.m. Tie-up 8:00 p.m. Allowance - 114 miles and 20 miles doubling, 15 minutes final terminal delay. Total allowance - 137 miles.

Rule 28(a) Seniority and Promotion

Brakemen and firemen will rank on the seniority lists as of the date they pass the required physical examination given by local railroad doctors and are placed on the respective working lists, or start their student trips, as the situation may require. Brakemen and firemen hired on a temporary appointment will not retain this date unless certified later by the Civil Service Commission while they are still in service. Conductors and engineers will pass the required examination for promotion to such positions. Trainmen and enginemen, except as otherwise provided, will have choice of runs or jobs in the respective classes or grades of service to which their seniority in service entitles them.

Temporary uses of brakemen as conductors or firemen as engineers does not constitute a promotion. In case two (2) or more men are examined for promotion on the same day, seniority in service as brakeman or fireman, as the case may be, will govern relative standing. If, on account of sickness or other causes beyond his

control, a man is unable to present himself for examination in regular turn, it will not affect the record date of his promotion. In cases where it becomes necessary to use unpromoted men for conductors, men who have been in the service of The Alaska Railroad for a period of one (1) year will be used, and such men used in their proper turn at the time of call on the respective extra boards. Men will have thirty (30) days to complete examinations from date of notification.

Men who may have retreat rights from other crafts or seniority list will, in exercising these rights, be required to pass the prescribed physical examination and the written examination on the operating rules of the Transportation Branch and will be given a seniority date as of the day they mark up for work exercising such retreat rights.

Rule 28(b) Revised - Baggagemen

Baggageman's assignment between Anchorage and Fairbanks will be filled by trainmen qualified as train baggagemen who have three (3) or more years of service as trainmen on The Alaska Railroad.

Vacancies on baggagemen positions between Anchorage and Fairbanks will be protected from Conductors' Extra Board. Should no extra board conductors be available or rested, the oldest rested brakeman on brakemen's extra board will be called regardless of his position on the board at time of call.

Baggagemen called for the Anchorage-Portage-Whittier shuttle will be called from the brakemen's extra board and bids for Anchorage-Whittier baggagemen will be accepted from any trainman qualified for baggageman service, and assignments made accordingly.

Rule 28(c) Students - Limitation

Student brakemen and firemen who have not had previous experience will be required to submit themselves to the Railroad's training program for a sufficient number of days or trips as will qualify them to meet the minimum requirements of the class of service for which they have been employed.

Rule 28(d) Protected Employees - Firemen

Firemen remaining in continuous employment on seniority listing dated January 1, 1964, shall be protected employees and shall not be separated because of any change in manning requirements of crew consist.

Rule 28(e) Ninety Day Limitation on Students

Inexperienced men who are hired as brakemen or firemen will not acquire permanent seniority until they have been in the service ninety (90) actual days of work, and if at that time their services are satisfactory and they have been recommended by three (3) conductors or engineers, as the case may be, with whom they have worked for the major portion of that period, they will be given seniority from the date of their appointment as brakeman or fireman. Inexperienced men may be removed from service within the ninety (90) actual days worked without investigation.

Rule 28(f)-1 Promoting and Hiring of Engineers

Promotion to engineer will be offered firemen who have been in the service of The Alaska Railroad as such for a period of four (4) consecutive years in the order of their seniority. When there are no firemen in the service of The

Rule 28(f)-2 Promoting and Hiring of Conductors

Promotion to conductor will be offered brakemen who have been in the service of The Alaska Railroad as such for a period of three (3) consecutive years, in the order of their seniority. When there are no brakemen in the service of The Alaska Railroad with the required service, service on other railroads may be combined with service on The Alaska Railroad to meet the three-year requirement of this rule; but men qualified by the combination of service will not be promoted unless there is an actual shortage of qualified men. When there are no brakemen in the service of this Railroad with the required experience for promotion, conductors with not less than two (2) years experience as such on a common carrier railroad operated under standard train rules may be hired and when so hired will be given date as brakeman, as per sections (a) or (i) of this rule, and as conductor as of the day they qualify as such. It is understood and agreed that men qualifying und the combination of services on this Railroad and other common carrier railroads, as outlined above, will not be promoted unless there is an actual shortage of qualified men.

Alaska Railroad with the required service, service on other railroads may be combined with service on The Alaska Railroad to meet the four-year requirement of this rule; but men qualified by the combination of service will not be promoted unless there is an actual shortage of qualified men. When there are no firemen in the service of this Railroad with the required experience for promotion, engineers with not less than two (2) years' experience as such on a common carrier railroad operated under standard train rules may be hired and when so hired will be given date as fireman, as per sections (a) or (i) of this rule, and as conductor as of the day they qualify as such. It is understood and agreed that men qualifying under the combination of services on this Railroad and other common carrier railroads, as outlined above, will not be promoted unless there is an actual shortage of qualified men.

Rule 29(c) Declining or Failing to Take Examination - Penalty

Brakemen and firemen must take promotion in accordance with Rule 29(f). Brakemen and firemen will be given thirty (30) days advanced written notice to complete a satisfactory examination(s) for promotion. Brakemen and firemen who decline, do not appear to take examination(s) or fail the examination(s) for promotion prior to the expiration date of the 30-day notice period will relinquish seniority and shall follow and be junior to the youngest brakeman or fireman on their appropriate roster as of 12:01 a.m. following the expiration date of the 30-day notice period.

Such brakemen or firemen who declined, did not appear to take examination(s), or failed examination(s) will be given a second opportunity to take and pass the examination within sixty (60) days following the expiration date of the origi-

nal thirty (30) day notice period. Brakemen and firemen completing and passing examination(s) within the sixty (60) day period designated, their seniority will be reinstated to the position previously held on the brakemen's or firemen's seniority roster. They will be given seniority date as conductor or engineer relative to their position on the brakemen's or firemen's seniority roster.

Should the individual again decline, fail to appear or fail to pass the examination(s), position on respective seniority roster will be that date established on the expiration of the original 30-day notice period.

Such brakeman or fireman will be given the opportunity to complete a satisfactory examination for promotion within ninety (90) days following the expiration date of the second examination, and each succeeding ninety (90) day interval thereafter. Brakemen and firemen completing and passing examination(s) will be given conductor's or engineer's seniority as of the date he passes examination(s) and will rank junior to the junior conductor or engineer as of that date.

Brakemen and firemen who decline, do not appear to take examination(s) or fail the examination(s) for promotion prior to the expiration date of notice period will again relinquish seniority and shall follow and be junior to the youngest brakeman or fireman on their appropriate seniority roster as of 12:01 a.m. following the expiration date of notice period.

Rule 28(h) Appointment - Conductors and Engineers

Men promoted to conductor or engineer will be given an appointment date as of the day they pass the examination, which will be their date

as conductor or engineer on the seniority list, subject to section (g) of this rule. Men promoted to conductor must be qualified baggagemen. Men hired as conductor-brakemen or engineer-fireman will be given dual seniority dates as conductor or brakeman and engineer or fireman respectively at time of appointment.

Rule 29(i) Notice in Writing

As soon as a brakeman or fireman is promoted, he will be notified in writing by a proper official of the Railroad of the date of his promotion and unless he files a written protest within sixty (60) days against such date, he cannot thereafter have it changed. When a date of promotion has been established in accordance with regulation, such dates will be posted within ten (10) days and no protest will be considered after sixty (60) days.

Rule 29(j) Schooling Prior to Examination

When a fireman is employed and placed in service as such, he will be given a first progressive examination book containing questions upon which he will be examined after one (1) year's service. After completing his first year's examination, he will be given the second progressive examination book containing questions upon which he will be examined after two (2) years in the service. After completing his second examination, he will be given a third and final examination, and upon completion of the third examination he will be given a certificate of promotion and thereafter rank on engineers' seniority list as per section 29(h).

Rule 29(k) Students

Inexperienced men hired as student brakemen or student firemen who submit themselves to the Railroad's training program as students will be

paid $10.00 for all service performed for each calendar day of training, learning the road or yard functions of the craft.

In addition, the allowance provided in Rule 53(a)-1, -2, and -3 will be paid to students when working with other train crew members who are tied up and are paid the allowances provided in Rule 53(a).

Rule 28(i) System Rights

System rights on The Alaska Railroad will prevail.

Rule 29(a) Discipline and Investigation

Trainmen and enginemen charged with offenses involving suspension or discharge will be promptly advised in writing of the nature of such offense, and no trainman or engineman will be discharged, suspended, or given record suspension without a full hearing by the Superintendent of Transportation, Trainmaster, Superintendent of Motive Power, Road Foreman of Engines, or an officer superior if desired by the Railroad, at which hearing all parties interested and employee witnesses will be notified to be present, and at which any trainman or engineman under investigation may be represented by an employee of his choice and both will be permitted to be present and offer evidence and to hear all evidence submitted at hearing and to interrogate witnesses if desired. Decision to be rendered in writing within fifteen (15) days.

If the trainman or engineman is not satisfied with the decision, he or his representative will have the right to appeal to the next higher officer designated by the General Manager. If found blameless, he will be immediately reinstated and will be allowed the time lost, with

minimum of eight (8) hours or one hundred (100) miles for each calendar day. If, on appeal, a decision is not made within thirty (30) days from date of appeal, the employee concerned, or his representative, may appeal to the next higher officer designated by the Railroad to handle such matters. Trainmen and enginemen who are entitled to rest will not be disturbed by call for purpose of attending a hearing until the expiration of time specified for rest, except in case of necessity. A transcript of the evidence will be taken at the hearing and a true copy will be furnished the accused or his representative.

Rule 29(b)-1 Revised - Investigations, reexaminations of Operating Rules and Physical Examinations

Trainmen and enginemen required to qualify, requalify, attend investigations, classes of instructions, examinations, or report for physical examination in order to meet the requirements of the carrier, will be paid on the following basis: actual time lost, but in no case less than time lost had employee followed his turn, and in addition, any deadheading and legitimate expense as provided for by Government Travel Regulations, except that in all cases a fireman or brakeman qualifying or taking examinations for promotion to engineer or conductor will do such qualifying and take such examinations at his own time and at no expense to the management. This will include any deadheading necessary for promotion. If by mutual agreement between employee and designated representative of the carrier, employee (when required to requalify on Operating Rules and Special Instructions or report for physical examination in order to meet the requirements of the carrier) reports on layover or off day to complete required examinations, will be compensated with a basic day (100 miles) or eight (8) hours at

the rate of class of service assigned, Rule 3(d) will not apply. Examinations for promotions will be conducted at employee's home terminal.

EXCEPTION: Brakemen and firemen participating in a formalized accelerated training program for promotion to conductor and engineer will be paid under the provisions of the accelerated training program which supersede provisions of Rule 29(b)-1.

Rule 29(b)-2 Revised (Reference Supplement No. 55)

In compliance with Code of Federal Regulations Title 49, Part 217.9, trainmen and enginemen must be conversant with Operating Rules and Special Instructions in order to meet the requirements of the Railroad, and will be required to pass a biennial written and oral reexamination to remain in train or engine service. Employees furloughed on LWOP or extended absences during which changes in Operating Rules and/or Special Instructions were initiated, the employee, prior to returning to duty, will be subject to an oral reexamination. Impromptu oral examinations may be given at any time to insure the employee has knowledge of, and is conversant with current Operating Rules and Special Instructions as prescribed by General Rule A. Failure to pass oral examination will result in effecting notice of biennial and oral reexamination of Operating Rules and Special Instructions consistent with the provision applicable to routine biennial reexamination.

Employees will be afforded thirty (30) days' advanced written notice of the date of biennial reexamination. Employees failing to pass the required examination on the first attempt will be given a second opportunity to demonstrate their ability to pass reexamination. The examination will be taken not less than sixty

(60) days after notice of failure to pass the first examination. Failure to pass the first examination shall result in restricting the exercise of employee's seniority during this 60-day interim period as follows:

Promoted conductors and/or engineers will be permitted to exercise seniority as conductor and/or engineer in yard and/or hostling service only. Conductors and engineers so restricted must exercise seniority as conductor or engineer on yard and/or hostling positions when vacancies for these positions are bulletined. Conductors and engineers so restricted will be permitted to exercise seniority as brakeman/baggageman or fireman/hostler/hostler-helper only when cutbid or displaced as conductor or engineer and when further exercise of conductor's or engineer's seniority is not possible account no vacancy for such positions bulletined nor no junior man assigned as yard conductor, yard engineer, or engineer hostler.

In the event promoted trainman or engineman is occupying a brakeman/baggageman or fireman/hostler/hostler-helper position when restriction of conductor's or engineer's seniority is effective, the exercise of conductor's or engineer's seniority by bid, or bump if displayed, must be effected at the first opportunity. If notice of such exercise of conductor's or engineer's seniority is not received by Crew Dispatcher prior to bulletin closing time or when exercising seniority after having been displaced, conductor and engineer so restricted will be force assigned to respective positions if no bids are received from senior conductor or engineer, and/or will be required to displace junior man occupying yard conductor, or yard engineer positions.

Brakemen and firemen will be restricted to yard and hostling assignments.

The employee's failure to pass a satisfactory written and oral examination on the second attempt shall constitute failing to meet the requirements of the Railroad and adverse action proceedings will be inititated promptly to effect reassignment to more suitable employment for which the employee qualifies, or removal.

Rule 29(c) Appeal of Adverse Action

It is understood that discharge, suspension for more than thirty (30) days, furlough for thirty (30) days or more, or reduction in rank or compensation, all defined as adverse actions in applicable regulations of the Civil Service Commission, must be processed in accordance with regulations of the United States Civil Service Commission applicable thereto. Such actions are of a disciplinary nature and may also be processed, at the option of the employee concerned, by appealing directly to the General Manager prior to appealing to the Civil Service Commission. However, if an appeal is made to the Civil Service Commission prior to appealing to the General Manager, the right to appeal to the General Manager is lost.

If the first appeal is to the General Manager, an appeal cannot be made to the Civil Service Commission until after a decision is made by the General Manager, unless no decision is made by the General Manager within sixty (60) days from date of appeal, after which time the appeal to the General Manager may be terminated by appealing to the Civil Service Commission. An appeal to the General Manager should be directed to him at The Alaska Railroad, Room 306, General Office Building, P. O. Box 7-2111, Anchorage, Alaska, 99510. It must (a) be in writing, (b) give the basis for appeal, (c) state whether a hearing is desired in connection with the appeal, and (d) be submitted no later than ten (10) days after the effective date of removal.

Any employee grievance which does not result from an adverse action under regulations of the Civil Service Commission shall be handled under the rules of this agreement.

Rule 30(a) Grievances

No grievance will be considered unless presented in accordance with Section 10 of the Basic Labor Agreement between The Alaska Railroad and Brotherhood of Railroad Trainmen and Brotherhood of Locomotive Firemen and Enginemen of February 20, 1961, and/or in accordance with Civil Service regulations.

Rule 30(b) Discharge and Return to Duty

Trainmen and enginemen who are discharged may be reemployed as new hires, or may be reinstated with former rights, at any time, except as prohibited by Civil Service regulations.

Rule 30(c) Reemployment - Voluntary Resignation

A man who voluntarily leaves the service of the Railroad and is reemployed will rank as a new man, except as prohibited by Civil Service regulations, including regulations governing retention roster requirements.

Rule 31 Attending Court

Attending court and jury duty will be governed by the "Act of June 1940" and all rules pertaining thereto.

Rule 32(a) Pass Transportation

Trainmen and enginemen whose seniority in service is two (2) years or greater will be granted annual transportation for themselves and fami-

lies over entire system. Those of less seniority will be given trip passes for themselves and families upon request.

Rule 32(b) Pass Privileges

Trainmen and enginemen who have been in the service of the Railroad two (2) consecutive years will be granted an annual pass over the entire system, and after five (5) years' consecutive service will be allowed the privilege of securing through their superintendent such free transportation or reduced rates for themselves and dependent members of their families over steamship lines and over any other railroad in the United States that the management is able to secure, or is permitted to obtain by law.

Rule 33(a) Leave of Absence

Except in case of sickness or disability, leave of absence exceeding six (6) months will not be granted, except that, by mutual consent of the management and authorized representative of the man, a longer leave of absence may be granted.

Rule 33(b) Leave of Absence - Committeemen

Leave of absence will be granted local and general committeemen when on business in connection with their organizations, and such leave will not be charged against personal record of employees. Employees representing the organization as committeemen will be provided with annual transportation over the system for themselves and dependent members of their families.

Rule 34 Assigned to Other Service

In case a trainmen or engineman is assigned to a position other than in train or engine service, or is employed by his respective organiza-

tion, his seniority rights as trainman or enginemen will not be impaired by reason of such assignment or employment, and his rank on the seniority list will be such as he would have gained had he been continuously employed in train or engine service.

Rule 35(a) Time Slips and Time Allowances

Conductors and engineers will report time of their brakeman and firemen with their own and when time is not allowed as per time slips, each member of the crew will be notified promptly reasons for disallowances and whatever allowances, if any, has been made. If no notice of disallowance is given, time as reported on time slips will be allowed.

Rejected time slips should show date rejected and rule number under which rejected. Time slips submitted by trainmen and enginemen not specifying rule under which time is claimed will be returned for proper submission. Rejected time slips must be returned within thirty (30) days of date received.

Rule 35(b) Mileage Allowance

Mileage allowance will be computed on Time Table distances. Fractions of miles less than .5 will be dropped and .5 or over added.

Rule 35(c) Notification of Deduction

When deductions are made from trainmen and enginemen's pay, they will be given a statement in writing. A slip clipped from a copy of the payroll will meet the requirements of this rule.

Rule 35(d) Claims

For all established shortages, or on claims

adjusted by the committee that amount to ten dollars ($10.00) or over, time vouchers will be issued upon request. Sums of less than ten dollars ($10.00) will be carried on the next succeeding payroll.

When time claims are settled between superintendent and committee, the superintendent will notify man or men to whom payments are to be made stating amounts and reasons for allowances and whether it is paid by voucher or being carried on next regular payroll, sending copy of each notification to the General Chairman.

Rule 36 Trainmen and Enginemen Leaving Service

Trainmen and enginemen leaving the service will be paid at the earliest practical time in full, less the authorized deductions which may be found against their pay.

Rule 37 Bond Premiums

Trainmen and enginemen will not be required to pay the premium on bonds except as may be required by law.

Rule 38 Electric or Motor Service

Where steam power is supplanted by electric or motor service, the rules and rates contained herein will apply.

Rule 39 Meals on Duty

Time of trainmen and enginemen will not be discounted for time required to get meals on duty.

Work or road crews will be permitted to eat within four and one-half (4-1/2) to six (6) hours from time on duty or from last meal, pro-

viced they are within reasonable proximity of regular eating places, except that crews in turnaround service may eat once while on duty. Management may designate whether the crew will eat on the northbound or southbound trip.

Rule 40(a) Layoff and Reporting for Duty

Trainmen and enginemen desiring to lay off must give ample notice in advance of call.

Rule 40(b) Outside Points

Men laying off and who are located at points on the Railroad will not be recalled for service except in emergency and then only after all available men have been used. Men who are laying off on account of sickness will not be recalled until released by doctor.

Rule 41 Loss or Damage to Equipment

Trainmen and enginemen will not be obliged to pay fines for loss or damage to equipment.

Rule 43(a) Coupling and Uncoupling Air Hose

It will not be the duty of trainmen and enginemen to couple air hose, steam hose, or test air at terminals where carmen are employed and on duty.

Yardmen required to couple air hose in yards where carmen are employed and on duty will be allowed one (1) hour in addition to their regular earnings without deduction for the day or shift. Coupling of air between engine and first cars, coupling over and coupling crossings will not constitute penalty payments under this rule.

Yard crews assigned for service at Whittier for service between Whittier and Portage in accord

with Rule 25(h) will be allowed payment for coupling air hose at Portage, when required, as provided in Rule 43.

Yard crews assigned for service at Healy will be allowed payment for coupling air hose at Healy Yard, when required, as provided in Rule 43.

Rule 43(b) Power Vans

Train crews, when instructed by message, will be required to plug and unplug electric cables, servicing power vans, at fixed locations. When crews are so required, they will receive one hour, at the prevailing rate, in addition to all other earnings and allowances for the day or trip. This rule is applicable to road crews only, and the crew must be instructed by message to perform this service. No discipline will result from any mistake made by crew member, in the plugging or unplugging of these cables, which might result in loss of lading due to spoilage.

Rule 44(a) Handling of Caboose

The following will be observed to its fullest possible extent; there will be a caboose track at all terminals. Caboose will be taken off trains and put on caboose tracks immediately on arrival. Switching with cabooses is prohibited. Where yard crews are on duty, cabooses will not be taken from caboose track and put in the train until two (2) hours before leaving time of train. In work train service, where work trains are double-shifted and cabooses are not available, the management may, if it deems it necessary, provide outfit cars for crews that are off duty in order that one caboose may suffice for both the day and night crews of a work train.

Carmen will be required to clean and service all pool cabooses.

Rule 44(b) Seats on Engines

Comfortable seats will be provided on all freight engines for firemen and head brakemen.

Rule 44(c) Double Loads and Draw Bars

It will not be the duty of trainmen and enginemen to chain double loads or to load draw-bars.

Rule 45 Schedules

All trainmen and enginemen will be furnished with a copy of the schedule and supplements thereto.

Rule 46 Train Boxes and Supplies

At terminals where supplies are available, trainmen will not be required to place supplies, except stationery, on cabooses, but are not relieved from knowing that proper equipment and supplies are on cabooses before departing from terminals. The carrier agrees to furnish a warm caboose during the period of October 1 through April 1.

Rule 47 Handling Side Doors, Aprons, etc.

It will not be the duty of trainmen and enginemen to handle cables, side boards, side doors, or aprons, spreaders, or to operate dump cars, weed burners, or rail loaders.

Rule 48 Officers Will Not Do Trainmen's Work

General or local officials will not perform the duties of conductors and brakemen in switching or moving trains over main line. When such service is required, a train crew will be called.

Rule 49 Arbitrary - Copy Train Orders

At station or telephone booth or by radio where operators are not assigned, or operators are not available, a member of a crew required to copy train orders will be allowed two dollars ($2.00) in addition to all other earnings on the day or trip, regardless of the number of orders or places where same are copied. Engineers will copy train orders when it is not convenient for the conductor to deliver order to engineer. When engineer and conductor are both required to copy train orders, they will both receive payment.

Rule 50 Watching Engines

When so instructed, enginemen will be allowed time for watching engines when tied up at points where no watchman or hostler is employed. Both the engineer and fireman will not be paid for the same time.

Rule 51 Application Approval

The applications of trainmen and enginemen entering the service will be approved or rejected within ninety (90) days. When applicant is not notified to the contrary within the time stated, it will be understood that application is approved; but this article will not operate to prevent the removal from such service of applicant if subsequent to the expiration of ninety (90) days, it is found that the information given by him in his application was false.

Rule 52 Emergency Defined

The word "emergency" as referred to in this agreement is held to mean wrecks, slides, washouts, or other unforeseen occurrences that could not have been prevented or avoided. The word

"emergency" will not be construed as a convenience to work crews or men beyond twelve (12) hours in order to avoid using other available men or crews.

Rule 53(a) Meal and Lodging Allowance

Road crews (all classes of service) tied up at other than designated home terminal for four (4) hours or more (when meals and lodging are not provided by the Railroad) each member of the crew so tied up shall be furnished or reimbursed for meals and lodging as follows:

1. At terminals (Seward, Anchorage, Healy, Fairbanks), single room will be provided, reimbursement will be made upon presentation of a receipted bill from designated hostelry.

2. At intermediate tie-up points, the Railroad will provide sanitary and comfortable sleeping quarters, single rooms, when commercial facilities are not available.

3. Road crews so tied up (or on release four (4) hours or more) shall receive a meal allowance comparable to charge made by the Railroad for a meal at Railroad operated mess. An additional meal allowance will be provided after being held an additional eight (8) hours.

4. Men called from the Extra Board or used in the capacity of an extra man to fill vacancies at outlying points (30 miles or more from the terminal limits of the location where the extra list from which called is maintained) when held at the outlying point for more than one tour of duty will be entitled to meal and lodging allowances.

5. The payment of meal and lodging shall be a recurring allowance applicable to each twenty-four hour period.

MEMORANDUM OF UNDERSTANDING
Between
THE ALASKA RAILROAD
And
UNITED TRANSPORTATION UNION

The parties signatory hereto have met and mutually agreed on the following in a joint cooperative effort to improve and enhance the efficiency of the Service in respect to snow service crews.

It is hereby agreed as follows:

In the absence of Curry, snow service crews may be tied up at Talkeetna and, when commercial facilities are utilized, the Carrier will provide for lodging. Single rooms will be provided in accordance with Rule 53(e).

Preference will be given to acquiring accommodations at the Talkeetna Inn, if available.

Differences or disputes regarding the application or interpretation of this document will be resolved through joint discussion and consultation between the parties. It is further understood that this Memorandum of Understanding may be cancelled upon thirty (30) calendar days written notice by either party.

FOR THE ORGANIZATION:

Michael W. Olson
United Transportation Union

FOR THE ALASKA RAILROAD:

J. A. Hepworth
Acting Supt. of Transportation

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Date

6. Train and enginemen force assigned to Fairbanks or Anchorage (away from the terminals Seward, Anchorage, Fairbanks, and Healy, where he maintains his residence) shall be provided a $10.00 daily lodging allowance limited to fifteen (15) days of such assignment.

Rule 53(b) Switch Shanties

Sanitary and comfortable switch shanties will be provided and maintained at the terminals of Seward, Anchorage, and Fairbanks. Lockers, toilets, and washing facilities will be provided, this to apply at the terminal of Whittier. Living accommodations are to be constructed as soon as construction material is available at Curry, Broad Pass and Healy.

Rule 53(c) Transportation of Household Goods

When trainmen and enginemen are obliged to transfer from one point to another on account of change of division or on account of change in runs, free transportation will be furnished their household goods.

Rule 54 Meeting - General Officers

If a meeting with the general officers is desired, a written notice stating subject to be considered must be forwarded to the General Manager fifteen (15) days before date on which conference is desired and date and time will be fixed as soon as practicable.

Rule 55(a) Reduction in Force and Retention Standing

When forces are reduced so that one or more employees must be removed from a given competitive level, the employee or employees to be reduced will be separated according to retention standing established according to Civil Service

regulations pertaining thereto within the given competitive level. Employees with identical multiple appointments will be regarded as in the same competitive level. Employees cut off under this rule will be separated or furloughed from the service, except that men who have retreat rights may exercise such rights according to Civil Service regulations.

Retention standing for use in reduction-in-force action will be established according to the Civil Service Commission regulations governing tenure of competitive service employees, as follows:

Group I includes employees under career appointments who are not serving probation. A career employee in an obligated position is in Group I only when he competes for other positions at or below the grade of his last non-obligated positions, if any.

Group II includes employees serving probation, career-conditional employees, and career employees in obligated positions.

Group III includes indefinite employees, employees under temporary appointments pending establishment of registers, employees serving under term appointment, employees in status quo, and employees under any other non-status, non-temporary appointments.

An employee not meeting the requirements of the above groups will be classed as Below Group III, non-competing employees, which will include employees with unsatisfactory performance ratings and employees with appointments limited to one (1) year or less.

Civil Service regulations require that employees be listed in Groups I, II, and III as (a) preference and (b) nonpreference, and that, within such subgroups, employees are listed in accordance with a service date which takes into account all creditable service with the Federal Government, creditable military service, and performance ratings. For purposes of reduction in force, no employee in the list below Group III has preference over any other, irrespective of whether he does or does not have military service.

Employees in Group III or above rank in order of service date with preference employees having tenure over nonpreference employees within a single group or below. Preference employees in a lower group rank below nonpreference employees in a higher group.

Employees separated in reduction in force will be given preference in reemployment when in accordance with Civil Service regulations.

Rule 55(b) Performance Ratings

It is understood that efficiency ratings will be made annually for all employees covered by this agreement in accordance with the provisions of the Performance Ratings Act of 1950 and Civil Service Commission regulations applicable thereto. In accordance with standards prescribed by the Commission, employees will be rated as "Outstanding," "Satisfactory," or "Unsatisfactory." Such efficiency ratings shall be used in the manner prescribed by the Commission to add to or subtract from length of service preference in reduction-in-force actions. It is understood that a rating of "Unsatisfactory" under the rules of the Commission automatically requires the employees so rated to be placed in the "Below Group III" category. Employees rated "Unsatisfactory" for two (2) successive rating

periods will be automatically terminated from the service of The Alaska Railroad.

All train and engine service employees will be given an interim rating of "Satisfactory" until the procedures establishing performance ratings on The Alaska Railroad have been approved by the Civil Service Commission and placed into effect.

Rule 56 Retirement Computation - Rotating Assignments

This agreement between the United Transportation Union (Trainmen and Enginemen) and The Alaska Railroad is concluded to provide equality of retirement credits and deductions mutually advantageous to the operating needs of the Railroad and the employees represented by the United Transportation Union.

In the rotating assignment, employees are assigned to perform irregular service on alternate weeks of the biweekly pay period, resulting in differing earnings of the weeks within the pay period that it adversely affects retirement credits and contributions made to the fund by the employees and the Railroad.

Employees are required to perform services within the calendar weeks of the pay period of more or less than forty hours per week and service of more or less than 80 hours in the biweekly pay period.

The rotating assignment earnings shall be computed for retirement purposes, and as subject pay on that portion of earnings in the biweekly period that occurs within the first eighty (80) hours of the pay period. The biweekly computation of eighty (80) hours shall be the workweek as within a pay period. Any deviation due to change of work assignments, interruption of ser-

vice by leave, or similar deviation within the pay period from the rotating assignment, computation automatically reverts to the forty-hour weekly computation. Employees shall be assigned to an administrative work pay period.

This agreement shall not contradict the fundamental requirements of the retirement regulations or laws affecting Federal employees covered under the United States Civil Service Retirement Act.

BASIC LABOR AGREEMENT
ALASKA RAILROAD LABOR POLICY STATEMENT

CONTENTS

Preamble

Section 1. Definitions

Section 2. Compliance

Section 3. Scope

Section 4. Employee Rights to Labor Representation

Section 5. Discrimination Prohibited

Section 6. Determining of Bargaining Rights

Section 7. Duty to Confer

Section 8. Written Agreements

Section 9. Wage Policy

Section 10. Disputes, Board of Adjustment, Board of Arbitration

Section 11. Bulletin Boards and Distribution of Literature

Section 12. Labor-Management Cooperation

Section 13. Interpretation of Departmental Labor Policy

Section 14. Effective Date and Duration

Preamble. This Basic Agreement is agreed to in the interest of developing sound relations between the employees and management of The Alaska Railroad. Observance of its terms by management and employees, as well as by their representatives, should result in the joint determination of fair and reasonable rates of pay, hours regulations, and working rules; in the prevention of grievances, and in the prompt and orderly settlement of all differences between labor and management, in stabilizing employment and in developing systematic labor-management cooperation for safety, mutual benefit, and good service to the patrons of the Railroad and the State of Alaska.

The Alaska Railroad as an agency of the Government of the United States is dedicated to the accomplishment of certain public purposes as provided in the Act of March 12, 1914, which directed the President of the United States to construct and operate a railroad in the Territory of Alaska (now the State of Alaska). Among these public purposes are the furtherance of the development of Alaska and the support of national defense. The duties and responsibilities necessary to accomplish these public purposes have been vested by Executive Order of the President, No. 3861, dated June 8, 1923, and supplements thereto, in the Secretary of Transportation; and the Secretary, by appropriate orders and regulations, has delegated certain responsibility for operating the Railroad to its General Manager.

Section 1. Definitions

Labor Organizations: The term "labor organization" means any organization, union, or employee representation committee in which employees participate and which exists for the purpose, in whole or in part, of providing representation for members employed on the

Railroad in dealing with the management officials on wages, hours, conditions of employment, grievances, disputes, and other matters pertinent to their employment. This term does not apply to employee welfare organizations, recreational associations, credit unions, or similar associations.

Representative of Labor Organizations: This term includes those individuals, either employees or non-employees of the Department, who are accredited by the employees to represent their interests in relationships or dealings with management officials on matters relating to their employment.

Management Officials: This term includes those employees at all levels of the Railroad's organization in both line and staff capacities, who have significant responsibilities in supervising, directing, and managing program activities and administrative matters which involve decisions or actions affecting employee groups.

Basic Labor Agreements: This terms refers to the written document negotiated by management officials and representatives of employees, which concerns itself primarily with matters of broad principle, policy, and procedure which will govern the relations of the parties thereto in the negotiation of wages and working conditions, the settlement of disputes and grievances, and related matters.

Supplementary Labor Agreement: This term refers to the written agreement or series of agreements which are negotiated and made effective between management officials and representatives of employees within the purpose and in the implementation of the general policies and guidelines of a basic labor agreement. The periodic negotiation and adjustment of wages and related pay matters and detailed working rules and standards

are characteristic of the subject matter of supplementary labor agreements. They may not delete, modify, or otherwise nullify any of the policies and procedures which have been incorporated in the Basic Labor Agreement.

Labor-Management Negotiations: This term is used interchangeably with the term "collective bargaining."

Section 2. Compliance

2.1 It is recognized that in labor-management negotiations, and in the administering of all matters covered by this agreement, both the Railroad and the employees are governed by the provision of applicable Federal laws and regulations, including the labor relations policies and regulations prescribed in Part 376 of the Department of Transportation Manual, all of which are regarded as paramount. This agreement shall at all times be applied subject to all such Federal laws, Executive Orders, Secretarial instructions or directives, related policies and regulations, and the public interest involved in the orderly, efficient and continuous progress of Department of Transportation operations.

2.2 If laws or regulations become effective, binding on the Railroad and inconsistent with the provisions of this agreement, the Railroad shall notify the representatives of the respective labor organizations. The labor organizations and the Railroad shall issue a joint statement of the change and its effect upon this agreement.

Section 3. Scope

This agreement is applicable to those employees of the Railroad not subject to the Classification Act of 1949, as amended, a majority of whom in any particular trade or craft has

designated as their representative a labor organization signatory to this agreement.

Section 4. Employee Rights to Labor Representation

4.1 Employees of the Railroad have the right to form or join organizations and designate representative of their own choosing, provided they do not form or join organizations which assert that employees in the service of the United States Government may strike or which advocate the overthrow of the United States Government by force or violence.

4.2 In the exercise of the right to form or join organizations and designate representatives, employees shall be free from any and all restraint, interference or coercion on the part of management, and the supervisory staff is prohibited from exercising any such restraint, interference or coercion. By the same token, the designation of individuals and officers to represent the management of the Railroad for the purpose of this policy is entirely the responsibility of the General Manager.

4.3 The labor organization may be required to submit a copy of its bylaws, and the names of its officers and representatives, and to make known by whom it is chartered. The identity of individual members or the number of members is not required, except in the determination of representation rights.

Section 5. Discrimination Prohibited

Appointments to the service of the Railroad are to be made strictly on the basis of merit and efficiency. No test of race, color, religious belief, or political affiliation, except as prescribed by law, will be required of any employee, or considered in his appointment,

promotion, demotion, transfer, retention in or termination of service with the Railroad, nor shall any employee of the Railroad nor anyone seeking employment be required to join or refrain from joining any duly accredited organization as a condition of appointment, promotion, demotion, transfer, retention in or termination of service.

Section 6. Determination of Bargaining Rights

6.1 The majority of the employees of any class or craft of the Railroad has the right to determine the organization which will represent the employees of such class or craft for the purposes indicated in the preamble.

6.2 In the initial determination of representation rights and in resolving disputes as to these rights, both employees and management are governed by the appropriate Section of the Department Manual, Department of Transportation, specifically Part 376, D.M.2.

Section 7. Duty to Confer

7.1 If a craft or group of employees has properly designated an organization to represent them in accordance with the provisions of Section 5 above, the representative of such craft or group shall so notify the General Manager, and the General Manager, the officers and supervisors of the Railroad will thereafter meet with such organization and its officers for the purposes described in the preamble to this agreement.

7.2 Representatives of labor organizations or employees desiring to confer with the management officials shall deal in the first instance with those Railroad officials who have primary responsibility over the case or subject matter

which is the subject of conference.

7.3 Differences or disputes between an employee or group of employees and the Railroad, growing out of grievances or out of the interpretation or application of the terms of jointly promulgated schedules, having been handled by the employees or their representatives through established supervisory channels up to and including the Branch Head concerned and the Personnel Officer, the General Manager will then call a conference. Conferences for the adjustment of such differences or disputes will be held whenever possible during the regular working hours, and when so held, labor organization representatives actually working will not lose pay, provided that the number of such representatives of the labor organizations concerned does not exceed two.

7.4 Conferences may be requested by the labor organizations or the Railroad announcing their desire to revise rates of pay or the jointly promulgated agreements, and having given proper notice, the time and place for the beginning of such conferences will be announced. The time required by labor organization representatives in the employ of the Railroad when attending such conferences will not be paid for by the Railroad. Labor organization representatatives attending conferences for revision of pay rates or jointly promulgated agreements shall be granted leave as accrued, or leave without pay, to attend such meetings.

7.5 Leave as accrued may be granted to any other employee for attendance or observance of the above meetings, contingent on the availability of replacement personnel. In the interest of cooperation in labor matters, the Railroad will follow a liberal policy in allowing time off for such purposes, with reasonable limits and consistent with work requirements.

Section 8. Written Agreements

8.1 Rates of pay, hours regulations, and working rules in the determination of which employees, through accredited organizations, have participated will be reduced to writing and will be promulgated as schedules over the joint signatures of the General Manager and the officers of the organization or organizations representing the employees concerned. Such agreements shall be regarded as Supplementary Agreements as defined in Section 1 of this agreement and, in accordance with the applicable regulations of the Department of Transportation, need not be submitted to the Secretary for approval.

8.2 The Railroad and the labor organizations further agree that, pending the determination or adjustment of any issue arising between them by means of the conference machinery and procedures hereinafter provided, there will be no change in the conditions in any schedules or recorded understanding applicable to such issue.

8.3 The Railroad will not make unilateral changes in the terms of any labor agreement pending settlement of outstanding differences through mutually agreeable procedures, except those that are dictated by the Department of Transportation for the public purpose.

Section 9. Wage Policy

9.1 The making of agreements in regard to rates of pay, including rules related thereto, shall be governed by the following wage policy:

a. To establish a means of understanding in reaching fair and equitable wage settlements on The Alaska Railroad, now and in the future, the following principles and procedures will govern the wage negotiations:

1. That the wage rates payable to the employees of the Northern Pacific Railway constitute a fair and equitable pattern to be used as the basis for determining wage rates for operating employees of The Alaska Railroad.

2. That the Alaska Railroad employes should receive, over and above the basic rate for comparable occupations on the Northern Pacific Railway, a percentage differential equal to the differential by which the consumer price index of the Anchorage area exceeds the average consumer prices in all cities of the contiguous 48 states for which place-to-place differentials are computed by the Bureau of Labor Statistics, Department of Labor.

3. That the Bureau of Labor Statistics cost-of-living indexes shall be the basis for determining such an equitable differential between the other 48 states and the Railbelt areas of Alaska.

4. That basic wage increases on the Northern Pacific Railway shall be added to all Alaska Railroad operating employees' wage rates in accordance with the provisions of this agreement. The effective date of such increases shall be as of the effective date of such wage changes occurring on the Northern Pacific Railway, or the earliest effective date thereafter permissible under applicable Comptroller General rulings.

5. At the time of such increases referred to in paragraph 4 above, a cost-of-living differential equal to the Bureau of Labor Statistics cost-of-living differential indexes for Anchorage shall be added; provided that no differential shall be

added when the new Alaska Railroad wage rate is already higher than the corresponding wage rate, by occupation, on the Northern Pacific Railway by a percentage higher than the most recent Bureau of Labor Statistics cost-of-living differential indexes for Anchorage; and provided, further, that cost-of-living differentials shall be added in the amount required to maintain the Alaska Railroad wage rates, by occupation, at a percentage level above the Northern Pacific Railway rates equal to the Bureau of Labor Statistics Anchorage cost-of-living differential indexes.

6. Changes in the index will not affect Alaska Railroad cost-of-living differentials until the next following wage adjustment on the Northern Pacific Railway and will be effective coincident with such Northern Pacific wage adjustments.

7. It is agreed that:

a. The dollars and cents difference between Anchorage and Fairbanks coverating employees' pay rates in effect as of January 1, 1974, shall be maintained for positions at Healy, Alaska, and north in lieu of a consumer price index for Fairbanks and shall provide a cost-of-living allowance for assigned positions with home terminal on the existing subdivision from and including Healy, Alaska, and north.

b. The computation of the consumer price index for Anchorage, and the average consumer price indexes for the other 48 states, shall provide a cost-of-living allowance for assigned positions with home terminal south of Healy, Alaska.

8. If the increases granted on the Northern Pacific Railway are in the form of percentage increases, such increases will be computed on a cents-per-hour basis for the purpose of this agreement.

9. Because of the differences between The Alaska Railroad and the Northern Pacific Railway in methods of computation of passenger conductors' and brakemen's rates on The Alaska Railroad, it is agreed that the passenger conductor's daily rate will be computed at a level $1.37 per hundred miles less than the rate for a freight conductor. It is also agreed that the basic rate for passenger brakemen will be computed at $0.84 per one hundred miles less than freight brakemen.

10. Because of the lack of similarity in the occupation of hostler on The Alaska Railroad and the Northern Pacific Railway, the rate of yard engineer on the Northern Pacific Railway will be used as the basis for terminal hostler on The Alaska Railroad. The rate for engineer hostler on The Alaska Railroad will be computed at $0.88 per day more than the rate of terminal hostler on The Alaska Railroad. The rate for hostler helper will be the rate of yard fireman on The Alaska Railroad.

11. It is agreed that wage increases as specified in this agreement will not be applied retroactively to any operating employee not employed by The Alaska Railroad as of the date final settlement is reached as a result of negotiations on the Northern Pacific Railway. Exceptions to this rule will be (a) employees who entered into military service, voluntarily or otherwise, after the effective date established, (b) employees who were separated

for reasons of retirement under the Civil Service Retirement Act after the established effective date of the wage increase, (c) heirs of deceased employees.

12. In the event the Northern Pacific Railway merges with another carrier, The Alaska Railroad wage rates will be based on that portion of the merged carrier which consists of the trackage now operated by the Northern Pacific Railway

9.2 Accredited labor organizations or the General Manager will give at least thirty days' notice of desire for conference to revise rates of pay. The time and place for the beginning of such conferences will be agreed upon within ten days of receipt of such notice.

9.7 Dental Insurance Benefit:

a. The Employer will pay the premiums specified so that each employee of the bargaining unit may enjoy dental insurance coverage under the terms of the Railroad Employee's National Dental Plan.

b. The terms and conditions of coverage including method of making claim, and premium amounts payable, shall be established by representatives of the National Railway Labor Conference, the United Transportation Union at the National level, and the insurance carrier selected by them.

(Rule 9.3 Revised Jan. 1978)

Section 10. Disputes. Board of Adjustment, Board of Arbitration

10.1 The parties to this agreement recognize that the prompt and orderly settlement of disputes in a fair and reasonable manner is

essential to good labor relations and to the efficient accomplishment of the purpose for which the Railroad exists. To this end officials of the Railroad and employees and their representatives will make every effort to resolve their disputes at the first level of management where the dispute originates. In the event that disputes are not so resolved, they shall be handled in accordance with the procedures outlined below:

a. Grievances brought by employees or their representatives shall be handled in the first instance with the Railroad official having primary responsibility for the subject matter of the grievance.

b. Appeals from the decision of the Railroad official with primary responsibility shall be to the next highest official in line, except that the last appeal prior to submission of the case to the General Manager shall be to the Personnel Officer. There shall be no exception to the carrying of appeals through channels, as described above, except by agreement or mutual assent.

c. Any grievance must be filed, in writing, within thirty days after the first occurrence which gives rise to said grievance. Grievances not filed within this time limit will not be entertained or allowed. A decision on said grievance must be made within thirty days from the date the grievance is received by the official having responsibility in each instance. An appeal to the next higher authority must be made within thirty days and a decision thereon must be made within thirty days. If a decision is not made by the responsible official within the time limit prescribed for him to make a decision, the

decision will automatically be in favor of the employee or claimant.

10.2 Detailed procedures for the handling of such grievances shall be included in supplementary labor agreements between the parties signatory hereto.

10.3 Disputes over grievances arising from the interpretation of the provisions of Supplementary Agreements and which are not resolved to the satisfaction of the parties on appeal to the General Manager in accordance with the provisions governing grievances in the Supplementary Agreements shall be submitted to a Board of Adjustment. Such Board of Adjustment shall be established in accordance with the following terms and conditions.

a. The procedures for the settlement of grievances arising out of the interpretation of the agreement covering the rates of pay, rules and working conditions, and operating and safety rules for the employees of The Alaska Railroad, as represented by the Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen, will be as follows:

1. There shall be established on The Alaska Railroad, as the occasion requires, a Board of Adjustment to be composed of three members--one member to be designated by the carrier; one member by the labor organization involved; and the third member, not affiliated with either the carrier or the labor organization, and who need not be a resident of Alaska, to be selected by the agreement of both parties.

2. If selection of the third party

from local sources cannot be agreed upon, the third party will be selected from a list of available neutrals submitted by the National Mediation Board, furnished by joint request of management and the union involved.

3. The Brotherhood General Chairman will not make any request for the submission of any case to the Adjustment Board until thirty days after receiving the General Manager's final decision, but will serve notice in writing on the General Manager of his intention to do so within sixty days after receiving notice of the General Manager's final decision if authorized to do so by the fact-finding board.

(a) During the thirty-day period referred to above, the case or cases will be submitted to a fact-finding board composed of three members of the Brotherhood of Railroad Trainmen and three members of the Brotherhood of Locomotive Firemen and Enginemen, appointed by each organization, who will consider the case or cases. After consideration, a decision will be made by this board as to whether a request will be made for an Adjustment Board hearing. Their decision will be binding on the General Chairman involved, at which time a conference will be arranged between the representative of the employees and the General Manager or Assistant General Manager in a final effort to reach agreement. Failing to agree, the case or cases will revert to the Adjustment Board.

4. It shall be the duty of this Board to

begin hearings on grievances submitted to it prior to the expiration of a period of ten days from the date on which the last member necessary to complete the Board is appointed. Unless both parties to this agreement agree upon some other location, all the hearings conducted by this Board shall be held in the city of Anchorage, Alaska. The board shall make its award prior to the expiration of a period of thirty days from the date on which the Board concludes its hearings. The parties hereto may agree at any time prior to the making of such award by the Board to an extension of time.

5. The award of the Board shall be final and conclusive upon the parties hereto as to the facts determined by the Board and as to the merits of the controversy decided, unless disapproved by the Secretary of Transportation within thirty days from the receipt of the award in the Office of the Secretary. Should either party object to the findings of the Board and enter into correspondence or communications with the Secretary, other parties of the Board shall receive copies in advance of such correspondence or communicatsion.

6. In the event a dispute arises involving an interpretation of the Board award, upon request of either party, the Board shall interpret the award in light of the dispute.

7. A majority of all members of the Adjustment Board shall be competent to make an award or interpret an ward with respect to wy dispute submitted to it.

8. The members of the Board representing the carrier and the labor organization

shall be compensated by the party they represent. Each neutral party shall receive from The Alaska Railroad such compensation as the Railroad may fix, together with the necessary traveling expenses and expenses actually incurred for sustenance, or shall receive a per diem allowance in lieu thereof, subject to the provisions of law applicable thereto while serving as such third or neutral party.

9. The Board so constituted under the provisions of this agreement shall serve only for the case or cases submitted to it at the time of its organization and until such cases have been heard and award rendered. The above provisions shall not prohibit any member of a Board from serving in a similar capacity on a subsequent Board.

10. Memorandum of Understanding: That effective date of this agreement shall constitute the cut-off date prior to which no grievance shall have access to the Board, except that such grievances as are specifically agreed upon in writing at the time of signing of this agreement may be presented to the Board even though they originate prior to this agreement.

11. Nothing in this agreement will be construed to give the Adjustment Board any jurisdiction over the Operating Rules of the Railroad.

10.4 Disputes over wage rates or related wage rules shall be resolved in accordance with the provisions of arbitration contained in the following procedures.

a. If efforts to bring about agreement in disputes over general changes in wage rates

or in railroad wage rules are unsuccessful, the Railroad and the labor organization or labor organizations involved agree to the submission of the facts to a Board of Arbitration established in accordance with the terms and conditions contained herein.

b. The Board shall consist of one neutral person and one member representative of the labor organization or organizations and one member representing the Railroad. The neutral member shall be selected from the lists of available neutrals maintained by the National Mediation Board.

c. The parties to a given dispute, referrable to an Arbitration Board, shall prepare jointly an Arbitration Agreement applicable to such dispute which shall contain at least the following:

1. A provision that the Arbitration Board and the representatives of management and labor, parties to the dispute being arbitrated, will adhere to the rules for arbitration contained in these procedures.

2. The effective date of the Arbitration Agreement and identification of the parties thereto.

3. A provision that the arbitration proceedings will be guided by the principles of the Railway Labor Act of 1926, as amended.

4. A clear and specific statement of the question to be submitted to the Arbitration Board, and a provision that the arbitration question or parts thereof may be withdrawn from arbitration by mutual consent.

5. A provision that, within a reasonable time, hearing will commence at Anchorage, Alaska, or Washington, D. C. as mutually agreed upon by the parties.

6. A time requirement as to the appointment of members of the Arbitration Board.

7. A time requirement for the decision of the Arbitration Board with provision for extension of time by mutual consent.

8. A provision that the award, a transcript record of the arbitration proceedings, and minutes of meeting of the Board of Arbitration shall constitute the full and complete record of the arbitration.

d. The award of the Board shall be final and conclusive upon the parties hereto as to the facts determined by the Board, and as to the merits of the controversy decided, unless disapproved by the Secretary of Transportation within thirty days from receipt in the Office of the Secretary, Department of Transportation, of the complete record and minutes of the findings and award of the Board. Should either party object to the findings of the Board and enter into correspondence or communications with the Secretary of Transportation, other parties of the Board shall receive copies of such correspondence and communications.

e. In the event a dispute arises involving an interpretation of the Board award, upon request of either party, the Board shall interpret the award in light of the dispute.

f. A majority of all members of the Board shall be competent to make an award or interpret an award with respect to any dispute submitted to it.

g. The members of the Board representing the carrier and the labor organization shall be compensated by the party they represent. The neutral arbitrator shall receive such compensation as the Department of Transportation may fix, including traveling expenses and expenses actually incurred for sustenance, or shall receive a per diem allowance in lieu thereof, subject to the provisions of the law applicable thereto while serving as neutral party. Such expense shall be shared equally between the unions involved and the Railroad.

h. The Board shall serve only for the case submitted to it specified in the Arbitration Agreement and until such case has been heard and award rendered. The above provisions shall not prohibit any member of a Board from serving in a similar capacity on a subsequent Board.

Section 11. Bulletin Boards and Distribution of Literature

11.1 Distribution of literature of a labor organization shall be permitted, provided the distribution is made by employees outside their regular working hours and does not interfere with the work assignments of other employees who may be on duty at the time. Notices posted by labor organizations on Government bulletin boards and literature distributed on Government property shall contain the name of the organization issuing or sponsoring it, and shall contain

nothing that would imply official sponsorship or endorsement by the Railroad. The material must pertain specifically to the business of the labor organization and shall not contain statements which reflect on or attack the integrity of motives of individuals, other labor organizations, the Department of Transportation, the Railroad, or other governmental agencies, Federal or otherwise. Objective statements of opinion, favorable or unfavorable, about issues or subjects related to the employees' work and employment conditions are permitted. Canvassing or soliciting membership and collecting membership dues for a labor organization shall also be conducted outside regular working hours of the employees canvassed and of the employees performing these activities. Non-employee canvassers may be required to give notice of their presence to the responsible management officer. There shall be no interference with the performance of official duty of employees during working hours.

11.2 Union dues withholding: Subject to the terms and conditions of this agreement, the Railroad shall deduct from the wages of the employees subject to this agreement, who acquire and maintain membership in the organization, amounts equal to the dues uniformly required as a condition of retaining membership in the organization, and shall pay the amounts so deducted to the designated Treasurer of the organization provided, however, that this requirement shall not be effective with respect to any employee until he shall have furnished the Railroad with a prescribed written wage assignment authorization to the organization of such membership dues, which wage assignment authorization shall be revocable in writing, as prescribed, or cancelled upon employee separation; termination of this agreement; or loss of employee organization recognition between the Railroad and the Organization signatory hereto.

The wage assignment authorization shall be on the Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, Standard Form No. 1187.

The revocation of the wage assignment authorization shall be on the Revocation of Voluntary Allotment of Compensation for Payment of Employee Organization Dues, Standard Form No. 1188.

The Organization shall assume full responsibility for procurement of the form and execution of the wage assignment authorizations and for delivery of such forms to the Chief, Budget and Accounting Branch, Accounting Section, Anchorage.

a. The employee members of the Organization may furnish voluntarily to the Railroad's Chief, Budget and Accounting Branch, Accounting Section, Anchorage, through their organization, the wage assignment authorization, indicating thereon the payroll deduction authorized. The Organization Treasurer or Financial Secretary shall certify the name of the employee, his membership in good standing in the Organization, and the amount to be deducted from the wages of the employee who has signed the wage assignment form. The annual dues shall be prorated over twenty-six (26) pay periods.

b. The payroll deduction authorized herein shall become effective the first full pay period following its receipt in the Accounting Section.

c. Deductions will be made from the wages earned beginning the first complete pay period following receipt of the allotment

form in the Accounting Section for which the wage assignment authorizations, specified in Sections 11.2a and 11.2b, is furnished. The following deductions will have priority over deductions in favor of the Organization, as provided herein:

1. Retirement or FICA
2. Federal income tax
3. Health benefits
4. Group life insurance
5. Indebtedness due U.S. Government
6. State income taxes
7. Alaska Railroad Medical Association & Excess Benefits Plan
8. U.S. Savings Bonds

c. If the earnings of an employee are insufficient to remit the full amount of the pay period deduction for such employee, no deduction shall be made, and the same will not be accumulated on the following pay period.

e. Deduction shall cease when:

1. The employee separates from the Railroad effective at the end of the pay period during which separation occurs.

2. The Organization loses recognition: effective beginning of first pay period after such loss.

3. The employee is permanently reassigned to a Railroad segment whose employees have representation by another employee organization: effective at the end of the pay period during which movement occurred provided revocation order is initiated by employee.

4. The employee is expelled or ceases to be a member of good standing in the Organization: effective with first complete pay period after receipt of written notice.

5. Revocation order is initiated by the employee: effective the beginning of the pay period following its receipt in the Accounting Section by March 1 or September 1. Revocation applies only on March 1 or September 1.

11.3 No charge shall be made against the Organization for dues withholding.

11.4 The Railroad will remit to the Treasurer of the Organization the amount deducted from the wages of the members who completed the wage authorization allotment. Remittance checks shall be forwarded to the Organization Treasurer consistant with established pay practices and shall be accompanied by a positive listing of employees' names who have authorized deductions, amounts withheld (or explanation why no money withheld), with proper identification of the employee organization.

11.5 The amount of dues certified on the original allotment form will remain unchanged until an appropriate official of the Organization certifies to the Accounting Section that the amount of regular dues has changed. Changes in the amount of allotments by reason of changes in the organization dues may not be made more frequently than once each twelve months, measured from the date of the first dues change made by the employee organization. Changes in deductions for employees shall be effective as of the first complete pay period after receipt of the certified change by the Railroad Accounting Section, or a later payroll period if requested

by the Organization.

11.6 No part of this agreement or any other agreement between the Railroad and the Organization shall be used directly or indirectly as a basis for any grievance or claim by or in behalf of an employee, predicated upon any violation of, or misapplication, or noncompliance with, any part of this agreement.

11.7 The Organization shall indemnify, defend, and save harmless the Railroad from the execution of, or compliance with, the provisions of this agreement.

11.8 This agreement shall become effective pay period beginning December 23, 1973, following mutual acceptance by the parties and shall remain in effect until modified or changed in accordance with established negotiation procedures for amending the basic agreement between the member parties of this agreement. This agreement is subordinate to and superseded by any conflicting Federal law, Executive Order, or directives that are now, or may be later, imposed pertinent to this service to the Organization.

Section 12. Labor-Management Cooperation

12.1 The parties to this agreement recognize that there are many areas of common interest to the management of the Railroad and to its employees which are important to the effective operation of the Railroad and to the welfare of employees which are not ordinarily included within the scope of collective bargaining agreements. Such areas of common interest include, but are not limited to:

a. Elimination of waste in operation and maintenance.

b. Conservation of materials, supplies, time, power, and energy.

c. Improvements in quality of workmanship and services.

d. Correction of conditions making for grievances.

e. Health, safety, and morale standards.

12.2 In order to increase the area and effectiveness of labor-management cooperation, Joint Committees have been established prior to the making of this agreement, as follows:

Joint Union-Management Safety Committee
Alaska Railroad Medical Association and Excess Benefit Plan
Joint Labor-Management Committee

12.3 Employees serving on the welfare committees mentioned above and similar committees that may be established will be paid not to exceed a minimum day for their attendance if any time is lost. It shall be the duty of the parties to this agreement to further the work and effectiveness of these joint committees.

Section 13. Interpretation of Departmental Labor Policy

It is understood and agreed that the intent of this Basic Agreement is to comply with the Labor Relations Policies of the United States Department of Transportation issued January 1959 by the Administrative Assistant Secretary. Signatories to this Agreement may request interpretation from the Department as may be required.

Section 14. Effective Date and Duration

This Agreement shall become effective on the

date on which it is approved by the Secretary of Transportation. After such approval renewal of this Basic Labor Agreement will be automatic from year to year.

Any modification or amendment may be presented for discussion and negotiation upon thirty days' written notice by the authorized representatives of the labor organization and/or the General Manager. Within ten days after receipt of modification notice, the General Manager will notify when and where the negotiations will take place. Agreed to changes will not be effective until approved by the Secretary of Transportation.

The printing of the Agreement, Schedule of Pay, Rules and Regulations governing Locomotive Engineers, Locomotive Firemen, Conductors, Brakemen, Baggagemen and Hostlers, is a consolidation of agreement placed in effect March 10, 1957, and Supplements No. 1 through 57. Also, under cover is consolidation of the Basic Labor Agreement placed into effect February 20, 1961, and Supplements No. 1 through 5. "Department of Transportation" was substituted for "Department of Interior" throughout text of this Agreement. Typing errors or omissions in the revised printing of these Agreements will be corrected, and in no way does this consolidation change rule interpretations.

Dated at Anchorage, Alaska, February 7, 1980.

ACCELERATED TRAINING PROGRAM FOR CONDUCTORS

In order to establish a formal training program combining on-the-job training with accelerated classroom instruction to qualify and promote brakemen to conductors, the following provisions will apply:

I. General

A. The selection and training of brakemen as conductors under this program will be made in accordance with their seniority. Each brakeman shall be given a seniority date as a brakeman in accordance with applicable agreements now in effect. Brakemen shall be required to accept training and promotion according to their relative standing on the brakemen's seniority roster.

B. Exception to Rule 28(f)(2). Brakemen who have been in service of The Alaska Railroad as such for a period of 18 months (consecutive) may be entered into the accelerated training program and will be required to take promotion to conductor in the order of their seniority. Brakemen who decline, do not appear to take examination, or fail the examination for promotion, Rule 28(g) will apply. No employee shall be eligible to be promoted to conductor without first entering the service as brakeman and completing the training program except as permitted in Rule 28(f)(2) of present working agreement.

C. No brakeman shall be deprived of the right to examination for promotion in accordance with seniority because of any failure to take examination because of the requirements of the Railroad's service, by sickness, injury, or by other approved

leave of absence; provided that upon return such brakeman shall be immediately called and required to take examination and accept proper assignment. If a junior brakeman is promoted out of turn to conductor, such junior brakeman will rank below any senior brakeman as a conductor when such senior brakeman completes the training program and passes required examination.

II. Training Program

A. The training program shall consist of classroom instruction and on-the-job training as deemed necessary by The Alaska Railroad. Materials, books, and instruction shall be furnished by The Alaska Railroad.

B. Examination will be prepared and administered by The Alaska Railroad. Equal opportunity will be afforded in administering examinations.

C. The training program will consist of 6 weeks of intensified classroom instruction and on-the-job training. See Attachment #1 Training Schedule.

D. The Alaska Railroad shall establish a training schedule as near as practicable on the basis of 40 hours per week, 8 hours per day. Brakemen participating in the training program will not be permitted to mark up for service on unassigned days if other qualified regular or extra employees are available. If so used in other service during scheduled training program, earnings for that service will be in addition to the weekly rate set forth in this agreement.

E. The General Chairman shall be furnished the name and address of each brakeman entering the training program showing

the date he is placed in training. Further, the General Chairman will be advised by The Alaska Railroad of the names of instructors in charge of administering the training program.

F. Upon completion of the accelerated training program, participants will be required to pass a satisfactory examination. Once qualified, they may exercise their seniority in accordance with existing agreement.

G. Brakemen who decline, do not appear to take examination or fail the examination for promotion, Rule 29(g) will apply. Brakemen who after starting the training program are unable to continue the training due to sickness or approved leave of absence, will not be regarded as having failed. Additional opportunity for training to qualify will be provided as mutually agreed upon by the instructor(s) and UTU General Chairman.

III. Compensation During Training

A. Brakemen participating in the accelerated training program to qualify for promotion to conductor will be paid a daily rate comparable to the averaged daily rate of a yard brakeman and extra board brakeman during classroom orientation and instruction.

Example:

5 X yard brakeman with air
7 X brakeman extra board guaranteed rate.
Total and divide by 10 for daily rate of compensation payable trainee.

The daily earning will be proportionately reduced for any scheduled training day that a brakeman absents himself of his own volition. Existing contract provisions will apply for the payment of approved absences (sick and annual leave).

B. While receiving on-the-job training, conducted under the direct supervision of the conductor regularly assigned, the trainee will receive the brakeman's rate of pay concurrent with applicable provisions of the present working agreement.

C. Brakemen participating in the accelerated training program when assigned at outlying points where permanent residence is maintained, other than location where instruction is conducted, will be allowed meal and lodging allowance consistent with that provided for in Rules 53(a), 53(a)-1, 53(a)-3, and 53(a)-5 (two meals and one lodging allowance in each twenty-four hour period).

IV. Supervision and Responsibility While Receiving On-the-job Training

When brakemen participating in the training program are required to receive on-the-job training, the conductor on the job selected will acquaint the brakeman in training with the responsibilities and functions of conductors under actual working conditions subject to the following:

1. The brakeman in training status will be permitted to direct movement and perform other functions under direction of the conductor.

2. While the conductor cannot be relieved from his responsibility for the safe operation of his train, engine movements coupled with or without cars, he will not be held responsible for

damages to equipment and/or property caused by brakeman trainees' judgment decisions in the performance of work assignments.

V. Effect on Existing Agreements

This agreement will supersede existing agreements relating to the training, qualifying and promotion of brakemen represented by the UTU only to the extent set forth herein.

ACCELERATED PROMOTION PROGRAM FOR ENGINEERS

The Alaska Railroad and the United Transportation Union desire at this time to establish a formal training program which, together with on-the-job training, will accelerate training, qualifying and promotion of firemen to the craft of locomotive engineers. They therefore enter into this Agreement:

ARTICLE I - GENERAL

A. The Alaska Railroad will establish and maintain a training program to accelerate the training, qualifying, and promotion of firemen to the craft of locomotive engineers in accordance with the terms of this Agreement.

B. The recruitment, selection, employment, and training of firemen under this program shall be without discrimination because of race, creed, color, religion, national origin, sex, or union membership.

ARTICLE II - ELIGIBILITY

A.1. Each fireman shall be given a seniority date as a fireman in accordance with applicable agreements now in effect. Firemen shall be required to accept training and promotion according to their relative standing on the Firemen's Seniority Roster.

A.2. No employee shall be eligible to be promoted to the craft of locomotive engineer without first entering the service as fireman and completing the training set forth herein except as permitted in Rule 29(f)-1, of our present working agreement. When this training program is initiated, firemen with a seniority date prior to January 1, 1975, will not be run around by locomotive engineers hired under Rule 29(f)-1. If this training program does not

produce sufficient number of qualified engineers in six months, the Railroad will recruit experienced engineers who will accrue and maintain engineer's seniority per rule 29(f)-1.

B. The Alaska Railroad will expedite the training, qualifying, and promotion of firemen having a seniority date as such on the effective date of this Agreement, and such training, qualifying, and promotion will be completed before the training, qualifying, and promotion of new firemen becomes applicable under the terms of this Agreement. In the application of this paragraph, any existing agreement between the parties requiring a minimum length of service before a fireman is eligible for promotion and qualification to various engineers' services is superseded by this Agreement.

C. No fireman shall be deprived of his rights to examinations, nor to promotion in accordance with his relative standing on the firemen's roster, because of any failure to take his examination by reason of the requirements of the Railroad's service, by sickness or by other approved leave of absence; provided that upon his return he shall be immediately called and required to take examination and accept proper assignment.

D. If a junior fireman is promoted out of turn to engineer, such junior fireman will rank below any senior fireman as an engineer, when such senior fireman completes the program and is given a certificate as an engineer.

E. If there is an immediate need for locomotive engineers, firemen may be required to enter the training program in seniority order irrespective of their length of service as firemen.

ARTICLE III - TRAINING PROGRAM

A. The training program shall consist of classroom instructions and work experience as determined by The Alaska Railroad. As necessary, classrooms, books, materials, and instructions shall be furnished by The Alaska Railroad.

B. Examinations will be prepared and administered by The Alaska Railroad.

C. The training program and any intended substantial changes therein shall be reviewed from time to time by the ARR representative and the UTU.

D. The General Chairman shall be furnished the name and address of each fireman entering the training program, showing the date he is placed in training. Further, the General Chairman will be advised by the ARR of the names and location of the supervisors in charge of administering the training program.

E. The ARR shall establish a training program schedule and if the schedule does not require attendance on a day or days of a calendar week, firemen will be considered assigned to the training program but will be permitted to return to their home point and back to training point at their expense. Under these circumstances, a fireman will not be permitted to mark up for service.

F. When firemen are not assigned to scheduled training programs, they shall be required to exercise their seniority with the understanding that in so doing they will meet requirements in various classes of service.

G. As near as practicable, training days will be scheduled not to exceed eight hours, it

being recognized, however, that single trips for on-the-job training may of necessity exceed such hours.

H. Firemen assigned to a scheduled training program will not be used in other service prior to completion of the training program if any qualified regular or extra engine service employees are available.

On days firemen assigned to a scheduled training program are not scheduled for training, they will not be permitted to exercise their seniority.

I. If a fireman is used in other service during a scheduled training program, his earnings for that service will be in addition to the weekly rate set forth in this Agreement.

J. Firemen who, after starting the training program, are unable to continue the training due to sickness or approved leave of absence will not be regarded as having failed. The decision as to whether they must start the program at the beginning or at another point in the program will be made by the instructor(s) after consulting with the United Transportation Union.

K. Firemen who are assigned to a regular road train crew as part of the training course shall be paid as though they are part of the regular crew and shall receive all benefits now applicable as per present agreement.

L. When the ARR requires work experience on assignments that otherwise would not be available to individual firemen in time to permit compliance with the requirements of the training program, the ARR will designate a sufficient number of such assignments on which firemen may exercise their seniority for the

period necessary to satisfy such requirements. In such cases the fireman will not be subject to displacement until he has accumulated the necessary work experience, except he may be displaced by a senior fireman who would otherwise be placed in a furloughed status.

M. A fireman may be forced from his regular assignment to permit a fireman in training to obtain necessary work experience on such assignment. When a senior fireman is forced from his assignment by a fireman his junior, under such circumstances he will be paid not less than he would have been paid on the assignment from which he was removed.

N. Adequate records of firemen on-the-job and classroom training progress shall be maintained and reviewed with the General Chairman on request.

O. All unprotected firemen who are now on the seniority roster shall be considered locomotive engineer trainees as directed by the Railroad in seniority order.

P. All firemen trainees shall be enrolled in accredited correspondence course for apprentice locomotive engineers. The course shall be for one (1) year and all lessons will be completed promptly and grades maintained satisfactorily. Failure to complete lessons on time and correctly will constitute a failure to qualify, and shall as of the date so notified follow and be junior as fireman to the youngest man on the fireman seniority list until such time as incumbent could be reassigned or employment severed.

Q. Within the first year, the locomotive fireman trainee shall be enrolled in a scheduled training program which shall consist of three (3) months. Exception: by mutual agreement between The Alaska Railroad and UTU representative

trainee may be qualified on basis of experience.

R. He shall be assigned to a regular yard crew for on-the-job training and be permitted to acquire sufficient knowledge and skill to perform the duties of yard locomotive engineer.

S. His scheduled training shall generally consist of being assigned to a regular crew four (4) days per week and one (1) day per week of formal instructions given by the Rules Examiner, Road Foreman of Engines, and shop instructors.

T. Fireman trainees required to present themselves for orientation and classroom instruction, when assigned at outlying points where permanent residence is maintained, other than location where instruction is presented will be allowed meal and lodging allowance comparable to that provided for in Rules 53(a), 53(a)-1,53(a)-5 (two meals and one lodging allowance in each twenty-four hour period).

U. At the end of each month, the fireman trainee shall be given an oral and written exercise or examination. The fireman trainee shall complete the required Transportation Rules and Regulations, and Mechanical and Air Brake Rules satisfactorily at the end of or before the 90-day scheduled training period.

ARTICLE IV - COMPLETION OF PROGRAM SATISFACTORILY

A. Upon successful completion of the training program, the fireman shall be certified as a locomotive engineer and shall be awarded a certificate as to qualifications acquired and maintained engineer's seniority in acordance with these qualifications and all applicable agreements. Upon such certification, the ARR shall supply the UTU General Chairman with the

names of the firemen so certified and the date of the certification.

B. Once qualified as a locomotive engineer, he may exercise seniority in accordance with his service and in accordance with his qualifications and existing agreement.

C. Within twelve (12) months after entering the training program as locomotive engineer, he will be eligible to be qualified in all classes of service without restriction as a locomotive engineer, provided the opportunity has been available to acquire sufficient knowledge and has demonstrated his ability to safely and skillfully perform these duties as approved by the Road Foreman of Engines. If, after twelve (12) months following completion of training, locomotive engineer is not fully qualified due to schedule of assignment or lack of opportunity, ARR will provide additional training to qualify these engineers in all classes of service.

D. Engineers not qualified for all classes of service cannot hold positions on the Engineer's Extra Board until such time as they are qualified by the Road Foreman of Engines.

ARTICLE V - FAILURE TO COMPLETE SATISFACTORILY

A. When, in the opinion of the ARR instructor(s), it becomes apparent that a fireman will not complete the training satisfactorily, he will be required to consult with the ARR instructor(s) and General Chairman of the UTU for the purpose of identifying and possibly overcoming this problem.

B. If a fireman under this training program fails to pass the required final examination on the first attempt, he will be given a second opportunity to pass such examination.

The second examination will be taken not less than sixty (60) days after failure of the first examination. The second examination will be held at the same point as the first if practicable or unless otherwise mutually agreed upon. Failure to complete the training program in accordance with the terms of this Agreement or failure to pass the final examination on the second attempt will constitute a failure to qualify and shall as of the date so notified follow and be junior as fireman to the youngest man on the fireman's seniority list until such time as incumbent could be reassigned to more suitable employment.

During the period while awaiting and taking reexamination, firemen will not be compensated nor allowed any expenses as firemen under this Agreement, but they will be permitted to sit in on any classroom instructions given to other firemen.

During the period while awaiting and taking the second examination, firemen may exercise their seniority.

ARTICLE VI - COMPENSATION DURING TRAINING

A. Existing agreements between the parties which provide for the payment of daily, weekly, or monthly rates of pay in excess of those set forth in this Agreement for training, qualification, and promotion of firemen, or which provide for payment of an allowance for instructor(s) or which provide for preservation of the without-fireman rates of pay, will remain in full force and effect unless otherwise mutually agreed to by the parties on the individual Carrier.

B. Firemen trainees who have a seniority date prior to January 1, 1975, will be paid while in training the pay of the assignment from

which removed to enter the training program. Firemen trainees who enter the training program with a seniority date after January 1, 1975, will be paid a basic weekly rate of $319.10. This rate is subject to future wage increases. Computation of the weekly rate designated above was made as follows:

Example: 5 X yard firemen's rate and
7 X the firemen's extra board rate and added and divided by 2 for the weekly average.

C. The earnings guarantee herein provided will be proportionately reduced for any scheduled training day that a fireman is absent of his own volition, based on a five-day week.

ARTICLE VII - SUPERVISION OF FIREMEN IN THE TRAINING PROGRAM

When firemen participating in the training program are required to receive on-the-job training, the engineer on the job selected will acquaint the fireman in training with the responsibilities and functions of engineers under actual working conditions, subject to the following:

A. The fireman in training will be permitted to operate the engine and perform other functions under direction of the engineer.

B. While the engineer cannot be relieved from his responsibility for the safe operation of his train and engine, he will not be held responsible for broken knuckles, damaged drawbars, or rough handling when the engine is operated by the fireman in training.

C. The presence of a fireman in training will not affect the engineer rate of pay when operating without a fireman.

D. Engineer(s) will be required to complete progress reports as may be directed by the Road Foreman of Engines/Trainmaster.

ARTICLE VIII - MISCELLANEOUS

A. The parties hereto having in mind conditions which exist or may arise on individual carriers in the application of this Agreement, the duly authorized representative of the employees party to this Agreement, and the officer designated by the ARR may mutually enter into additional written understandings to implement this Agreement or to preserve existing training agreements.

ARTICLE IX - EFFECT ON EXISTING AGREEMENTS

This Agreement will supersede existing agreements relating to the training, qualifying, and promotion of firemen represented by the UTU only to the extent set forth herein.

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

This Agreement, and attached Implementing Memorandum, by and between The Alaska Railroad and the United Transportation Union, is in full and final settlement of the original notice served by the carrier October 23, 1979 and subsequent notice of March 24, 1980, and subsequent discussions between the parties as they pertain to the consist of crews in train and yard service.

IT IS HEREBY AGREED AS FOLLOWS:

1. The parties will finalize the necessary implementing provisions to become effective concurrent with this Agreement consistent with the following.

2. The consist of the road freight train and yard crews, except as otherwise provided in this Agreement, shall be not less than one conductor two brakemen. Such a crew will hereinafter be referred to as a standard crew.

3. The reduction of road freight service brakemen or yard brakemen positions from any crew shall be made solely on a pure attrition basis, i.e. no brakeman positions available to a protected employee under schedule rules will be blanked, nor will a protected employee be laid off or remain on lay-off as long as a reduced crew is operating on the system, except under certain conditions provided for in this Agreement, or agreements made pursuant to the provisions of this Agreement.

4. Protected employees are all trainmen in train/yard service who are on the rolls of The Alaska Railroad as of January 1, 1981, with a seniority date prior to April 15, 1980. Trainmen in train/yard service with a seniority date after April 15, 1980, are non-protected employees.

5. Effective with the date of the Agreement, trainmen in road or yard service, both protected employees and non-protected employees, working on a reduced crew shall each be paid a Special Allowance of $5.67 for each road trip or yard tour of duty worked on a reduced crew, as compensation for the additional services and responsibilities consistent with the operation of a reduced crew. This special allowance is subject to all future wage and cost-of-living allowance adjustments becoming effective subsequent to the date of this Agreement.

6. A protected employee shall retain the right to exercise seniority to any second brakeman position, except those specified in paragraph 3 hereof provided that their services are not required on a must-fill position as set forth in the Implementing Agreement.

7. For each yard tour of duty or road freight service trip (including n business or new service and service performed on nonrevenue trains) that crew is operated as a reduced crew of one conductor and one brakeman, th Railroad will pay to protected employees working on the reduced crew the following:

a) for yard tours of duty and road freight service trips of 150 miles or less, each protected employee will be paid $32.23. Total payment per reduced crew operated will not exceed $64.46.

b) for road freight service trips in excess of 150 miles, each protected employee will be paid $52.79. Total payment per reduced crew operated will not exceed $105.58.

These payments will be made to protected employees directly on a pay peri basis and will not be subject to future general wage increases or cost-of living adjustments.

8. New business or new service operations, i.e., business not formerly handled by the Carrier for which identifiable service is established to compete with other modes of transportation, may be operated with a train crew of not less than one conductor and one brakeman, provided that such trains do not exceed 121 cars, including caboose(s), or 6,840 feet in length.

8.1 All non-revenue trains, such as Hours of Service relief crews, snow plows, work trains, wreck trains, may be operated with a reduced crew of not less than one conductor and one brakeman.

9. Effective with the date of this Agreement, the following car limits a train length limitations shall be made effective in road service:

Trains of 1 to 71 cars, but not to exceed 4,015 feet in length, inclusive of caboose(s), may be operated with a reduced crew of one conductor and one brakeman, subject to other provisions of this Agreement.

Trains of 71 to 121 cars, but not to exceed 6,840 feet in length, inclusive of caboose(s), may be operated with a reduced crew of one conductor and one brakeman only by agreement between the UTU General Chairman and the Railroad's Superintendent of Transportation.

Trains consisting of more than 121 cars or exceeding 6,840 feet in length, inclusive of caboose(s), may be operated only with a standard crew.

10. The parties of this Agreement shall not serve or progress, prior to the attrition of all protected employees, any notice or proposal for changing the specific provisions of this Agreement governing: (1) pure

attrition, (2) protected employees, (3) car limits and train lengths, (4) special allowances, or (5) productivity savings shares and the administration thereof. This paragraph will not bar the parties from making changes in the provisions of this Agreement by mutual agreement.

Signed at Anchorage, Alaska this 28th day of April, 1981.

For the ORGANIZATION

R. L. Shake, General Chairman
United Transportation Union

For THE ALASKA RAILROAD

F. E. Jones, General Manager
The Alaska Railroad

APPROVED:

F. J. Dudley, International
Vice President
United Transportation Union

APPROVED:

Robert Blanchette, Administrator
Federal Railroad Administration

MEMORANDUM IMPLEMENTING THE
CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

PART 1

ARTICLE I - CONDITIONS

1. All road freight crews and all yard crews shall consist of not less tha conductor and two brakeman except as otherwise provided by this agreement.

2. Except as specifically limited by the Crew Consist Agreement dated Febr ary 20, 1982, and by this Implementing Memorandum, all road freight and yar crews may be operated as "reduced crews" consisting of one conductor and on brakeman.

3. The minimum crew size shall consist of not less than one conductor and brakeman and no service shall be required of any crew manned by less than o conductor and one brakeman except by agreement between the parties signat hereto.

4. The Carrier is not restricted from operating any reduced crew with a cr consist in excess of the minimum of one conductor and one brakeman.

5. The Carrier is not restricted by this Agreement from establishing by agreement or continuing assignments by existing agreements which have been single-position assignments such as, but not limited to, pilots.

6. No protected employee will be moved from a standard crew of a conductor two brakemen to a reduced crew of a conductor and one brakeman in order to such crew a standard crew of a conductor and two brakeman.

7. Employees who are not protected employees as defined by the Crew Consist Agreement will not have any claim to be blanked or blankable positions, but shall be used in proper turn on must-fill vacancies.

8. Payment made to employees pursuant to paragraph 7 of the Memorandum of Agreement shall not be computed in computing vacation pay.

ARTICLE II - DEFINITIONS

1. (a) Regular "must-fill" positions in road or yard service for which no has been received will be filled by assigning: (1) junior protected employe from the extra board in accordance with existing Schedule Rules; (2) junior protected employee occupying a blankable position.

(b) In circumstances in which there are two or more must-fill positions be filled, the employees to be assigned shall have preference by seniority in the positions to be filled.

2. (a) The term "must-fill" positions are positions covered by agreements between the Carrier and the UTU, except second brakeman positions in road freight and yard service which may be blanked pursuant to the Crew Consist Agreement or to this Memorandum.

(b) The term "blanked" position refers to the second brakeman position o crew which is not filled and the crew therefore works as a "reduced crew."

(c) The term "blankable" position refers to the second brakeman position a standard crew which is filled by a protected employee and which, under cert specified conditions, can be operated as a "reduced crew" in the absence of t second brakeman.

ARTICLE III - EXTRA BOARDS

Section 1. (a) Yard Vacancies. Subject to applicable Schedule Rules, protected employees on the Extra Board will be called for all blankable yard vacancies unless their services are required for a known must-fill vacancy.

An extra protected employee may be held for a known must-fill vacancy an should such vacancy not materialize, the employee will be paid a basic day's ; and retain first-out position on the extra board. It is further understood t such extra protected employees called for and performing subsequent service w be compensated under existing applicable Schedule Rules.

(b) Road Vacancies. Protected employees on the Extra Board will be call for all second brakeman vacancies unless their services are required for a kno must-fill vacancy.

An extra protected employee may be held for a known must-fill vacancy. The held employee fills the vacancy and the earnings therefrom are less than earnings of the assignment to which entitled, the employee shall be paid the difference in earnings and placed on the extra board after completion of the tour of duty worked in accordance with the existing Schedule Rules without regard to the assignment missed.

Should such vacancy not materialize, the employee will be paid the earnin of the assignment to which entitled had such employee not been held and will b placed on the extra board in the same manner as though the employee had worked such assignment.

Should such employee be used in emergency while being withheld from the extra board in these circumstances, earnings therefrom shall not be less than earnings of the job held for.

Section 2. Force Assignment from Blankable Positions.

(a) Must-Fill Yard Vacancy. When there are no extra men available on th extra board and there is a known must fill yard vacancy, the available protect yard brakeman holding a blankable yard brakeman position will be required to fill the position for one tour of duty, as follows:

Use the junior protected brakeman on a shift:

First:	Same starting point within a terminal with the	(1)	same starting time
		(2)	earlier starting time
		(3)	later starting time
Second:	At another starting point within a terminal with the	(4)	same starting time
		(5)	earlier starting time
		(6)	later starting time
Third:	If the vacancy cannot be filled by any of the above, then procedures of existing Schedule Rules shall apply.		

If the protected yard brakeman is not used on the vacancy for which he such brakeman will be paid loss of earnings. If used at the same startin as their regular assignment, the employee will be paid at pro rata rate fo regular eight (8) hour period and actual overtime worked. If used in advanc of, or later than, the regular starting time, the employee will be paid at t and one-half for the shift.

(b) Must-Fill Road Vacancy at Extra Board Point. When there are no ex brakemen available and there is a known must-fill road vacancy, the most jun available protected yard/road brakeman, holding a blankable bra man positio that location, will be used to fill the position for one trip or one tour of duty without loss of earnings. If the vacancy cannot be filled in this manne existing rules will apply.

(c) Must-Fill Vacancy at Far Terminal. At the away from home terminal where a protecting extra board is not maintained, if there is a known must-fi brakeman's position, the junior protected trainman assigned or protecting a blankable position at the location where the must-fill position exists will b used and will be returned to point of assignment at completion of trip. Compensation shall be paid in accordance with existing Schedule Rules for rat to point of assignment.

Section 3. Extra Board Regulation. (a) Extra lists will be regulat in accordance with existing rules and practices predicated as nearly as possi on "must-fill" positions in keeping with Subsection (b) hereof.

(b) The Carrier shall maintain a sufficient number of employees to perm reasonable lay-off privileges and to protect vacations, annual and sick leave days and other extended vacancies.

ARTICLE IV - BULLETINS

1. Bulletin rules of the existing Basic Schedule Rules and Agreements a hereby modified to provide for the following:

(a) Blankable vacancies shall be designated by bulletins as "blankable" signifying such vacancy or vacancies are open to bid or application only from protected employees.

(b) Where Schedule Rules provide such vacancies must be bulletined and : bid is received for a blankable vacancy from an eligible protected employee during the bulletin period, the vacancy will not be rebulletined and may thereafter be filled only by an eligible protected employee having a displacement right.

ARTICLE V - REPORT FOR WORK, COMPLETION OF SHIFT

1. In the event a standard yard or road freight crew member fails to report for duty at the assigned reporting time, the remaining crew members may be required to work on a reduced crew basis. Should the absent member of a yard crew fail to report within one hour, or if the absent member of a road crew fails to report before departure of the train, the remaining crew members shal finish that tour of duty, receiving the Special Allowance and protected trainm shall be allowed the Productivity Savings Sharing Allowance.

2. If a brakeman on a standard yard crew marks off after being on duty less than 4 hours, he shall be paid for the actual time on duty. The remaining two crew members may be required to complete the trip or tour of duty and receive the Special Allowance and protected trainmen shall be allowed the Productivity Savings Sharing Allowance.

3. If a trainman on a standard train crew marks off after being on duty four (4) hours or more, he shall be paid for the actual time on duty. If the remaining two crew members are required to work more than two (2) hours as a reduced crew, they will be paid the Special Allowance and protected trainmen shall be allowed the Productivity Savings Sharing Allowance.

4. If a trainman on a standard train crew on a straightaway road assignment marks off sick or is not available to cover his return train from his away-from-home terminal, the remaining two crew members may be required to wor back to their home terminal, providing train length does not exceed 121 cars o 6,840 feet, receiving the Special Allowance and protected trainmen shall be allowed the Productivity Savings Allowance.

ARTICLE VI - RADIOS

Portable radios will be furnished for use by all members of reduced crews consisting of one conductor and one brakeman. The Carrier will be responsible for maintenance of radios and sufficient frequency channels will be utilized t provide proper communication.

Portable radios for use and carried by trainmen will not exceed three pounds and will be equipped with a suitable holder which will firmly hold radio close to the body or will be of such size as to permit being placed coat or trouser pocket.

Portable radios hereafter purchased will not exceed the size and weig those presently in use.

ARTICLE VII - JURISDICTION

No Carrier supervisor, official or non-craft employees (including yar masters) shall be used to supplant or substitute in the exclusive work of a train or yard crew.

ARTICLE VIII - TRANSFER TO ENGINE SERVICE

Subject to the Carrier's legal obligations, when selecting new appli for service in the fireman craft represented by the UTU, opportunity sha be given to employees in train and yard service represented by the United Transportation Union on the basis of their relative seniority standings, fi and other qualifications being equal. The Carrier will post notice when ne new applicants.

ARTICLE IX - PASSENGER SERVICE

Nothing in this Agreement changes existing Crew Consist agreements in passenger service, nor precludes negotiation of such matters by the parties hereto.

Application of Crew Consist Agreement and Interpretation

Conductor - Extra Board Fairbanks

Not required to call conductors to protect blankable brakeman positions except encumbered blankable positions vacant by leave.

Protected employees required to fill blankable position from Brakeman's Extra Board. Such protected employees will only be called to fill those blankable positions encumbered and for some reason vacated for leave or vacated by seniority move of employee. On blanked blankable position, the carrier will not be required to fill with protected employees from Brakeman's Board; however, may be filled at Management's discretion.

11/1/01

PART II

INTERPRETATIVE QUESTIONS AND ANSWERS

ARTICLE I - CONDITIONS

Section 5

Q. Does the minimum crew consist in any way affect single assignments, as pilots, etc.?

A. The minimum crew consist does not pertain to single assignments.

CREW CONSIST AGREEMENT

Section 8 - New Business or Service

Q1. A freight/yard assignment regularly services an industry or industri A new industry is later established which generates new business requiring freight/yard service. May this freight/yard assignment b operated with a reduced crew under the new business concept?

A. No, extension of the existing freight/yard assignment to include servicing of the new industry would not constitute new business.

Q2. When could new business and new service qualify for using a reduced crew?

A. When the new business results in having to provide new service to exclusively accommodate the new business.

Q3. May a new road switcher assignment be considered as new business or service?

A. Consistent with Questions 1 and 2 herein, a new road switcher assignment may be operated with a reduced crew when providing new service to exclusively accommodate the new business.

Section 8.1 - Non-Revenue

Q1. May the Carrier call a reduced crew to perform relief service when th train to be relieved has a required standard crew?

A. Yes, provided no other work is performed, such as switching, set out and/or pick up, etc.

Q2. In reference to Question 1, would this restriction apply if the train relieved did not require a standard crew?

A. No.

Q3. In situations where relief service is protected by first-out through freight crews at their away-from-home terminal instead of an extra board, would all members of a one and two crew be used for the relief service?

A. Yes, the Crew Consist of the through freight crew in this instance would not be broken.

ARTICLE III - DEFINITIONS

Section 2 - Blankable Positions

Q1. Do protected employees have the right to fill blankable brakeman positions?

A. Yes, as provided in this Agreement.

Q2. Is it necessary to bulletin a blankable brakeman position?

A. Yes, as provided in Article IV of this Agreement.

Q3. Must blankable brakeman positions under bulletin be filled from the protecting extra boards by protected employees?

A. Yes, subject to the availability of protected brakeman and other provisions of this Agreement.

Q4. May protected employees exercise seniority to blankable positions unde bulletin in accordance with Schedule Rules or Agreement?

A. Yes.

Q5. Do non-protected brakemen have the right to blankable positions?

A. No.

ARTICLE IV - DISPLACEMENT RIGHTS

Q1. How shall a protected employee acquire the right to exercise seniority to a blankable (blanked) position?

A. By seniority right to obtain such position under governing existing Schedule Rules, i.e., bulletin or displacement, and as further provided in this Agreement.

Q2. Does a protected employee retain the right to take a blanked or blankable position even though it was passed up previously?

A. Yes, provided he is entitled to an exercise of seniority under the applicable Schedule Rules.

ARTICLE XII - EXTRA BOARDS - BRAKEMEN

Q1. If a protected extra board brakeman is held for a must-fill vacancy; when must the employee be notified of the must-fill vacancy?

A. The brakeman will be notified as soon as possible but not later than the calling time of the assignment from which withheld.

Q2. Should a protected brakeman be held for a known must-fill vacancy; after notified, an earlier must-fill vacancy becomes known, may the Carrier use the held brakeman for the earlier vacancy?

A. Yes, if available, but the employee shall not be censured or paid if unable to locate.

Q3. May a first-out protected employee standing for a blankable vacancy held for a known must-fill vacancy when there is a non-protected employee available on the extra board to fill such vacancy?

A. No.

Q4. When may a regularly assigned protected brakeman be held for a known must-fill vacancy?

A. Only when there are no men available on the extra board.

Q5. There is a must-fill vacancy and a blankable vacancy on a 1:30 p.m. assignment, and also a must-fill vacancy on a 4:00 p.m. assignment. How would these vacancies be filled from the extra board that is lined up with first-out protected yardman; second-out, a non-protected yardman; and a third-out protected yardman?

A. The first-out protected yardman would be called for the must-fill 1:30 p.m. vacancy and the third-out protected yardman would be called for the 1:30 p.m. blankable vacancy and the second-out non-protected yardman would be called for the 4:00 p.m. must-fill vacancy account non-protected yardman would have no right to a blankable vacancy.

Q6. Under the foregoing example, if the extra board was lined up with the first two as protected yardmen and the third a non-protected yardman, how would such vacancies be filled?

A. The 3:30 p.m. must-fill vacancy and the 3:30 p.m blankable vacancy would be filled by using the first-out protected yardman and the second-out protected yardman; and the 4:00 p.m. must-fill vacancy by the third-out non-protected yardman.

Q7. There are only two protected extra yardmen on the extra board when a blankable vacancy arises and also there is a subsequent known must-fill vacancy. Which protected yardman would be held for the later must-fill vacancy?

A. The first-out protected yardman would be used on the blankable position and the second-out protected yardman would be held for the subsequent must-fill vacancy. However, if there are two subsequent must-fill vacancies, both protected extra yardmen would be held account extra board then exhausted.

Q8. In reference to second brakeman positions, how will extra engines be treated?

A. The terms of this Crew Consist Agreement apply to both regular and extra yard assignments.

Q9. If there are two must-fill and two blankable vacancies with the same on duty time and the standing on the extra board is first-out protected employee; second, non-protected; third, protected; fourth, non-protected; how would these vacancies be filled from the extra board?

A. The must-fill vacancies will be filled first, so that the first-out protected brakeman would have an election; the second non- protected, would fill the second must-fill vacancy; and the third protected, would have an election on one of the two blankable vacancies and the fourth, non-protected, would not be used to fill the remaining blankable vacancy.

Q10. In reference to Q9, the extra board is lined up with first-out employee as non-protected; second, non-protected; third and fourth, protected; how would these vacancies then be filled from the extra board?

A. The first-out and second non-protected would fill the two must-fill vacancies, and the third and fourth protected would fill the blankable, the first having an election in both cases.

Q11. When a protected brakeman is held for a known must-fill vacancy and other extra men subsequently become available on the extra board, wh can protect such vacancy or vacancies, will the held brakeman be released and returned to the extra board?

A. No, the employee will be handled on the basis that the vacancy for which held did not materialize.

Q12. How long may a protected brakeman on the Road Extra board be held fo must-fill vacancy?

A. A protected extra brakeman may be held from the time a known vacancy exists until such vacancy is fulfilled or is released therefrom. A protected extra brakeman will not be held for a must-fill vacancy unless, at the normal calling time of the position from which withhel no protected employees are available on the Extra board. In any even a protected extra brakeman held for a must-fill vacancy shall not los any earnings that such brakeman would have otherwise accrued, had suc brakeman not been held.

Q13. There is a must-fill vacancy in road service and a must-fill vacar yard service with the same on duty time. On which vacancy would a first-out employee on a combination road/yard extra board be used?

A. Vacancy will be filled in accordance with Schedule Rules.

Q14. There is a must-fill vacancy in road service and a blankable vacancy yard service or vice versa, with the same on duty time and the first-out employee on the Combination Extra Board is protected. On which vacancy will the protected employee be used?

A. On the must-fill vacancy.

Q15. There is a blankable vacancy in yard service and a blankable vacancy i road service with the same on-duty time and the first-out employee on the Combination Extra Board is protected. On which vacancy will the protected employee be used?

A. Vacancy will be filled in accordance with Schedule Rules.

Q16. If the most junior employee cannot be contacted, will such employee be penalized or disciplined?

A. No, such employee would not be available in the circumstances.

Section "H"

Example: A protected brakeman stands to be called for a blankable vacancy "A" from the first-out position on the extra board at 6:00 a.m. The employee is withheld from vacancy "A" for a must-fill vacancy "C" for approximately 11:30 a.m. The employee is then used in emergency when an unforeseen must-fill vacancy "B" appears, at 7:30 a.m., account no other extra brakeman available. The employee would be paid the earnings of vacancy "B" on which the employee worked in emergency but not less than the earnings of vacancy "A" for which the employee stood at 6:00 a.m.

ARTICLE I - CONDITIONS

Q1. Is it the intent to reduce a standard crew at the away-from-home terminal when such crew is called for a train only requiring a reduced crew, by deadheading the second brakeman home?

A. No, the second brakeman will remain with the crew, except under conditions stated herein.

Q2. Under what conditions would a reduced crew out of the away-from-home terminal be returned to the home terminal as a standard crew?

A. As required in the Car Limits.

ARTICLE VI - RADIOS

Q1. Will the "engine radio" and/or the "caboose" radio be classed as the portable radio for the brakeman/yardman and the conductor/foreman on a reduced crew?

A. No.

Q2. Is it fully understood that no reduced road/yard crew will be operated on any district unless all members of a reduced crew have operable portable radios?

A. Yes.

Q3. If the portable radio fails enroute, will the crew continue to its terminal?

A. Yes.

CREW CONSIST AGREEMENT

Section 5 - Special Allowance

and

Section 7 - Productivity Fund

Q1. Where a reduced crew performs combination of deadhead-service, or service-deadhead, would such crew qualify for the Special Allowance the Productivity Allowance?

A. Combination deadhead-service, or service-deadhead, will be treated same as service trips in applying the special allowance and the Productivity Fund.

Q2. Do the Special Allowance and the Productivity payment apply to pay such as hold time, runarounds, deadhead, call and release (no work performed), guarantees, holiday pay when service not performed on holiday, personal leave pay, vacation pay, penalty days paid due t violation of Agreement rules, and the like?

A. No. These payments cover road service trips and yard tours of d actually performed (worked) where the additional responsibility working with a reduced crew is involved.

Q3. Does a reduced crew, who is called on duty, performs service (work) is subsequently released, qualify for the Special Allowance?

A. Yes, because service (work) was actually performed as a reduced cr and will be credited as a tour of duty for the Productivity Allowa

Q4. In reference to the preceding question, the crew performs no servic but qualifies for the payment prescribed in the Schedule Rules?

A. The crew would not qualify for the Special Allowance because no ser (work) was performed.

Q5. Will a compensable relief deadhead trip made by an employee (single individual) be taken into account as qualifying for the Productivit Allowance?

A. No.

Q6. Under Article III, Sections 1(a) and (b) of the June 25, 1964 Natio Agreement, Manning Self-Propelled Machines, do the reduced crew conditions apply?

A. No.

PART III

Section I

The parties hereto acknowledge that further or additional understandings may be required in order to fully implement the intent of this Memorandum. Such necessary discussions or interpretations shall be handled in conference to endeavor to arrive at agreed-upon procedures not specified herein. Periodic conferences for the resolution of differences will be arranged in keeping with the intent and purpose of these agreements and the rights of the parties thereunder. Such agreements shall be reduced to writing as consecutively numbered addendums to this Memorandum of Implementation.

Section II

The term "brakeman" as used in this Agreement serves the purpose of identifying a craft or class of employees and is not intended to denote gender.

Section III

The provisions of this Memorandum of Implementation supersede any and all existing agreements, rules, or understandings which are in conflict.

Section IV

This Agreement will be implemented upon ratification of Union membership and approval of the Federal Railroad Administration.

Signed at Anchorage, Alaska this 28th day of April, 1981.

For the UNITED TRANSPORTATION UNION

L. L. Shake

L. L. Shake, General Chairman

APPROVED:

F. D. Duffey, International Vice President

For THE ALASKA RAILROAD

F. A. Jones, General Manager

APPROVED:

Robert Blanchette, Administrator
Federal Railroad Administration

Anchorage, Alaska
June 26, 1981

Memorandum

To: Trans. Depc. Timekeepers
Personnel Officer
Manager, Data Processing Division
Manager, Budget and Accounting Division

From: Supt. of Transportation

Subject: Reduced Crew Consist Agreement - Payment/
Train Baggagemen—Mixed Passenger Service - Payment

Formal agreement has been reached between The Alaska Railroad and the United Transportation Union establishing a reduced crew consist and payment provisions for crews in passenger service (copy attached). Note that the effective date of this agreement is June 28, 1981.

By side letter dated June 26, 1981, Train Baggagemen in mixed passenger service operating with a reduced crew will be paid in accordance with the provisions of the reduced passenger crew consist agreement (copy attached). Note that the effective date of this agreement is retroactive to June 14, 1981.

All addressed, please arrange to implement the new pay provisions of these agreements promptly in order that payment commence with the upcoming pay period.

Any questions concerning these agreements and/or implementation of these agreements should be addressed to this office promptly.

Robert A. Davison
Supt. of Transportation

3 Attachments: (1) Rates of Pay
(2) Reduced Crew Consist Agreement
(3) Side Letter

cc:
General Manager
General Chairman, UTU

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

THE ALASKA RAIL
Phone 7-2111
Anchorage, Alaska 99510

April 3, 1981

Mr. R. L. Shake, General Chairman
United Transportation Union
321 West Manor Avenue
Anchorage, Alaska 99501

Side Letter No. 1
Alaska Railroad - UTU Crew Consist Agreement

Dear Mr. Shake:

This will confirm our discussions and agreement that the consist of crews manning the Whittier Shuttle Service and mixed passenger/freight trains shall be governed by the provisions of the crew consist agreement covering road freight and yard services.

Sincerely

Robert W. Davison
Supt. of Transportation

Agreed:

Robert L. Shake
General Chairman - UTU

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

THE ALASKA RAILROA
Pouch 7-2111
Anchorage, Alaska 99510

June 24, 1981

Mr. Robert L. Shake
General Chairman
United Transportation Union
321 West Manor Avenue
Anchorage, AK 99501

Side Letter Number 2
Alaska Railroad - UTU Crew Consist Agreement

Dear Mr. Shake:

This will confirm our discussions and agreement that the baggageman called or assigned on mixed passenger/freight trains operating between Anchorage and Fairbanks will be paid the rate of pay established for baggageman by the Crew Consist Agreement governing passenger service.

Sincerely,

Robert W. Davison
Supt. of Transportation

AGREED:

Robert L. Shake, General Chairman
United Transportation Union

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

THIS AGREEMENT, by and between The Alaska Railroad and the United Transportation Union, is in full and final settlement of the consist of crews in passenger service.

IT IS HEREBY AGREED AS FOLLOWS:

1. The parties will finalize the necessary implementing provisions to become effective concurrent with this Agreement consistent with the following.

2. The consist of passenger crews, except as otherwise provided in this Agreement, shall be not less than one conductor and one brakeman.

3. Effective with the date of the Agreement, trainmen in passenger service, both protected employees and non-protected employees, as defined by the road freight and yard service Agreement dated [illegible], working on a one and one crew, shall each be paid in accordance with the rates of pay depicted in Attachment #1. Rates of pay provided in Attachment #1 will be incorporated in the master list of pay rates at its next printing and will subsequently be maintained in the master listing. These rates are subject to all future wage and cost-of-living adjustments becoming effective subsequent to the date of this Agreement.

4. Trains operated under the provisions of the Agreement will be subject to the following car limitations:

   a) Regularly scheduled passenger trains:
      - No more than five (5) passenger cars carrying coaches
      - No more than one (1) diner car
      - No more than one (1) lounge car
      - No more than two (2) baggage cars

   b) Unscheduled special passenger trains:
      - No more than seven (7) passenger-carrying coaches
      - No more than five (5) additional cars, i.e., baggage, recreation, lounge, or combination thereof to be determined by service needs

c). Official or non-revenue trains:
- No more than five (5) passenger cars
- No more than one (1) baggage car

NOTE: Consists of two or less cars may be manned by one Conductor.

5. When trains are operated under provisions of 4(a), the Carrier may add up to two (2) additional coaches, not to exceed a maximum of seven (7) coaches per train. When the train operates within limits specified in this paragraph, the Carrier will pay 100 miles at passenger service rate (one basic day) to the brakeman first available on the Anchorage Extra Board. Such individual will then move to the bottom of the Board and stand last out.

6. One (1) baggageman will be called for or assigned trains that require crews to work mail, baggage, or express between terminals.

7. The Carrier retains the right to exceed the limitations specified in Section Four above at any time and in any manner, but such trains will not be operated with less than one (1) conductor and two (2) brakemen.

8. The parties of this Agreement shall not serve or progress any notice or proposal for changing the specific provisions of this Agreement governing: (1) protected employees; (2) special allowances; or, (3) productivity savings shares and the administration thereof. This paragraph will not bar the parties from making changes in the provisions of this Agreement by mutual agreement.

9. Differences or disputes regarding the application or interpretation of this document will be resolved through joint discussions and consultations between the parties.

For the ORGANIZATION:

R. L. Shake, General Chairman
United Transportation Union

For THE ALASKA RAILROAD

F. H. Jones, General Manager
The Alaska Railroad

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

ATTACHMENT #1 - RATES OF PAY

			SOUTH OF HEALY			HEALY AND NORTH	
tle	Occupation Code	Pay Rate Code	Engr. Operating with Fireman Basic Day^ Mileage	Engr. Operating without Fireman Basic Day^ Mileage	Pay Rate Code	Engr. Operating with Fireman Basic Day^ Mileage	Engr. Operatin. without Firema Basic Day^ Mile
gr. Service							
gineer	WD-6004-00	111	105.46		113	110.47	
gineer	WD-6004-00	112		95.27	114		99.65
reman	WD-6005-00	121	97.16		123	101.66	
reman	WD-6005-00	122		88.55	124		92.52
nductor	WD-6003-00	141	121.28		143	127.04	
nductor	WD-6003-00	142		109.36	144		114.60
ahcman	WD-6002-00	151	110.73		153	115.99	
ahcman	WD-6002-00	152		100.03	154		104.63
ggageman	WD-6042-00	161	110.73		163	115.99	
ggageman	WD-6042-00	162		100.03	164		104.63

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

THE ALASKA RAILR
Pouch 7-2111
Anchorage, Alaska 99510

November 3, 1981

Mr. Michael Olson
General Chairman
United Transportation Union
1110 West 82nd
Anchorage, Ak. 99502

Side Letter Number 3

Alaska Railroad-UTU Crew Consist Agreement

Dear Mr. Olson:

This will confirm our discussions and agreement on the interpretation of Section 5 of the Crew Consist Agreement and Article II of the Implementing Agreement. The intent of these Agreement provisions covering the assignment of protected and non protected employees to regular must fill vacancies is defined as follows:

"Regular must-fill positions in road or yard service for which no bid has been received from a protected employee, but bids from non-protected employees have been received, shall be filled by assigning the non-protected employee. If non-protected employees are assigned an equal number of protected employees will, in reverse order of seniority, lose their status in filling blankable positions so long as non-protected employees are holding must fill positions.

The junior protected employee occupying a blankable position will be required to go to the extra board or exercise seniority to a must-fill position occupied by a junior employee.

The vacancy created on blankable positions as a result of exercise of seniority under this rule will not be rebulletined.

Upon notification the affected employee will be required to exercise seniority in accordance with Rule 11-E (3) in the current ARR-UTU Agreement."

Examples of this provision are:

1. Assume a must-fill vacancy exists on an 8:00 am yard assignment for which no bids are recieved from protected employees but bids are received from non-protected employees. The senior non-protected employee bidding will be assigned, and the junior protected employee occupying a blankable position will be removed from the blankable position held and be required to exercise seniority in accordance with this rule.

2. If no bids are received from either protected or non protected employees, the must fill vacancy will be filled by force assigning the junior employee (protected or non-protected) in accordance with Schedule Rules. If non-protected employees are force assigned an equal number of protected employees in reverse order of seniority will lose their status in filling blankable positions so long as non-protected employees are holding must fill positions.

Sincerely,

L. A. Ellsworth
Supt. of Transportation

AGREED:

Mike Olson, General Chairman
United Transportation Union

THE ALASKA RAILROAD
TRANSPORTATION

PROTECTED EMPLOYEES

Anchorage, Alaska
January 31, 1981

BRAKEMAN SENIORITY LIST

NO.	ID NO.	NAME	SENIORITY DATE
1.	29702	Ingersoll, Charles E.	02/19/47
2.	30338	Shaka, Robert L.	06/04/47
3.	31433	[illegible]	09/19/47
4.	31482	Pinder, Raymond E.	09/20/47
5.	36413	Lucason, Robert F.	05/19/50
6.	37843	Lattis, Nelson E.	07/14/50
7.	38016	*Davison, Robert W.	04/30/51
8.	40061	Larson, Willard C.	07/11/51
9.	41579	Palmer, Richard D.	08/01/52
10.	43162	Shaka, James B.	06/29/53
11.	45902	Weatherall, Gale G.	06/24/57
12.	47131	Kiely, Eugene F.	07/09/59
13.	47301	Renner, James M.	05/17/60
14.	47739	*McCulloch, Wallace L.	01/10/62
15.	41725	*Lowe, Ralph E.	01/25/62
16.	47815	Small, Patrick T.	03/28/62
17.	49941	*Bigham, William S.	01/12/67
18.	50537	Ash, George W.	04/15/68
19.	50728	[illegible]	04/29/69
20.	49135	Eastman, Arthur G.	05/12/69
21.	51466	*Bollsweter, Larry A.	12/08/69
22.	51228	Wells, Dennis D.	01/14/70
23.	51598	Smith, Fred E.	04/30/70
24.	50598	*Ross, Barry	05/18/70
25.	51721	Knox, James S.	04/01/71 (1)
26.	51825	Bruckman, James M.	04/01/71 (2)
27.	51974	*Polanchek, Arnold T.	05/24/71
28.	51983	Whitesides, Richard D.	05/26/71
29.	52006	Geesey, Anthony L., Jr.	06/11/71
30.	52061	Wentling, Gary L.	08/18/71
31.	52081	Stull, Ross C.	09/01/71
32.	52056	Culver, Steve D.	11/13/71
33.	52209	*Smith, Kenneth A.	04/24/72
34.	52007	Olson, Michael W.	05/01/73
35.	52214	Waits, Preston E.	03/19/74
36.	44138	*Kiss, Leon E.	04/03/74
37.	51944	Reves, Tommy W.	04/04/74
38.	47568	[illegible]	05/15/74
39.	52821	Hampton, Freddie M.	05/21/74
40.	52822	Reves, Johnny A.	05/24/74
41.	52852	Allen, James W.	06/06/74 (1)
42.	52871	[illegible]	06/06/74 (2)
43.	47291	Long, Richard L.	06/27/74
44.	52746	Wright, Donald D.	06/28/74
45.	52972	Valinsee, Gerald D.	08/16/74

BRAKEMAN SENIORITY LIST CON'T

NO.	ID NO.	NAME	SENIORITY DATE
46.	52973	Armstrong, W. Frank	08/21/74
47.	52985	Frank, Duane A.	08/22/74
48.	53019	Reedy, William D.	10/27/74
49.	52943	Niemann, Eugene A.	11/17/74 (1)
50.	52814	Haggart, William C.	11/17/74 (2)
51.	52873	Brown, Charles W.	12/03/74
52.	53141	Gray, Clinton W.	12/31/74
53.	53147	Knutson, Gerald B.	01/03/75
54.	53158	Sanderford, Stanley R.	01/10/75
55.	53177	Redfearn, Warren G.	01/20/75
56.	53214	Singsaas, Richard D.	02/06/75
57.	51842	*Nielson, John C.	02/12/75
58.	53211	Miller, Ronald E.	02/24/75 (1)
59.	53226	Smith, Kenneth E., Jr.	03/24/75 (2)
60.	53496	Fleming, John T.	06/05/75
61.	53559	[illegible]	06/18/75
62.	52097	Benn, Daniel G.	07/01/75
63.	53656	Rosso, Michael L.	07/24/75
64.	51756	Owens, Eugene	07/30/75
65.	53897	Thompson, David A.	12/11/77
66.	53234	Bjor, John C.	04/20/79 (1)
67.	53906	Stoskopf, Craig W.	04/20/79 (2)
68.	53803	Abbott, L. Al	04/20/79 (3)
69.	53400	Simonds, Douglas R.	04/20/79 (4)
70.	53302	Parker, Merlin C.	04/20/79 (5)
71.	54411	Taylor, Marvin J.	04/30/79
72.	54542	Setten, Adrie A.	03/28/80 (1)
73.	52566	Rogers, Jeff R.	03/28/80 (2)
74.	50129	Manning, Terrance L.	03/28/80 (3)
75.	52514	Zable, Darrell R.	03/28/80 (4)
76.	53157	Hill, Michael E.	04/12/80
77.	54594	Picklin, Jeffery M.	05/13/80
78.	54674	Forsman, Daniel J.	05/15/80 (1)
79.	[illegible]	Higgie, Lee C.	05/15/80 (2)
80.	52657	Snapp, Timothy L.	05/16/80
81.	54733	Hickey, Phillip [illegible]	05/29/80
82.	51100	Langenser, Alfred W.	06/16/80
83.	54666	Sanderford, Scott C.	01/15/81 (1)
84.	54824	Levall, Gordon [illegible]	01/15/81 (2)
85.	54113	Frank, Rod L.	01/18/81 (1)
86.	[illegible]	Peterson, Roy D.	01/18/81 (2)
87.	52686	Rogers, Wesley A.	[illegible]
88.	54665	Welsh, Steve W.	01/18/81

*Assigned to other duties

Issued by Supt. of Transportation
January 31, 1981

Anchorage Alaska
February 22, 1983

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective April 1, 1981, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY		NORTH OF HEALY	
	CODE	RATE	CODE	RATE
Engineer	911	117.40	913	123.00
Fireman	921	105.49	923	110.37
Conductor	941	106.73	943	111.79
Brakeman	951	98.25	953	102.81
Baggageman	961	98.25	963	102.81

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective April 1, 1981

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF NE. ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	SOUTH OF NE. ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE	PAY RATE CODE	NEALY AND NORTH ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	NEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE
PASSENGER SERVICE							
[illegible]	00-0004-00	111	106.91		113	111.94	
[illegible]	00-0004-00	112		96.60	114		100.98
[illegible]	00-0005-00	121	98.51		123	103.01	
[illegible]	00-0005-00	122		89.35	124		93.32
[illegible]	00-0001-00	141	104.05		143	109.00	
[illegible]	00-0001-00	142		94.10	144		98.45
[illegible]	00-0002-00	151	96.11		153	100.77	
[illegible]	00-0002-00	152		87.76	154		91.70
[illegible]	00-0042-00	161	97.21		163	101.77	
[illegible]	00-0042-00	162		88.67	164		92.60
[illegible] SERVICE							
[illegible]	00-0004-00	201	116.31		203	121.82	
[illegible]	00-0004-00	202		105.18	204		110.01
[illegible]	00-0004-00	201		122.01	203		128.00
[illegible]	00-0004-00	202		110.88	204		116.20
[illegible]	00-0005-00	221	104.45		223	109.24	
[illegible]	00-0005-00	222		95.11	224		99.31
[illegible]	00-0001-00	241	105.42		243	110.32	
[illegible]	00-0001-00	242		95.47	244		99.82
[illegible]	00-0002-00	251	97.15		253	101.61	
[illegible]	00-0002-00	252		88.60	254		92.54
[illegible]	00-0042-00	261	97.39		263	102.01	
[illegible]	00-0042-00	262		88.78	264		92.79
[illegible] FREIGHT SERVICE							
[illegible]	00-0004-00	111	125.01		113	130.96	
[illegible]	00-0004-00	112		113.03	114		118.24
[illegible]	00-0004-00	101		131.16	103		137.60
[illegible]	00-0004-00	102		119.20	104		124.92
[illegible]	00-0005-00	121	112.28		123	117.41	
[illegible]	00-0005-00	122		102.34	124		106.70
[illegible]	00-0001-00	141	111.11		143	116.65	
[illegible]	00-0001-00	142		102.41	144		107.10
[illegible]	00-0002-00	151	104.44		153	109.21	
[illegible]	00-0002-00	152		95.25	154		99.49
[illegible]	00-0042-00	161	104.69		163	109.48	
[illegible]	00-0043-00	162		95.44	164		99.75

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF DE ENGN. OPERATING WITH FIREMAN BASIC DAY⁸ MILEAGE	SOUTH OF DE ENGN. OPERATING WITHOUT FIREMAN BASIC DAY⁸ MILEAGE	PAY RATE CODE	DEALT AND NORTH ENGN. OPERATING WITH FIREMAN BASIC DAY⁸ MILEAGE	DEALT AND NORTH ENGN. OPERATING WITHOUT FIREMAN BASIC DAY⁸ MILEAGE
SHOW OR NOTARY SERVICE							
Engineer	00-6004-00	411	122.94		413	134.00	
Engineer	00-6004-00	412	115.70		414	121.01	
Engineer	00-6004-00	401		134.21	403		140.80
Engineer	00-6004-00	402		121.97	404		127.82
Fireman	00-6005-00	421	114.90		423	120.17	
Fireman	00-6005-00	422	104.62		424	109.26	
Conductor	00-6003-00	441	108.10		443	113	
Conductor	00-6003-00	442	97.93		444	102.41	
Brakeman	00-6002-00	451	99.62		453	104....	
Brakeman	00-6002-00	452	90.90		454	94.97	
Conductor							
Pilot	00-6001-00	421	108.88		423	113.99	
Conductor							
Pilot	00-6001-00	422	98.22		424	103.06	
WORK SERVICE							
Engineer	00-6004-00	511	116.32		513	121.82	
Engineer	00-6004-00	512	105.18		514	110.01	
Engineer	00-6004-00	501		122.01	503		128.00
Engineer	00-6004-00	502		110.88	504		116.20
Fireman	00-6005-00	521	104.45		523	109.24	
Fireman	00-6005-00	522	95.11		524	99.11	
Conductor	00-6003-00	541	105.82		543	110.80	
Conductor	00-6003-00	542	95.85		544	100.22	
Brakeman	00-6002-00	551	98.30		553	102.82	
Brakeman	00-6002-00	552	89.70		554	93.70	
YARD SERVICE							
Engineer	00-6004-00	611	124.35		613	132.56	
Engineer	00-6004-00	601		132.05	603		138.75
Fireman	00-6005-00	621	111.52		623	118.87	
Conductor	00-6003-00	641	120.39		643	126.67	
Brakeman	00-6002-00	651	114.81		653	120.32	
HOSTLERS							
Terminal							
Hostler	00-6005-00	721	124.35		723	132.56	
Hostler							
Helper	00-6005-00	731	124.35		733	132.56	

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

4-01-81

Attachment #1 - Rates of Pay

Title	Occupation Code	Pay Rate Code	SOUTH OF HEALY: Engr. Operating with Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating with Fireman Mileage	SOUTH OF HEALY: Engr. Operating without Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating without Fireman Mileage	HEALY AND NORTH: Pay Rate Code	HEALY AND NORTH: Engr. Operating with Fireman Basic Day*	HEALY AND NORTH: Engr. Operating with Fireman Mileage	HEALY AND NORTH: Engr. Operating without Fireman Basic Day*	HEALY AND NORTH: Engr. Operating without Fireman Mileage
Conductor	00-6003-00	041	122.97				043	128.73			
Conductor	00-6003-00	042		111.09			044		116.13		
Brakeman	00-6002-00	051	112.28				053	117.54			
Brakeman	00-6002-00	052		101.43			054		106.03		
Baggageman	00-6042-00	061	112.28				063	117.54			
Baggageman	00-6042-00	062		101.43			064		106.03		

Special Reduced Crew Allowance: 5.78

Donald A. Harvey
Personnel Officer

Anchorage Alaska
February 22, 1983

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective July 1, 1981, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY CODE	SOUTH OF HEALY RATE	NORTH OF HEALY CODE	NORTH OF HEALY RATE
Engineer	911	119.96	913	125.56
Fireman	921	108.05	923	112.93
Conductor	941	109.19	943	114.35
Brakeman	951	100.32	953	105.37
Baggageman	961	100.32	963	105.37

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective July 1, 1981

		SOUTH OF HE					HEALY AND NORTH				
TITLE	OCCUPATION CODE	PAY RATE CODE	ENGR. OPERATING WITH FIREMAN BASIC DAY*	MILEAGE	ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	MILEAGE	PAY RATE CODE	ENGR. OPERATING WITH FIREMAN BASIC DAY*	MILEAGE	ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	MILEAGE
PASSENGER SERVICE											
Engineer	WO-6004-00	111	109.49				113	114.50			
Engineer	WO-6004-00	112		99.16			114		103.54		
Fireman	WO-6005-00	121	101.07				123	105.57			
Fireman	WO-6005-00	122		92.34			124		96.31		
Conductor	WO-6003-00	141	106.61				143	111.56			
Conductor	WO-6003-00	142		96.66			144		101.07		
Brakeman	WO-6002-00	151	98.87				153	103.33			
Brakeman	WO-6002-00	152		90.33			154		94.26		
Baggageman	WO-6042-00	161	99.77				163	104.33			
Baggageman	WO-6042-00	162		91.21			164		95.16		
FREIGHT SERVICE											
Engineer	WO-6004-00	211	118.87				213	124.38			
Engineer	WO-6004-00	212		107.74			214		112.57		
Engineer	WO-6004-00	201			124.57		203			130.56	
Engineer	WO-6004-00	202				113.44	204				118.76
Fireman	WO-6005-00	221	107.01				223	111.80			
Fireman	WO-6005-00	222		97.67			224		107.89		
Conductor	WO-6003-00	241	107.98				243	112.93			
Conductor	WO-6003-00	242		98.03			244		102.38		
Brakeman	WO-6002-00	251	99.71				253	104.17			
Brakeman	WO-6002-00	252		91.16			254		95.10		
Baggageman	WO-6042-00	261	99.95				263	104.59			
Baggageman	WO-6042-00	262		91.34			264		95.35		
LOCAL FREIGHT SERVICE											
Engineer	WO-6004-00	311	127.79				313	133.71			
Engineer	WO-6004-00	312		115.82			314		121.01		
Engineer	WO-6004-00	301			133.91		303			140.35	
Engineer	WO-6004-00	302				121.95	304				127.67
Fireman	WO-6005-00	321	115.04				323	120.19			
Fireman	WO-6005-00	322		105.00			324		109.53		
Conductor	WO-6003-00	341	116.08				343	121.40			
Conductor	WO-6003-00	342		105.38			344		110.06		
Brakeman	WO-6002-00	351	107.19				353	111.98			
Brakeman	WO-6002-00	352		98.00			354		102.33		
Baggageman	WO-6042-00	361	107.45				363	112.43			
Baggageman	WO-6042-00	362		98.19			364		102.50		

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF NEA ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	SOUTH OF NEA ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE	PAY RATE CODE	NEALY AND NORTH ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	NEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE
...ND OR ROTARY SERVICE							
[illegible]	00-6004-00	411	103.76		413	136.82	
[illegible]	00-6004-00	412	118.51		414	121.82	
[illegible]	00-6004-00	401		137.03	403		141.42
[illegible]	00-6004-00	402		124.78	404		130.41
[illegible]	00-6005-00	421	117.71		423	122.98	
[illegible]	00-6005-00	422	107.44		424	112.08	
[illegible]	00-6003-00	441	110.66		443	115.78	
[illegible]	00-6003-00	442	100.49		444	104.99	
[illegible]	00-6002-00	451	102.18		453	106.78	
[illegible]	00-6002-00	452	93.46		454	97.53	
[illegible]							
[illegible]	00-6001-00	471	111.44		473	116.55	
[illegible]							
[illegible]	00-6001-00	472	101.28		474	105.62	
...ICK SERVICE							
[illegible]	00-6004-00	511	118.87		513	124.38	
[illegible]	00-6004-00	512	107.74		514	112.57	
[illegible]	00-6004-00	501		124.57	503		130.56
[illegible]	00-6004-00	502		113.44	504		118.76
[illegible]	00-6005-00	521	107.01		523	111.80	
[illegible]	00-6005-00	522	97.47		524	101.89	
[illegible]	00-6003-00	541	100.38		543	103.16	
[illegible]	00-6003-00	542	90.41		544	102.78	
[illegible]	00-6002-00	551	100.86		553	105.38	
[illegible]	00-6002-00	552	92.26		554	96.26	
...ND SERVICE							
[illegible]	00-6004-00	611	128.91		613	135.12	
[illegible]	00-6004-00	601		134.61	603		141.11
[illegible]	00-6005-00	621	116.08		623	121.43	
[illegible]	00-6003-00	641	123.33		643	129.23	
[illegible]	00-6002-00	651	117.37		653	122.88	
[illegible]							
[illegible]							
[illegible]	00-6005-00	721	128.91		723	135.12	
[illegible]							
[illegible]	00-6005-00	731	128.91		733	135.12	

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

J-01-81

Attachment #1 - Rates of Pay

		SMITH TO HEALY				HEALY AND NORTH			
Title	Occupation Code	Pay Rate Code	Engr. Operating with Fireman Basic Day* Mileage		Engr. Operating without Fireman Basic Day* Mileage	Pay Rate Code	Engr. Operating with Fireman Basic Day* Mileage		Engr. Operating without Fireman Basic Day* Mileage
Conductor	000-6001-00	041	125.91			043	131.68		
Conductor	000-6001-00	042		114.03		044		119.07	
Brakeman	000-6002-00	051	114.97			051	120.21		
Brakeman	000-6002-00	052		104.12		054		108.22	
Headbrakeman	000-6003-00	061	114.97			061	120.21		
Headbrakeman	000-6003-00	062		104.12		064		108.22	

Special Mainline Crew Allowance: 5.98

Ronald A. Harvey
Personnel Officer

Anchorage Alaska
February 22, 1983

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective October 1, 1981, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY CODE	SOUTH OF HEALY RATE	NORTH OF HEALY CODE	NORTH OF HEALY RATE
Engineer	911	122.48	913	128.08
Fireman	921	110.30	923	115.18
Conductor	941	111.48	943	116.34
Brakeman	951	102.34	953	107.39
Baggageman	961	102.34	963	107.39

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective October 1, 1981.

TITLE	OCCUPATION CODE	SOUTH OF NE. PAY RATE CODE	SOUTH OF NE. ENGR. OPERATING WITH FIREMAN BASIC DAY*	SOUTH OF NE. ENGR. OPERATING WITH FIREMAN MILEAGE	SOUTH OF NE. ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	SOUTH OF NE. ENGR. OPERATING WITHOUT FIREMAN MILEAGE	HEALY AND NORTH PAY RATE CODE	HEALY AND NORTH ENGR. OPERATING WITH FIREMAN BASIC DAY*	HEALY AND NORTH ENGR. OPERATING WITH FIREMAN MILEAGE	HEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	HEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN MILEAGE
PASSENGER SERVICE											
[illegible]	WO-6004-00	111	111.74				113	116.33			
[illegible]	WO-6004-00	112		10[illegible].19			114		105.52		
[illegible]	WO-6005-00	121	103.14				123	107.67			
[illegible]	WO-6005-00	122		94.22			124		98.19		
[illegible]	WO-6003-00	141	108.80				143	113.75			
[illegible]	WO-6003-00	142		98.64			144		102.99		
[illegible]	WO-6002-00	151	100.89				153	105.35			
[illegible]	WO-6002-00	152		92.15			154		96.09		
[illegible]	WO-6042-00	161	101.79				163	106.35			
[illegible]	WO-6042-00	162		93.06			164		96.99		
FREIGHT SERVICE											
Engineer	WO-6004-00	211	121.39				213	126.90			
Engineer	WO-6004-00	212		110.02			214		114.85		
Engineer	WO-6004-00	201			127.09		203			133.08	
Engineer	WO-6004-00	202				115.77	204				121.04
Fireman	WO-6005-00	221	109.26				223	114.05			
Fireman	WO-6005-00	222		99.72			224		103.94		
Conductor	WO-6003-00	241	110.17				243	115.12			
Conductor	WO-6003-00	242		100.0[illegible]			244		104.36		
Brakeman	WO-6002-00	251	101.73				253	106.19			
Brakeman	WO-6002-00	252		92.99			254		96.93		
Baggageman	WO-6042-00	261	101.97				263	106.61			
Baggageman	WO-6042-00	262		93.17			264		97.18		
LOCAL FREIGHT SERVICE											
Engineer	WO-6004-00	311	130.[illegible]				313	136.42			
Engineer	WO-6004-00	312		118.27			314		123.46		
Engineer	WO-6004-00	301			136.62		303			143.06	
Engineer	WO-6004-00	302				124.40	304				130.12
Fireman	WO-6005-00	321	117.45				323	122.60			
Fireman	WO-6005-00	322		107.20			324		111.74		
Conductor	WO-6003-00	341	118.43				343	123.75			
Conductor	WO-6003-00	342		107.51			344		112.19		
Brakeman	WO-6002-00	351	109.36				353	114.15			
Brakeman	WO-6002-00	352		99.96			354		104.20		
Baggageman	WO-6042-00	361	109.62				363	114.61			
Baggageman	WO-6042-00	362		100.16			364		104.47		

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF DEA. ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	SOUTH OF DEA. ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE	DEALY AND NINTH PAY RATE CODE	DEALY AND NINTH ENGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	DEALY AND NINTH ENGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE
[illegible] ON NOTARY SERVICE							
[illegible]	00-6004-00	4[illegible]	131.51		413	139.59	
[illegible]	00-6004-00	412	121.02		414	126.13	
[illegible]	00-6004-00	401		119.80	403		144.19
[illegible]	00-6004-00	402		127.29	404		133.14
[illegible]	00-6005-00	421	120.19		423	123.46	
[illegible]	00-6005-00	422	109.69		424	114.33	
Conductor	00-6003-00	441	112.91		443	118.03	
Conductor	00-6003-00	442	102.52		444	107.02	
[illegible]man	00-6002-00	451	104.25		453	108.85	
[illegible]man	00-6002-00	452	95.14		454	99.41	
Conductor							
Pilot	00-6003-00	471	113.69		473	118.80	
Conductor							
Pilot	00-6003-00	471	101.11		474	107.65	
[illegible] SERVICE							
[illegible]	00-6004-00	511	121.19		513	126.90	
[illegible]	00-6004-00	512	110.02		514	114.85	
[illegible]	00-6004-00	501		127.09	503		133.08
[illegible]	00-6004-00	502		115.72	504		121.04
[illegible]	00-6005-00	521	109.24		523	114.05	
[illegible]	00-6005-00	522	99.72		524	103.94	
Conductor	00-6003-00	541	110.58		543	115.56	
Conductor	00-6003-00	542	100.40		544	104.77	
[illegible]man	00-6002-00	551	102.90		553	107.42	
[illegible]man	00-6002-00	552	94.11		554	98.11	
[illegible] SERVICE							
[illegible]	00-6004-00	611	131.56		613	137.77	
[illegible]	00-6004-00	601		137.26	603		143.96
[illegible]	00-6005-00	621	118.46		623	123.83	
Conductor	00-6003-00	641	125.88		643	131.76	
[illegible]man	00-6002-00	651	119.77		653	125.28	
[illegible]							
[illegible]							
[illegible]	00-6005-00	721	131.56		723	137.77	
[illegible]							
[illegible]	00-6005-00	711	131.56		713	137.77	

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

10-01-81

Attachment #1 - Rates of Pay

Title	Occupation Code	Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage	Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage
			MONTH OF HEALY					HEALY AND MONTH			
Conductor	WO 6001-00	041	128.50				043	134.26			
Conductor	WO 6001-00	042		116.37			044		121.41		
Brakeman	WO 6002-00	051	117.33				053	122.59			
Brakeman	WO 6002-00	052		106.25			054		110.85		
Baggageman	WO 60[illegible]-00	061	117.33				063	122.59			
Baggageman	WO 6[illegible]-00	062		106.25			064		110.85		

Special Reduced Crew Allowance: 6.16

Donald A. Harvey
Personnel Officer

Anchorage Alaska
February 22, 1982

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective January 1, 1982, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakemen, Firemen, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF YEALY CODE	SOUTH OF YEALY RATE	NORTH OF YEALY CODE	NORTH OF YEALY RATE
Engineer	911	125.28	913	130.58
Fireman	921	113.10	923	117.98
Conductor	941	114.28	943	119.34
Brakeman	951	105.64	953	110.19
Baggageman	961	105.64	963	110.19

ENTRY RATES: For the first twelve months of employment, new employees will be paid 80% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective January 1, 1982.

TITLE	OCCUPATION CODE	SOUTH OF OHIO PAY RATE CODE	SOUTH OF OHIO EMER. OPERATIONS WITH FIREMAN BASIC DAY RATE	SOUTH OF OHIO EMER. OPERATIONS WITHOUT FIREMAN BASIC DAY RATE	NEAR AND NORTH PAY RATE CODE	NEAR AND NORTH EMER. OPERATIONS WITH FIREMAN BASIC DAY RATE	NEAR AND NORTH EMER. OPERATIONS WITHOUT FIREMAN BASIC DAY RATE
PASSENGER SERVICE							
[illegible]	00-6006-00	111	114.54		113	119.55	
[illegible]	00-6006-00	112		103.59	114		108.12
[illegible]	00-6005-00	121	105.96		123	110.64	
[illegible]	00-6005-00	122		97.02	124		100.99
[illegible]	00-6001-00	141	111.60		143	116.55	
[illegible]	00-6001-00	142		101.44	144		105.79
[illegible]	00-6002-00	151	103.69		153	108.15	
[illegible]	00-6002-00	152		94.95	154		98.89
[illegible]	00-6042-00	161	105.59		163	109.15	
[illegible]	00-6042-00	162		95.86	164		99.79
EMERGENCY SERVICE							
[illegible]	00-6006-00	211	124.19		213	129.70	
[illegible]	00-6006-00	212		112.82	214		117.65
[illegible]	00-6006-00	201		129.89	203		135.88
[illegible]	00-6006-00	202		118.52	204		123.86
[illegible]	00-6005-00	221	112.06		223	116.85	
[illegible]	00-6005-00	222		102.52	224		106.76
[illegible]	00-6001-00	241	112.97		243	117.92	
[illegible]	00-6001-00	242		101.81	244		107.16
[illegible]	00-6002-00	251	105.34		253	108.99	
[illegible]	00-6002-00	252		95.79	254		99.23
[illegible]	00-6042-00	261	104.87		263	109.51	
[illegible]	00-6042-00	262		95.97	264		99.98
LOCAL FREIGHT SERVICE							
[illegible]	00-6006-00	311	118.50		313	123.43	
[illegible]	00-6006-00	312		121.24	314		126.42
[illegible]	00-6006-00	301		119.63	303		146.07
[illegible]	00-6006-00	302		127.41	304		133.13
[illegible]	00-6005-00	321	120.46		323	125.61	
[illegible]	00-6005-00	322		110.21	324		114.75
[illegible]	00-6001-00	341	121.46		343	126.76	
[illegible]	00-6001-00	342		110.52	344		115.24
[illegible]	00-6002-00	351	113.37		353	117.16	
[illegible]	00-6002-00	352		103.97	354		107.21
[illegible]	00-6042-00	361	112.76		363	117.32	
[illegible]	00-6042-00	362		103.11	364		107.48

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF NE. ENGR. OPERATING WITH FIREMAN BASIC DAY*	SOUTH OF NE. ENGR. OPERATING WITH FIREMAN MILEAGE	SOUTH OF NE. ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	SOUTH OF NE. ENGR. OPERATING WITHOUT FIREMAN MILEAGE	PAY RATE CODE	HEALY AND NORTH ENGR. OPERATING WITH FIREMAN BASIC DAY*	HEALY AND NORTH ENGR. OPERATING WITH FIREMAN MILEAGE	HEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	HEALY AND NORTH ENGR. OPERATING WITHOUT FIREMAN MILEAGE
[illegible] OR ROTARY SERVICE											
Engineer	WO-6004-00	411	136.61				413	142.67			
Engineer	WO-6004-00	412		124.10			414		129.41		
Engineer	WO-6004-00	401			142.88		403			149.47	
Engineer	WO-6004-00	402				130.37	404				136.22
Fireman	WO-6005-00	421	123.27				423	128.54			
Fireman	WO-6005-00	422		112.77			424		117.41		
Conductor	WO-6003-00	441	115.71				443	120.83			
Conductor	WO-6003-00	442		105.32			444		109.82		
Brakeman	WO-6002-00	451	107.05				453	111.65			
Brakeman	WO-6002-00	452		98.14			454		102.21		
Conductor Pilot	WO-6003-00	473	116.49				473	121.60			
Conductor Pilot	WO-6003-00	471		106.11			474		110.45		
[illegible] SERVICE											
Engineer	WO-6004-00	511	124.19				513	129.70			
Engineer	WO-6004-00	512		112.82			514		117.65		
Engineer	WO-6004-00	501			129.6[illegible]		503			135.88	
Engineer	WO-6004-00	502				118.52	504				123.84
Fireman	WO-6005-00	521	112.06				523	116.85			
Fireman	WO-6005-00	522		102.52			524		106.74		
Conductor	WO-6003-00	541	113.38				543	118.36			
Conductor	WO-6003-00	542		103.20			544		107.57		
Brakeman	WO-6002-00	551	105.70				553	110.22			
Brakeman	WO-6002-00	552		96.91			554		100.91		
[illegible] SERVICE											
Engineer	WO-6004-00	611	134.36				613	140.57			
Engineer	WO-6004-00	601			140.06		603			146.76	
Fireman	WO-6005-00	621	121.26				623	126.61			
Conductor	WO-6003-00	641	128.68				645	134.56			
Brakeman	WO-6002-00	651	122.57				653	128.08			
[illegible]											
Terminal Hostler	WO-6005-00	771	134.36				773	140.57			
Hostler Helper	WO-6005-00	731	134.36				733	140.57			

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

1-01-82

Attachment #1 - Rates of Pay

Title	Occupation Code	Pay Rate Code	SOUTH OF HEALY: Engr. Operating with Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating with Fireman Mileage	SOUTH OF HEALY: Engr. Operating without Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating without Fireman Mileage	HEALY AND NORTH: Pay Rate Code	HEALY AND NORTH: Engr. Operating with Fireman Basic Day*	HEALY AND NORTH: Engr. Operating with Fireman Mileage	HEALY AND NORTH: Engr. Operating without Fireman Basic Day*	HEALY AND NORTH: Engr. Operating without Fireman Mileage
Conductor	WO-6003-00	041	131.72				043	137.48			
Conductor	WO-6003-00	042		119.59			044		124.43		
Brakeman	WO-6002-00	051	120.27				053	125.53			
Brakeman	WO-6002-00	052		109.19			054		113.79		
Baggageman	WO-6042-00	061	120.27				063	125.53			
Baggageman	WO-6042-00	063		109.19			064		113.79		

*Special Reduced Crew Allowance, 6.39

Donald A. Harvey
Personnel Officer

Anchorage Alaska
February 22, 1983

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective July 1, 1982, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY		NORTH OF HEALY	
	CODE	RATE	CODE	RATE
Engineer	911	129.63	913	135.23
Fireman	921	117.18	923	122.06
Conductor	941	113.30	943	123.36
Brakeman	951	109.48	953	114.03
Baggageman	961	109.48	963	114.03

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective July 1, 1982

TITLE	OCCUPATION CODE	SOUTH OF NEA: PAY RATE CODE	SOUTH OF NEA: ENGR. OPERATING WITH FIREMAN BASIC DAY*	SOUTH OF NEA: ENGR. OPERATING WITH FIREMAN MILEAGE	SOUTH OF NEA: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	SOUTH OF NEA: ENGR. OPERATING WITHOUT FIREMAN MILEAGE	NEALY AND NORTH: PAY RATE CODE	NEALY AND NORTH: ENGR. OPERATING WITH FIREMAN BASIC DAY*	NEALY AND NORTH: ENGR. OPERATING WITH FIREMAN MILEAGE	NEALY AND NORTH: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	NEALY AND NORTH: ENGR. OPERATING WITHOUT FIREMAN MILEAGE
[illegible] SERVICE											
[illegible]	WO-6004-00	111	118.62				113	123.63			
[illegible]	WO-6004-00	112		107.84			114		112.22		
[illegible]	WO-6005-00	121	109.83				123	114.33			
[illegible]	WO-6005-00	122		100.72			124		104.69		
Conductor	WO-6003-00	141	115.61				143	120.57			
Conductor	WO-6003-00	142		105.24			144		109.59		
Brakeman	WO-6002-00	151	107.53				153	111.99			
Brakeman	WO-6002-00	152		98.60			154		10[illegible].34		
Baggageman	WO-6042-00	161	108.43				163	112.99			
Baggageman	WO-6042-00	162		99.51			164		103.44		
FREIGHT SERVICE											
Engineer	WO-6004-00	211	128.54				213	134.05			
Engineer	WO-6004-00	212		116.92			214		121.75		
Engineer	WO-6004-00	201			134.24		203			140.23	
Engineer	WO-6004-00	202				122.62	204				127.94
Fireman	WO-6005-00	221	116.14				223	120.93			
Fireman	WO-6005-00	222		106.39			224		110.61		
Conductor	WO-6003-00	241	116.99				243	121.94			
Conductor	WO-6003-00	242		106.61			244		110.96		
Brakeman	WO-6002-00	251	108.37				253	112.83			
Brakeman	WO-6002-00	252		99.44			254		103.38		
Baggageman	WO-6042-00	261	108.71				263	113.35			
Baggageman	WO-6042-00	262		99.62			264		103.63		
[illegible] FREIGHT SERVICE											
Engineer	WO-6004-00	311	138.18				313	144.10			
Engineer	WO-6004-00	312		125.69			314		130.88		
Engineer	WO-6004-00	301			144.31		303			150.25	
Engineer	WO-6004-00	302				131.82	304				137.54
Fireman	WO-6005-00	321	124.85				323	130.00			
Fireman	WO-6005-00	322		114.37			324		118.91		
Conductor	WO-6003-00	341	125.76				343	131.09			
Conductor	WO-6003-00	342		114.61			344		119.38		
[illegible]	WO-6002-00	351	116.50				353	121.29			
Brakeman	WO-6002-00	352		106.90			354		111.13		
Baggageman	WO-6042-00	361	116.66				363	121.85			
Baggageman	WO-6042-00	362		107.09			364		111.60		

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF NE: ENGR. OPERATING WITH FIREMAN BASIC DAY*	SOUTH OF NE: ENGR. OPERATING WITH FIREMAN MILEAGE	SOUTH OF NE: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	SOUTH OF NE: ENGR. OPERATING WITHOUT FIREMAN MILEAGE	PAY RATE CODE	DEALY AND NINTH: ENGR. OPERATING WITH FIREMAN BASIC DAY*	DEALY AND NINTH: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	DEALY AND NINTH: ENGR. OPERATING WITHOUT FIREMAN MILEAGE
HOUR OR MILEAGE SERVICE										
[illegible]	WO-6004-00	411	141.39				413	147.45		
[illegible]	WO-6004-00	412		128.61			414		133.92	
[illegible]	WO-6004-00	401			147.66		403			154.25
[illegible]	WO-6004-00	402				134.88	404			140.73
[illegible]	WO-6003-00	431	127.75				433	133.02		
[illegible]	WO-6003-00	432		117.01			434		121.67	
Conductor	WO-6003-00	441	119.79				443	124.91		
Conductor	WO-6003-00	442		109.17			444		113.67	
Brakeman	WO-6002-00	451	110.94				453	115.54		
Brakeman	WO-6002-00	452		101.84			454		105.91	
Conductor										
Pilot	WO-6003-00	471	120.57				473	125.68		
[illegible]										
[illegible]	WO-6003-00	472		109.96			474		114.10	
TIME SERVICE										
[illegible]	WO-6004-00	511	128.56				513	134.05		
[illegible]	WO-6004-00	512		116.92			514		121.75	
[illegible]	WO-6004-00	501			134.24		503			140.21
[illegible]	WO-6004-00	502				122.62	504			127.94
Fireman	WO-6005-00	521	116.14				523	120.91		
Fireman	WO-6005-00	522		106.39			524		110.61	
Conductor	WO-6003-00	541	117.41				543	122.39		
Conductor	WO-6003-00	542		107.01			544		111.38	
Brakeman	WO-6002-00	551	109.56				553	114.08		
Brakeman	WO-6002-00	552		100.58			554		104.58	
MILE SERVICE										
Engineer	WO-6004-00	611	130.05				613	135.06		
Engineer	WO-6004-00	601			144.55		603			151.25
Fireman	WO-6005-00	621	125.47				623	130.82		
Conductor	WO-6003-00	641	113.15				643	119.03		
Brakeman	WO-6002-00	651	106.81				653	112.32		
HOSTLERS										
Terminal										
[illegible]	WO-6005-00	721	130.05				723	135.06		
[illegible]										
[illegible]	WO-6005-00	731	130.05				733	135.06		

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

7-01-82

Attachment #1 - Rates of Pay

Title	Occupation Code	Pay Rate Code	SOUTH OF HEALY: Engr. Operating with Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating with Fireman Mileage	SOUTH OF HEALY: Engr. Operating without Fireman Basic Day*	SOUTH OF HEALY: Engr. Operating without Fireman Mileage	HEALY AND NORTH: Pay Rate Code	HEALY AND NORTH: Engr. Operating with Fireman Basic Day*	HEALY AND NORTH: Engr. Operating with Fireman Mileage	HEALY AND NORTH: Engr. Operating without Fireman Basic Day*	HEALY AND NORTH: Engr. Operating without Fireman Mileage
Conductor	UO-6001-00	041	136.41				043	142.18			
Conductor	UO-6003-00	042		124.02			044		129.05		
Trainman	UO-6002-00	051	124.55				055	129.81			
Trainman	UO-6002-00	052		113.23			056		117.83		
Trainman	UO-6042-00	061	124.55				063	129.81			
Trainman	UO-6042-00	062		113.23			064		117.83		

*Total Reduced Crew Allowance, 6.71

Donald A. Marvey
Personnel Officer

Anchorage Alaska
February 22, 1983

Transportation Department
Train and Engine Service

DAILY EARNING MINIMA

Effective January 1, 1983, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY CODE	SOUTH OF HEALY RATE	NORTH OF HEALY CODE	NORTH OF HEALY RATE
Engineer	911	132.35	913	137.95
Fireman	921	119.30	923	124.68
Conductor	941	120.92	943	125.98
Brakeman	951	112.09	953	116.64
Baggageman	961	112.09	963	116.64

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective January 1, 1983.

TITLE	OCCUPATION CODE	PAY RATE CODE	SOUTH OF RNGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	RNGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE	PAY RATE CODE	WEST AND NORTH RNGR. OPERATING WITH FIREMAN BASIC DAY* MILEAGE	RNGR. OPERATING WITHOUT FIREMAN BASIC DAY* MILEAGE
PASSENGER SERVICE							
Engineer	001-4004-00	111	$21.34		113	$26.35	
Engineer	001-4004-00	112		$10.56	114		$15.94
Fireman	001-4005-00	121	$12.55		123	$17.05	
Fireman	001-4005-00	122		$03.46	124		$07.41
Conductor	001-4001-00	041	$19.56		043	$25.30	
Conductor	001-4001-00	042		$27.16	044		$32.10
Brakeman	001-4002-00	051	$27.41		053	$32.67	
Brakeman	001-4002-00	052		$16.09	054		$20.69
Baggageman	001-4042-00	061	$27.41		063	$32.67	
Baggageman	001-4042-00	062		$16.09	064		$20.69
FREIGHT SERVICE							
Engineer	001-4004-00	211	$31.24		213	$36.77	
Engineer	001-4004-00	212		$19.64	214		$24.47
Engineer	001-4004-00	201		$16.96	203		$02.95
Engineer	001-4004-00	202		$25.36	204		$10.66
Fireman	001-4005-00	221	$18.86		223	$2. 65	
Fireman	001-4005-00	222		$09.11	224		$13.33
Conductor	001-4001-00	241	$19.61		243	$24.56	
Conductor	001-4001-00	242		$09.18	244		$13.53
Brakeman	001-4002-00	251	$10.98		253	$15.46	
Brakeman	001-4002-00	252		$02.06	254		$06.00
Baggageman	001-4042-00	261	$11.32		263	$15.96	
Baggageman	001-4042-00	262		$02.26	264		$06.25
LOCAL FREIGHT SERVICE							
Engineer	001-4004-00	311	$41.10		313	$42.03	
Engineer	001-4004-00	312		$28.41	314		$33.81
Engineer	001-4004-00	301		$42.21	303		$53.42
Engineer	001-4004-00	302		$36.76	304		$40.46
Fireman	001-4005-00	321	$22.22		323	$32.92	
Fireman	001-4005-00	322		$12.29	324		$21.81
Conductor	001-4001-00	341	$28.58		343	$33.90	
Conductor	001-4001-00	342		$17.32	344		$22.06
Brakeman	001-4002-00	351	$19.30		353	$24.10	
Brakeman	001-4002-00	352		$09.21	354		$13.95
Baggageman	001-4042-00	361	$19.67		363	$25.46	
Baggageman	001-4042-00	362		$09.91	364		$14.72

	OCCUPATION CODE	PAY RATE CODE	SOUTH OF HEALY: ENGR. OPERATING WITH FIREMAN BASIC DAY*	SOUTH OF HEALY: ENGR. OPERATING WITH FIREMAN MILEAGE	SOUTH OF HEALY: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	SOUTH OF HEALY: ENGR. OPERATING WITHOUT FIREMAN MILEAGE	PAY RATE CODE	HEALY AND NORTH: ENGR. OPERATING WITH FIREMAN BASIC DAY*	HEALY AND NORTH: ENGR. OPERATING WITH FIREMAN MILEAGE	HEALY AND NORTH: ENGR. OPERATING WITHOUT FIREMAN BASIC DAY*	HEALY AND NORTH: ENGR. OPERATING WITHOUT FIREMAN MILEAGE
[illegible] RUTARY SERVICE											
[illegible]	00-6004-00	411	144.39				413	120.45			
[illegible]	00-6004-00	412		131.60			414		116.91		
[illegible]	00-6004-00	401			150.66		403			157.25	
[illegible]	00-6004-00	402				137.87	404				143.72
[illegible]	00-6005-00	421	130.75				423	116.02			
[illegible]	00-6005-00	422		120.02			424		124.66		
Conductor	00-6003-00	441	122.51				443	127.43			
Conductor	00-6003-00	442		111.89			444		116.39		
Brakeman	00-6002-00	451	113.66				453	118.26			
Brakeman	00-6002-00	452		104.56			454		108.61		
Conductor											
Pilot	00-6001-00	471	124.29				473	128.40			
conductor											
Pilot	00-6001-00	472		1 .68			474		117.02		
[illegible] SERVICE											
Engineer	00-6004-00	511	131.26				513	136.72			
Engineer	00-6004-00	512		119.64			514		124.47		
Engineer	00-6004-00	501			136.96		503			142.95	
Engineer	00-6004-00	502				125.34	504				130.66
Fireman	00-6005-00	521	118.86				523	123.65			
Fireman	00-6005-00	522		109.11			524		113.11		
Conductor	00-6003-00	541	120.13				543	125.11			
Conductor	00-6003-00	542		109.72			544		114.09		
Brakeman	00-6002-00	551	112.28				553	116.80			
Brakeman	00-6002-00	552		103.30			554		107.30		
[illegible] SERVICE											
Engineer	00-6004-00	611	141.57				613	147.28			
Engineer	00-6004-00	601			147.27		603			151.97	
Fireman	00-6005-00	621	129.39				623	134.54			
[illegible]	00-6003-00	641	135.87				643	141.35			
Brakeman	00-6002-00	651	129.51				653	135.04			
[illegible]											
[illegible]											
Pilot	00-6005-00	721	141.57				723	147.28			
[illegible]											
Helper	00-6005-00	731	141.57				733	147.28			

Donald A. Harvey
Personnel officer

CREW C[illegible] AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

1-01-81

Attachment #1 - Rates of Pay

Title	Occupation Code	Pay Rate Code	SOUTH OF HEALY: Engr. Operating with Fireman Basic Day* Mileage	SOUTH OF HEALY: Engr. Operating without Fireman Basic Day* Mileage	Pay Rate Code	HEALY AND NORTH: Engr. Operating with Fireman Basic Day* Mileage	HEALY AND NORTH: Engr. Operating without Fireman Basic Day* Mileage
Conductor	00-4001-00	041	119.56		043	145.10	
Conductor	00-4001-00	042		127.14	044		132.18
Brakeman	00-4002-00	051	127.41		053	132.67	
Brakeman	00-4002-00	052		116.09	054		120.69
Baggageman	00-4042-00	061	127.41		063	132.67	
Baggageman	00-4042-00	062		116.09	064		120.69

*Special Reduced Crew Allowance: 6.97

Donald A. Harvey
Personnel Officer

Anchorage, Alaska
January 12, 1981

Transportation Department
Train and Engine Service

DAILY EARNINGS MINIMA

Effective January 1, 1981, the minimum daily earnings from all sources for each calendar day, to which service payments are credited to employees serving as Brakeman, Fireman, Baggageman, Engineer, or Conductor, in all classes of service, shall be as follows:

	SOUTH OF HEALY CODE	SOUTH OF HEALY RATE	NORTH OF HEALY CODE	NORTH OF HEALY RATE
Engineer	911	115.76	913	121.36
Fireman	921	104.02	923	108.30
Conductor	941	105.30	943	110.36
Brakeman	951	96.94	953	101.49
Baggageman	961	96.94	963	101.49

ENTRY RATES: For the first twelve months of employment, new employees will be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

Donald A. Harvey
Personnel Officer

Operating Employees'
Pay Rates Effective January 1, 1981

Title	Occupation Code	SOUTH OF HEALY: Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage	HEALY AND NORTH: Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage
Passenger Service											
Engineer	00-6004-00	111	105.46				113	110.47			
Engineer	00-6004-00	112			95.27		114			99.65	
Fireman	00-6005-00	121	97.16				123	101.66			
Fireman	00-6005-00	122			88.55		124			92.52	
Conductor	00-6001-00	141	102.62				143	107.57			
Conductor	00-6001-00	142			92.81		144			97.16	
Brakeman	00-6002-00	151	94.99				153	99.45			
Brakeman	00-6002-00	152			86.56		154			90.50	
Baggageman	00-6042-00	161	95.09				163	100.45			
Baggageman	00-6042-00	162			87.47		164			[illegible]	
Freight Service											
Engineer	00-6004-00	211	114.67				213	120.18			
Engineer	00-6004-00	212			103.69		214			108.52	
Engineer	00-6004-00	201				120.32	203				126.36
Engineer	00-6004-00	202				109.39	204				114.71
Fireman	00-6005-00	221	102.90				223	107.77			
Fireman	00-6005-00	222			93.77		224			97.99	
Conductor	00-6001-00	241	103.99				243	108.94			
Conductor	00-6001-00	242			94.10		244			98.53	
Brakeman	00-6002-00	251	95.03				253	100.29			
Brakeman	00-6002-00	252			87.40		254			91.34	
Baggageman	00-6042-00	261	96.07				263	100.71			
Baggageman	00-6042-00	262			87.58		264			91.59	
Local Freight Service											
Engineer	00-6004-00	311	123.27				313	129.19			
Engineer	00-6004-00	312			111.47		314			116.66	
Engineer	00-6004-00	301				129.40	303				135.04
Engineer	00-6004-00	302				117.59	304				121.41
Fireman	00-6005-00	321	110.70				323	115.85			
Fireman	00-6005-00	322			100.00		324			105.14	
Conductor	00-6001-00	341	111.79				343	117.11			
Conductor	00-6001-00	342			101.24		344			105.91	
Brakeman	00-6002-00	351	103.02				353	107.82			
Brakeman	00-6002-00	352			91.96		354			96.20	
Baggageman	00-6042-00	361	101.28				363	106.27			
Baggageman	00-6042-00	362			91.15		364			96.46	

*Cents Per Mile

			SOUTH OF HEALY				HEALY AND NORTH			
Title	Occupation Code	Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage	Pay Rate Code	Engr. Operating with Fireman Basic Day*	Engr. Operating with Fireman Mileage	Engr. Operating without Fireman Basic Day*	Engr. Operating without Fireman Mileage
Snow or Rotary Service											
Engineer	00 6004-00	411	126.13				413	132.19			
Engineer	00 6004-00	412		114.05			414		119.36		
Engineer	00 6004-00	401			132.46		403			138.99	
Engineer	00 6004-00	402				120.12	404				126.17
Fireman	00 6005-00	421	113.27				423	118.54			
Fireman	00 6005-00	422		101.14			424		107.76		
Conductor	00 6003-00	441	106.63				443	111.75			
Conductor	00 6003-00	442		96.60			444		101.10		
Brakeman	00 6002-00	451	90.27				453	102.07			
Brakeman	00 6002-00	452		89.67			454		93.74		
Conductor-Pilot	00 6003-00	471	107.41				473	112.52			
Conductor-Pilot	00 6003-00	472		97.19			474		101.73		
Work Service											
Engineer	00 6004-00	511	114.67				513	120.10			
Engineer	00 6004-00	512		101.69			514		100.52		
Engineer	00 6004-00	501			120.37		503			126.36	
Engineer	00 6004-00	502				109.39	504				114.71
Fireman	00 6005-00	521	102.90				523	107.77			
Fireman	00 6005-00	522		91.77			524		97.99		
Conductor	00 6003-00	541	104.30				543	109.36			
Conductor	00 6003-00	542		94.55			544		98.92		
Brakeman	00 6002-00	551	96.97				553	101.49			
Brakeman	00 6002-00	552		88.49			554		92.49		
Yard Service											
Engineer	00 6004-00	611	124.62				613	130.01			
Engineer	00 6004-00	601			130.32		603			137.02	
Fireman	00 6005-00	621	111.97				623	117.32			
Conductor	00 6003-00	641	119.14				643	125.02			
Brakeman	00 6002-00	651	113.24				653	118.75			
Hostlers Terminal											
Hostler	00 6005-00	721	124.62				723	130.01			
Hostler Helper	00 6005-00	731	124.62				733	130.01			

*Cents Per Mile

7/8/51

CREW CONSIST AGREEMENT
between
THE ALASKA RAILROAD
and the
UNITED TRANSPORTATION UNION

Attachment #1 - Rates of Pay

		SOUTH OF HEALY				HEALY AND NORTH			
Title	Occupation Code	Pay Rate Code	Engr. Operating with Fireman Basic Day* Mileage	Engr. Operating without Fireman Basic Day* Mileage		Pay Rate Code	Engr. Operating with Fireman Basic Day* Mileage	Engr. Operating without Fireman Basic Day* Mileage	
onductor	WO-6003-00	041	121.20			043	127.04		
onductor	WO-6003-00	042		109.56		044		114.60	
rakeman	WO-6002-00	051	110.73			053	115.99		
rakeman	WO-6002-00	052		100.03		054		104.63	
aggageman	WO-6042-00	061	110.73			063	115.99		
aggageman	WO-6042-00	062		100.03		064		104.63	

Donald A. Harvey
Donald A. Harvey
Personnel Officer

Interim Report #1

9-15-84

HOUSE TRANSPORTATION COMMITTEE

INTERIM REPORT #1

REPRESENTATIVE BETTE CATO
CHAIRMAN

SEPTEMBER 15, 1984

MEMBERSHIP
HOUSE TRANSPORTATION COMMITTEE
THIRTEENTH ALASKA STATE LEGISLATURE

REPRESENTATIVE BETTE CATO, CHAIRMAN

REPRESENTATIVE MIKE W. MILLER, VICE-CHAIRMAN

REPRESENTATIVE MITCH ABOOD

REPRESENTATIVE ROBERT H. BETTISWORTH

REPRESENTATIVE MIKE DAVIS

REPRESENTATIVE JOE FLOOD

REPRESENTATIVE ADELHEID HERRMANN

REPRESENTATIVE JOHN SUND

REPRESENTATIVE MIKE SZYMANSKI

COMMITTEE STAFF:

RHONDA CARGILL

LORETTA KNIGHTLINGER

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

HOUSE TRANSPORTATION COMMITTEE
INTERIM REPORT NO. 1
SEPTEMBER 15, 1984

The House Transportation Committee interim staff is Rhonda Cargill and Loretta Knightlinger who work under the direction of Representative Bette Cato, Chairman. The following report constitutes the first report of the House Transportation Committee to the Majority Leader and includes the various issues that have been ongoing since the office opened the first of July.

Staff has continued to keep abreast of the Capital Projects Cleanup (CPC) Committee. CPC was formed to identify problems and recommend solutions in the department's program/project management. Several changes have taken place since the CPC group presented their report to the House and Senate Transportation Committees during the Second Session of the Thirteenth Legislature, but staff continues to be able to communicate with the CPC group and the progress, or lack of progress that is being made. We have requested the Department of Transportation, through the CPC group, for a status report on the appropriations made during the 1984 session in HB 636, HB 691, SB 364, SB 94, HB 452, HB 487, and SB 409. It is important to the Chairman of House Transportation to have that information readily available to review, especially during session when additional appropriations are being made for projects.

Representative Bette Cato met with the Deputy Commissioner of the Marine Highway System the first week of August to discuss the possibility of a strike by the ferry workers. Mr. Camp outlined the major points of negotiations that were being discussed at that time. Those included the issues of vacation time; overtime payment and tie-up agreements. Although there is still the possibility of ferry strike in April, at the time of the writing of this report, negotiations are continuing to move forward.

Among the other topics discussed with Mr. Camp included what had happened to the M/V Columbia and the fact that it needs an underpower bowthruster as it is a fairweather ship; he mentioned that he had been looking at the possibility of catamarans as opposed to the jetfoil for Southeast; Mr. Camp mentioned that he is exploring the various steps that could be taked to grant MHS greater autonomy and flexibility while remaining in DOT. Due to the Chairman's strong interest in the MHS and her agreement with this concept, staff continues to follow the progress of MHS as a separate division of DOT; per Rep. Cato's request we received a draft of the ferry winter schedule and are expecting the final

publication the end of September; and the reservation system was discussed as to what is still needed. MHS received the funding for a centralized reservation system and the contract (request for proposal) is out for a contractor to do the design system. Staff will be continuing to communicate with Mr. Camp to be kept abreast of these and other topics regarding the Marine Highway System.

A very concerned item which staff has been following is the proposition of the abolishment of the Alaska Transportation Commission. Several articles have been written as to what could happen if the voters did in fact choose to abolish the commission and what the ramifications could be.

A tremendous amount of time has been spent on this due to the many avenues that could be taken and rather than staff duplicating efforts of numerous agencies, industries, concerned individuals, we have collected various materials to have at our fingertips as a library of ATC information. We have included in this report several pieces of information such as the language that will appear on the ballot for the public to vote on the ATC issue; a neutral summary written by Legal Services of the initiative; Judge Pegues' decision on whether the ATC initiative should appear on the ballot; and a copy of the Functional Responsibilities of the ATC as written by Office of Management and Budget.

The main concern of Chairman Cato is the possible loss of safety regulations, especially when there is such an outcry on the matter of unsafe trucks on Alaska's roads. Chairman Cato has instructed the staff to continue efforts, which were started during the session, which includes proposing legislation to address the need of safety. We are patiently awaiting the outcome of that vote in November and at the same time are watching what is happening on the federal level.

The House Transportation Committee staff has learned that the Motor Carrier Safety Act (S. 2174) is still in the Senate and most likely will not be passed this year. To date, we are awaiting the committee report on what changes this legislation has been through.

To briefly explain the Motor Carrier Safety Act, essentially the bill would increase safety enforcement by the U.S. DOT in several ways. It gives the Secretary of Transportation authority to promulgate comprehensive safety rules and regulations; it expands U.S. DOT's authority to prosecute safety violations and establishes an updated system of civil and criminal penalties; it requires U.S. DOT to establish standards to require annual vehicle inspections (inspection of a vehicle in one state in accordance with federal standards shall be recognized as adequate in every other state); all private and for-hire carriers will be required to meet safety fitness standards; and the bill opts for national uniformity of truck safely laws and regulations. It will allow states to retain laws and regulations only if the DOT has no laws or regulations governing the same subject matters or if a state can prove that it

has need for a special truck safety rule because of locally compelling conditions. This information is from a March report, but until staff receives an update as to the changes, this is basically what was introduced. Of course there are many pros and cons on this legislation, and staff will continue to follow the workings of this and other federal legislation. Especially since there may be federal funds involved.

Alaska Railroad Transfer As has been reported in the newspapers, Governor Sheffield is still in the process filtering through the names submitted for members of the Board. We expect to receive the Transition Team's work plan for this transitional period by late September.

Trucking Regulations We have attached the updated Alaska Administrative Code and the newly adopted regulations concerning the trucking industry which became effective September 1, 1984. The changes dealt with the wheeled vehicles as follows: (1) allowing vehicles with widths up to 102 inches to operate on all state highways; (2) specially designated certain state highways for the operation of described overlength truck-trailer combinations; and provided for reasonable access to and from specially designated highways. We have contacted T.J. Thrasher, Managing Director of the Alaska Trucking Association and asked her about the adopted regulations of which she said the association fully supported.

In regards to the 120-day trial period for the tandem trailers on the Richardson Highway, (see attached news article) that trial period has been extended to December 31, 1984. We understand that the tandems were doing fine with no problems.

Invitation for Bids In addition to following regulations that DOTPF is proposing, the committee staff has begun to track those projects that are put out to bid. Due to the fact that this is a new project (new for this interim) and of course is ongoing, at this time we can report those projects that have been advertised as a public notice of one kind or another.

Invitation for bids:

Wasilla Airport (land lease)
Cordova Airport (land lease)
Homer Airport (land lease)
Hydro-axe Brush Cutter with Operator, Tazlina Area
Aggregate Processing, Mile 141 Glenn Highway and Mile 9.7 Lake Louise Road
Carpet Installation, DOTPF Administration Building, Valdez Airport and Road Maintenance, locations: Allakaket, Beaver, Birch Creek, Circle City, Chicken, Chalkyitsik, Clear, Hughes, Huslia, Kaltag, Koyukuk, Nulato, Rampart, Minchumina, Stevens Village and Norway
Project No. G-27026, Eagle River Road Grading and Drainage
Project No. R-20026, Jenny M. Creek Firewood Access Road

Project No. R-20001, Tok Fire Facility
Project No. I-0A2-3(2), Richardson Hwy, Boondox to Canyon Cr. Pavement Overlay
Project No. R-10643, Harborview Developmental Center, Campus Development
Project No. RRPM000S(52) and RS-666(4), Spenard Builders Site Relocation Work and Nome Drive Connector
Project No. G-57017, Glennallen High School Access Road Guardrail Improvements
Project NO. R-20023, Nome Jail
Project No. A-81251, Central Dust Control, Phase III
Roof Renovations, Ernestine Maintenance Facility
Project NO. 84-25-2-44, Tok Area Road Maintenance
Clark Bay Ferry Terminal Lighting and Restrooms, Clark Bay, AK
Glacier Hwy-Nugget Mall to Loop Road, Juneau, AK
Juneau-State Office Building HVAC System Modifications (6th floor), Juneau, AK
Salmon Creek Intersection, Juneau
Airport and Road Maintenance, Fort Yukon
Fairbanks International Airport, General Aviation Ramp and Runway Improvements
Project No. I-R-042-3(1) Richardson Highway, Tanana River to Delta Junction
Project No. RS-F-071-1(42) Richardson Highway, Mile 16-19
Project No. H-90646, Ernestine Warm Storm Building
Project No. H-20004, Eighty Mile Steese Maintenance Facility
Project No. FIR-IR-0A1-4(1), Glenn Highway Rehabilitation Little Nelchina River to Glennallen Mile 138-198
Anchorage McLaughlin Youth Center
Iliamna Airport
Kodiak-Near Island Bridge
Anchorge Terminal Expansion
Project No. 84-25-2-47, Dalton Highway Checkpoint Manning
Project No. 85-25-2-18, Fairbanks Area Equipment Rental
Project No. RS-0863(5), Dayville Road Guardrail
Ft. Yukon Airport and Road Maintenance
SE Region Fire Sprinkler System Maintenance (1984-87) Ketchikana and Juneau, Alaska
Juneau-State Office Building Plaza Repairs, Juneau
Juneau National Guard Armory, Shower/Toilet Room Renovations, Juneau
Sitka Pioneer Home Heat Renovation, Sitka
Stikine and Evergreen Avenue and Airport Road Overlay Wrangell
Wrangell-Reliance Boat Harbor Float Replacement
Nunapitchuk Airport
Tok Maintenance Shop Energy Retrofit, #85-25-2-19
Painting Livengood Maintenance Station #84-25-2-34
Project No. AIP 3-02-0404-01, Shishmaref Airport Relocation
Project No. AIP 3-02-0110-01, Gulkana Airport Improvements
Project No. AIP 3-02-0026-01, Wiley Post/Will Rogers

Memorial Airport
Project No. A-84371, Gilmore Trail Grading, Drainage and Paving
Sitka Japonski Harbor Water System, Sitka
Project No. MT-336, Alaska Marine Highway System Automated Reservation System
Birchwood Airport
Project No. AIP 3-020033)-01, Deadhorse Airport Parallel Taxiway
Project No. A-86071, Dalton Highway Resur' ing and Bridge repair
Project No. H-60071, Fairbanks Jail Fencing Modifications
Project No. BRS-750(2), Fish Creek Crossing Grading and Drainage
Painting Delta Combined Office Facility #85-25-2-23
Project No. AIP 3-02-0083-01, Eagle Runway Improvements
Project No. AIP 3-02-0103-01, Gambell Airpo t Runway Rehabilitation
Project No. H-79357, Fairbanks International Airport/ Crash Fire Rescue Boiler Replacement
Project No. R-20028, Rebuild Umiat Airport Maintenance Facility
Project No. R-20023, Nome Youth Facility Remodeling
Project No. AIP 3-02-0137-01, Kaltag Runway Improvements
Project No. AIP 3-02-0311-01 and X-20220, Valdez Airpor' Road Improvements, Drainage and Fencing
Project No. H-60071 and H-60054, Fairbanks State Jail Parking Lot Addition
Delta Area Equipment Rental, #85-25-2-24
Tok Area Equipment Rental, #85-25-2-25
Structural Steel Repair, Tanana River Bridge #202 Nenana, #85-25-2-26
Installation of Fuel Dispensers and Tanks at Coldfoot and Deadhorse, #85-25-2-27
Tenakee Ferry Passenger Facility, Tenakee Springs
Petersburg Harbor Facilities
Yakutat Runway Grooving
Project No. A-86001, East College Road Marietta Avenue to N.s Steese
Concrete Patio, Fairbanks Pioneer Home, #85-25-2-29
Remodeling Judicial Services Complex, State Court and Office Building, Fairbanks, #85-25-2-28
OMB-Court Building Space Remodel, Levels 4 and 5, Juneau
Hoonah Harbor Maintenance Dredging
Seaplace Float Repairs, Metlakatla, Tenakee, Hawk Inlet,
Juneau-Community Building Renovations
Juneau Prison Industries Security System/Partitions
Project No. MT-343, M/V LeConte Drydocking and Repairs
State of Alaska Ferry Propulsion Systems
Ketchikan Airport Runway and Taxiway Overlay
Sitka-Public Safety Academy Standby Generator Installation
Juneau-Glacier Avenue Building Renovations
Galena Equipment Storage Building

Project No. G-27035, Tok Area Road
Project No. A-86281, Miller House Bridge
Project No. D-35331, Ruby Airport Runway Expansion
Fence for Equipment Storage, Peger Rd, Fairbanks
85-25-2-30

Conferences/Meetings attended by Representative Cato

Thompson Pass/Valdez Representative Cato met with Commissioner Knapp, in Valdez, concerning employee moral and problems of supervisors. All came to an agreement to promote a more harmonious work atmosphere and to improve relations between employees/employers.

Red Dog Mine Attached are photos taken by Representative Cato while on a tour of the Red Dog Mine on September 4.

Des Moines, Iowa: National Association of Governors' Highway Safety Representatives (NAGHSR) Conference September 9-13 At present time Chairman Cato is attending this conference, but we do know from the information received that the Honorable James J. Howard (D-NJ) is to deliver the keynote address at the conference. Congressman Howard chairs the Public Works and Transportation Committee of the House of Representatives and will focus upon Congressional perspectives regarding highway safety.

Chenega Representative Cato was invited to go to Chenega for ceremonies of their new town after being rebuilt from damages done by the 1964 earthquake. Representative Cato was able to get as far as Anchorage, but due to weather conditions was not able to go on to Chenega. Later she learned that during the ceremonies, Chenega dedicated and named their road after her.

Seward Road Closure While touring the district, Representative Cato found that the Kluane Construction had closed a section of road from Bertha Creek to Ingram Creek on the Seward Highway between the hours of 10 a.m. to 2 p.m. This created a great deal of problems and confusion due to the Seward Salmon Derby. Many participants traveled this road to and from the derby grounds, therefore causing a tremendous traffic problem. Representative Cato summoned the company and asked if a more suitable schedule could be met until the derby was over. They agreed this could be done. Representative Cato learned that the reason for the hours of the road closure was that OHSA prohibits blasting after sunset, unless special lighting is used to render the area bright as day and unless a special permit is used.

Oregon Trip to observe asphalt emulsion projects Trip report and photographs are attached.

APPENDICES

ALASKA
MARINE HIGHWAY SYSTEM

FAIRBANKS NEWS-MINER
July 12, 1984

Ferry strike vote a possibility

ANCHORAGE (AP)—About 650 state ferry system workers could vote next month on whether to strike if contract negotiations with state officials remain at an impasse.

The employees are represented by the Inland Boatman's Union of the Pacific.

Union leaders have said the state's final proposal includes drastic reductions in vacation, sick leave, overtime pay rates and safety conditions, as well as a smaller pay increase than other state employees have received.

The labor organization, an affiliate of the International Longshoremen's and Warehousemen's Union, represents junior engineers, deckhands, oilers, wipers, pursers, stewards and cooks.

While both sides have been working with a federal mediator, Mike Wilson, spokesman for the Inland Boatman's Union said the efforts have not settled the basic disputes. He said the union has proposed the contract be submitted for binding arbitration.

Bill Gibbons, director of labor relations for the state, said Alaska officials will decide on the binding arbitration question within a few days.

The contract expired March 31, but has been extended to Aug. 7.

Wilson said the union will present the state's final best offer to its members on that date, and a strike vote may be taken.

JUNEAU EMPIRE
July 27, 1984

Ferry strike growing possibility

By CHUCK KLEESCHULTE
The Juneau Empire

While both sides say they do not want a strike, they also warn a walkout of state ferry workers that could shut down the ferry system during the height of this summer's tourism season is a growing possibility.

The president of the International Longshoremen's and Warehousemen's Union Jim Herman of San Francisco Thursday night charged that the state is guilty of "unfair and dishonest" bargaining practices and is attempting to use its "muscle" to force unwarranted concessions from some of the 650 of the 850 state ferry workers represented by the Inlandboatmen's Union of the Pacific, Alaska Region, a union affiliated with the ILWU.

Herman, at a Juneau press conference before a meeting of ferry workers, said the situation between the state and union has "turned very difficult," employees feeling frustrated and fearful they may have to strike to protect contract benefits won in previous negotiations with the state.

"We want to resolve this matter, but workers will react with militancy if they think that 16 to 18 years of negotiating effort is being taken away," said Herman.

Talks over a new three-year contract for the largest group of Marine Highway workers broke off June 27 and have yet to resume. Currently workers are balloting on whether to authorize a strike, the authorization vote scheduled to be tallied by the state Labor Relations Agency Aug. 15.



ALASKA NEWS

Herman and Don Liddle, Pacific president of the IBU, both refused to set a strike deadline, but a walkout of the ferry workers could start anytime after the authorization vote is certified. The workers have been on the job as a result of a six-month extension of their contract since last February.

Talks broke off as both sides are far apart on wage, overtime, vacation, sick leave and staffing requirements. The union says the state is offering ferry workers a wage freeze, a contract that would cut overtime pay and one that would reduce by over a half the amount of vacation workers gain.

Herman said all workers want is to keep their current benefits and gain the same cost-of-living pay increase granted to other state employees this year.

Herman attacked state efforts to reduce the vacation time, saying the current vacation arrangement is fairly standard in the maritime industry. He accused state negotiators — noteably C. Gary Donworth, a Seattle labor consultant — of making "false statements" either by design or "because they don't know any better."

Joe Camp, deputy commissioner of administration in charge of the ferry system, said the state is willing to bargain and accept wage increases, but he said the union should be willing to give up part of its current vacation time.

"When you look at the past ferry contracts it looks like the pacts were negotiated by someone not very familiar with maritime benefits. We want to return to the table and avoid a strike, but we don't intend to knuckle down and just give in to the union," said Camp this morning.

He said a 10-year ferry worker, receiving seven two-week periods of vacation, might work just 19 weeks a year, a vacation benefit package nearly three times more expansive than enjoyed by other state workers.

"We aren't asking employees to take anything less than others in the industry receive. Right now though they have the best contract in the nation," Camp said.

Camp said the state is not expecting the union to ask for talks to resume until the union is armed with a strike authorization vote. Herman said the union doesn't see a need to resume talks until the state signals its intention to bargain in good faith — the sides agreeing there is no date set for talks to resume.

Herman charges the state knows its position is indefensible since the state has refused to submit to binding arbitration to settle the wage dispute. Camp, however, said the state is convinced its position is just and doesn't want to submit to binding arbitration because so often an arbitrator "will just split the difference" between the two sides.

The state's nine-vessel ferry fleet is largely responsible for the movement of freight and vehicle traffic among Southeast towns.

JUNEAU EMPIRE
August 13, 1984

Ferry contract talks resume; strike delayed

By CHUCK KLEESCHULTE
The Juneau Empire



ALASKA NEWS

Negotiators from the state and the Inland Boatmen's Union of the Pacific, Alaska Region, will return to the bargaining table Thursday for the first time in seven weeks in an effort to hammer out agreement on a new three-year contract for the state's ferry workers.

While a strike may become legal anytime after Friday if talks fail, union sources say a strike is now highly unlikely until fall and won't come until at least next April 1, if rank and file workers follow a recommendation made last week by union leaders.

Whether the 650 of the ferry's 850 workers who belong to the IBU-P will accept the recommendation won't be clear until after the final in a series of union meetings with workers Friday in Ketchikan and Juneau.

Whether the state will permit the union to simply extend the old contract until spring, or impose a reduced pact on workers that might prompt a fall or winter strike, also is questionable.

The entire issue is further complicated by the IBU-P's apparent belief that negotiations with the state are being affected by a potential challenge to the union's right to represent the ferry workers by the rival bargaining unit, the Inland Boatmen's Union - Seafarers International Union, an AFL-CIO backed faction that four years ago challenged the IBU-Pacific for the right to bargain for the ferry workers.

What is clear is that the Alaska Labor Relations Agency should rule on Wednesday whether ferry workers have authorized a strike against the system during balloting that opened in late July. Since a twice temporarily extended contract between the state and the union expires at midnight Thursday, workers will be legally free to strike Friday, if they vote to permit a strike during the still-open strike balloting.

Under a letter to the ferry workers sent out last week by IBU-P local "patrolman" Michael Wilson, the union intends to field the state's "final" contract offer Thursday and then poll members whether they find that proposal acceptable. That balloting could take until October, Wilson said Monday.

If it is rejected, as the union expects it will be, the union is considering challenging its rival, the IBU-SIU to file a petition calling for a new representation election among the ferry workers to settle once and for all who will represent the workers in contract talks.

"The (current bargaining) committee is unanimous in the opinion that we will not receive an acceptable proposal from the state until the question of representation is resolved. Why should the state negotiate in good faith with the union when they believe a question of representation exists?" Wilson said in his letter to ferry workers.

Joe Camp, deputy commissioner of administration, in charge of ferry system, this morning said the state is not in a position to comment on the potential for a strike since the state will be offering a modified contract proposal to the union when the two sides meet Thursday.

He said, however, if the union doesn't reject the state's final offer and launch a strike, the state could implement the terms of its final offer and reduce benfits from the current contract.

Contract talks, which started last December, broke off June 27 in a dispute over wages, overtime pay, vacation, sick leave and manning requirements. The most serious issue is the state's demand that ferry workers accept a cut in vacation time that would reduce the vacation of a 10-year employee by over half.

Currently, a 10-year ferry employee receives seven two-week vacation periods yearly, an amount the state says costs more than three times what it gives to other state workers. The union argues the time is only fair given the family disruptions that workers experience.

It also says the provision only makes up for employees working 84-hour work weeks at straight pay, compared to 37½-hour weeks for non-supervisory state employees. The union also says the provision helps state employment by producing 20 percent more jobs.

The union in general is seeking a continuation of current contract terms, plus the same cost of living increase given other state workers.

Meanwhile, Greg O'Claray, an official of the IBU-SIU, said his union already has enough signed representation cards from ferry workers to prompt a representation election, but that his group hasn't decided whether to seek an election.

He denied that his union's presence is hampering IBU-P talks saying that unit made no progress in contract talks for six months prior to workers signing the first of the representation cards.

SEWARD PHOENIX LOG
August 16, 1984

Ferry workers opt for strike

96% of voting ferry workers-406 of 430-chose to strike against the Marine Highway System rather than give up wages and benefits they have had for years.

Only seven voted no and there were seven challenged ballots.

Inland Boatmens Union of the Pacific's regional director Jerry Johansen said this does not mean the ferry will stop running next week.

"We are scheduled to meet with ferry administrators in Juneau today," Johansen said, "hopefully we will reach a tentative agreement."

If accord is reached, the current contract will be extended until members ratify the new one by secret ballot. The new contract would last for three years and the ferry will run as usual.

If no agreement is made, Inland Boatmens Union of the Pacific leadership will not extend the old contract.

This would open the door for a rival union, Inland Boatmens Union of Alaska, to file for a representational election.

The IBU of Alaska claims it has pledge cards from 30 percent of Inland Boatmens Union of the Pacific members in Juneau, Ketchikan and southwestern Alaska, calling for the representational election, Johansen said.

A contract extension would bar the rival group from requesting a representational election.

If a representational election is required, the state Labor Relations Board will conduct it by secret ballot and by December, ferry workers would know which union represented them.

Johansen said members have been advised that in case of a representational battle, there will be no strike until April 1985. By then, not only will the issue be settled, but also the ferry system will have begun it's busy season, and a strike would be more effective.

UNEAU EMPIRE
ugust 22, 1984

OPEN LETTER TO IBU OF THE PACIFIC MEMBERS



As you know, the IBU of the Pacific has been bargaining with the State of Alaska for five months, seeking to negotiate a new contract to cover all unlicensed crew members of the Alaska Marine Highway System.

The Seafarer's International Union claims through its representative Greg O'Claray to have 360 pledge cards signed by IBU of the Pacific members.

It is in the best interest of everyone — The citizens of Alaska, the State and you the workers — that the collective bargaining process work properly and conclude in a fair and equitable labor agreement so the Alaska Marine Highway System can operate.

The question of representation has to this point completely frustrated bargaining and will continue to do so until it is resolved.

The IBU of the Pacific is therefore asking the SIU in the name of decency and as a demonstration of respect for you the workers, to file with the Alaska State Labor Relations Agency between August 17 and August 31, 1984 the pledge cards they claim to have in order that an expedited election can be held to determine which Union will represent you in the future.

Once this question of representation is resolved, we are confident that the IBU of the Pacific bargaining Committee will successfully conclude a labor agreement with the State of Alaska on your behalf.

Fraternally,
IBU of the Pacific
Bargaining Committee

Homer Sarber
Virgil Campbell
Lynn Daniels
Bob Armstrong
Ellis Lundin
Mike Wilson
JerryJohansen,
Regional Director
Don Liddle, President

JUNEAU EMPIRE
August 8, 1984

Post jetfoil: Catamarans?

By KIRK McALLISTER
The Juneau Empire

In addition to the regular state ferries, there appears to be a need for some form of high-speed ferry service in Southeast. But there are other options besides the expensive Boeing jetfoil, a Department of Transportation official said today.

Joe Camp, deputy commissioner for the Marine Highway System, said that the most attractive alternative so far is a high-speed catamaran that is one-tenth the initial cost of the jetfoil and has 80 percent less operating and maintenance costs.

The Australian-designed catamaran, built by Nichols Brothers Co. of Whidbey Island, Wash., can carry 70 to 80 passengers, six to eight cars and has a top speed of 35 mph.

The catamaran doesn't travel as fast as the 50-mph jetfoil but it only burns about 70 gallons of fuel an hour compared to 480 gallons an hour for the jetfoil, said Camp. Initial cost of the catamaran is about $1.7 million compared to $18 million for the jetfoil.

Camp said he was "very impressed" after riding one of the catamarans recently near Whidbey Island. The boats are currently operated in Puget Sound and the San Juan Islands and were originally built for service between Australia and Tasmania.

One of the boats has been purchased by a private operator in Alaska and will be used on the Yukon River next year, Camp said.

The jetfoil, which is being tested this summer in Southeast, has attracted only about 42 percent of its hoped-for passenger volume, according to DOTPF officials.

Meanwhile, the ferry system is putting out bids to replace the engines in the Matanuska. Camp said the cost of the new engines should be about $4 million and installation should be completed by next spring.

Despite annual overhauls, there has been heavy wear on the original 1967 Matanuska engines and it would have cost more to rebuild them than to replace them completely, said Camp.

Between $4 million and $6 million is spent annually for maintenance on engines in the nine-ship state ferry system plus there is usually at least one major overhaul every five to seven years.

Camp said he is considering several other projects for the next few years including adding 56 cabins to the Columbia and replacing the aging Tustumena, which serves Southwestern Alaska.

By the end of the year, prior to the legislative session, a master plan study of the ferry system will be completed. The plan is designed to guide planning and financial requests for the next five years or so, Camp said.

ALASKA TRANSPORTATION COMMISSION

FUNCTIONAL RESPONSIBILITIES

Transportation market entry, air and motor carrier rate establishment and the safety of these operations are regulatory responsibilities of ATC. They are conducted through ATC's quasi-judicial process. In this report section, we briefly summarize the processes used by ATC to perform these functions.

Appendix A is a glossary of terms commonly used in the transportation industry.

Entry Regulations

Entry regulations control the number of carriers allowed to serve a particular market. The statutory standards used to determine entry into the motor carrier industry differ from those used to determine entry into the air carrier industry. Both motor and air carriers must submit applications for operating authority to the ATC.

Motor carriers seeking authority to offer new services must submit an application and a filing fee for the proposed services. Contract carriers apply for authority to serve specific customers under specified contractual terms. Common carriers apply for an operating authority to offer services to the public. Private and exempt carriers are not subject to entry regulations.

Entry standards in the motor carrier industry serve to protect existing carriers from new competitors by requiring the applicant to prove that there is a need for new service. These standards, referred to as "Public Convenience and Necessity Standards," allow the ATC to establish or deny an authority based on three determinations:

1. Whether the service will serve a useful public purpose.

2. Whether the service could be performed as well by existing carriers.

3. Whether the applicant can perform this service without endangering the operations of existing carriers.

Each applicant must prove there is a need for new service. Entry standards also include financial standards designed to determine the applicant's ability to establish and operate the proposed business.

Air Carriers seeking authority to offer new service are not required to prove public convenience and necessity if their proposed operations will consist of less than 7,500 pounds of operating capacity and/or seating capacity of less than 30

people. Statutory entry regulations for all air carriers require new applicants to prove the following:

1. Adequate operational capabilities.

2. Adequate management capabilities.

3. Adequate equipment and facilities for proposed size of operation.

4. Adequate maintenance provisions.

5. Adequate financial capability and economic feasibility for the proposed operation.

Financial capability is determined by evaluating the applicant's ability to successfully finance operations. Economic feasibility and ATC's final decision to grant or reject the application for operating authority is assessed in terms of the market: Is it large enough to warrant additional entrants without damaging the current competitors' businesses?

Rate Regulations

The ATC reviews all tariffs submitted by carriers to assure that the rates are competitive and to provide a fair rate of return to the shipper while not discriminating between shippers. According to the ATC, tariff regulation is based on the theory that the public should have needed services available at fair and reasonable cost without forcing other segments of the public to pay unreasonable prices for services they need. The Commission answers public complaints about excessive charges, and, if the complaints are found to be accurate, requires that appropriate refunds are made. Rate regulation in the motor carrier industry is far more structured and organized than in the air carrier industry.

Motor carriers' rates are regulated for two types of carriers: contract and common carriers. Private and exempt carriers are not subject to rate regulation. Contract carrier rate regulation is minimal. The rates are negotiated between the shipper and the carrier as part of a negotiated contract and the rates are filed with the ATC. The filings are a matter of public record, but the ATC does little to disseminate the rate information filed by contract carriers.

Common carrier rates, however, must comply with governing standards which restrict the tariffs to be charged for certain commodities. The rates which common carriers may charge are divided into many classes of product commodities. Each class includes commodities which have similar characteristics such as density, volume, value, or ease of handling.

The ATC regulates tariff filings by requiring common motor carriers to submit tariff changes and supporting documentation. This supporting financial data shows how the rate is compensatory and the ATC review shows how the new tariff filings comply to governing standards. The ATC periodically audits selected common carrier records to assure rate compliance. These audits are performed randomly; there is no system which assures that records for all carriers are periodically audited.

Air carriers' rates are regulated less formally. Each new air carrier rate filing is handled on a case-by-case basis, not evaluated against an industry-wide standard, as in the motor carrier industry. Newly proposed rates are compared by the ATC tariff staff to similar, competitive rates in the same geographical or market region.

Safety Regulations

The ATC has statutory responsibility to establish and enforce a commercial vehicle safety program. Safety regulations require commercial motor vehicles to meet specific equipment standards; drivers to meet specific qualifications; and cargo loads to comply with specific safety guidelines designed to protect the road system and the public.

The ATC has been responsible for a commercial vehicle safety program since 1966. For several years, the primary responsibility for safety inspections and load/weight standards enforcement was delegated to the Department of Public Safety as part of highway scale house operations. The operation of the scale house was transferred to the Department of Commerce, Division of Measurement Standards, in 1982. In March, 1983, the inspection responsibilities were reassumed by the ATC.

Although the ATC currently has statutory responsibility for a comprehensive commercial vehicle safety program, the functional responsibilities of the program are shared by three agencies. Statutory safety compliance, affecting vehicles and drivers, is enforced through random vehicle inspections performed by the ATC enforcement staff. The enforcement staff randomly stops commercial vehicles (sometimes at the scale houses and sometimes on the highways) and determines if the vehicle, driver and load comply with safety regulations. If not in compliance, a citation is issued and resolved through ATC quasi-judicial proceedings.

The Department of Public Safety also enforces the commercial vehicle safety regulations on the highways. If a commercial vehicle is out of compliance, State Troopers issue a citation. This citation is processed through the courts, not through the ATC quasi-judicial proceedings.

The Department of Commerce and Economic Development, Division of Measurement Standards, enforces regulations pertaining to weight

and size of cargo loads. They issue citations for overload violations and violations pertaining to non-compliance of load requirements. Division of Measurement Standards personnel operate the highway scale houses. Citations issued by Measurement Standards personnel are processed through the courts, not through the ATC quasi-judicial process.

The above Sponsor is duly
authorized to circulate

INITIATIVE PETITION

ENTITLED "REDUCING GOVERNMENT REGULATION OF TRANSPORTATION."

PROPOSITION #83-02

This initiative would repeal statutes which establish the Alaska Transportation Commission and the statutes which empower the commission to regulate activities of air carriers and motor freight operators. The initiative requires that persons who carry passengers or freight for hire provide insurance or other adequate security to assure financial responsibility for their activities. The initiative restricts the power of municipalities to regulate persons who carry passengers or freight. It also directs the governor to seek repeal of federal statutes (the Jones Act) which require the use of United States vessels to ship goods between United States ports.

WARNING

"A PERSON WHO SIGNS A NAME OTHER THAN HIS OWN ON THIS PETITION, OR WHO KNOWINGLY SIGNS HIS NAME MORE THAN ONCE FOR THE SAME PROPOSITION AT ONE ELECTION, OR WHO SIGNS THE PETITION KNOWING HE OR SHE IS NOT A QUALIFIED VOTER, UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH. (AS 15.45.100)"

(See next page for text of bill.)

AN INITIATIVE

For an Act entitled: "An Act terminating the Alaska Transportation Commission and repealing transportation laws administered by the commission; requiring persons who carry passengers or freight for hire to hold insurance or other security; and requiring the governor to lobby Congress for the repeal of the federal Jones Act."

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

* Section 1. STATEMENT OF PURPOSE. The people of Alaska recognize that

(1) because of Alaska's great size and distance from markets, Alaskans must have access to efficient low-cost transportation in order for people and goods to move safely inside and outside the state;

(2) a little-known but powerful state regulatory agency, the Alaska Transportation Commission (ATC), creates motor and air carrier monopolies by legalized price fixing and tariffs, which artificially raises shipping rates and makes consumer goods more expensive for all Alaskans;

(3) the primary purpose of the ATC is to fix rates, not promote safety, and other government agencies can insure safety standards while allowing persons to contract freely for services;

(4) abolishing the ATC and its anti-competitive practices will subject air carriers and trucking companies to free market competition, thereby reducing freight rates, improving service, and saving Alaskan consumers millions of dollars each year;

(5) a federal law, known as the Jones Act, requires that ships bound for Alaska from other American ports must be built and registered in the United States and staffed with American crews, thereby granting such ships an unfair monopoly and protecting them from free market competition, which costs Alaskan consumers millions of dollars each year;

(6) the Jones Act should be repealed, and the governor should use all appropriate means to persuade Congress to do so.

* Sec. 2. AS 29.48 is amended by adding a new section to read:

Sec. 29.48.036. REGULATION OF TRANSPORTATION CARRIERS. Notwithstanding AS 29.48.035(a), a municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, AS 42.07, or AS 42.10.

* Sec. 3. AS 42.30 is amended by adding a new section to read:

ARTICLE 5. RESPONSIBILITIES OF MOTOR AND AIR CARRIERS.

Sec. 42.30.200. FINANCIAL RESPONSIBILITY. (a) A person who carries passengers or freight for hire intrastate shall procure and maintain security in an amount determined by the Department of Public Safety as necessary for the reasonable protection of the public against damages or injury caused by the person.

(b) Evidence of security required under (a) of this section shall be filed with the department and must be

(1) a policy or certificate of insurance issued by an insurer acceptable to the department; or

(2) a bond of a surety company licensed to write surety bonds in the state; or

(3) evidence accepted by the department, showing ability to self-insure; or

(4) other security approved by the department.

(c) The department may authorize enforcement officers to enforce this section.

* Sec. 4. AS 44.19 is amended by adding a new section to article 1 to read:

Sec. 44.19.035. JONES ACT REPEAL. The governor shall use best efforts and all appropriate means to persuade the United States Congress to repeal 46 U.S.C. secs. 861, et seq., known as the Jones Act. Until that Act is repealed, the governor shall publish an annual report documenting the harmful effects of the Act on Alaska commerce, and progress made towards its repeal. The report shall be submitted to the legislature no later than its convening each year.

* Sec. 5. If any provision of this Act is held invalid, the remaining provisions of this Act are severable and remain in effect.

* Sec. 6. AS 02.05.; AS 28.10.411(b); AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07; AS 42.10; and AS 44.66.010(a)(2) are repealed.

MEMORANDUM State of Alaska

TO: Mary Lou Miners
Division of Elections
Lieutenant Governor's Office

DATE: May 23, 1983

FILE NO: 366-593-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Initiative Petition Applicaton concerning regulation of commerce

By: James L. Baldwin
Assistant Attorney General
Government Affairs-Juneau

We have reviewed the form of the proposed bill contained in a sponsor application to initiate a law to (1) repeal existing law which provides for the regulation of certain common carriers in the state, (2) enact provisions requiring adequate insurance coverage for common carriers, and (3) enact a law directing the governor to lobby Congress for repeal of the Jones Act.

We believe the proposed bill is generally in the proper form for the purposes of AS 15.45.040. We have reached this conclusion after carefully considering whether the proposed bill contains more than one subject. Specifically, the provision directing the governor to lobby for the repeal of the Jones Act is arguably a subject which is incongruous with other provisions of the bill repealing the regulatory powers of the Alaska Transporation Commission.

There are no Alaska decisions construing the meaning of the single subject requirement contained in AS 15.45.040(1). However, the Alaska Supreme Court has construed the single-subject requirement contained in Article II, Section 13, of the Alaska Constitution. That section provides: "[e]very bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws."

In Gellert v. State, 522 P.2d 1120 (Alaska 1974), the court explained the application of the single-subject requirement contained in Art. II, Section 13 as follows:

> In determining whether a bill is confined to one subject, we agree with the statement: [a]ll that is necessary is that the act should embrace some one general subject; and by this is meant, merely,

> that all matters treated of should fall under some one general idea, be so connected with or related to each other logically or in popular understanding as to be parts of, or germane to, one general subject.

Id. at 1123 (citation omitted). The court has explained the nature and purpose of the single-subject requirement imposed by the Alaska Constitution as follows:

> These requirements are designed to prevent the inclusion of incongruous and unrelated matters in the same bill in order to get support for it which the several subjects might not separately command and to guard against inadvertance, stealth and fraud in legislation.

State v. A.L.I.V.E. Voluntary, 606 P.2d 769, 772 (Alaska 1980); quoting from Suber v. Alaska State Bond Commission, 414 P.2d 546 (Alaska 1966). It is reasonable to view the proposed bill as addressing the general subject relating to government regulation of commerce. There should be no concern with the possibility that the allegedly incongurous subject will slip by the notice of the voters. We have prepared an impartial summary which clearly explains the contents of the proposed bill.

We note that the proposed bill is not in the proper form specified in the 1982 Manual for Legislative Drafting published by the Legislative Affairs Agency. Attached is a revised version of the proposed bill which should be included in the initiative petition. Our revisions do not make substantive changes to the proposed bill. However, it should be noted that we believe there will be major interpretation problems encountered if the bill is enacted. These problems concern the lack of a savings provision which apply to pending proceedings before the ATC and the proper interpretation of the provisions to be added by Section 2.

Set out below is the official ballot title and summary required by AS 15.45.090:

Ballot Title:

Reducing Government Regulation of Transportation

Impartial Summary

This initiative would repeal statutes which establish the Alaska Transportation Commission and the statutes which

empower the commission to regulate the activities of air carriers and motor freight operators in the state. The initiative would establish a requirement that persons who carry passengers or freight within the state provide adequate security to assure financial responsibility for their activities. The initiative restricts the power of municipalities in the state to regulate persons who carry passengers or freight. The initiative directs the governor to seek repeal of federal statutes (the Jones Act) which require the use of United States vessels to ship goods between United States ports.

We hope this memorandum answers your questions and provides you with the material you need to proceed with the initiative process.

JLB:jf

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

YUTE AIR ALASKA, INC.; WRIGHT AIR SERVICE; WRANGELL AIR SERVICE; VALDEZ AERO SERVICE; TYEE AIRLINES, INC.; SHELLABARGER FLIGHT SERVICE; RYAN AIR SERVICE, INC.; PENINSULA AIRWAYS, INC.; NELSON ISLAND AIR SERVICE, INC., d/b/a EXECUTIVE CHARTER SERVICES; MARKAIR, INC.; MOUNTAIN AVIATION; L.A.B. FLYING SERVICE, INC.; LARRY'S FLYING SERVICE; FRONTIER FLYING SERVICE; FOSTER AVIATION; FLIRITE, INC.; EVERGREEN HELICOPTERS OF ALASKA, INC.; CAPE SMYTH AIR SERVICE, INC; CHANNEL FLYING, INC.; BARROW AIR, INC.; BAKER AVIATION; AMBLER AIR SERVICE; ALASKA HELICOPTERS, INC.; ALASKA AIRLINES; ALASKA TRUCKING ASSOCIATION, INC.,

Plaintiffs,

v.

STEPHEN A. McALPINE, Lieutenant Governor of the State of Alaska and MARY LOU MEINERS, Director of the Division of Elections of the State of Alaska,

Defendants.

(P)

FILED IN THE TRIAL COURTS
STATE OF ALASKA, FIRST DISTRICT
AT JUNEAU
JUL - 2 1984
Clerk of Court
By Deputy

No. 1JU-84-559 Civil

MEMORANDUM DECISION

I. Introduction.

The defendants (McAlpine) have decided to place an initiative proposition on the November 1984 general election ballot which will repeal statutes regulating motor and air carriers in Alaska, open the carrier business to any and all financially responsible persons, prohibit municipalities from regulating these activities, and require the governor to seek repeal of the federal statute (the Jones Act) which requires the use of United States vessels for shipping goods between United States ports. The initiative proposition is entitled, "Reducing Government Regulation of Transportation." The initiative is a project of the Alaska Libertarian Party for 1984. [illegible]

No. 1.

The plaintiffs (Yute Air),[1] all of which are regulatees under the state laws to be repealed and apparently not ready for free enterprise in 1984, seek to prevent the proposition from being on the ballot, either permanently on grounds of invalidity or at least until the first statewide election following the next convening and adjourning of a session of the Alaska Legislature. They raise the following issues:

> 1. The initiative violates the single-subject rule.
>
> 2. The constitution implicitly requires that the signatures in support of the initiative be verified before the legislature both convenes and adjourns in order for it to be submitted to the voters.

II. The Single-Subject Rule.[2]

Yute Air's argument here divides into two parts. The first is the traditional one: The initiative acts both on the deregulation of Alaska's intra-state air and motor carriers and also on the federally regulated, interstate sea carriers, that is, on two subjects. After the decision in State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982), it is difficult to sustain that argument. Suffice to say, that even if the court went too far in that case and were inclined - although there is no sign of it - to step back from that decision, the initiative here does not embrace two, unrelated subjects. Indeed, the

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[1] Plaintiffs are named in reverse alphabetical order, with Yute Air Alaska, Inc., leading off and Alaska Airlines and the Alaska Trucking Association, Inc., closing.

[2] Article II, Section 13, of the Alaska Constitution requires that "[e]very bill shall be confined to one subject . . . ." The same restriction is enacted at AS 15.45.040 with respect to initiatives. Whether this limitation is within the legislature's power under Article XI is questionable. But Article XII, Section 11, makes the law making power equal, and the Article II restriction, therefore, applies to initiatives.

economic effects of these two sources of regulation over transportation of freight in and to Alaska may well be perceived by deregulators as one of this state's most serious problems. The two sources of regulation are, from that viewpoint, inextricably related, certainly far more integrated and related than boat harbors and flood control projects or than trooper facilities and new and improved prisons.

Nor should it matter that the repeal of the federal law and the repeal of the state laws do not interact or interrelate legally with one another. To the miner at Minto who wants to bring his supplies from Seattle, the interaction and interrelation is more than just self-evident - it is glaringly so. While one could address the existing laws in two or three bills, it is rational to address all of them together.

The second part of Yute Air's single-subject argument is more interesting. It argues that the provisions of the initiative which require the governor to seek the repeal of the Jones Act[3] are not law but rather a plebicite directing administrative activities, and therefore, not a proper subject for an initiative under the Alaska Constitution which limits the use of the initiative to the enactment of laws. Alaska Const., art. XI, § 1. It cites Seattle Building Construction Trades Council v. City of Seattle, 620 P.2d 82 (Wash. 1980), as an example of the case law in support of its point.

Seattle Building is one of a line of cases, all or almost all of which limit the use of municipal initiatives, in

---

[3] Section 4 of the Initiative reads:

Sec. 44.19.035. JONES ACT REPEAL. The governor shall use best efforts and all appropriate means to persuade the United States Congress to repeal 46 U.S.C. secs. 861, et seq., known as the Jones Act. Until that Act is repealed, the governor shall publish an annual report documenting the harmful effects of the Act on Alaska commerce, and progress made towards its repeal. The report shall be submitted to the legislature no later than

which the courts attempt to draw a line between laws and administrative acts. The cases usually involve municipalities because, unlike state governments in which the three great powers are separated, local governing bodies are generally vested with an admixture of both legislative and administrative powers. City councils, county commissioners, and borough assemblies not only enact laws but they also administer them to a very great extent and they also sit as boards of review, exercising quasi-judicial powers at times and making fundamental executive policy at other times. Where the city or county voters seek to exercise these latter kinds of powers through the initiative, so the theory goes, they exceed the law making power vested in them under initiative provisions.

A close reading of the cases finds many of them to be analytically defective. Laws frequently reverse prior administrative decisions and set new policies for administrators to follow. There is nothing legally wrong with that. Indeed, it is precisely policy which law is intended to set, and the executive is bound under the constitution to carry out that policy.. Alaska Const., art. III, § 16.

Nothing in the constitution of this state limits the legislature's power to enact laws establishing as this state's policy a change in existing federal law. Indeed, the Alaska Territorial Legislature, a creature of very limited power under federal law and control, by law established an Alaska Statehood Committee to do just that, that is, to make Alaska a state rather than a territory. Chapter 103, SLA 1949. And it is (was?) common knowledge that one of the most vexing drawbacks of territorial status perceived by statehood promoters was the very Jones Act which the legislation here would have the governor seek to repeal. It would certainly come as a surprise to the framers of the Alaska Constitution that they had somehow prohibited direct

legislation on that subject.

Analytically, laws may be enacted on any subject under the sun: They can command the tides to stand still for King Canute or the mountain to come to Mohammed. That they may or may not be effective is of no moment. It will hardly do to say that a law may not be enacted because it is silly - not at least at this late date. Only if one can point to some prohibition expressed or implied in the state or federal constitutions can it be said that some proposed law would violate the constitution and may not, therefore, be the subject of an initiative. Yute Air argues only that the provisions of the initiative relating to the Jones Act are not "law." That argument is simply not correct. Those provisions establish a public policy and they make it the chief executive's duty to carry that policy out. They are a solemn expression of legislative will, and that is what law is all about. Black's Law Dictionary 1074 (3rd ed. 1933). It is presumed that the chief magistrate will carry out that law, and this court will not entertain any argument to the contrary.

Yute Air also argues, however, that the state's law making power does not include the law maker's directing the executive (or the judiciary) with respect to the relationship between the State of Alaska and the United States. In other words, the legislature or the people may, by law, establish public policy on all subjects which are within their jurisdiction under the constitution. But when they step outside their jurisdiction - here to seek repeal of a federal law on maritime shipping - they have no power to make law on the subject and may not purport to use the law making power to proclaim public policy on the subject. Stated another way, the law makers may, within their jurisdiction, establish public policy which must be followed by the executive and the judiciary. But where, as here, the subject matter is outside their jurisdiction, the law making

power may not be invoked.

It follows under this view that the law makers may themselves lobby the Congress or send it resolutions but that in doing so they are not exercising the law making power. While the legislature's enacting a law on the subject could not be subjected to judicial restraint, the use of the initiative is subject to judicial oversight and restraint if it exceeds the bounds authorized by the constitution. Boucher v. Engstrom, 528 P.2d 456 (1974). Where, as here, so they theory goes, the initiative is used not as an exercise of the law making power but rather as a directive outside the jurisdiction of tne law makers, it should be enjoined.

The problem with this argument is that the legislature frequently enacts laws prescribing the conduct of officials or agencies of state government on matters over which the state has no legal jurisdiction. For example, the State Geographic Board is established by law in the Office of the Governor, AS 44.19.054, to - among other things - serve as state representatives on the United States Geographical Board and cooperate with that board to avoid conflicts in state and federal designations of geographical features in the state. Obviously, the state's law making power does not extend to those federal designations, but state officials can influence them. The Alaska International Development Commission in the Office of the Governor is to prepare a plan for joint development and use of the resources of the Upper Yukon River (in Canada) and cooperate with Canadian and United States agencies for resource development near the Alaska-Canada border. AS 44.19.064. The Alaska State Office in Tokyo promotes trade between Alaska and the Far East. AS 44.19.074. The Yukon-Taiya Commission studies, compiles and publishes information, and promotes development of the international Yukon-Taiya Hydroelectric project. AS 44.19.181.

The most apt example is the Steering Council for Alaska Lands. AS 38.95.100-104. The inter-branch council was established in 1977 to "develop a unified lobbying and informational effort" on Alaska lands legislation then being considered by Congress. Of course, the law assigned the counsel other functions - as does section 4 here - but its principal purpose was to lobby Congress on ANILCA.

Presumably, under section 4 of the proposed initiative, the governor would delegate to the personnel of the Alaska office in Washington, D.C. the additional function of persuading Congress to repeal the Jones Act and compile information and publish an annual report on the Act's effects and their progress (or lack thereof) in getting it repealed. It would not make section 4 any more of an exercise in making law if it provided for a commission or council to promote the repeal of the Jones Act and report annually on its efforts.

It seems to this court that section 4 does not usurp the executive's powers, is not the exercise of an executive or quasi-judicial function, and is not an exercise of power barred to the law makers by the constitution. Accordingly, it is valid.

III. 1984.

Yute Air argues that, even if the initiative survives their single-subject challenge, it may not be placed on the ballot in 1984. It reasons that, under Article XI, section 4, of the Alaska Constitution, the initiative is to be voted on at "the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing [of the initiative]." This "filing," it argues, must be read consistently with the requirements of Article XI, section 3, of the constitution that the initiative petition must be signed by a prescribed number of "qualified voters" before "it may be filed

with the lieutenant governor." From this, it argues that the signatures must be verified, that is, the voter's qualifications ascertained, before the petition may be deemed to be "filed" for purposes of calculating the proper election at which the initiative should be submitted to the voters.

Yute Air buttresses its argument with the provisions of the Election Code which provide for verification within a prescribed period (sixty days), AS 15.45.150, provide the basis for determining impropriety with respect to subscribers, AS 15.45.150, provide for supplementary petitions to cure the improprieties, AS 15.45.170, provide for ballot preparation, AS 15.45.180, and provide for the initiative to go on the ballot at the first statewide election held 120 days after the adjournment of the legislature which convened after the petition and any supplementary petition were "filed." AS 15.45.190.

It argues that the meaning of these interlocking provisions cannot be doubted, that the statutory provisions are clearly not in conflict with the constitution but rather contemplated by it, Alaska Const., Art. XI, § 6, and Vol. 4 Minutes Alaska Const. Conv. 2965-2967 (1955), and that they clearly illustrate how for purposes of determining when to place an initiative on the ballot, verification is a prerequisite for a petition's being "properly filed." AS 15.45.180.

McAlpine argues that there is a longstanding contemporaneous construction of these constitutional and statutory provisions which is contrary to the carriers' interpretation. However, the carriers' reply to that argument must prevail. There simply has been no consistent construction of the constitution or the statute on the issue raised here; indeed, the precise issue has never been raised before.

The question here is close. The logic of the decision in Kays v. McCall, 418 P.2d 511, 514 (Ore. 1966), is highly

persuasive and makes excellent sense, and those possessing the power to make law may well wish to consider it. But this court's role is not to amend the constitution or the statute but rather to interpret them, and it seems clear that neither contemplates the result sought by Yute Air.

Under the Election Code, McAlpine was to place the initiative on the ballot "[i]f it is properly filed." AS 15-.45.180. He had sixty days after it was filed in which to make that determination. AS 15.45.150. The question goes on the ballot at the first statewide election held after

> (1) the petition and any supplementary petition have been filed, (2) a legislative session has convened or adjourned, and (3) a period of 120 days has expired since the adjournment of the legislative session.

AS 15.45.190. It seems obvious that the framers contemplated the need to verify signatures. Vol. 4, Minutes Alaska Const. Conv. 2966 (1955). But nothing in the constitution says or implies that the verification process tolls the time in which the initiative is to be considered by the legislature and proceeds onto the ballot (or is voided by legislative enactment of substantially the same measure).

Similarly, the statutory provisions neither express nor imply any tolling of the time. The legislature used the terms "file," "filed," "properly or improperly filed," "properly filed," and "filing" at various places throughout sections 140 through 190 of chapter 45, title 15, relating to the initiative petition. Each of the differing uses denoted a particular meaning appropriate to the use. The unmodified term "filed" is used in section 190 (placing proposition on ballot). Had the legislature contemplated the meaning attributed to the term by Yute Air, it is more likely than not that a more precise term would have been used by it. Indeed, it is most unlikely, given the precision in the legislature's use of these terms, that - had

Yute Air's meaning been intended - the unmodified term would have been used. It is much more likely that the legislature would have added appropriate language to section 190, for example, the underlined words in the following: "(1) the petition and any supplementary petition have been reviewed and determined to have been properly filed."

The Alaska Constitution and the Election Code, prior to the amendments made to some of their provisions, were unusually well drafted, each with its own interlocking parts and with terms carefully chosen and consistently used to denote specific things. Their respective authors generally followed the first rule of statutory drafting: Say what you mean and mean what you say. The constitution and the code do not say (or fairly imply) what Yute Air says they mean, and therein lies the fatal flaw in Yute Air's argument.

Yute Air's argument is, however, more subtle: It may be ready to assume that neither the framers nor the legislature really contemplated the necessary effect of requiring verification. Thus, it is immaterial that the language of article XI and of title 15, chapter 45, neither says nor fairly implies that the subscribing signatures must be verified as those of qualified voters before the initiative can be deemed to have been properly filed. The constitution clearly requires that an initiative petition must be signed by the specified number of qualified voters before it may be filed. It also requires that, before the initiative may be submitted to the voters, it must be filed, then a legislative session must be convened and adjourned, and then one hundred twenty days must pass. Thus, to give full effect to the provision requiring an initiative to lie before the legislature for a complete session after it is filed, its verification must perforce occur before the session convenes.

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The argument overlooks the obvious. Both logically and as a matter of practical experience, the legislature does not need an initiative petition to be verified before it considers the same subject. It suffices for all practical purposes that a facially valid initiative be filed. (This is not to say that the legislature could not require verification in advance for the sake of greater certainty.)

On January 16, 1974, two related initiative petitions were filed with the lieutenant governor, one on conflict of interest, the other on campaign disclosure. The former was certified on March 1, 1974, and the latter on March 20, 1974. The legislature, which adjourned on April 26, 1974, considered both subjects, did not enact legislation on conflict of interest but enacted legislation, chapter 76, SLA 1974, on campaign disclosures. It was held to be substantially the same, thereby voiding that initiative. Warren v. Boucher, 543 P.2d 731 (Alaska 1975). The conflict of interest initiative was adopted by the voters on August 27, 1974. The 1975 legislature convened on January 20 and passed a bill to amend the latter initiative as one of its first orders of business. Chapter 2, SLA 1975. It became effective on February 8, 1975. Warren v. Thomas, 568 P.2d 400 (Alaska 1977).

The two Warren cases establish the proposition that the provisions of section 6 of article XI on amendment of adopted initiatives and on voiding pending initiatives vest the legislature with broad powers to protect the state against the untoward effects of initiatives. Warren v. Thomas, id., at 402, n. 7. More importantly, they illustrate more convincingly than any a fortiori argument that verification of an initiative petition before the legislature convenes is not a prerequisite for the legislature's invoking those powers.

While the court in no way disagrees with the importance of the safeguard afforded by requiring the initiative to lie

before a complete session of the legislature, it concludes on the basis of the language of the constitution and the election code and on the basis of experience that actual filing of a facially valid initiative suffices to invoke that safeguard. Certainly, the legislature is at least as capable as this or any court of apprehending and appraising the priority which should be assigned to the many matters brought before it. Had it considered this matter to be important enough it could have stayed in session to deal with it. Here, the legislature chose not to act. It would be idle to speculate why. Suffice to say that the legislature may call itself, or be called, into special session to act on the matter, or if the initiative is adopted by the voters, act to amend it at its next regular session.

Accordingly, summary judgment is granted for the defendants.

DATED this 2d day of July, 1984.

Rodger W. Tegues
Superior Court Judge

CERTIFICATION

The undersigned certifies that on the 2nd day of July, 1984, a true copy of this document was served on the following attorneys:

Aurum Gross

James Baldwin

By Ann E Bixby

BALLOT MEASURE NO. 3

Initiative No. 83-02
REDUCING GOVERNMENT REGULATION OF TRANSPORTATION

SUMMARY
(As it will appear on the November 6, 1984 General Election Ballot)

This initiative would repeal statutes which establish the Alaska Transportation Commission and the statutes which empower the commission to regulate activities of air carriers and motor freight operators. The initiative requires that persons who carry passengers or freight for hire provide insurance or other adequate security to assure financial responsibility for their activities. The initiative restricts the power of municipalities to regulate persons who carry passengers or freight. It also directs the governor to seek repeal of federal statutes (the Jones Act) which require the use of United States vessels to ship goods between United States ports.

BALLOT FORM:

A vote "FOR" adopts the initiative.
A vote "AGAINST" rejects the initiative.

FOR
AGAINST

LEGISLATIVE AFFAIRS AGENCY SUMMARY
(As required by law)

This initiative, if approved, would eliminate the Alaska Transportation Commission and would substantially reduce the amount of state regulation of the transportation industry. This initiative would add a new section to the Alaska Statutes that would limit the power of municipalities to regulate the transportation of passengers and freight for hire. The new statute would require that regulation of such activity by a municipality not conflict with regulations in existence on April 1, 1983, that were adopted by the Alaska Transportation Commission under the Alaska Air Commerce Act of 1960 (AS 02.05), the Alaska Transportation Commission Act (AS 42.07), or the Alaska Motor Freight Carrier Act (AS 42.10). This initiative also would add a new section to the Alaska Statutes that would require a person transporting passengers or freight for hire within the state to obtain insurance, post a bond, or file evidence of other security approved by the Department of Public Safety for the protection of the public against damages or injury caused by the person. This initiative also would add a new section to the Alaska Statutes that would direct the governor to "use best efforts and all appropriate means" to secure the repeal by the Congress of the Merchant Marine Act of 1920 (46 U.S.C. secs. 861-889), which includes the Jones Act (46 U.S.C. sec. 883). The new section also would require the governor, pending the repeal of the Merchant Marine Act, to submit to the legislature an annual report on "the harmful effects of the Act on Alaska commerce, and progress made towards its repeal".

NEUTRAL SUMMARY -- BALLOT MEASURE NO. 3

(Initiative #83-02)

Reducing Government Regulation of Transportation:

This initiative, if approved, would eliminate the Alaska Transportation Commission and would substantially reduce the amount of state regulation of the transportation industry. This initiative would add a new section to the Alaska statutes that would limit the power of municipalities to regulate the transportation of passengers and freight for hire. The new statute would require that regulation of such activity by a municipality not conflict with regulations in existence on April 1, 1983, that were adopted by the Alaska Transportation Commission under the Alaska Air Commerce Act of 1960 (AS 02.05), the Alaska Transportation Commission Act (AS 42.07), or the Alaska Motor Freight Carrier Act (AS 42.10). This initiative also would add a new section to the Alaska Statutes that would require a person transporting passengers or freight for hire within the state to obtain insurance, post a bond, or file evidence of other security approved by the Department of Public Safety for the protection of the public against damages or injury caused by the person. This initiative also would add a new section to the Alaska Statutes that would direct the governor to "use best efforts and all appropriate means" to secure the repeal by the Congress of the Merchant Marine Act of 1920 (46 U.S.C. secs. 861 - 889), which includes the Jones Act (46 U.S.C. sec. 883). The new section also would require the governor, pending the repeal of the Merchant Marine Act, to submit to the legislature an annual report on "the harmful effects of the Act on Alaska commerce, and progress made towards its repeal". This initiative would repeal the following statutes:

AS 02.05, the Alaska Air Commerce Act of 1960;

AS 28.10.411(b), which requires that certain motor carrier and bus transportation fees be paid at the same time the registration fee is paid;

ALASKA RAILROAD TRANSFER

FAIRBANKS NEWS-MINER
July 12, 1984

Feds, state pass papers for railroad

By PAUL JENKINS
Associated Press Writer

ANCHORAGE—Gov. Bill Sheffield and federal rail officials exchanged historic documents in a brief ceremony today, clearing the tracks for final state purchase of the Alaska Railroad for $22.3 million.

"It doesn't look like you're prepared to give us the keys, so you won't find a check in there either," Sheffield said as he exchanged certification documents with Federal Railroad Administrator John Riley.

"We have made history today," Riley said.

Alaska's senators, state lawmakers, federal officials and a crowd of about 200 were on hand to watch the exchange.

The letters signal one of the final steps in the transfer of the 526-mile line, its rolling stock and facilities to the state of Alaska. In the letters, Alaska agreed to purchase the railroad for the $22.3 million price set by the U.S. Railway Association, made commitments to continue rail operations and assumed existing railroad obligations.

Officials have agreed to set a date within the next three months for the transfer of the railroad, which runs from Seward to Fairbanks, and is the only federally owned line in the nation. The switch in ownership is expected sometime in January.

In brief remarks from the makeshift stage in front of an Alaska Railroad car, Sen. Ted Stevens recounted the fight to acquire the line from the federal government, and said, "We need this railroad.

"I believe future Alaskans will recognize this act of agreeing to purchase the railroad from the federal government as one of the most important actions ever taken by our state."

Congress approved construction of the railroad in 1914 to connect the southern coast of Alaska with interior coal fields and agricultural lands. It took eight years and $52 million to build the line that now winds through a spectatular route of glacier-fed rivers, deep valleys and snow-covered mountains.

Sheffield last week penned his name on controversial legislation detailing how the 61-year-old railroad will be managed after its purchase.

Under state control, the line will be under the Department of Commerce and Economic Development. A seven-member, quasi-public Alaska Railraod Corp. board is to manage the operation.

The officials present for Thursday's cermonies were scheduled to ride a train to Portage and return after the ceremony.

ANCHORAGE TIMES
July 14, 1984

Transfer complete, real work begins on railroad

by E.W. Piper
Times Writer

Gov. Bill Sheffield settled into the soft, pastel-colored chair on the upper level of the elegantly refurbished, 1952-vintage rail car and sighed. "It's good to finally clear something off my desk," he said with a smile.

Just minutes before, on a cool and sunny Thursday morning, Alaska's elected leaders and the federal managers of the Alaska Railroad had driven the bureaucratic spike. After 61 years of federal ownership, the Alaska Railroad was being transferred to the State of Alaska, whose development has been dominated by the 470-mile line for more than six decades.

All hailed the transfer as a momentous event.

"One of the most important acts ever taken by this state," said Sen. Ted Stevens, who muscled the bill authorizing the transfer onto the Senate floor at the last minute before Congress adjourned in 1983.

"This removes one of the last vestiges of Alaska's territorial status," said John Riley, head of the Federal Railroad Administration.

"The Alaska Railroad should be in state hands by the first of the year," said Sheffield, anticipating the official end of the transition period.

And then they all boarded the train for a ride to Portage, where they feasted on elegant comestibles and took a break from several years' worth of negotiating and arguing.

But that is not the end of this story. Now that Alaskans own this railroad, what are we going to do with it?

In a state without many roads, there will always be freight to haul from Seward to Fairbanks. In a state with such natural beauty, there will always be tourists to ride north to see Mount McKinley. And in a state with such mineral potential, there will always be an urge to get those minerals to market.

Minerals and the railroad were linked in nearly every conversation with state and federal officials on the train from Anchorage to Portage after Thursday's ceremony.

The legislation pertaining to the trans-

See Sheffield, page A-6

ANCHORAGE TIMES
July 14, 1984
(Continued)

Sheffield plans easy pace for rail rehabilitation

Continued from page A-1

fer gives the state the right to condemn land for rail expansion. It also gives the state preferential and expedited consideration in Washington, D.C., if Alaska needs permits to cross federal land.

"Undoubtedly there's some strong interest in expansion," said Dave Walsh, an Anchorage assemblyman who worked closely with federal officials in Washington during negotiations last year. "But expansion does not come quickly or cheaply."

And these days, the minerals markets are not booming. Expenditures for mineral development in the state have dropped precipitously in the past two years. According to the state Department of Natural Resources, the $27.8 million spent for mineral development this year is a full 50 percent below 1981 levels.

World markets for base metals and many other minerals are stagnant, and the state officials interviewed Thursday said they would not favor expanding the railroad unless the project could pay for itself.

That could mean state involvement in mineral projects that need a transportation system, in the same ways the state may help with the financing of the port needed at Cominco Alaska's proposed Red Dog lead-zinc mine in the northwest Arctic.

Building a rail spur and letting the mine operator pay back the cost of construction is one way to diversify the economy and help keep the railroad profitable. "We'll front-end a project because obviously we want the railroad to haul whatever it can haul," said Richard Lyon, the commissioner of Commerce and Economic Development.

But, he added, the state will participate "only where it makes sense" economically and socially.

Major expansion — expansion that would cost, say, $2 billion — would also make it difficult to make what Lyon said is the ultimate transfer: from the public sector to the private sector. A major expansion may be a major asset, but buying it would require more than major financing.

"If I were going to get into the railroad business, I'd rather get into it early than late," said Lyon.

Private ownership — if it ever happens — is more than a decade away, so major expansion in that time is not likely.

The first order of business is an orderly transition from federal to state control. Next comes the maintenance and upgrading of track and facilities. Estimates run anywhere from $15 million to $60 million over the next few years.

"I want to run the railroad for a while," said Sheffield, settling back in the plush, privately owned observation car on the Portage train. "We'll move rather slowly and try to make it run as best as possible."

Sheffield — or any other governor, for that matter — will not be running the railroad alone. The governor will appoint a seven-member board to oversee the operation (two cabinet members, two professional railroad managers, a labor union representative and two members from outside government); Sheffield pushed hard to keep the railroad administration under the executive branch.

"Ultimately, whatever goes wrong with the railroad will be the governor's fault," said Sheffield. "If it's my responsibility, then I want to have some input."

But Sheffield admitted that it is impossible to protect such a board from political pressures. Changing administrations and changing political climates could jeopardize the long-range goals of a business — which is, after all, what the state's railroad will be.

Dave Walsh thinks some political insulation can be provided by sound planning and sound precedents set by the very first railroad board. If that board makes a set of long-term goals and articulates them well to the public, politicians will be wary of using the railroad as leverage in bargaining with the administration.

If things are done right the first time around, the public will feel it has a stake in achieving the goals set by the first board.

"And anyone who would tamper with that," he added, "would be doing so at great risk to himself."

JUNEAU EMPIRE
September 9, 1984

Sheffield recruits RR board

By DEAN FOSDICK
The Associated Press

The Sheffield administration has begun recruiting people for the seven-member Alaska Railroad board of directors so the panel can help get a new management team aboard when the state takes over the rail line — probably before the end of the year.

Gov. Bill Sheffield told members of his cabinet Tuesday he was hoping to make the appointments within the next 30 to 60 days, so they should contact him quickly if they had any names to submit.

"We hope to take over the railroad by late November or early December," Sheffield said.

The state is spending $22.3 million to buy the 525-mile line from the federal government.

The railroad extends from Fairbanks, in the Interior, to Whittier, on the coast, and has been owned and operated by the federal government since 1924.

Carol Derfner, a member of the governor's staff who helps select people for the state's 130 boards and commissions, said "the word has gone out" about the railroad board.

"We haven't begun the process of selection yet, but we're looking at about 20 to 25 names," Derfner said. "We hope to get it done quickly. One of their first tasks will be to help put together an altogether new corporate team to run the railroad."

Two of Sheffield's cabinet members will sit on the board — the commissioners of the departments of Commerce and Economic Development and Transportation and Public Facilities.

The rest will be public members — but there are some strings attached, Derfner said.

"The Legislature specified that one member should be from one of the seven (labor) bargaining units attached to the railroad," she said. "Another was to be someone with 10 years' experience in railroad management. We may combine that seat with a former chief executive officer of a railroad. And we'll probably look outside the state for that.

"That would leave three unencumbered seats for the governor," she said. "But they must reside in the judicial districts served by the railroad.

JUNEAU EMPIRE

Moss wants to investigate operating changes in RR

By DEAN FOSDICK
The Associated Press

The chairman of the Senate Transportation Committee said Thursday he intends to investigate allegations that operating changes are being made to the Alaska Railroad that weren't a part of the state's deal to buy it from the federal government.

Sen. Pappy Moss, R-Delta Junction, made the comments after meeting more than an hour with Dick Knapp, commissioner of the Department of Transportation and Public Facilities.

Moss, defeated in the Aug. 28 primary by Jack Coghill, a Nenana Republican, said he has no political axes to grind in looking into the situation.

"This is not for show," Moss said of his call for a public hearing. "I'm particularly concerned about moves by the railroad's current managers to contract out work on locomotive maintenance in Fairbanks and freight handling in Anchorage.

"I intend to call a meeting of the committee on Oct. 2 in Anchorage to put under a fishbowl what's been done behind closed doors," he said. "This is something we may have to live with after we take over the railroad. I don't think we have enough input on what's being done now."

Rail Arnie Polanchek, assistant general manager of the Alaska Railroad, denied that any major changes were in the works. And he said no moves would be made without first consulting with labor leaders and state officials.

"We're all in this together," Polanchek said, referring to the various groups who have been working to shift the operation from federal to state control. "We're careful in what we do now because we know it's a sensitive time."

Polanchek, who indicated Moss had contacted him about the allegations, said any changes in the way the railroad handles its day-to-day operations would be minor and are merely in the talking stages.

"Nothing has been done yet," Polanchek said. "We're just discussing ways to improve our revenue picture.

"There are several unprofitable things the railroad has been doing and we're thinking about changing," he said. "It's anything any normal business would do — review its operating procedures."

Knapp, meanwhile, said he "has no disagreement" with Moss about a public hearing.

"Apparently, the railroad is in a management improvement mode," Knapp said. But he added he "didn't find a lot of fault" with what its current managers are doing.

"As a result of this ... we'll be in closer touch, not in terms of dictating policy but basically to insure that, to the maximum extent practicable, we end up getting what we bargained for."

The Sheffield administration has begun recruiting people for the seven-member Alaska Railroad board of directors so the panel can help get a new management team aboard when the state takes over the rail line — probably before the end of the year.

The state is spending $22.3 million to buy the 525-mile line from the federal government.

The railroad extends from Fairbanks, in the interior, to Seward, on the coast, and has been owned and operated by the federal government since 1924.

TRUCKING REGULATIONS

ORDER AMENDING REGULATIONS OF THE
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

The attached 3 pages of regulations, dealing with the operation of wheeled vehicles, are hereby adopted and certified to be correct copies of the regulations which the Department of Transportation and Public Facilities adopts, amends, or repeals under authority vested by AS 19.05.020, 19.05.040, 19.10.060 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

DATE: June 20, 1984
Juneau, Alaska

Richard J. Knapp
Commissioner, Department of
Transportation and Public
Facilities

FILING CERTIFICATION

I, Stephen McAlpine, Lieutenant Governor for the State of Alaska, certify that on August 2, 1984, at 3:15 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Lieutenant Governor

Effective September 1, 1984.
Register 92, October 1984.

VC

CHAPTER 25

OPERATIONS, WHEELED VEHICLES

Section

10. Prohibited Vehicles and Loads
20. Width of Vehicles and Loads
30. Height and Length of Vehicles and Loads
35. Reasonable Access
40. Confinement of Loads
50. Trailers and Towed Vehicles
60. Allowable Gross Weights
70. (Repealed)
80. (Repealed)
90. (Repealed)
100. Road Closures and Restrictions
105. Specially Designated Highways
110. Definitions

17 AAC 25.010(a) is amended to read:

(a) No person may drive or move on a highway a vehicle, or a vehicle with a load, if the vehicle or vehicle with a load exceeds ~~exceeding~~ the size or weight limitations stated in 17 AAC 25. ~~this chapter on any highway~~ No owner or lessee may cause or permit a vehicle, or vehicle with a load, which exceeds ~~exceeding~~ the size or weight limitations stated in 17 AAC 25 ~~this chapter~~ to be driven or moved on any highway. (Eff. 6/25/69, Register 30; am 9/3/72, Register 43; am 3/22/81, Register 77; am 11/16/83, Register 88; am / / , Register)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.020(a) is amended to read:

17 AAC 25.020. WIDTH OF VEHICLES. (a) The total outside width of any vehicle or vehicle with a load may not exceed 102 inches. However, safety devices and load binders may extend three inches beyond the 102 inch limit on either side if they are situated more than four feet above the roadway. Load binders must be located on the right-hand side of the vehicle when possible. (Eff. 6/25/69, Register 30; am 9/3/72, Register 43; am 3/22/81, Register 77; am 6/19/81, Register 78; am / /, Register)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.030 is amended ~~(a), (b), (c), (d), and (e) are amended and (f), (g), and (h) are added~~ to read:

17 AAC 25.030 HEIGHT AND LENGTH OF VEHICLES AND LOADS. (a) No vehicle, including load, may exceed a height of 13 feet 6 inches.

(b) No single vehicle, including load, may exceed a length of 40 feet including front and rear bumpers, except as provided in (c) and (f) of this section.

(c) Except on the specially designated highways listed in 17 AAC 25.105, no semitrailer may exceed an overall length of 45 feet, and no combination of truck tractor and semitrailer, including load, may exceed a length of 70 feet, including front and rear bumpers.

(d) Except on the specially designated highways listed in 17 AAC 25.105, no combination of truck and trailer or truck tractor and semitrailer and trailer, including load, may have an overall length in excess of 75 feet, including front and rear bumpers.

(e) Subject to the provisions of this section limiting the length of vehicles and loads, the load on any vehicle or combination of vehicles may not extend more than three feet beyond the front bumper or more than four feet beyond the rear of the bed or body of the vehicle or trailer.

(f) On the specially designated highways listed in 17 AAC 25.105, no semitrailer in a truck tractor-semitrailer combination may exceed a length of 48 feet.

(g) On the specially designated highways listed in 17 AAC 25.105, no semitrailer or trailer in a truck tractor-semitrailer-trailer combination may exceed a length of 48 feet. Measurement from the front of the of the first semitrailer to the rear of the second semitrailer or trailer shall not exceed 90 feet. Overall length is not restricted.

(h) Any combination of three or more cargo carrying units is prohibited. For purposes of this subsection, "cargo carrying unit" means truck, semitrailer, or trailer. (Eff. 6/25/69, Register 30; am 9/3/72, Register 43; am 11/16/83, Register 88; am / / , Register)

Authority: AS 19.05.020
AS 19.05.040
AS 19.10.060

17 AAC 25 is amended by adding a new section to read:

17 AAC 25.035. REASONABLE ACCESS. Vehicles operating under the provisions of 17 AAC 25.030(f) and (g) may move to or from the specially designated highways listed in 17 AAC 25.105 to reach or return from terminals and facilities for food, fuel, or rest. When moving to or from the specially designated highways, vehicles shall use the most direct interconnecting truck route whenever possible. Vehicles moving to or from the specially designated highways under this section shall not move further than 25 miles from these highways. All movement within organized municipalities and boroughs is subject to local ordinances. (Eff. / / , Register)

Authority: AS 19.05.020
AS 19.05.040
AS 19.10.060

17 AAC 25 is amended by adding a new section to read:

17 AAC 25.105. SPECIALLY DESIGNATED HIGHWAYS. For purposes of ~~this chapter~~ 17 AAC 25, specially designated highways are

(1) Alaska Route 1 (AK-1) from Anchorage (Potter Weigh Station) to Palmer (Palmer-Wasilla Highway Junction).

(2) Alaska Route 2 (AK-2) from Fairbanks (Gaffney Road Junction) to Delta Junction (MP 1412).

(3) Alaska Route 3 (AK-3) from its junction with AK-1 to Fairbanks (Gaffney Road Junction). (Eff. / / , Register)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.110 (5), (11), (16), and (17) are amended and (18) is added to read:

(5) "highway" ~~means and~~ includes a highway, road, street, bridge, tunnel, and right-of-way;

(11) "vehicle" means every wheeled device capable of transporting persons or property on a highway;

(16) "truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing a semitrailer or semitrailer and trailer;

(17) "safety devices" means equipment designed to

(A) enhance a driver's view to the front, rear, and side of a vehicle;

(B) enhance a driver's access to a vehicle and load; or

(C) provide protection to other vehicles,

and includes rear view mirrors, rubber fenders, mud flaps, rock guards, antispray devices, tires (due to expansion), clearance lights, rub rails, binder chains, pin pockets, door handles, turning signal brackets, steps, bumpers, and backup lights, and tire chain hangers mounted on headache racks; and

(18) "terminal" means a recognized trucking place of business where goods are loaded or unloaded, or services are obtained. (Eff. 6/25/69, Register 30; am 9/3/72, Register 43; am 6/19/81, Register 78; am 11/16/83, Register 88; am / / , Register)

Authority: AS 19.05.020
AS 19.10.060

CHAPTER 25.
OPERATIONS, WHEELED VEHICLES

Section
10. Prohibited vehicles and loads
20. Width of vehicles
30. Height and length of vehicles and loads
40. Confinement of loads
50. Trailers and towed vehicles
60. Allowable gross weights
70. (Repealed)
80. (Repealed)
90. (Repealed)
100. Road closures and restrictions
110. Definitions

17 AAC 25.010. PROHIBITED VEHICLES AND LOADS. (a) No person may drive or move, nor may an owner or lessee cause or knowingly permit to be driven or moved on a highway, a vehicle or vehicles of a size or weight or having a load exceeding the limitations stated in this chapter.

(b) The provisions of this chapter governing size, weight, and load do not apply to a vehicle or vehicles with a load operated under the terms of a permit issued, under AS 44.33.020(25). (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 3/22/81, Reg. 77; am 11/16/83, Reg. 88)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.020. WIDTH OF VEHICLES. (a) The total outside width of any vehicle or load on a vehicle may not exceed 96 inches, except by permit as provided in AS 28.05.011(8). Balloon or duplex tires on trucks may extend three inches beyond the limit on either side. Vehicles used in public transportation may have a total outside width, including load, of 102 inches when operating on roadways with a lane width of 12 feet. Safety devices and load binders may extend three inches beyond the limit on either side if they are situated more than four feet above the roadway. Load binders must be located on the right-hand side of the vehicle if possible.

(b) No passenger vehicle may be operated on a highway with a load which extends beyond the line of the fenders on the left side, nor which extends more than six inches beyond the line of the fenders on the right side. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 3/22/81, Reg. 77; am 6/19/81, Reg. 78)

Authority: AS 19.05.020
AS 19.10.060

17 AAC 25.030. HEIGHT AND LENGTH OF VEHICLES AND LOADS. (a) No vehicle, including any load thereon, shall exceed a height of 13 feet 6 inches.

(b) No single vehicle, including any load thereon, may exceed a length of 40 feet inclusive of front and rear bumpers, except as provided in (c) of this section.

(c) No semitrailer may exceed an overall length of 45 feet. No combination of truck-tractor and semitrailer, including any load, may exceed a length of 70 feet, including front and rear bumpers.

(d) No combination of truck-tractor and trailer or trailers, or other combination of vehicles, including any load, may have an overall length in excess of 75 feet, including front and rear bumpers.

(e) Subject to the foregoing provisions of this chapter limiting the length of vehicles and loads, the load on any vehicle or combination of vehicles may not extend more than three feet beyond the front bumper or more than four feet beyond the rear of the bed or body of the vehicle or trailer. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 11/16/83, Reg. 88)

Authority: AS 19.05.020
AS 19.05.040(5),(11)
AS 19.10.060(1)

17 AAC 25.040. CONFINEMENT OF LOADS. (a) No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent any of the load from dropping, shifting, leaking, or escaping, except that sand may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in cleaning or maintaining it.

(b) No person may operate on any highway any vehicle with a load unless the load and any covering on it is securely fastened so as to prevent the covering or load from coming loose, detached or in any manner a hazard to other

users of the highway. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43)

Authority: AS 19.05.020
AS 19.10.060
AS 28.05.020

17 AAC 25.050. TRAILERS AND TOWED VEHICLES. When one vehicle is towing another, the drawbar or other connections shall be of such strength, design and configuration to control the towed vehicle. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43)

Authority: AS 19.05.020
AS 19.10.060
AS 28.05.020

17 AAC 25.060. ALLOWABLE GROSS WEIGHTS. The gross weight of any vehicle or combination of vehicles may not exceed any of the limits provided in this section. The most restrictive limitation of the following shall determine the maximum allowable weight of every vehicle or vehicle combination:

(1) The maximum gross vehicle weight may not exceed that weight as determined from the following formula:

$$W = 500 \left[\frac{LN}{N-1} + 12N + 36 \right]$$

where

W = The maximum gross vehicle weight to the nearest 500 pounds

L = The distance in feet between extreme axles, and

N = The number of axles.

(2) The weight on axles may not exceed and the distance between axles may not be less than the following:

	Weight	Distance
Single Axles	20,000 pounds	10' minimum spacing*
2-Axle Tandem	34,000 pounds	3'6" minimum spacing
3-Axle Tandem	42,000 pounds	3'6" minimum spacing
4-Axle Tandem Group	50,000 pounds	3'6" minimum spacing

*Any axle spaced less than 10 feet from any other axle is considered as part of a tandem group.

Any axle which can be elevated from the roadway, thus transferring its portion of the vehicle weight to the other axles, will not be considered as a load-carrying axle unless the vehicle is equipped with an approved tell-tale device. The tell-tale device shall indicate that the lift axle is in full load-carrying position and shall be clearly visible from the left side of the vehicle under normal operating conditions. Vehicles which were on order or manufactured prior to the effective date of this regulation are exempt from the requirements of this subsection until one year following the effective date.

(3) The weight on any tire shall not exceed 500 pounds per inch of tire width, on such axles, based on the tire manufacturer's rating of tire width. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 9/3/74, Reg. 51)

Authority: AS 19.10.060
AS 28.05.020

Editor's Note: Beginning with Register 51 (October 1974), the formula in paragraph (1) of this section was erroneously printed. It has been corrected as of Register 66 (July 1978).

17 AAC 25.070. ENFORCEMENT. Repealed 11/16/83.

17 AAC 25.080. PERMITS FOR EXCESS SIZE AND WEIGHT. Repealed 3/22/81.

17 AAC 25.090. REQUIREMENTS FOR PERMITS. Repealed 11/16/83.

17 AAC 25.100. ROAD CLOSURES AND RESTRICTIONS. (a) The Department of Transportation and Public Facilities may prohibit the operation of vehicles upon any highway or may impose restrictions on any aspect of vehicle operation on any highway whenever the highway, in the judgment of the commissioner, may be seriously damaged or destroyed by such operation or whenever it is deemed necessary by the commissioner in the interests of safety to the traveling public. The restrictions shall be effective after due notice has been given to the public except in an emergency requiring immediate action.

(b) Whenever weight restrictions imposed by the commissioner or his representative are stated as a percentage of legal allowable weights, the percentage shall be applied to the maximum axle loading of 17 AAC 25.060(2).

(1) Permits may not be issued allowing overweight vehicles to travel on weight-restricted highways during the period when weight restrictions are imposed.

(2) Passenger vehicles are exempt from the provision of (c)(1) of this section and may be issued permits. (Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 9/3/74, Reg. 51)

Authority: AS 19.05.020 AS 19.10.100
AS 19.05.040 AS 28.05.020
AS 19.10.060

Editor's Note: As of Register 77, the reference to the Department of Highways has been corrected to refer to the Department of Transportation and Public Facilities.

17 AAC 25.110. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "axle" means the common axis of rotation of two or more wheels, whether power driven or freely rotating, attached to the vehicle or trailer for the purpose of carrying a portion of the vehicle or trailer weight;

(2) repealed 11/16/83;

(3) "gross weight" means the total weight of a vehicle including the load and any accumulated snow, ice, or mud;

(4) "height" means the total vertical dimension of any vehicle above the roadway surface, including any load and load-holding device thereon;

(5) "highway" includes a highway, road, street, bridge, tunnel, drainage structure and other similar or related structure or facility, and right-of-way;

(6) "semi-trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and the weight of its load rests on or is carried by another vehicle;

(7) "single axle weight" means the total weight transmitted to the roadway by the wheels of a single axle;

(8) "tandem axle" means an assembly of two

or more axles which are attached to the vehicle by a connecting mechanism designed to distribute the vehicle weight evenly to all axles of the tandem group;

(9) "tandem axle weight" means the total weight transmitted to the roadway by a tandem axle;

(10) "trailer" means a towed vehicle with one or more axles, one of which may be a steering axle, configured so that no significant portion of its total weight rests upon the towing vehicle;

(11) "vehicle" means every device capable of being moved upon a public highway and in, upon, or by which a person or property is or may be transported or drawn upon a public highway;

(12) "load" means anything that is carried on or in a vehicle but which is not permanently attached to it;

(13) "emergency" means a condition that is either hazardous to life or property or that prevents a damaged roadway from being used by the public;

(14) "public transportation" means a system of vehicles operated by or for a municipality to carry persons to or from locations within that municipality;

(15) "truck" means a motor vehicle of more than 10,000 pounds unladen gross vehicle weight designed, used, or maintained primarily for the movement of a load;

(16) "truck-tractor" means a self-propelled motor vehicle designed and used primarily for drawing a semitrailer, full trailer, or trailers;

(17) "safety devices" means equipment designed to enhance a driver's view to the front, rear, and side of a vehicle, a driver's access to a vehicle and load, and equipment designed to provide protection to other vehicles such as rear view mirrors, rubber fenders, mud flaps, rock guards, anti-spray devices, tires (due to expansion), clearance lights, rub rails, binder chains, pin pockets, door handles, turning signal brackets, steps, bumpers, and backup lights and tire chain hangers mounted on headache racks.

(Eff. 6/25/69, Reg. 30; am 9/3/72, Reg. 43; am 6/19/81, Reg. 78; am 11/16/83, Reg. 88)

Authority: AS 19.05.020
AS 19.10.060

Editor's Note: As of Register 77, the references to the Department of Commerce and the Department of Highways have been corrected to refer to the Department of Commerce and Economic Development, and the Department of Transportation and Public Facilities.

Many vehicles remain unsafe, truckers say

by Robin Pierson
Times Writer

Alaska's roads are filled with unsafe trucks because the state's vehicle inspection program is inadequate and drivers aren't paid enough to be able to properly maintain their vehicles, a group of Anchorage truckers said recently.

"I've had my truck for 3½ years and it's never been inspected," said Jim Fenton of Anchorage. "Drivers know no one is going to look at their trucks, so they just keep on running them. We're working too cheap to maintain them."

In the last month, Anchorage has been rocked by tragic accidents involving large commercial vehicles. Earlier this week a loaded dump truck careened out of control through the intersection of Minnesota Drive and Raspberry Road. It came to rest atop a passenger vehicle, crushing to death three of the five occupants.

In mid-June, on the Seward Highway near the turnoff to Hope, an Anchorage man collided with an out-of-control tanker filled with asphalt. The man lost his legs after they were severely burned when hot asphalt seeped into his car, where he was trapped.

The driver of the asphalt

See Trucks, page A-12

truck will be charged with negligent driving, said Alaska State Troopers.

Whether or not the dump truck, which overturned on the passenger vehicle, was in safe driving condition before the accident currently is being investigated.

Through the truckers' grapevine, Fenton said he has learned of three other drivers who were in accidents within the last month after their equipment — including steering mechanisms and tires — failed.

Officials at the Alaska Transportation Commission, the agency charged with inspecting commercial vehicles, admit that they do not have the staff to conduct a comprehensive commercial vehicle inspection program.

"Most states have mandatory inspection for trucks registered in the state," said Larry Michou, the ATC's executive director. Alaska does not.

Instead, trucks are randomly inspected at weigh stations and on the road. ATC field agents also occasionally check vehicles at trucking companies whose drivers have received numerous safety violations.

The scale-house checks take an average of 10 to 15 minutes, occur infrequently and are not thorough, truckers say.

"Basically they're a joke," John Carr, an Anchorage trucker, said about the weigh-station checks. "I'm sure I can slip a truck through without brakes."

Though no one officially is assigned to the task, an Alaska State Trooper occasionally shows up at the weigh stations. Truckers complain that troopers are notorious for keeping clean — checking nothing on a truck but instead inspecting drivers' medical cards and log books.

Check" where the most critical part of the truck, including brakes, steering mechanisms and points of connection between the power unit and the trailer, are inspected.

Inspection procedures are not consistent between the two agencies, Michou said.

Of the 759 safety violations given to the more than 10,000 registered truckers in Anchorage last year by the ATC, 158 were for inadequate lights. Next on the list, were unsafe tires, wheels and failure to carry a medical certificate.

Only 23 drivers were cited for bad brakes.

Fenton's and his fellow truckers' motives for lobbying for stricter inspections appear to be two-fold.

If stricter or mandatory inspections were instituted, the truckers contend that their employers would have to pay higher wages so the owner-operators could afford to keep their vehicles in shape.

Truckers who drive to Prudhoe Bay, for example, say they now are paid about half, or about $5,000, for the run compared to nearly $10,000 in the mid-1970s. While wages have decreased, part prices have risen.

A tire for the combination trailers-trucks costs $430 now compared to $220 during the pipeline days, says longtime trucker Roy Goodrow.

"We're not making enough money to maintain our trucks like we should," Goodrow said.

But besides using stricter inspections as a way to lobby for higher pay, the truckers say they fear for their safety.

"It's like a race track out there," Fenton said, since truckers are speeding to make more trips — making up for the pay cuts.

ANCHORAGE TIMES
July 14, 1984

ANCHORAGE DAILY NEWS
August 4, 1984

Surprise trooper inspection sidelines 58 trucks

By LARRY CAMPBELL
Daily News reporter

A surprise inspection of commercial trucks in Anchorage and the Matanuska Valley this week sidelined nearly half the vehicles, a record that shows no improvement since a similar sweep earlier this summer, according to Alaska State Troopers.

A special team of troopers and Anchorage police officers inspected 106 trucks — most of them gravel haulers — between Tuesday and Thursday.

Fifty-eight were taken out of service for equipment repairs, said Lt. Terry McConnaughey. He is deputy commander of the trooper detachment that includes Anchorage, the Valley and east to Valdez.

The inspections were prompted by numerous complaints from residents, he said. The inspection team stopped vehicles at the state truck weigh station on the Glenn Highway north of Muldoon Road and conducted roadside traffic stops in the Sand Lake area and in the Valley.

Citations for 108 separate violations were issued, some being multiple violations given to a single vehicle. One driver was arrested for reckless driving, two for driving with suspended licenses and two on other outstanding warrants not associated with the inspection sweep.

Troopers conducted a similar surprise sweep in May, McConnaughey said. The inspections are conducted by Fairbanks troopers who specialize in truck safety, plus city police officers.

Overloaded trucks were not a problem this week, but equipment violations were at the same high levels as in May, he said. Brakes and loose lug nuts, used to hold tires to the axles, were the most prevalent violations.

"One truck drove up and I could see his lug nuts were loose," he said. "The driver told me he'd just checked them. I reached down and unscrewed one with my fingers and handed it to him.

"Those nuts weigh about 16 ounces. Can you imagine what one of those things would do to a windshield if it popped off the wheel at 55 miles an hour?"

"One truck we stopped out in Sand Lake had brakes so bad the driver couldn't keep the truck on the portable weight scales," McConnaughey said.

Most trucks stopped this week were owner-operated rigs, that is drivers with their own vehicles who hire out to local contractors, McConnaughey said.

That half the trucks inspected needed serious repairs shows that too many operators still are not maintaining their vehicles, he said.

"Because of the nature of the work they do, so many times these guys are working by the load or have to make so many trips a day," McConnaughey said. "I think the numbers show that too many of them are not spending as much time maintaining their trucks as they are driving them."

McConnaughey said he also saw some well-kept vehicles among the moving potential disasters.

"Some were absolutely immaculate," he said. "And the drivers were really conscious of keeping them that way."

The inspections caught no more than 10 percent of the trucks registered in the Anchorage and Mat-Su Valley areas, according to figures from the Department of Motor Vehicles. McConnaughey could not say whether the poor safety showing revealed this week translates to the entire area, however.

There are some truckers who are changing their attitudes about keeping their rigs in shape, McConnaughey said. But the inspection results mean constant enforcement is still necessary to convince every driver, he added.

"Things improved this week, but before long we'll have to come back," he said. "I know a lot of drivers will probably howl and say I'm wrong, but the numbers tell it all.

"Things are not going to change unless we're out there. And unless we're out there, it'll get worse."

See Page B-3, TRUCKS

VALDEZ VANGUARD
August 29, 1984

Truckers want new image

A top priority for the motor carrier industry is to improve the public's perception of trucks, according to the industry's top elected official.

The industry intends to make a strong case for itself to counter efforts to restrict the productive use of trucks, he said.

rnest Cox, chairman of the board of the American Trucking Associations Inc., Washington, D.C., addressed the 25th anniversary banquet of the Alaska Trucking Association in Valdez. He said the current public perception of trucks has led to several punitive proposals within the state.

He cited a movement to limit the speed of trucks to 35 miles per hour within an 80-square mile area surrounding Anchorage, while other traffic would be permitted to travel at the 55-mile-per-hour speed limit.

"This kind of mix is an open invitation to disaster . . . but this proposed action is a governmental response to a fatal accident involving a truck," Cox explained in a news release.

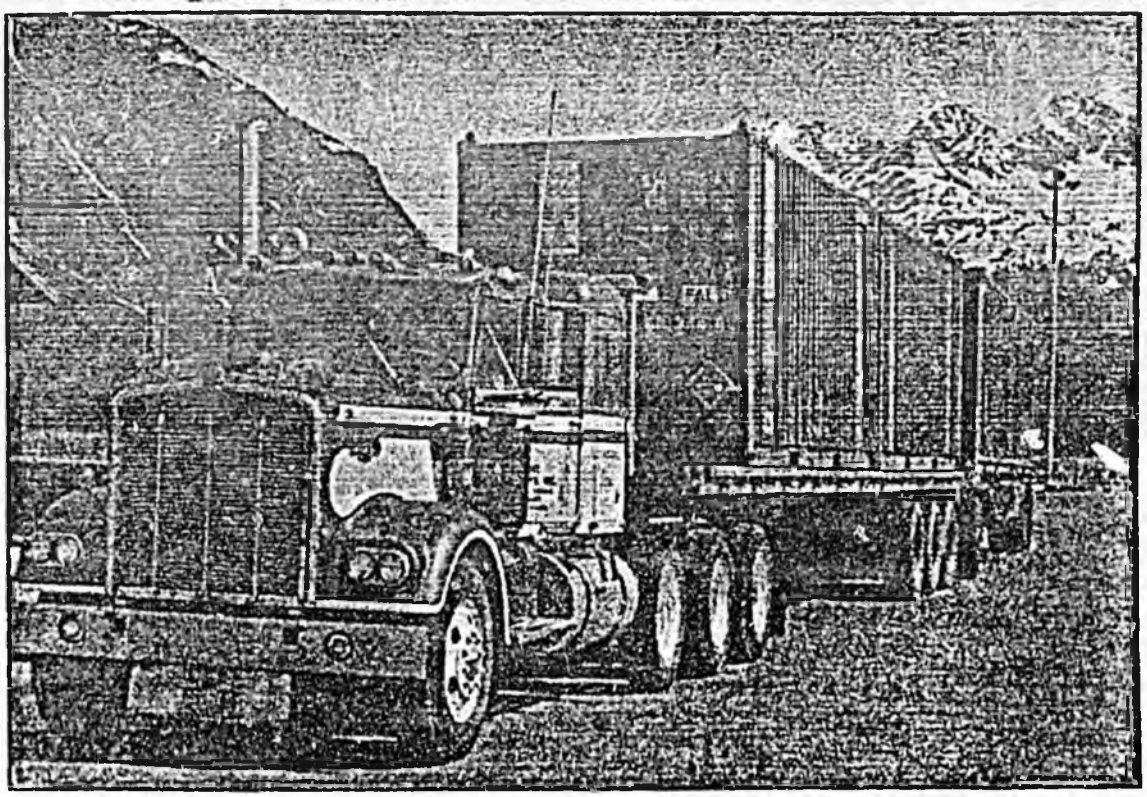
The industry is employing a two-track nationwide approach to create a more positive image, because the issue is bigger than any one state.

"First, we are going to try to set the record straight. We are going to do everything we can to bring the perception of this industry on the part of the officials, news media and everyone else into focus, so that what they say, what they write, what they believe will at least be closer to accurate.

"And secondly, we are going to do whatever we can do to improve our performance and our image," Cox said.

Other trucking issues that would benefit from this kind of unified approach are federal and state taxes, he continued.

Cox also told Alaskan trucking executives that meeting the many challenges facing the motor carrier industry now and in the future will require "a dedication to work, their community to the total transportation system and to safety."



At the Port of Valdez, George Hillar of Alaska Freight Lines prepares to run the first set of 40-foot trailers to the Interior.

Tandems OK on highway

The Alaska Department of Commerce and Economic Development, Division of Measurement Standards, recently granted trucking firms using the Port of Valdez to operate tandem trailer combinations that are up to 105 feet in overall length on the Richardson Highway.

The authority extends the full length of the highway from Valdez to Fairbanks.

Transportation firms serving Valdez have been petitioning the Department of Commerce and Economic Development for some time. They said the permit to haul two 40-foot doubles was necessary in order to offer shippers rates that were competitive with other routes to the Interior.

A pilot program was established for a 120-day period to monitor the safety and security of this new service. The Alaska Department of Transportation and Public Facilities will actively participate in this project to assure that all permit regulations are observed. It is expected that the authorization will be made permanent.

The first carrier to secure the permit was Alaska Freight Lines of Valdez. Commenting on the newly granted authority, George Hillar of A.F.L. said, "We are very pleased to have received this long awaited permit. Now we will be able to perform a much needed inland service at economical tariff levels."

For more information contact the Port of Valdez. In Alaska call 835-4313 or toll free Zenith 4300 from Fairbanks, Delta Junction and Anchorage. In the Lower 48 states call (503) 227-4567 or (206) 624-4414 in Seattle.

CONFERENCES AND MEETINGS

SEWARD PHOENIX LOG
August 30, 1984

Chenega...

President Gail Evanoff put her shoulder to the wheel lobbying endlessly, arguing, enduring years of blank stares and queries of "Where's Chenega? Why do you want to rebuild it?"

Finally home amid the results of her work, Gail Evanoff took the occasion of the dedication ceremony to compliment one of the few politicians who really did back Chenega Bay all along—Bette Cato. The main gravel road in the village is named for her.

While Gail worked for funds, Larry Evanoff served as projects manager seeing that the 21 homes, gravel roads, school, store, utilities and dock were built. Last Saturday, his was the enjoyable task of welcoming Chenegans to their new home.

Other guest speakers included Chugach Alaska Inc. board chairman Edgar Blatchford, North Pacific Rim executive director Derenty Tabios, George Irvin of the Alaska Federation of Natives; Governor Sheffield's chief of staff John Shively and former State Representative Margaret Branson.

Tabios noted "with the rebirth of Chenega our region is once again whole," and Blatchford commented that "the Chenegans have overcome more obstacles in 20 years than most people do in several generations."

Plans for Father Nicholas Kompkoff, Sr. to bless the new homes and church grounds were postponed because Fr. Kompkoff has been ill.

Already living in the new one-story home are nine families: most young people with kids. From Anchorage: Don & Gail Kompkoff and children Dino, Joyce, Stephanie and Alexander John. Gail is the fee agent person and serves on the Native Advisory Committee. Charles Selanoff Jr. & Norma Selanoff plus two kids, Diana and Lynnette. Charles is water/sewer technician for Public Health Services. George and Marlene Selanoff and their son Bill. Larry and Gail Evanoff are also from Anchorage; besides their village council jobs, they are public safety officer and community health aide, respectively.

Michael Vigil from Anchorage will run the community store. He is sharing a house with his sister Sharon from Seattle.

From Cordova are Frank and Susan Gurske and children Sally and Frank Jr.; and Joel Kompkoff Sr. and sons Joes and Lloyd. Ken Selanoff has moved in from Tatitlek.

More people will arrive after fishing season, including Chuck Totemoff, Maggie and John Totomoff; John and Phyllis Pipkin; Paul and Minnie Kompkoff and dis; Mike Eleshansky and his family and Nick Kompkoff Sr. and his wife Mary.

After the dedication and salmon dinner that followed, Gail Evanoff reported on future plans—a teacher is coming next week; a community center with health care and public safety facilities will soon be built; a post office will be established as soon as 25 people and two businesses are in residence; and regular air service is being sought.

"There's lots to do," she said. "Some people are worried about jobs...they should just come home. Then we'll work it out."

Chenega Bay is home at last!

"If not for Larry and Gail Evanoff, this could never have happened," Chenega Village Corporation president Don Kompkoff said at the August 26 dedication of Chenega Bay. "And it sure feels good to be home and have a house so close to the fishing grounds."

Kompkoff was giving recognition to the tremendous effort spent by the Evanoffs for ten years to rebuilt the lost village of Chenega.

Chenega Bay Village Council Chairman Larry Evanoff was one of the children who survived the 1964 earthquake and tidal wave that killed 23 of the original Chenegans and destroyed their home. For years, he kept the dream of rebuilding the village and recreating the life he once enjoyed.

After the quake, state disaster funds rebuilt most Prince William Sound communities. Not Chenega. The government tried to relocate Chenega survivors in Tatitlek.

It didn't work. Chenegans moved on to Cordova, Anchorage and Valdez, returning to the old site in the 1976 for a memorial service, then deciding to relocate from Chenega Island to nearby Evans Island—a more protected spot with fewer memories.

Now Village Council

SEWARD PHOENIX LOG
August 23, 1984

Road closures resume

After a brief Salmon Derby respite, daytime road closures began Monday, 10am—2pm for blasting the Seward Highway rebuild.

Closures will be daily until November snows prevent Kluane Construction from further work.

Intermittent closures of up to half and hour will also be allowed any time of the day; but there will be no closures Saturdays or Sundays.

The winter closure schedule was to have begun last week, but was held off at the request of Rep. Bette Cato, due to Salmon Derby.

Mike Fargo, resident engineer for the Department of Transportation/Public Facilities, said OSHA prohibits blasting after sunset, unless special lighting is used to render the area bright as day, and unless a special permit is issued.

"They told us 'Forget it'," Fargo said. "Plus it would have added hundreds of thousands of dollars to the pricetag."

He said the only time OSHA normally gives out blasting permits is when there is no alternative—"like on the North Slope in winter."

Traffic counts and consultation with scheduled haulers and the Post Office revealed the best time for blasting closures is 9pm to 1am. That is when the work was being done this summer. Now days are shorter and the next best time period must be used—the 10am to 1pm slot.

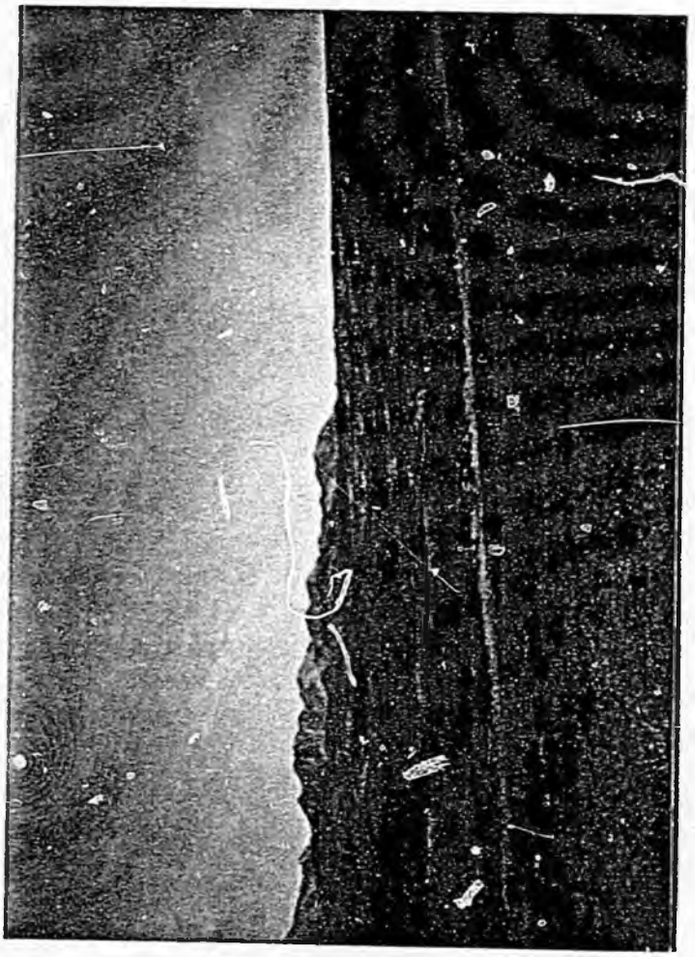
Cato asks halt to road closure

Rep. Bette Cato reported she complained to the Department of Transportation/Public Facilities about 10 a.m.-2 p.m. road closures by Kluane Construction, Bertha Creek-Ingraham Creek on the Seward Highway, beginning today.

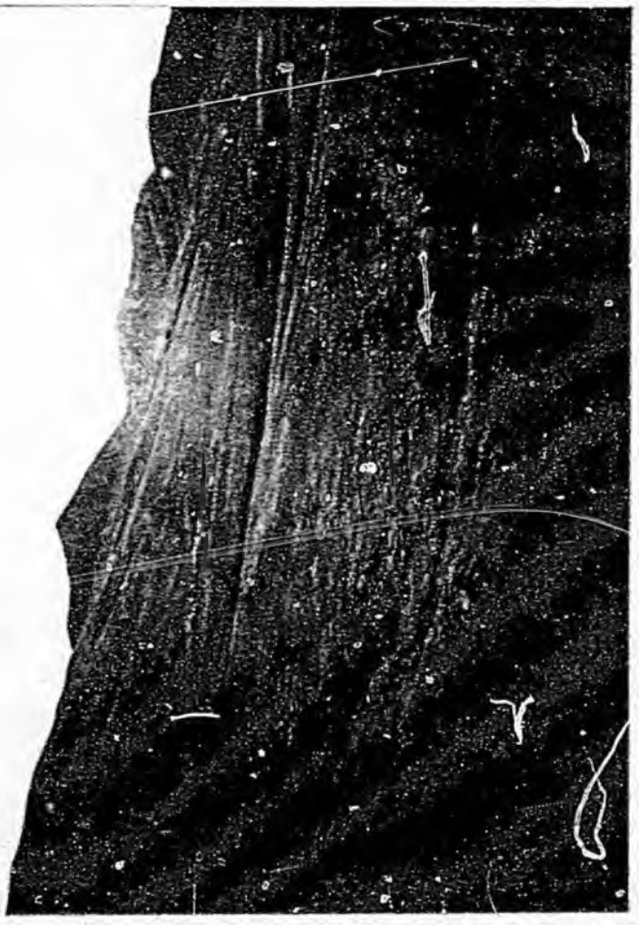
"They are sending a team down to keep it open, and it will stay open all weekend," Cato said. "Then a better schedule will be arranged to meet Peninsula traffic needs."

Red Dog Mine Tour
September 1984



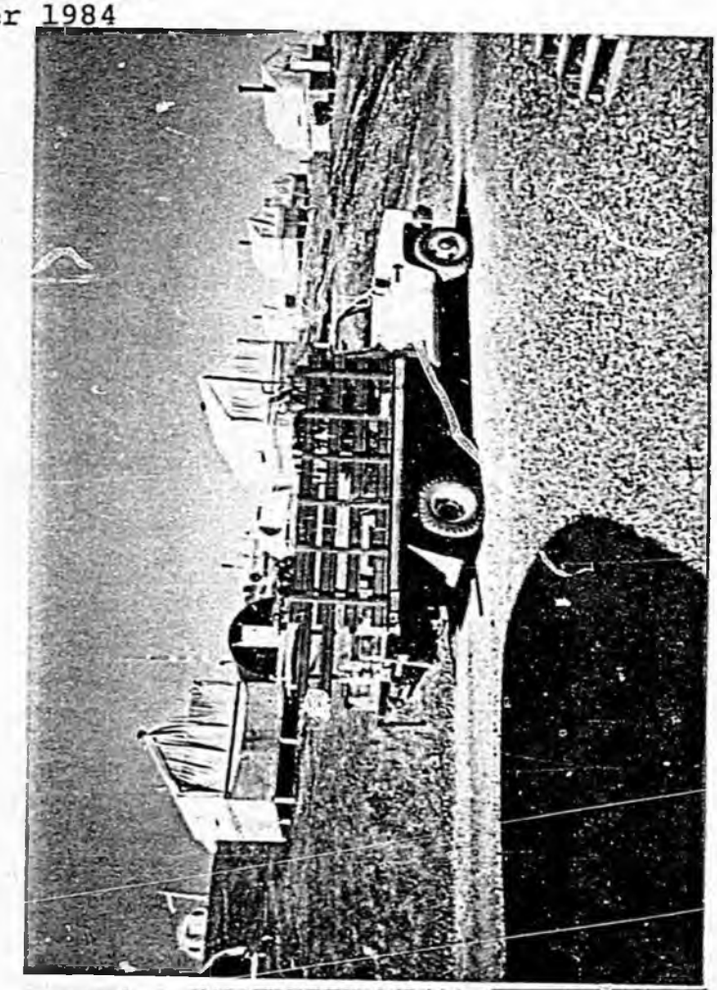


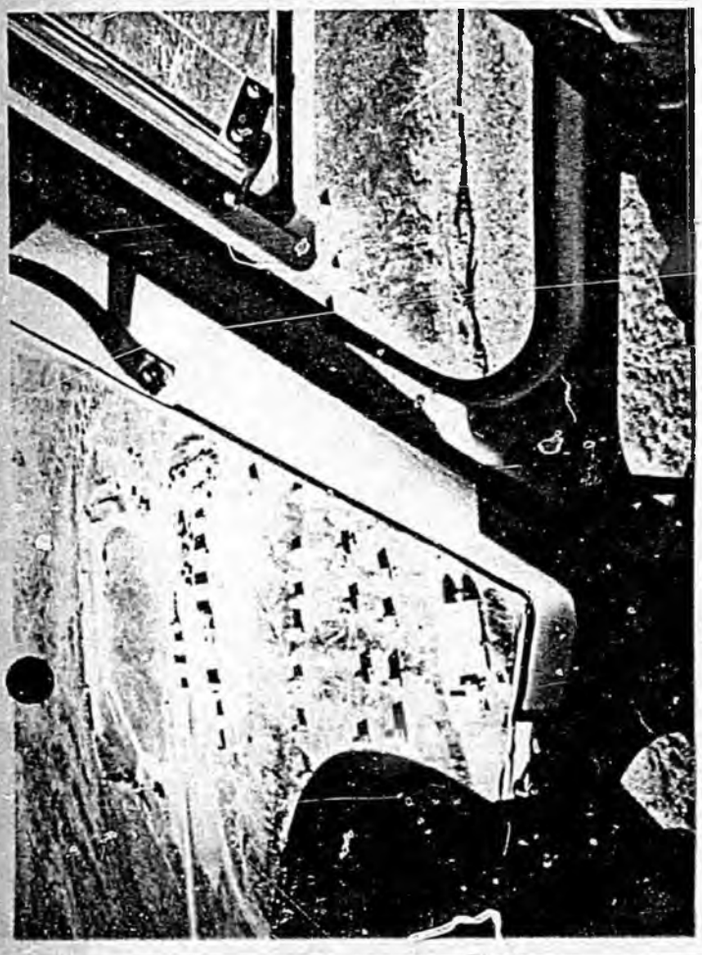


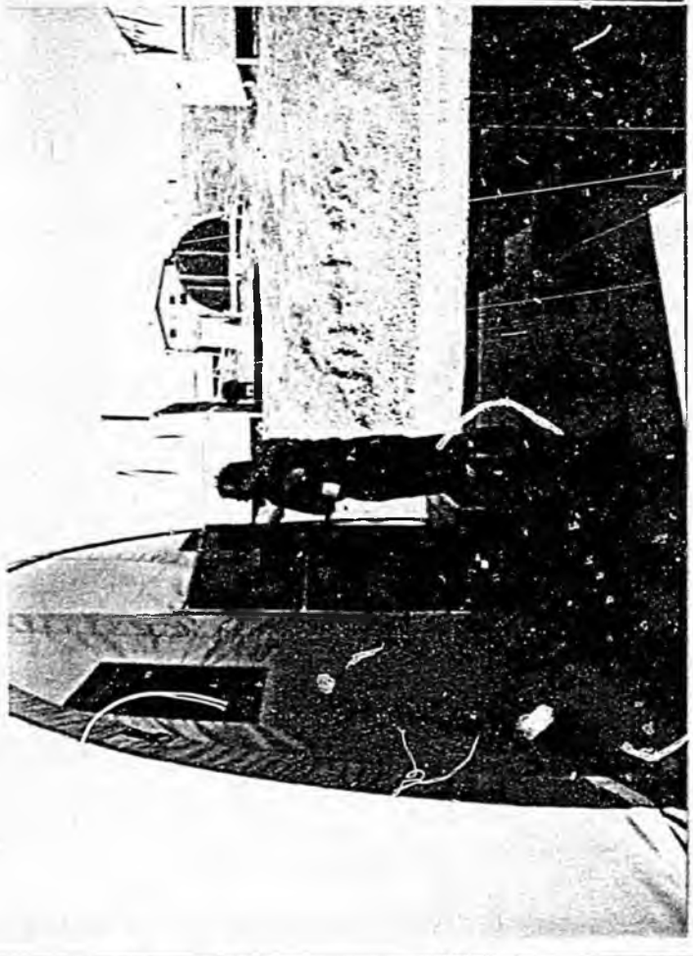


Red Dog Mine Tour
September 1984









TRIP REPORT
EMULSION ROAD CONSTRUCTION
STATE OF OREGON
AUGUST 21 - 25, 1984

Due to the fact that Alaska's road system is in a deplorable condition, the House Transportation committee continues to learn all they can about the various construction techniques. Both the House and Senate Transportation Committees have pushed for DOT to research such techniques as high float emulsion (HFE) asphalt road construction. We were involved with the resolution which urged DOT to use high float emulsion asphalt, on an experimental basis, as some of the advantages of HFE asphalt is that it stays soft longer, is considerably less expensive and has a long term advantage of being temperature stable. To date, three projects have been laid and we are expecting DOT's first report on those projects either by the end of the year or in January.

The House Transportation Committee along with the Senate Transportation Committee and Associated General Contractors of America, Inc. sponsored a Highway Symposium in February of 1984 where several presentations were given on what is happening in the area of emulsified asphalt road construction. We have also been communicating with the Yukon Territory and their use of high float emulsion surface treatments. (Almost the entire Alaska Highway has HFE asphalt surface treatment)

We are fortunate to have as the Chairman of the House Transportation Committee an individual who is knowledgeable about road construction and what is needed in the state of Alaska. Thus, when the Northwest Division of Chevron U.S.A. Inc. (who has been a leader in emulsion road construction) extended an invitation to Chairman Cato, we were eager to have yet another opportunity to observe this type of construction in progress as well as roads which have been in service for many years in the State of Oregon.

Chairman Cato, accompanied by her professional assistant, Rhonda Cargill, arrived in Portland, OR on August 21 and traveled approximately 1300 miles of Oregon roads within the next 2½ days. The following is a report of not only what they were able to learn from the trip, but also from various reports that were furnished by Chevron U.S.A.

We began our trip on the evening of August 21 with the opportunity to casually meet with Frank Begich and Susan MacFarland, both of Chevron.

On the morning of August 22, Susan MacFarland, Technical Service Representative, Asphalt Division, picked us up to begin our tour of the various construction of roads with emulsions. Susan is the chemist who meets with the people involved with road construction,

such as the county officials, state officials, and private contractors to determine which emulsified asphalt to use. Among the various factors that we learned, the key to successfully using emulsion asphalts is to select the right emulsion for the aggregate and construction system involved.

Our first stop was in Odell, Hood River County, where we met Jim Lyons, County Engineer, who then took us to observe an open-graded CMS-2 project which had been completed three years ago and one which was in progress.

Before going on, to explain a little bit what emulsified asphalts such as CMS-2 are about--

Asphalt emulsions are divided into three categories, one of those being cationic which is what the C stands for in CMS-2. Emulsions are also classified on the basis of how quickly the asphalt will revert to asphalt cement (Coalesce). Thus MS means medium-setting which means that a medium-setting emulsion is expected to mix with coarse, but not fine aggregate. And the 2 is part of the designation that denotes general viscosity (fluid's resistance to flow) for emulsified asphalt.

The first road we looked at in Hood River County is a logging road and CMS-2 was used as a surface treatment, as opposed to a reconstruction project. The medium-setting grades are designed for mixing with coarse aggregate. (which is shown in Photo 1 using the car keys to show the relationship of the size of the aggregate to a set of car keys) Because these grades do not break immediately upon contact with aggregate, mixes using them remain workable for a few minutes (break meaning basically when the asphalt separate from the water phase). The CMS grades have high viscosities to prevent runoff.

Photo #2 is showing what is called "run-off". Run-off has to do with the amount and method in which water is used in making the emulsified asphalt or the amount of water which an aggregate might contain. If too much water is present, pavement life could be reduced.

This particular road was a good project to view as the proper procedures were followed. If proper construction practices are <u>not</u> followed, the mix can prematurely stiffen and a rough surface can be produced during laydown. This road had excellent rock retention and has sufficient drainage to preserve the road surface.

Our next stop in Hood River County was to observe the application of CMS-2 by a county crew. We have no photos of this particular process, but will give and explanation of the application as we have photos of another project we watched in progress.

A factor we picked up from Mr. Lyons was the advantage of the cost effectiveness of emulsified asphalt mixes. Emulsified asphalt

mixes provide an alternative for roads that are in back woods areas yet need durable roads at a less costly method of construction, plus would not effect the environment with dust, smoke, evaporating solvents and fire hazards.

Moving on, we went up to see a pugmill used for cold mixtures. The type of pugmill that we were observing is one that is referred to as a travel plant, as it can be set up near the construction site.

Open graded emulsified asphalt is produced by mixing the emulsified asphalt with the aggregate with no heating required. After mixing is completed, the cold mix is transported and placed in virtually the same manner as hot mix. This method also allows rapid construction with minimal interruption of traffic flow. Photos #3, #4 and #5 show just that. Crushed rock is loaded into the cold feed bin which is attached to a conveyor belt which takes the rock to the pugmill mixer where it is mixed with the emulsified asphalt and then is dumped into the truck hopper. The process we were watching was the loading of 25 ton trucks in 4 minutes.

The mixed emulsified asphalt aggregate mixture which we had observed at the pugmill is basically asphalt coated aggregate particles. They are formed into a layer or blanket and are part of the roadway.

Our next stop, of course, was to the construction site where the asphalt was being laid as a reconstruction job, which is the Morse Brothers' job.

Here we watched the belly dump trucks, dump the CMS-2 asphalt in a berm followed by the spreader/paver and conventional roller. See Photos #6, #7, #8, #9 and #10.

Since the emulsified asphalt tends to be sticky, the steel wheel roller was used for compaction and then traffic would do the rest of the job.

Susan feels that after rolling it is advantageous to dry choke (dust) the surface as it eliminates the sticky surface condition and helps tighten up the surface and will seal the surface to allow a positive seal to be constructed.

That evening we met with Carlos Van Ellisberg, Public Works Director, Pendleton Umatilla County in Pendleton as he was to be show us some seal coating projects in his county. Carlos had previously worked as county engineer in Hood River County so we were able to have further discussions on the roads we had seen earlier in the day.

August 23 Representative Cato, Susan and Rhonda met with Carlos Van Ellisberg who took us to Milton Freewater area (Dry Creek) where we were given a chance to watch seal coating in process. Carlos

pointed out that this seal coating job was to add life to the pavement. We were able to see the "spray on" application of CMS-2 where as the Morse Brothers' job was a "mix in" application.

In chatting with the crew we learned how critical the timing was between spraying of the asphalt and application of the aggregate. Again we learned about the breaking and curing of the asphalt. If the asphalt emulsion is to perform its ultimate function of cementing and waterproofing, the asphalt must separate from the water phase. For seal coating, the emulsions are formulated to break upon contact with a foreign substance such as aggregate or a pavement surface. The asphalt droplets coalesce and produce a continuous film of asphalt on the aggregate or pavement. It is quite critical that the aggregate is laid immediately after the spraying of the emulsified asphalt so that the adhesion of the asphalt to the aggregate takes. This particular project was followed up with a rubber roller. A conventional roller would not be used as it would crush the aggregate and lose the adhesion or have loss of stones from the pavement.

At this project we had the opportunity to speak with the driver of the distributor and learn that the science of application is not an easy task. Each individual sprayer must be angled at a specific angle, there must be a certain number of valves open, of which none must be defective or clogged. Photo #11 is showing the valves and back of the distributor. While driving down the pavement, the driver must watch an indicator which shows the volume/pressure of asphalt being sprayed per foot of road. Photo #12 is showing the spraying application. (He has a guide which tells him what specifications which must be met.)

We also spoke with the crew of the spreader who gave us an explanation of how their piece of equipment functions. They showed us how the grave truck hooks up to the spreader and dump the rock into the spreader. The rock then travels up a conveyor belt to a screen in the front of the spreader which sifts the rock so only a certain size rock falls through the screen to the sprender and onto the road. Again, timing is important. Photos #13 and #14 are showing spreader in progress.

Our next destination was to visit with Dan Ball, Road Master of Morrow County outside Heppner. (Dan is responsible for 1100 miles of road and has a crew of 26) Here we were able to see a pavement project which was a cold mix recycling project.

Cold mix recycling basically involves salvaging the old road, adding new material (asphalt emulsion for an example), and combining it with new aggregate. You can grind up an untreated aggregated base in place, stabilize it with an asphalt emulsion, use it as a base layer then pour. At this particular project the old pavement was ground up and laid back down and then a chip seal was applied.

A point of interest which was relayed is that a lot of credit is to be given to the equipment manufacturers. They have developed improvements that allow road construction contractors to do massive recycling projects at a time when the concept really wasn't well developed. They committed a lot of capital money to the development of equipment that is now available to the user.

We then went to Canyon City and looked at a cold mix recycle job where the seal coat was lost

We overnighted in John Day and on August 24 we headed out for Bend to meet with one of Oregon's regional engineers.

Arriving in Bend we had the opportunity to have lunch with Dale Allen, Regional Engineer of the largest region in Oregon.

On route to Portland we stopped in Zig Zag to look at a stock pile mix of Spec 200. We were able to see how CMS-2 can be stock piled as it retains enough moisture and adhesion (Shown in Photo #15) that all the road crews have to do is bring their trucks in and load it up with Spec 200 for patching projects. Photo #16 is the Spec 200 stock pile.

We have also attached a copy of the map of Oregon outlining our travels to observe open graded emulsion asphalt road construction. Not included in this particular report are areas which are pointed out on the map that we didn't actually get out to observe, but discussed as we were driving on them.

We were most fortunate to be given this opportunity to learn more about emulsified asphalts and how this technique could be an alternative that Alaska should continue to experiment with and research.

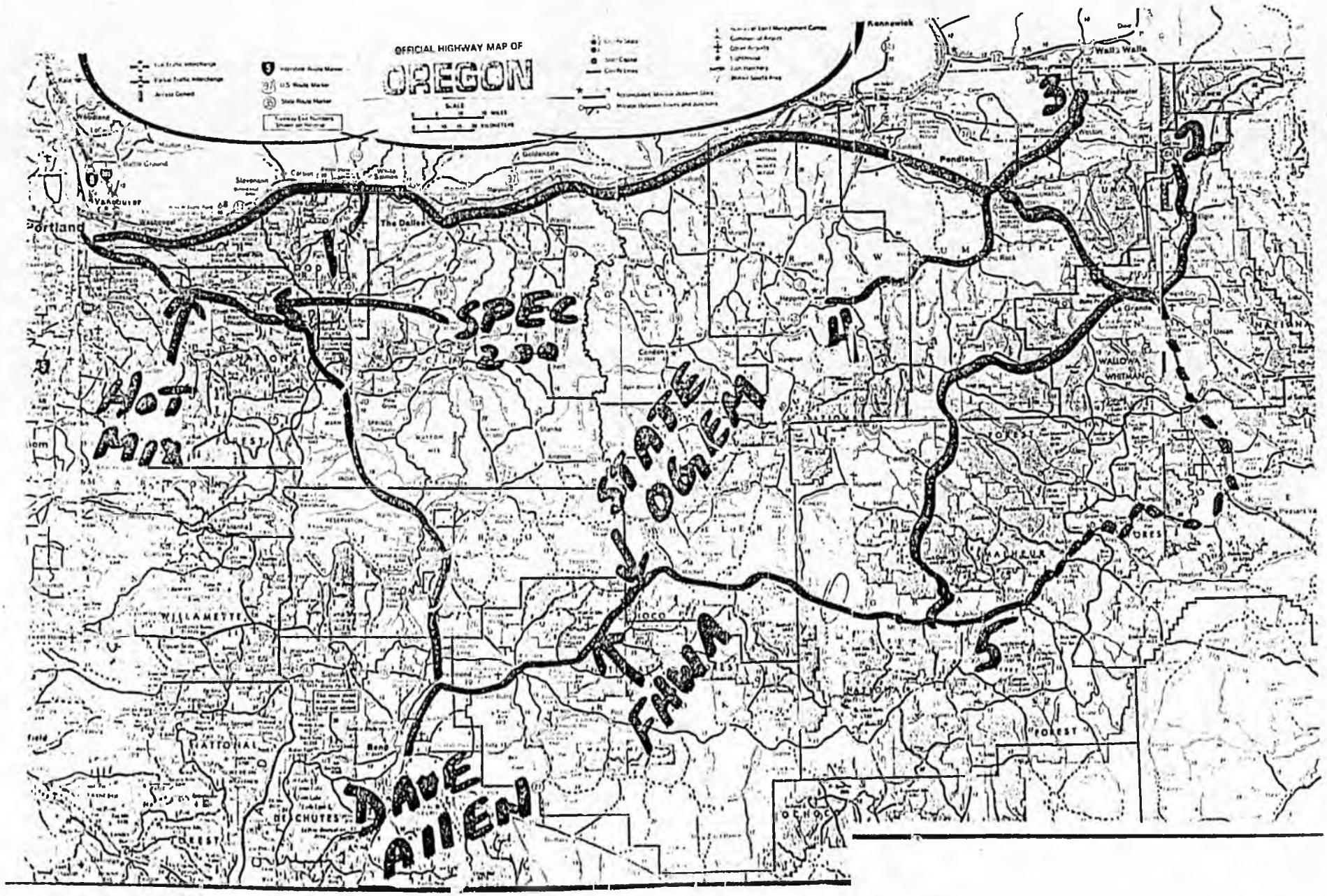
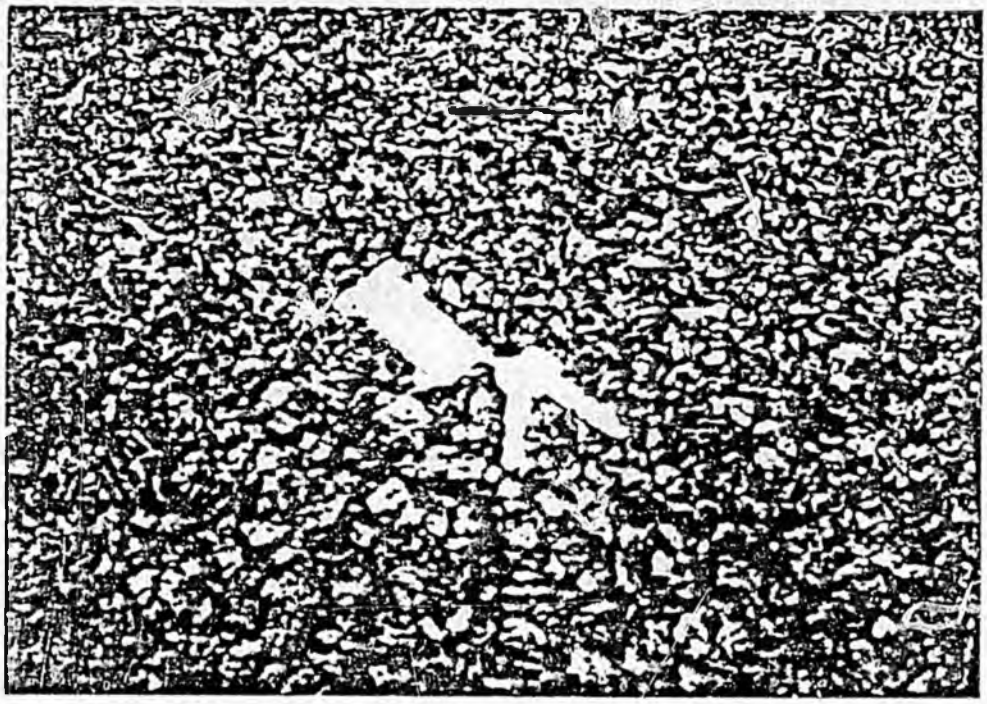

OFFICIAL HIGHWAY MAP OF
OREGON
Portland
The Dalles
Kennewick
Walla Walla
Pendleton
Hot Mix
SPEC 230
STATE OGIEM
FHWA
DAVE ALLEN
1
2
3
4
5

PHOTO #1



Keys on pavement to emphasize
size of aggregate used in mix

PHOTO #2



"RUN-OFF"

PUGMILL

PHOTO #3 crushed rock into bin

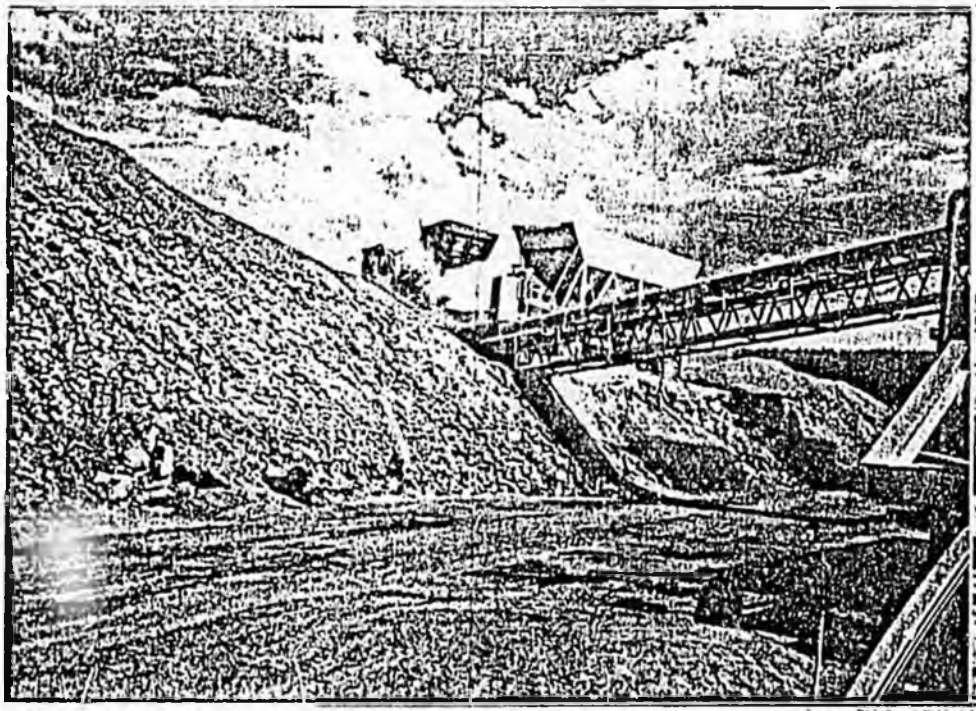


PHOTO #4 conveyor belt to mix

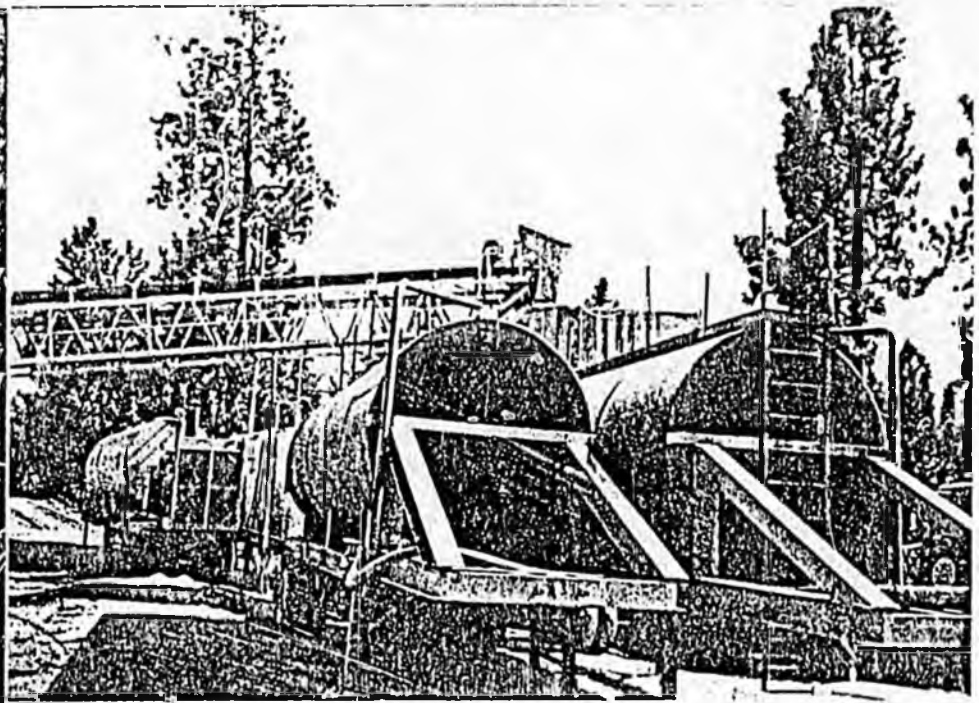


PHOTO #5
Truck loads
of mixture

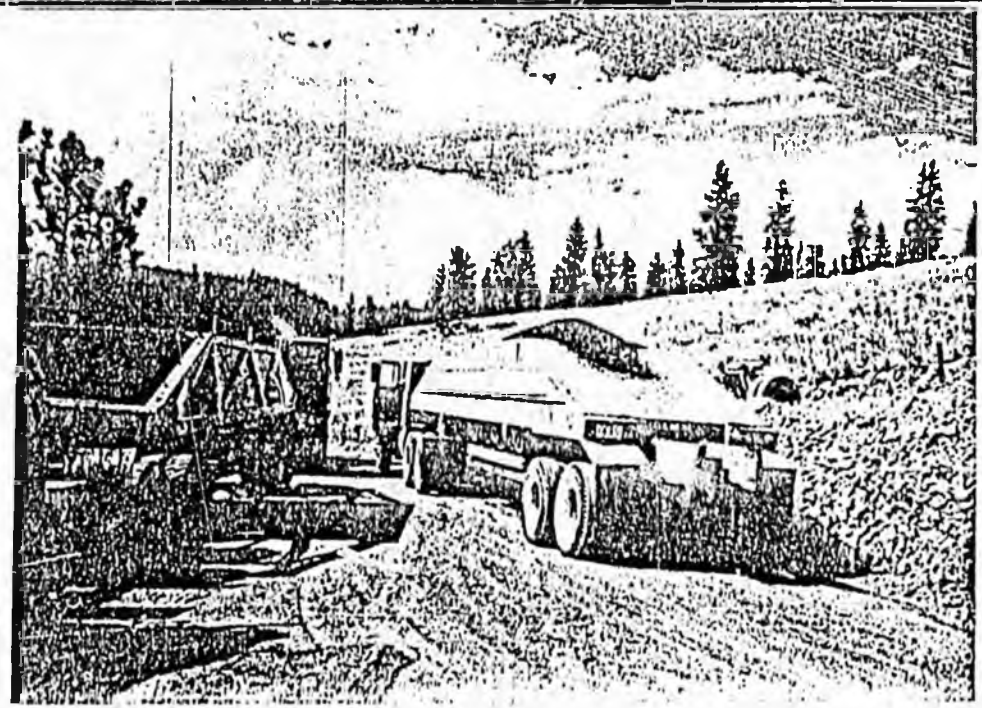
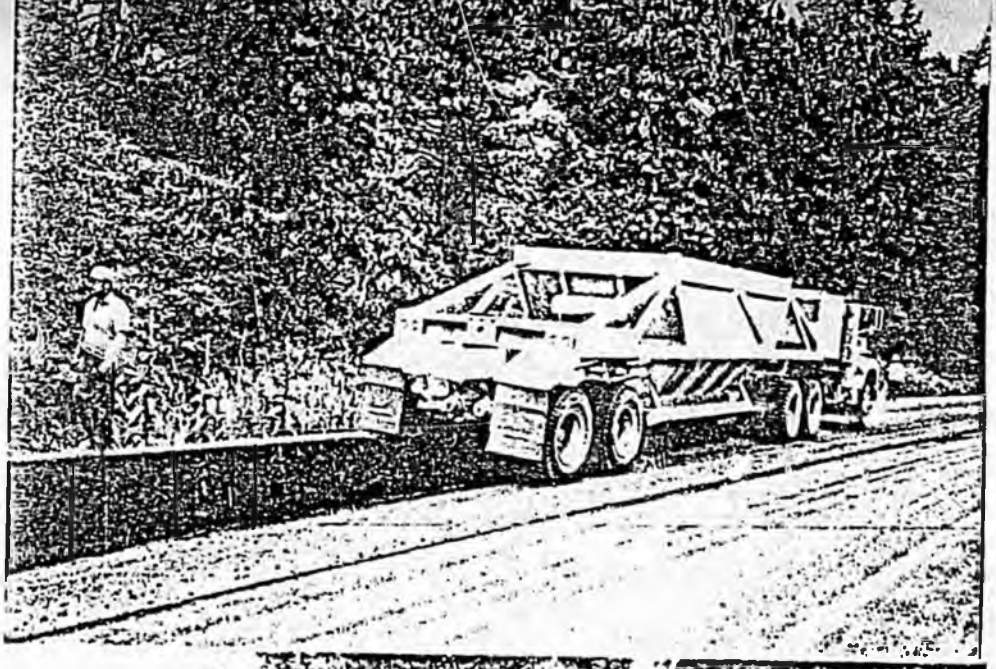
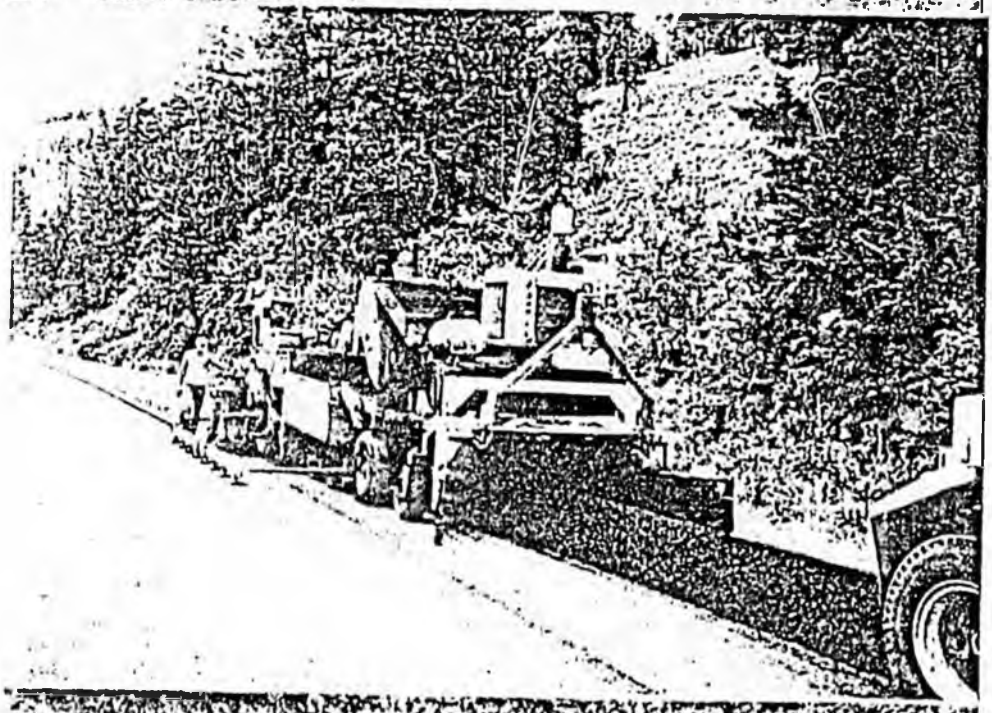


PHOTO #6



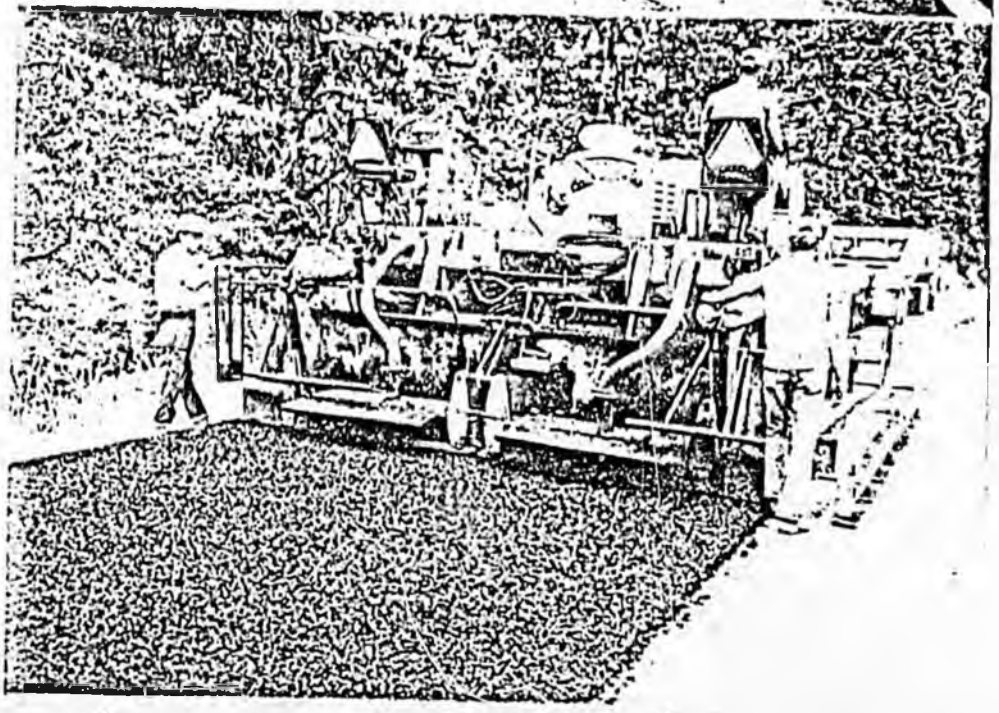
Berm of mixture being laid

PHOTO #7



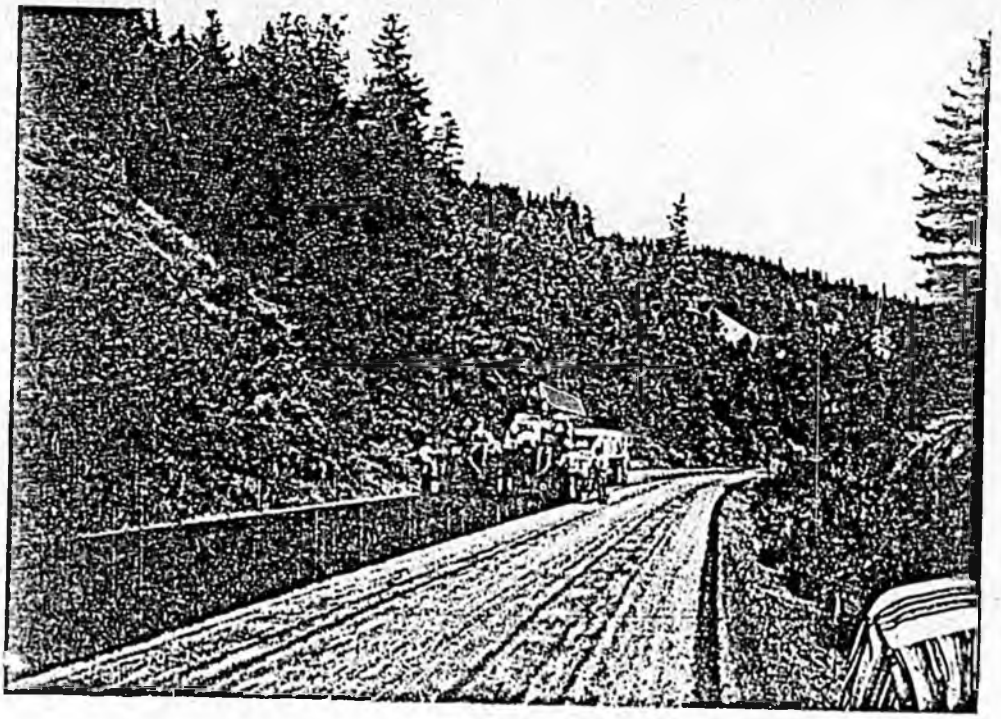
Spreader/paver

PHOTO #8



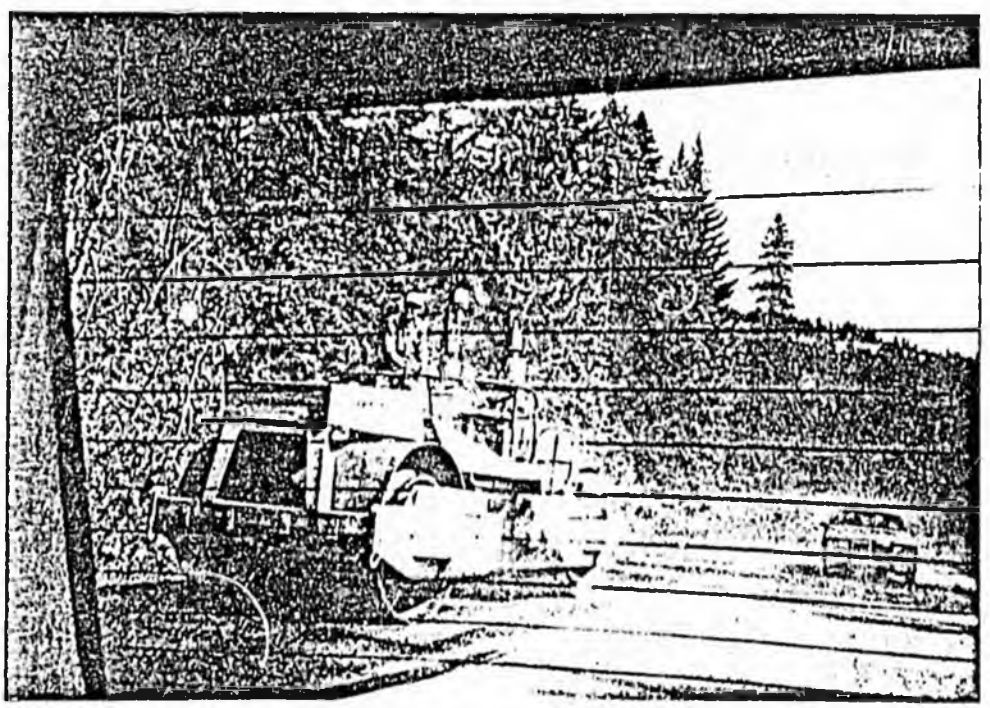
Conventional roller

PHOTO #9



Paver

PHOTO #10



Once over wit
roller and
road is open
to traffic

PHOTO #11
Distributor
values

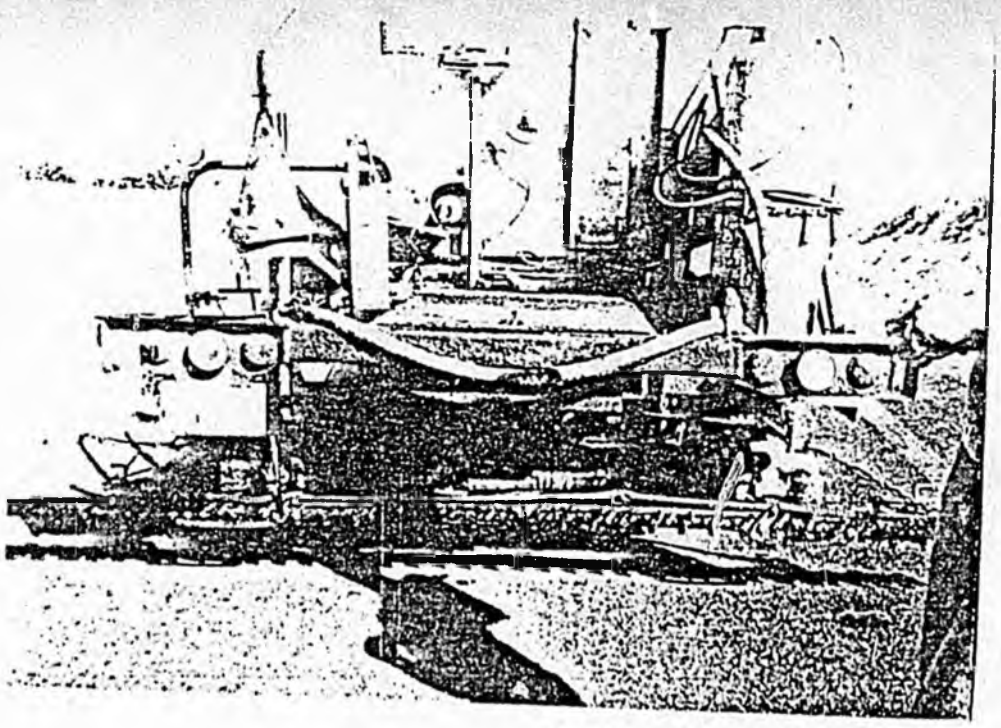
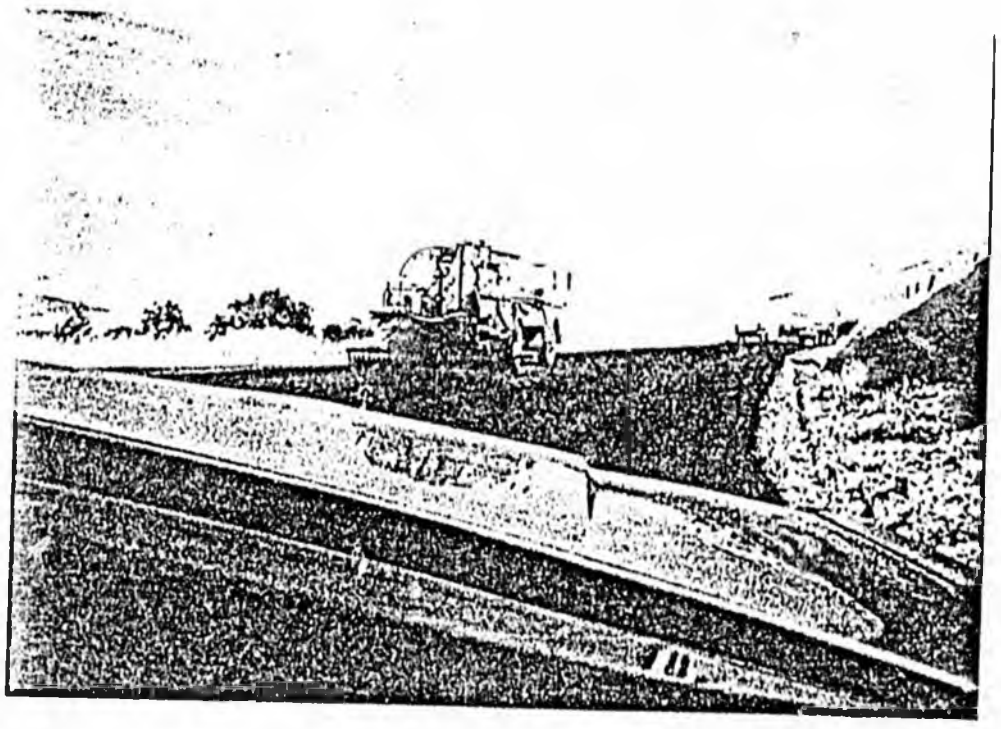
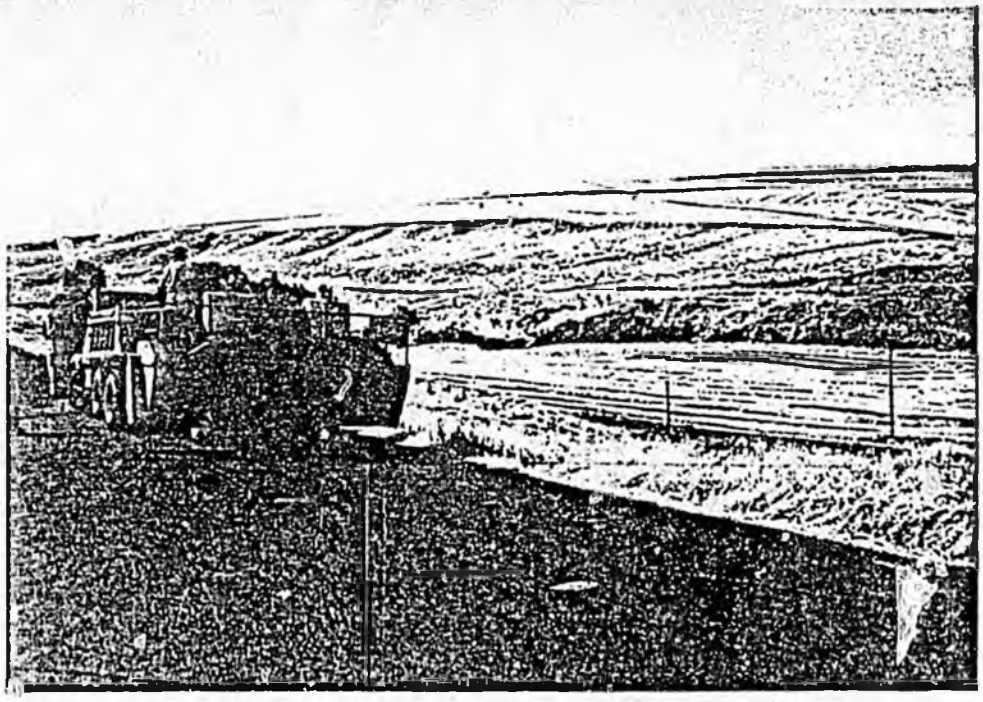
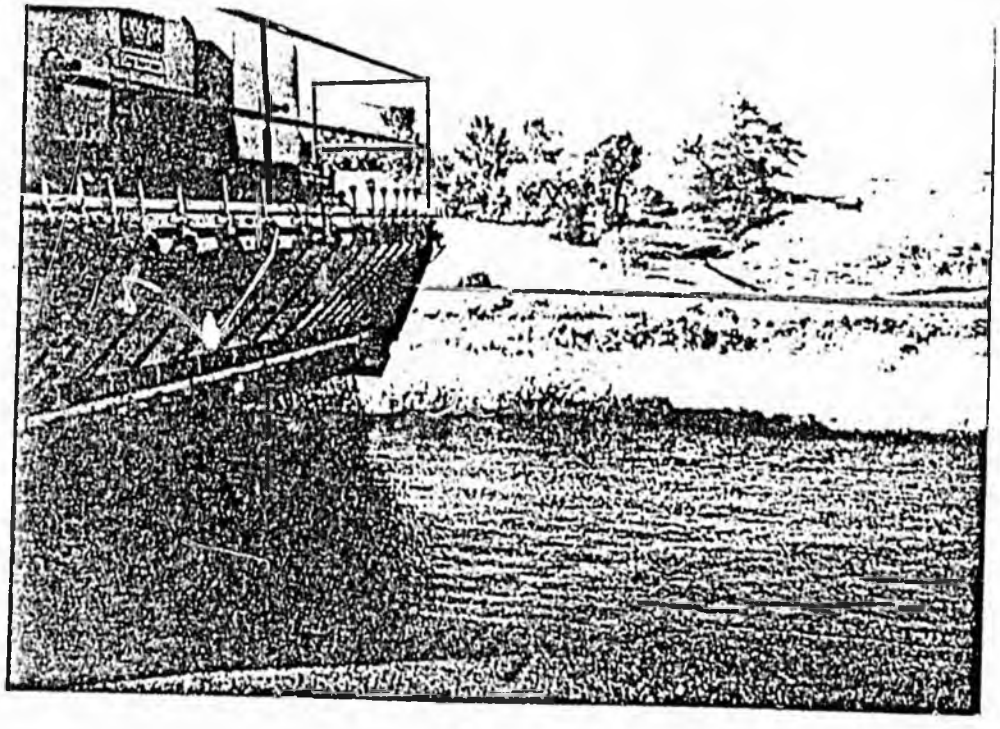


PHOTO #12
Distributor
spraying CMS-2





HOTO #13
preader with
ravel truck
ooked up to it.



HOTO #14
preader laying
ggregate

PHOTO #15 Showing "Gooey-ness" of Spec 200 stock pile

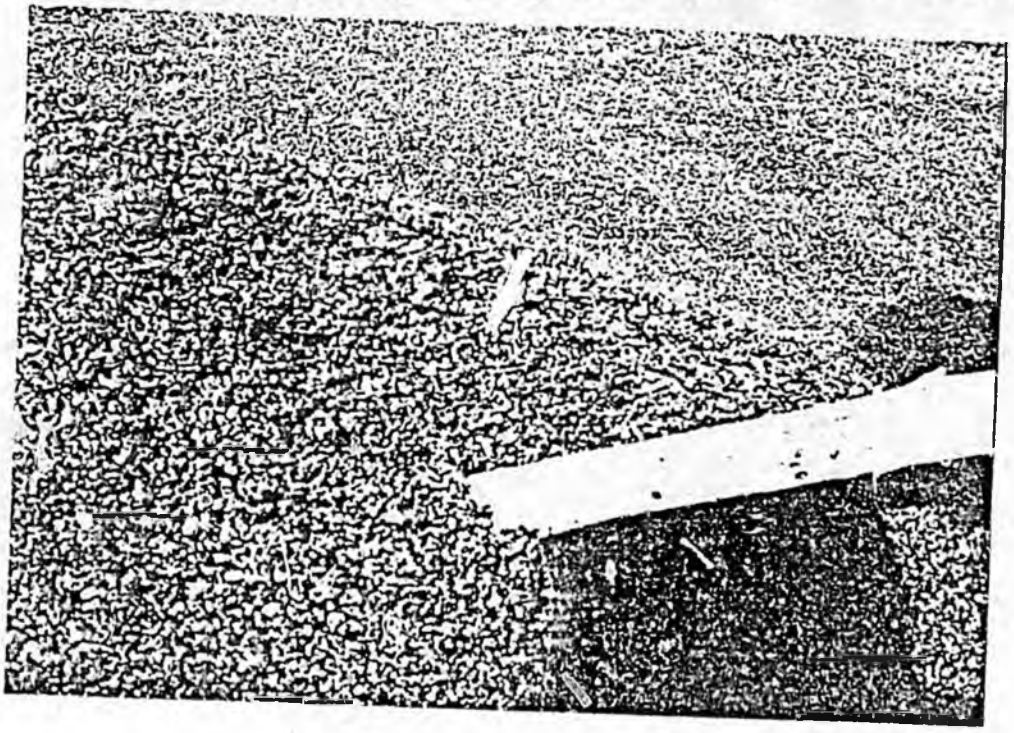
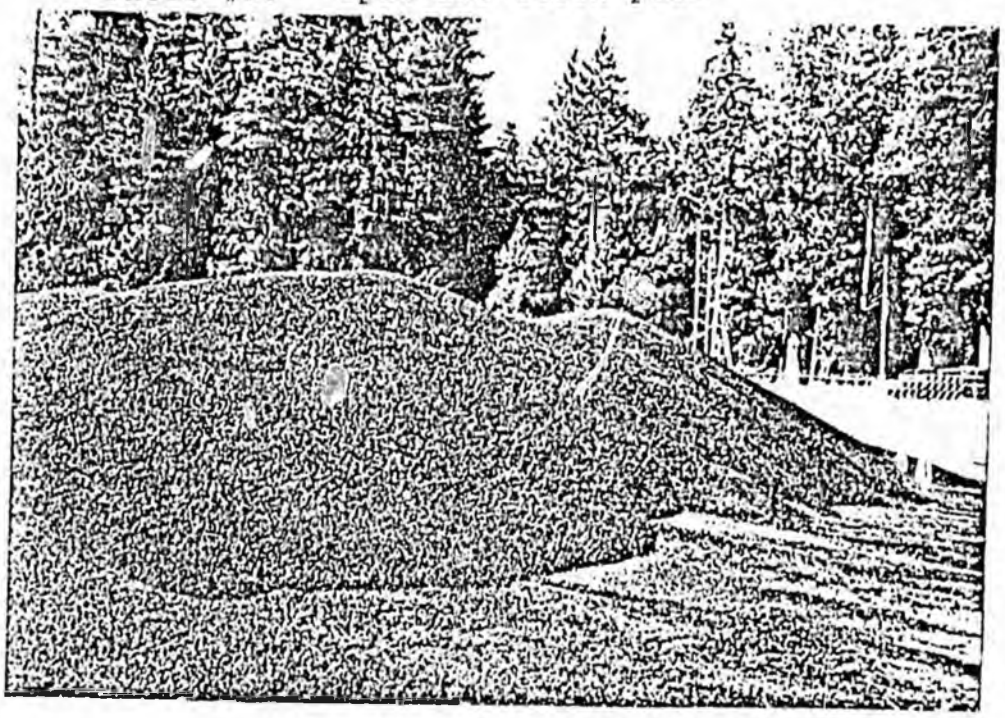


PHOTO #16 Spec 200 stock pile



Interim Report #2

11-15-84

HOUSE TRANSPORTATION COMMITTEE
INTERIM REPORT #2
November 15, 1984

Representative Bette Cato
Chairman

Alaska State Legislature

REPRESENTATIVE
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House of Representatives

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
HOUSE COMMUNITY AND
REGIONAL AFFAIRS

M E M O R A N D U M

November 26, 1984

TO: Members of the House Transportation Committee

FROM: Representative Bette Cato
Chairman, House Transportation

SUBJECT: Interim Report #2

Enclosed is your copy of the House Transportation Committee's Interim Report #2.

enclosure

HOUSE
TRANSPORTATION
COMMITTEE

INTERIM REPORT #2

REPRESENTATIVE BETTE CATO
CHAIRMAN

NOVEMBER 15, 1984

MEMBERSHIP
HOUSE TRANSPORTATION COMMITTEE
THIRTEENTH ALASKA STATE LEGISLATURE

REPRESENTATIVE BETTE CATO, CHAIRMAN

REPRESENTATIVE MIKE W. MILLER, VICE-CHAIRMAN

REPRESENTATIVE MITCH ABOOD

REPRESENTATIVE ROBERT H. BETTISWORTH

REPRESENTATIVE MIKE DAVIS

REPRESENTATIVE JOE FLOOD

REPRESENTATIVE ADELHEID HERRMANN

REPRESENTATIVE JOHN SUND

REPRESENTATIVE MIKE SZYMANSKI

COMMITTEE STAFF:

RHONDA CARGILL

LORETTA KNIGHTLINGER

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

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HOUSE TRANSPORTATION COMMITTEE
INTERIM REPORT NO. 2
OCTOBER 15, 1984

The following report constitutes the second report of the House Transportation Committee to the Majority Leader. This report highlights staff activities and updates issues covered in Interim Report No. 1 of September 15, 1984.

CAPITAL PROJECTS CLEANUP EFFORT

Staff attended the Senate Transportation Committee meeting of October 2, 1984 which included a work session with the Capital Projects Cleanup group. You may remember reading articles in the newspapers relating to this topic. Copies have been provided in this report should you have missed them.

According to the news articles, the Department of Transportation has failed to begin more that 800 million dollars worth of construction projects approved by the Legislature. To help clarify this statement, we have provided a verbatim transcription of the October 2nd work session, a copy of the Capital Projects Cleanup Interim Report No. 1 (originally distributed to committee members toward the end of the thirteenth session and the Capital Projects Cleanup Status as of September 27, 1984. (See Attachment A.)

During the Senate Transportion Committee meeting, as noted on page six of the minutes, you can see that the 897 million dollars is AUTHORIZATION - be it general fund or federal authorization. The determination the Capital Projects Cleanup group has been attempting to make is to account for these authorizations. The key word used in this entire CPC explanation is authorization and also is where the confusion begins.

At the present time, the Department of Transportation hasn't been able to give us a definite date as to when to expect the final report on the Capital Projects Cleanup, but we definitely know that there will be a report for the Fourteenth Legislature.

ALASKA RAILROAD TRANSFER

October 2, 1984, staff attended the Senate Transportation Committee meeting in Anchorage held to assess the transfer process of the

railroad from a labor, management, and Federal Railroad Administration perspective.

The main topics of discussion included the temporary employee issues; educating the employees of what was happening during the transfer; and policy concerning maintenance and safety.

It was pointed out by Mark Hickey of the transfer team that "this is a difficult time and that lines of authority are confused. The federal government still owns and operates the railroad. The Federal Railroad Administration (FRA) has the type of oversight they've always had. The State, as part of the federal transfer law, has specific authority over three kinds of actions by the railroad: any lease of land or real property in excess of five years, any individual capital expenditure in excess of $300,000.00 and any attempt to sell or dispose of real property. Other than that there are no formal arrangements where the State has any control over the railroad decision making. We (State) do have pretty close cooperation. In any actions of this type, the State will be alerted and briefed prior to implementation. Standard operation procedures should be followed."

During the discussion of the temporary employee issues, there was concern from employees and ex-employees of the railroad that no effort was being made to protect the railroad employees; they have no reemployment rights due to the fact that they were employed as temporary workers with the railroad and the temporary employment status was a result of a federal hiring freeze.

Mr. Hickey of the transfer team admitted that the temporary employee question is a problem and that the State agreed that the temporary employees on board at the date of transfer will be reemployed the next day with full benefits. He pointed out that the Board has to resolve the question of what commitments they want to make to the temporary employees that were previously terminated. In addition, he explained that any personnel action of the railroad today has to be in accordance with collective bargaining agreements and federal rules and procedures.

Mr. Blasigame, of management, explained that the temporaries being discussed were basically hired because of the 7.6 million dollars appropriated for railroad capital improvements when the (Alaska Railroad Transfer Act (ARTA) was passed. Thus, funds for capital improvements created jobs and the people hired were for temporary appointments.

Mr. Blasigame further explained that "one of the problems we face is that the Alaska Railroad is part of the FRA, U.S. Department of Transportation which has a mandate for man hours. When we appoint an individual, they get a career service appointment, that's permanent, versus temporary. If you let that person go, it's an adverse action, you go through a reduction in force procedure, and they have certain rights and benefits under federal regulations. When a temporary comes on, they know it's temporary, but we got a

waiver from the Office of Personnel Management to extend those appointments because of the requirement that was placed on us by federal OMB to stay within a certain guideline. We're still under that mandate."

Also brought before the committee was the problem of employee unrest due to unanswered questions about the transfer.

Mr. Allison conveyed to the Committee "It should be incumbent upon us (feds) to keep employees informed--admittedly we are somewhat late."

Mr. Valinske of the United Transportation Union (UTU) added that although UTU doesn't have the problem some other unions have, he felt that management has given them information that has been available. He also pointed out that although the FRA has been slow in getting information out, the state and the transfer team have been helpful.

Employees brought before the committee questions regarding the change in policy concerning maintenance. Several examples were given to which the railroad management and transfer team could answer various employee concerns.

Mr. Polanchek explained that "The gradual change has been occurring over the last ten years. Anchorage has always been our primary maintenance facility for locomotives and all our rolling stock--repairs, overhaul, any major function would come to Anchorage. Fairbanks is gradually phasing out, it's more of a troubleshooting operation, refuel, inspections, nothing really significant...The need for the type of skills and technicians that we had previously in Fairbanks has changed and it's become more of a service station where all we're doing is normal daily inspections. All of our locomotives are based in Anchorage, they go to Fairbanks and return to Anchorage....Major maintenance and servicing will be done in Anchorage."

Mr. Allison stated that "the FRA in Washington has a strong interest in a successful transfer, and that means that the railroad is a successful post-transfer. There is no economic incentive for the federal government to cut maintenance expenses. That lessened expense is merely going to the revolving fund which is transferred to the state minus federal obligations. We've been working in every way possible with the state to involve them in a current basis in decisions and we look forward to doing the same thing with the board once it's appointed...All money comes from the revolving fund which transfers to the state minus any current obligations to the federal government. If we started cutting expenses in that way, it would just add to the revolving fund. There is no economic incentive for us to do this in any case."

Attachment B includes informational letters of August 1984 and September 1984 to all railroad employees from the FRA and transfer

team, and minutes of the October 2, 1984 Senate Transportation Committee meeting.

ALASKA RAILROAD BOARD
CHAPTER 153, SLA 1984

Chapter 40. ALASKA RAILROAD CORPORATION, ARTICLE 1. Section 42.40 020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the commissioner of transportation and public facilities and five members appointed by the governor. The five appointed members must be registered voters in the state except as provided in (1) and (2) of this subsection. Except for the commissioners and the member appointed under (5) of this section, a member may not be a state officer or employee. Appointed members shall have the following qualifications:

(1) one member of the board shall be a person who has at least 10 years of experience in railroad management; a person who is not a resident of the state may be appointed under this paragraph;

(2) one member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirement imposed under 49 U.S.C. (Interstate Commerce Act); a person who is not a resident of the state may be appointed under this paragraph;

(3) at least one member shall be from each judicial district directly served by the Alaska Railroad;

(4) one member shall have at least five years experience as owners or managers of a business in the state;

(5) one member shall be an employee who is a member of a bargaining unit representing employees of the corporation.

(b) Except for the commissioners, the members of the board shall be confirmed by a majority of the members of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature or the legislature adjourns without confirming the member. (Attachment C is Chapter 153, SLA 1984)

Governor Sheffield has appointed the following individuals to serve on the Alaska Railroad Corporation Board of Directors:

James Campbell, 52, president of Spenard Builders Supply and a former Anchorage city councilman and borough assemblyman; will serve a five-year term;

Lewis Dickinson, 52, a civil engineer and member of th Anchorage Port Commission; will serve a four-year te

Gerald Valinske, 33, who will fill the seat designated by law for a representative of a labor union affiliated with the railroad; will serve a three-year term;

Frank Chapados, 70, Fairbanks, president of H & S Forwarders Inc. and a former State representative who will serve a five-year term;

Commissioner Richard Knapp, Department of Transportation and Public Facilities; and

Commissioner Richard Lyon, Department of Commerce and Economic Development.

The Alaska Railroad Board has held 3 meetings. To date, the only available minutes are of the October 26th meeting. (Attachment D)

The Alaska Railroad Board selected Frank Turpin, president of the Alyeska Pipeline Service Co. as chief executive officer of the Alaska Railroad.

Other railroad related topics which staff have been following include Seward's protest of the appointment of Lew Dickinson, which the ICC has ruled as having no conflict on interest; Frank Chapados conflict of interest, of which no decision has been made at the time of this report; and in general, the progress of the work plan of the transfer team.

CHAIRMAN CATO'S TRIP TO JUNEAU

Representative Cato made a trip to Juneau the week of October 21st to follow up on her meetings during her trip to Juneau in August. The following is a brief summary of what was accomplished while she was in Juneau.

Chairman Cato met with Joe Camp, Deputy Commissioner of the Marine Highway System to discuss the Marine Highway System (MHS).

To better explain negotiations with the ferry employees, here is some background as to how we perceive what is happening:

Currently the ferry workers are represented by the Inland-boatmen's Union of the Pacific (IBU-P). It is the IBU-P which has been at the bargaining tables with the State since this spring, but no agreement has been reached.

The Inland Boatmen's Union of Alaska (IBU-A) was going to seek an election of union representation, but decided against it until IBU-P had a contract proposal for the workers or bargaining talks terminate again.

The International Longshoremen's and Warehousemen's Union (ILWU) filed a petition with the Labor Relations Agency to force a union representation election.

The State has posted the notice of election of which there is a 3-4 week posting period, then a protest period, which was the status when Chairman Cato was in Juneau. If the protest goes to election, then it could tie things up and it could go to court. Thus the situation has now become the need to establish with whom the State will negotiate.

Representative Cato and Mr. Camp also discussed the profitability of the M/V Bartlett during the summer months in the Prince William Sound, the alternatives available for a high speed ferry system for southeast, the centralized reservation system, and how to resolve the problem MHS is having with the senior citizen resolution and how it is being abused by retired magazines.

Representative Cato also had two meetings with Commissioner Knapp to discuss the progress of the Capital Projects Cleanup group, when FIS will be on-line, the Valdez terminal building, San Juan Dock repairs, appointments to the Alaska Railroad Board, and basic operating/capital budget discussions.

Representative Cato met with Gretchen Keiser and Alexander Hoke of the House Research Agency for a briefing on rural energy programs to prepare for her panel discussion at the Alaska Municipal League.

Representative Cato had a breakfast with Commissioner Endell to discuss the prison in Seward.

AS 23.40.210. Agreement
LABOR AND WORKERS' COMPENSATION

Captain Dick Hofstad has been in contact with Representative Cato and staff regarding the intent of AS 23.40.210 relating to cost-of-living pay differentials between Alaska Marine Highway employees who live in Alaska and those who live outside the state. The purpose, of course, is to encourage employees of the Marine Highway system to live in Alaska.

Captain Hofstad had been disturbed about the implementation of this statute and in his opinion, it was not being followed.

On October 12, staff was invited to attend a meeting involving Captain Hofstad, Deputy Commissioner Joe Camp, Marty Nusbaum with MHS, Karen Clark with Labor Relations and Guy VanDoren, with Senator Ziegler's office.

Staff is still in the process of researching the various opinions by the Attorney General's office relating to collective bargaining agreements negotiated with the unions. In October of 1978, the Inlandboatmen's Union of the Pacific filed suit against the Alaska

State Personnel Board and the Alaska State Labor Relations Agency. That case has been given to the Federal District Court and at the writing of this report, we are awaiting the judge's decision.

CONFERENCES ATTENDED

*First Annual Washington Transportation Safety Conference

Representative Cato attended the first annual Transportation Safety Conference in Seattle during October 1-3. She found this conference to be a full and complete informative meeting and highly recommends that it be attended next year. Attached is a copy of a memorandum from Chairman George Walk, of the Legislative Transportation Committee to the participants of the conference and enclosing the detailed agenda and a list of those attending.

*National Association of Governors' Highway Safety Representatives

Representative Cato attended the highway safety conference in Des Moines, Iowa during September 9-13, 1984. The conference covered all facets of highway safety and was a very informative meeting.

The agenda included:

Highway Safety Progress in Combatting the Drinking Driver Problem

What is Prevention?

408 and license Suspension

National Commission Against Drunk Driving

DWI Decision Making in the Higher Courts

Motorcycle Helmets and Safety in the 80s

Highway Safety Traffic Records: The New Law and Computerized Guidelines

Occupant Protection: Motivate and Mandate

Special Workshop on Child Passenger Safety and the New Law

K-12 Traffic Safety Education

Motor Carrier Safety

Commercial Vehicle Safety

Hazardous Materials Safety, Transportation

The Flagman, Traffic Safety and You

Key Management Issues in Federal/State Interaction
- -child passenger safety/traffic records plans
- -the single audit and attachment "p"

-communications between NHRSA and NAGHSR
-training available to the states

Attachment E, for your future information, is a listing of the Governor's Highway Safety Representatives and Coordinators.

*Multistate Highway Transportation Agreement Committee

Representative Cato was invited to represent Alaska on the Legislative Panel for the Multistate Highway Transportation Agreement Committee November 8, in San Diego, California. The main topic of this panel was the recent amendments to the state size and width regulations to conform to the Surface Transportation Assistance Act (STAA).

GENERAL SUMMARY OF OTHER ACTIVITIES

Other topics which the House Transportation Committee staff has been covering include:

Complaint received from District Manager of Colt Industries regarding bidding process for engines on the M/V Matanuska. After reviewing the various materials which Mr. Decker supplied to the committee, discussions with the Deputy Commissoner of the Marine Highway System and the Commissioner of Department of Transportion, it was surmised that Mr. Decker did not have a valid complaint. Should any member wish further information on this topic, staff would be more than happy to provide further details.

Wien Employees Acquisition Committee's attempt to purchase Wien Airlines by its employees. Staff was asked by Representatative Szymanski to look into this matter to determine if there was anything the Committee could do to assist the Wien employees with their situation. As it turns out, there is nothing the Legislature can do at this time to assist the Wien employees.

Please find enclosed a DRAFT summary of the use of high float emulsion treatment by Billy Conner, Research Engineer of the Research Section of the Department of Transportation. We will be receiving further reports on this treatment as DOT determines the success or failure of the high float emulsion projects. (See Attachment F)

The Department of Transportation and Public Facilities has also provided our committee with a copy of the "Summary of Capital Appropriations FY 85" which present an overview of the capital funds appropriated to and through the Department of Transportation from Chapter 24 (HB 691), Chapter 22 (HB 636), Chapter 18 (SB 364), Chapter 45 (SB 94), Chapter 171 (SB 409). Chapter 136 (HB 452), and Chapter 92 (HB 487) SLA 1984. In addition, an analysis is included of the repeals, reductions,

and scope changes from Chapter 171, SLA 1984 (SB 409). Copies of the Summary are available upon request.

The following is an update on the invitation for bids by the Department of Transportation and Public Facilities, taken from the Administrative Journals:

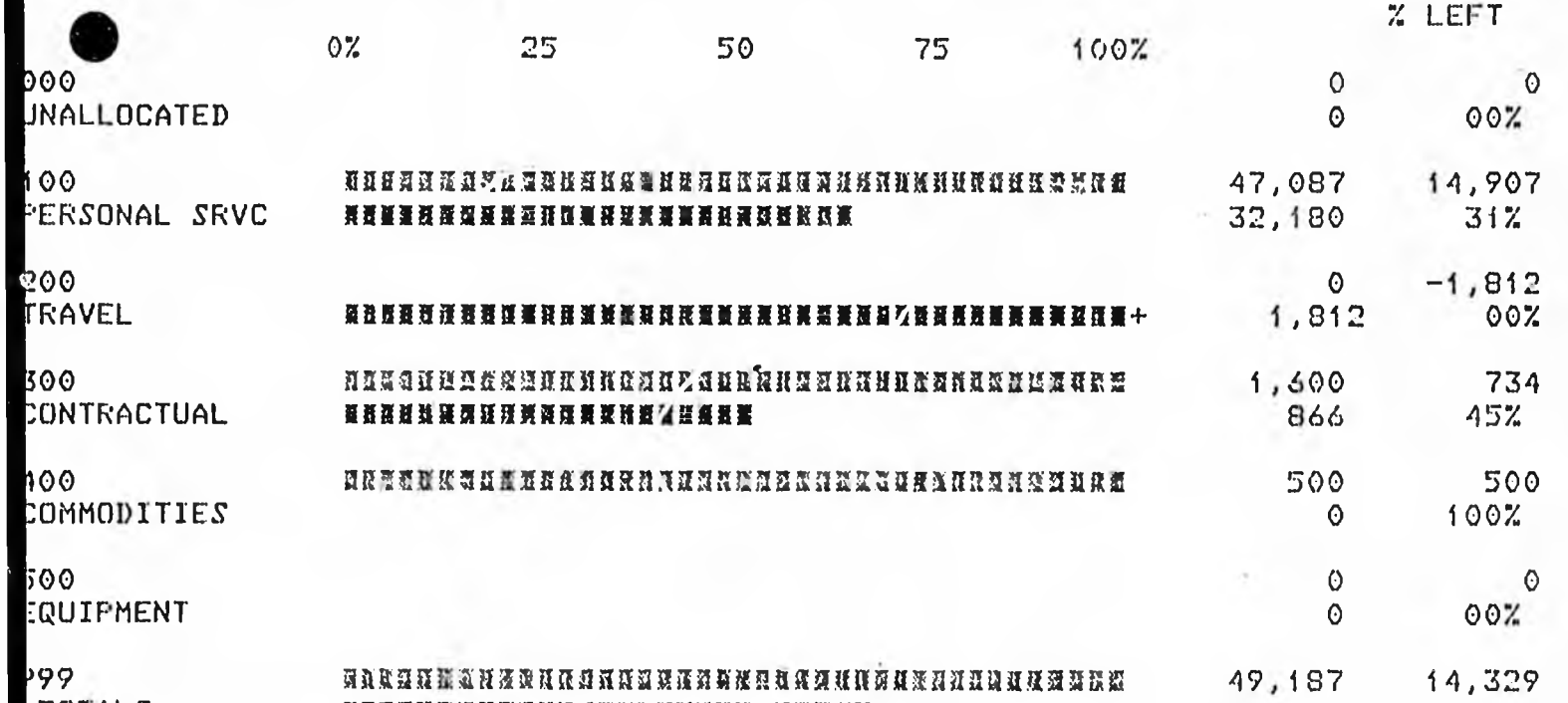
-Project No. G-27035, Tok Area Road
-Project No. A-86281, Miller House Bridge
-Project No. D-35331, Ruby Airport Runway Expansion
-Fence for Equipment Storage, Peger Road, Fairbanks 85-25-2-30
-Land Lease, Homer Airport
-Land Lease, King Salmon Airport
-Land Lease, Dillinghanm Airport
-Juneau-State Office Building and Alaska Office Building Handicapped Restroom Modifications
-Project No. R-20009, Nulato Scout Armory
-Umiat Airport Maintenance
-Fairbanks International Airport Terminal Gift Shop Concession
-Project NO. BRS-750(4), Maclaren River Bridge and Approaches
-Project NO. X-40124, Nome Office HVAC Retrofit
-Upgrade Barrow Employment Center
-Project No. MT-347, M/V Taku Reballasting
-Project No. A-86131, Old Chena Hot Springs
-Project No. R-20030, Gakona Remodeling and Multipurpose Addition
-Project No. R-60071, Fairbanks Jail Remodeling
-Project No. RS-I-0A2-1(1), Robertson River to Yerrick Creek
-Project NO. MT-349, M/V Aurora Drydocking and Repairs
-Project No. MT-351, M/V Tustumena Drydocking and Repairs
-Project No. MT-350, M/V Columbia Drydocking and Repairs
-Mitkof Highway Ferry Terminal to Scow Bay, Petersburg
-North and South Tongass Raised Pavement Markers, Ketchikan
-Hoonah Harbor Maintenance Dredging
-Hydaburg Creek Bridge
-Mendenhall Spur West, Juneau
-Klawock to Hollis, Stage 1
-Hoonah Airport Clearing
-Project No. HES-071-1(54), Airport Road and Richardson Highway Intersection Beacon
-Carpet and Vinyl Sheet Floor Covering, Fairbanks Pioneer Home
-Vinyl Fabric Wall Covering, DOT/PF Administration Building, Project No. 85-25-2-34, Fairbanks
-Gift Shop Concession, Fairbanks International Airport

INTERIM

BUDGET

2513 HOUSE TRANSPORTATION

ITEM	NAME	BUDGETED	EXPND	ENCUMBERED	% EXP
000	UNALLOCATED	0000000	0000000	0000000	000
100	PERSONAL SRVC	0047087	0028196	0003984	059
200	TRAVEL	0000000	0001812	0000000	100
300	CONTRACTUAL	0001600	0000866	0000000	054,
400	COMMODITIES	0000500	0000000	0000000	000
500	EQUIPMENT	0000000	0000000	0000000	000
999	TOTALS	0049187	0030874	0003984	062



BLACK=AUTHORIZED BUDGET RED=EXPENDITURES GREEN=ENCUMBRANCES
THROUGH 1084
ACCOUNT CHAIR: CATO

ATTACHMENT "A"

Senate Transportation Committee
Committee Work Session

Anchorage Legislative Information Office
October 2, 1984
3:00 p.m.

Capital Projects Clean-Up Report

Present: Senator Moss, Chairman
Senator Fahrenkamp
Senator Faiks

Absent: Senator Kerttula
Senator Gilman

Other legislators participating: Representative Abood

Witness:

Jim Merrill
Capital Projects Clean-Up Group
Office of the Commissioner
Department of Transportation & Public Facilities
Pouch Z
Juneau, AK 99811

ACTION NARRATIVE -VERBATIM TRANSCRIPT

Interim tape #4, Side A

No tape log numbers are recorded as no tape counter was available.

Moss: We have Jim Merrill here. Jim, if you will give us your name, etcetera, for the record, we'll get started on this.

Merrill: My name is Jim Merrill, and I am the Special Projects Engineer for the Department of Transportation. Specifically have been for one year assigned to the capital projects clean-up effort which was really a result of the question from the senators and this committee previously on problems with managing our capital projects. You have a handout there basically of the status of our project as of the 27th of Septeml ... I have a kind of a flip-chart presentation here. I have two things today, two emphases. One is to bring you up to date where we are, what we have done so far and the second is to once again like we have in the past, come to the committee and ask for some help in the approach that we doing, we are not asking for money to do that, but we are at a crossroads where we need to know if the type of solution is basically the type of thing that the senators,

this committee can at least understand and endorse. And so if there's no other questions I can go right into my presentation.

Moss: I appreciate it very much if you would Jim.

Merrill: I'm not much of an artist but...in honor of the railroad, you see that we have a problem here. We have come here, but the other track is down here, and you might say that this side is where we have the information and now we have to...

Faiks: I wish you wouldn't have used the railroad for this little example of your accounting problems.

Merrill: I really didn't realize it until I sat back there...

Faiks: You see how sensitive we are on this!

Merrill: When I heard about moving money from one account to the other, you need CPC, you need the Capital Projects Clean-Up Committee and I'm not volunteering though, remember that.

Faiks: Listen you guys are going to go department to department, you know Fish & Game has the same problem, doesn't it, Bettye?

Merrill: Health & Social Services

Fahrenkamp: Oh God, don't ever volunteer for HESS, you'll be there the rest of your life.

Merrill: But we do have the problem that you're well aware of, and we do have to thank you from the Department for the help that you've given. You have been a big help and we'd like to bring you up to date on what we're planning now to kind of wind it up. The problem is we're here, we've got to get through there, and that's the problem as we're well aware. We have the information, how do we understand what we have and how do you understand what we have. The approach, you see, and the light is red here (referring to flip chart). The first thing I want to tell you that we have discovered, without a hundred years and a hundred accountants, and I saved the little newspaper article, I wish I had it with me, it came from Argentina, where right now there is a hundred civil servants pawing through six foot stacks of papers trying to figure out how much they owe. They don't know whether they own $20 billion or $48 billion.

Faiks: You're not comparing us to the Argentines, are you?

Merrill: No! But I do want to make the point to the committee that there is no practical way, both timewise and cost-effectiveness-wise, to make a strictly accounting reconciliation.

Fahrenkamp: You couldn't make an accounting reconciliation if you were here for the next hundred years.

Merrill: That's right. And that's, that is the first emphasis that I'd like to have understanding on, that we cannot make, practically, an accounting reconciliation.

Moss: That's all past the bench now.

Faiks: How much money are you short in making that reconciliation, are you going to tell us that or is that three pages down after...?

Merrill: Well I'm going to tell you how we're going to get there. We have the information, it will be coming to you in report form, in maybe less than three months. Okay? But you be aware of that.

Faiks: Now what's the bottom line? How much, what's the gap there in your tracks?

Merrill: One thing I can tell you is that we had when we started $45 million dollars worth of projects overexpended. We have reduced that, without extra money, down to $10 million by requiring them to straighten up their records. We feel we can get a lot closer than that. We do know we have a stack of bills on the table that can't be paid, and those will be _____ to the legislature in form over a couple months.

Faiks: How much is that? Now we're talking hard politics.

Merrill: It's more than a million.

Faiks: Is it more than ten?

Merrill: My guess it's in between

Fahrenkamp: Is it bigger than a breadbasket?

Merrill: The second thing is you can't make an accounting reconciliation, that our reconciliation that we're proposing to the committee and asking for guidance on too, requires some understanding of the problem and informed judgment and the use of summary type data...

Fahrenkamp: Wait a minute. Draw me a picture.

Merrill: Okay. Summary type data is something like this. Take the 1980 bond issue. It has right now 497 active projects yet in it. Each one of them could be considered a line item appropriation. We may not be able to do an accounting reconciliation on each onebut in summary we can say this is how much money was in the bond issue, and this is how much we've spent, we've closed these projects, this is what it

will take to complete the rest. That is summary type data that we've been able to get. We can't in many cases pin it down to the individual project. We are looking into every project to whether we have met the legislative intent of the project, and this is quite revealing to us, and in our statement that we have there we've used something called conformity factors, where we will state that we in fact met legislative intent or we did not meet it in this area. Conformity factors is part of the report that will be coming to you, taken in what you as a legislator intended that project to do.

Abood: Mr. Chairman, if I may. It's very startling to you when you find out what you're talking about in the legislative intent when there have been very few pieces of legislation or very few appropriations that hasn't violated the legislative intent, so how do you know what that legislative intent is if it's been changed so many times...to conform to what they wanted to do regardless of legislative intent.

Merrill: We're going back to the commission to which is commonly called in our language the form 35, 35_____...

Abood: That's where the startling part is coming in.

Merrill: I know that, but it's only in many cases the only intent that was originally put down and we know that legislative intent is sometimes not very clear for us to determine. And the last thing on our approach is to put in place procedures not to do it again, and that I think is important for you to know. One of the questions that you might is why can't we make an accounting solution. As you can see the railroad here, there's only one common rail on this track, and the other two tracks don't meet.

Fahrenkamp: That's due to the differences in the accounting system, the differences in practices and changes down the line in government, right?

Merrill: Right. One of them is that in the state accounting system, in PBA, it's only balanced forward every year. We run from inception to date, and so we're always in a problem of trying to make things match, and we don't match and we didn't match significantly on June 30th and we're now trying to find out why.

Fahrenkamp: Did you find that account that things used to be stuck into when they didn't know where to put them and wanted to hold it over, has that been straightened out?

Merrill: The "M" account, that you are well aware of. They will be addressed what they are and maybe not totally accounted for but they will be addressed the best we can on that. The reason here that the funding side, the state accounting

system, only carries total dollars regardless of what the legislation. The legislation says you have total dollars made up of so many dollars of general fund and so many dollars of other. The state accounting system only takes a total and tracks that, regardless of what kind of money it is. Our own accounting system...

Moss: Does that include the funny money?

Merrill: This is where the funny money comes from. Because our own accounting system then takes this general fund here and breaks it down into whether it's match money to go with the federal money, and that looks really good, and that becomes into what we called non-participating or participating. Now, when we go out to spend it in the operations, we collect cost by project and it has more than one appropriation in it, it loses it's identity of where the money, of what appropriation the money came out of. It goes up to our accounting and we have something called the "ML", the missing link that allow us to track through and say we didn't spend all of the general fund portion here, or we spent more general fund and less of this. That's your funny money. We have a solution for that which is, which will bring materiality, if you're an accountant you know what that term means. It means they can't reconcile exactly, but they can get it close enough to where it's not material anymore. We feel that we can bring it within the limits of materiality by the process that I'll explain to you. Now the solution. Remember...

Moss: Can I ask you a question Jim? If this thing works out it could be applied to not only DOT but to other departments as well, couldn't it?

Merrill: The same types of problems exist because of being with the same accounting problems.

Abood: If I may. Isn't there some, is it the legislator's position or job to set forth regulations or statutes that prevent the different agencies from doing this or is this strictly an in-house, DOT if you will, using that as an example, can they do anything they want to do with these funds? Is there anything legislatively that we could do to prevent that. As an example, appropriations within appropriations, moving those funds around which is against the statute to start with. But they do it. Now what's going to prevent that?

Merrill: The only thing that's going to prevent anything like that is basically a control system that we have, I'll be talking in a minute about that, putting in place and _____. I can tell you this our commissioner is very concerned about this himself, and I'm sure the Administration is. One of the things is you as a legislature have recognized this by line item appropriating so we can't theoretically put more than

one appropriation in a project. The matter of fact is that we have put other appropriations in projects and that's the problem because we lose the identity of which one of the appropriations it went to. As an example, in one of the bond issues there is a project right here in Anchorage that the bills that we paid were $5.2 million dollars, this is just last spring, May, the bills were $5.2 million dollars paid out of the bond issue. When the federal receipt came back, the federal money, the check, it was deposited to the general fund, which means now when you get the general fund, and you get back in session, you say we have a surplus in the general fund this year, you're really reappropriating the money that belongs in the bond issue.

Moss: It's already been appropriated.

Merrill: It's a bond issue appropriated, what it's going to do is, and the thing that we're determining is, what's the effect on the bond balance, the cash balance in the bond. It could mean that some of the projects started in that bond issue will in fact be short of money. So there is something that is not controlled anywhere in the legislation, anywhere in DOT, anywhere in the Dept. of Revenue, anywhere in the Department _____. There is a major flaw that was uncovered in our own system and we're taking action on that. Anyway, our solution.

Fahrenkamp: There was a project in Fairbanks, maybe six years ago, maybe more. Okay. It was funded by the legislature through DOT. DOT in its wisdom decided it shouldn't be done so they did something else with it. It was funded again, DOT in its wisdom decided it shouldn't be done, they did it again. To this date it hasn't been done, at this time if it were done it would cost eight times what it would have, in fact it's prohibitive now. What recourse if any do we have on that, and is that kind of thing still going to be able to go on.

Merrill: One of the things to answer your first part is that we have identified, as of the 31st of August, some $897 million dollars worth of authorization - could be general fund, or federal authorization that you have given us for projects that we have not yet started, or in other words started by putting the project in our own accounting system, or that we're never going to start, we just have never programmed them to start. There's $897 million dollars. What we are doing in the report is that we are right now accounting for that - the projects that haven't been started, the projects that we are never going to start and give a reason why. That will be in the report, and that should interesting in some projects.

Fahrenkamp: It should be in the interest of some legislators who

sweated blood to get some of those projects that are not going to start.

Merrill: Representative Cato, everytime I see her, asks about her Lackinaw Bridge. That is in that category, that it was funded, properly funded again, and the money was moved, in this case to the Juneau-Douglas bridge. So all that money's gone. The authorization's still there, we have just never programmed it into our own accounting system to start work on.

Abood: Where's the money then?

Merrill: It's sitting restricted in the state accounting system. Now whether it, the thing is...

Moss: What you're saying is we've got $800 and something million bucks laying somewhere we ain't spent?

Merrill: Of authorizations, no money. Well that's the thing that we are determining, how much of it is actually general fund, how much of it is federal authorization.

Fahrenkamp: You'll find that there's a hell of a bunch in the general fund and a hell of a bunch of it that was never collected from the federal government, simply because we didn't do our damn paperwork.

Abood: Two years ago, three years ago, there was over a billion dollars in DOT that was unaccounted for, that they had money that was appropriated, and there it sat.

Merrill: That figure is now $897 as of the end of August. Since I surfaced this issue and got people working on it to try to account for that, what projects did the legislature authorize for that authorization. We have programmed an additional 105 million of them so this figures down right now, because we've started to put some emphasis on that. In our report we will be accounting for all of the funding that's been restricted in there and never put to a project...that I can find.

Moss: $897 million.

Faiks: $897 million. You're kidding!

Merrill: Don't panic on that, Senator. Make them give you the facts first. We are identifying, within that is $50 million dollars for a...

Faiks: No wonder you have time to make little colored pictures.

Merrill: Within that money is $50 million dollars that was

appropriated for a replacement for the TUSTUMENA, and it was basically all federal money. It's highly unlikely that the Department is going to put a third of its federal money into one project in one year but those are the kinds of projects...

Fahrenkamp: That kind of depends on whether Bill Ray's finance chairman or not.

Merrill: You can comment on that, I can't.

Faiks: Somebody ought to.

Moss: In other words what you're saying we've been allocated $50 million for the TUSTUMENA already.

Merrill: The authorization is there, if it was set up and the feds approved it now, there's nothing says we couldn't start working on it.

Faiks: And the TUSTUMENA, that's our highway dollars, isn't it, I mean that's part of our interstate highway system, so in the southern region, they don't get $50 million dollars a year, do they?

Merrill: No, about ten.

Faiks: That's right, because we get $50 million right here in River City for all of southcentral Alaska.

Merrill: Let me tell you one of the benefits of surfacing this and trying to account what were the projects that the legislature intended to be done with that. It allows you to come back and reprioritize that and that will...

Moss: In other words, what you're saying Jim, out of that $857 million, the TUSTUMENA is one of them, do we want to keep that up there as a number one, two, three or four priority? That's what we need to tell you all again, right?

Merrill: I'd like to get it out of our books, because you know, every year we have to look at $800 million dollars.

Faiks: I bet those legislators that aren't there anymore that have the projects in are the first one to go.

Merrill: Anyway. But we are accounting that will be in the report, as best as we can identify what the project, legislative intent it, what our status on those projects are.

Fahrenkamp: One question. Now that $800 million that's somewhere, that's at least appropriated, how much is that under what it would take to do all the jobs that have been appropriated and don't have enough money to do.

Merrill: I don't know that figure but I can tell you know that you can't buy a TUSTUMENA for $50 million bucks.

Fahrenkamp: Well, I know that but...

Merrill: And I am not a naval architect but I...

Fahrenkamp: ...it sounds like you've got a whole heap of money, and yet, there might be, we'll pick up a round figure, $11, $12, $15 million, $100 million, $1 billion, oh give or take a 0 or two, that had been authorized, but there's not enough money yet to do. huh?

Merrill: My own person opinion is that the bulk of that is excess federal authorization. We may be looking at maybe $100 million dollars worth of general fund, don't hold me to those figures, but I have a feeling it's about that amount. The rest of it is excess federal authorization that we've asked for, and you've given us.

Faiks: Excuse me for having to run out for a phone call, maybe somebody's already asked this question, are you going to be able to give us the project that was authorized, what year it was authorized, how much it was supposed to be...

Merrill: We are accounting back, I used summary type data, I can't, maybe not be able to get back to the very line item in the appropriation. Some of them are just allocations where it says go build highways, but I will take it back to the legislation, session law, chapter and year.

Faiks: I guess if it says it's a block grant to go build highways, then that would be fairly easy to take care of. What we're having trouble with is go put $5 million dollars into the Steese Highway...

Merrill: Or LaTouche.

Faiks: Right, or LaTouche, okay. So then we'll have to...but that might have been ten years ago, or seven years ago or whatever and maybe the Steese Highway has already had it's upgrade in that spot. We have to have the tools to be able to decide what gets dropped off and what doesn't.

Merrill: We are going to, the best we can, give that, and what the present, current status of it is...we hope to surface some kind of an add/delete bill to you.

Fahrenkamp: I tell you one thing - we know a hell of a lot more than we did when you started this.

Merrill: So do I, and if I knew it, I don't think I'd have done it, accepted the challenge.

Fahrenkamp: Scared you half to death, wouldn't it?

Merrill: Yeah...our approach. you know I said couldn't do an accounting approach, I can account for all the projects, and we're going to try to account for the scope, the legislative intent, the intent of the bill, interchange, I can account for that. Going to the appropriations, and we can account for the dollars spent on appropriations. Then we come over to the funds...here we have the revenue problem, is that we are trying to determine in the factor the revenue shortfall which will point out the funny money. We're going to do that in summary, because I can't, there's nowhere in our records get back to the individual project.

Abood: Will you be able to tell why the shortfall?

Merrill: I will be able to tell you generally what the main reason is for shortfall, that the project was programmed to spend $10 million dollars state money and $100 million dollars federal money and when it all ended up we spend $20 million dollars of state money, $80 million dollars of federal money and we still hadn't overspent the appropriation. We changed the funding mix of the appropriation just from our spending patterns. This is going to be revealing to the Department how widespread that is too and it is reasonably widespread. And that's why going back to our legislation you always have a total appropriation and you have a funding source. Nowhere have we overspent the total out there, but what we don't know is what have we done to the mix.

Faiks: Why do you need a supplemental if you haven't overspent the total?

Merrill: Because it maybe...

Faiks: Because you have unpaid bills sitting on the...

Merrill: And one other reason, that we may never get the federal money, the feds won't ever participate.

Moss: For what reasons?

Merrill: On of the things is that the work that was done was declared non-participating, or it might have been like the right-of-way on a project here that they said wait a minute, you didn't do it right, and that was $9 million dollars. And if they come back and say they're never going to pay you, the state's going to eat the $9 million dollars, and we have found a lot of that, and we're going to...right in the report so you know exactly where that is. The approach is, and this is where I need some feedback within the next three or four weeks if I can get it. Is this approach, I can't hard-wire between the...in the accounting practices, but I can take all the information in the project, the information

of the appropriation, the summary, and the funds and I can do a threshold analysis and give you what I believe has occurred and the ranges of problems, and like I say we may have spent $10 million dollars more general fund here than was in the mix appropriated on top. That we feel we can do it, and do it in time for when you come back to the next session, that you will have that report in your hand so you can look at it. That is what I need to know, if that kind of approach would answer your questions. You probably wouldn't be happy with it, I don't expect you to be happy, but at least you would understand why I feel I have to go that way.

Fahrenkamp: Now you and I both know, or let's say suppose, that there's been a project here DOT's doing, oh well, they just lack $13 million of having enough, or $20 million of having enough, or whatever, and we've got this kiddy over here to do this little jobby, so let's just take $13 million of it and cash it...

Merrill: From what I heard from the railroad this afternoon I would go ask them how they do it. It's about the same. It has happened in the past, traditionally, that you've just gone down to the next fund source. However that is not a practice now.

Fahrenkamp: Hopefully not.

Merrill: One of the reasons is that your line item appropriation, however, mistakes are made, I just saw one the other day where there was on the same page as Chapter 24 which was just last year's session was a totally state funded project and right below it was a federal aid project. Guess where the federal aid expenditure was on the state project. In this case it was $124 thousand dollars. The feds will never get billed for that. Now if that had gone undetected through next June 30th, we could not have corrected it, and that's what's happened in the past, that nobody ever looked, and corrected those. We're putting into place now an effort to make sure that that does not...

Moss: Would the FIS do this?

Merrill: FIS will, FIS is only the computer part of it, but it would help.

Moss: How come they aren't proceeding on with FIS?

Merrill: FIS has had some implementation problems that has delayed it.

Moss: Is it true they spent $4 million dollars?

Merrill: I'm unsure of that.

Moss: I just want to get that on record.

Merrill: I'm unsure of that. We have accomplished some firsts in this effort that I'm proud of, and I think that you as a committee ought to be proud of too because you were involved too. We have closed 8351 projects that were always there open...and involved in doing this has become an increased knowledge and emphasis in the department that the old days are gone, that accountability is now part of the game. As I said before we have reduced the dollars of overexpended project budgets - from $45 million to below $10 right now, and we're going to get that even more. We have developed new report capability to allow us to pinpoint our problems before they get where we can't do anything about them. We call the annunciators. Pappy, you're an old airplane driver like I am. Annunciators always is a little light that says you've got some problems, and hopefully in time that you can correct. One of the annunciators was the three red lights and three white lights that says red over white, airman delight, white over red, airman dead. Anyway, we have done this in depth study, and one of the things that I'm very pleased about is the teamwork and the understanding that we have developed with the legislature and other departments over this, it's no longer a hush-hush subject, we are starting to level with each other and there's becoming solutions to problems, There has been an agreement which has not happened in the department before, the agreement there is a problem and that we can do something about, and I think that's an important one, recognizing that we had the problem, and that we can do something about it. Now, we feel that we've gone over this piece right up here right now because we're in the process of writing a file report right now to the administration of which you will get a copy. We have one more little hole to go across here, and I hope that we don't fall into that, and that is, that we're going to have to be able to maintain our data until we have a new system in place to out it in for caretaking. That system is not there yet. It was originally scheduled for October 1 and it's somewhere down the future yet.

Moss: What do you call that?

Merrill: That's FIS. What we have done at CPC and we are going to be incorporated in the department and it will be an ongoing affair.

Moss: Let me get this straight before you go any further past that little hole there. FIS has got to be online to make sure it's corrected.

Merrill: There is really no pure way to spit out whether the money is general fund or other that you spend without having that capability. We are starting to keep records on mini-computers that allow us to keep track...that's part of our

effort here. You can see up here, the little man here he's looking here and there's been a break in the hitch between the system and integrity and we up here, we didn't do it in the first place, we're not admitting anything but we promise not to do it again. This is what we're going to what we have in place now as control feature. We have our reports that are much more accurate and more timely and point out the problem areas to us quickly. We are now put in what we call alpha-control. For instance if a charge is charged, if a bill is charged to the wrong project, we have a way to catch it, and the reason I caught this other one... is because I was reviewing one of these alpha-control and there it was, it stands out. We have established in each region what we call the project control groups comprised of five to seven people, who watch the projects, their funding, and their expenditure, whether they're in scope or out of scope, and those kind of things. These are all human type controls because we do not have any really computer control available to us at this time. Training, quality assurance we are assigning responsibility now to where we know who has the responsibility, this isn't everybody's job now, it is an assigned responsibility and we have, by using these, we have the ability now to validate the information that flows within our system. Now in closing you see the little train. It is just starting over the hump, and we not only think we can we know we can accomplish it if we can use the approach that we have of being able to take the three areas - the projects, the appropriation and the funds and do a real professional analysis job and then present summary type data too.

Fahrenkamp: This time it's summary type data. Now if we get this...but if after all this work that you've done, which has been very encouraging to me, we have this system in place, will we from now on have to go to analysis type or can we have absolute data that will check project against project, funds against funds, or is that a dream that will never happen?

Merrill: The state has a new accounting system that is scheduled to go on-line the first of July. Within that accounting system is the ability to track other than total practice fund mix that you have in the legislature. That would be the single biggest help that we have, to be able to know whether we've spent the general fund portion of that appropriation. Right now there's nothing controls that, other than humans looking at that. We also feel that these human controls that I have just been over will have to continue on. We still have haven't replaced the human overlooking what the machine does, because the machine will accept anything. So we will continue these human elements in our controls which is new to our department and I feel that you will see a progressively better accuracy where we can do an accounting reconciliation whenever you need it. Hopefully to the point that

the Legislature would then have enough confidence in our project management ability to where we would once again be able to have a little more leeway than we now have with line-item appropriations. This is causing us some problems, but it's very understandable why the Legislature has done that.

Fahrenkamp: If we hadn't done that we'd never get there. Can we tell now from your work, excuse me Mr. Chairman, can we tell now from what's in this report that's coming up, would we be able to say okay, what's done did and gone, I hope it doesn't happen anymore, but there's been $3 million dollars worth of federal funding that should have been applied for that was never applied for by the state and received?

Merrill: Yes. We have that ability now and in fact it's on track. We run anywhere from $25 to $35 million dollars of unbilled federal receipts that's in the process. We're reasonably sure, I've checked back to 1972 which is the last records I could find available, and it looks that we have received all the federal money we've billed them for.

Fahrenkamp: Yeah, but did we bill them for all we were supposed to bill them for.

Merrill: That's the problem that I can't address, only in summary type data, and I have to do it on the revenue side. I have to say okay, in this fund, Fund 474 for instance, we spent money, so many million dollars that should have been federal aid. How much did we receive? And we're not going to get data out of that because of the problem I just told you about where they deposited the money to the wrong fund, but at least we'll have some summary data. One of the other things that we will have as of October 1, a very accurate count of the dollars it's going to take to complete every active project we have, and the type of money, whether it's general fund or federal money. We'll have a very accurate account and we will keep that up, obtaining that every three months, until we have FIS up to where we don't need to do that anymore.

Moss: Now will that carry us back through all of our previous projects that we know of in history?

Merrill: I'm going back as far as there's records. I know now that records in many areas are incomplete, because there has been lapses...

Moss: I know that at times when Casey was over there he was wanting to go back to '82, '83, as far as he'd want to go back to bring this data up to date.

Merrill: What we're doing is dividing them into two spots. We're

going to identify every project that's in the records somewhere as completed and done, and that will be in the appendix, there's going to be pages and pages. Then we're going to identify active projects by project and how much money was set up and what's the status of that project.

Moss: You got some kind of time frame on that?

Merrill: Our report to our executive, to our commissioner in draft form, we are expecting around the 15th of December, and then you can expect the published document maybe about a month later. This is, the reason we can meet this time schedule is because we have not had to do a strictly accounting reconciliation. Summary data is much easier and I...

Fahrenkamp: You do have to do that strictly accounting type stuff which would leave big holes as well, wouldn't it?

Merrill: Yes. What it would do is it wouldn't be any more accurate than the summary because of the holes in the data. And we have a consultant, Arnold Young, from one of the big accounting firms, who also agrees that this approach probably better than a strictly accounting approach.

Fahrenkamp: Well, Mr. Chairman, I've got to say again, even though it's summary data, I'm very encouraged to see this coming on line.

Moss: (inaudible)...I'm kind of proud of it myself.

Merrill: Any successes we've had so far has been because of this committee, has been willing to work with us on this, and I think it speaks well for the cooperation to the department on this project. Both are benefit.

Moss: Anything else.

Fahrenkamp: Let's go home. Unless he needs anything from us. What do you need from us?

Merrill: The only thing that I would need is some feedback is on the approach that I can't do a strictly accounting and that this would be an approach at least you'd be willing to look at.

Fahrenkamp: What you really expect is to hear some yelling about it, right?

Merrill: Yeah.

Fahrenkamp: Well all I can tell you is that... as I know how, because I don't know how you can do anything else unless you've got fifty years to do it in.

Merrill: And that's the conclusion...

Fahrenkamp: If you did do it strictly accounting then somebody's going to do a witch hunt.

Merrill: Oh yeah, there would be jail talk, and that's really not what we've been out to do.

Fahrenkamp: What we set out to do is get this thing straightened up.

Merrill: I do appreciate the interest. This thing could have died if it hadn't been for the commissioner and your interest as the committee. It hasn't been totally an easy road internally.

Fahrenkamp: Have you had any encouragement on the part of any of the other agencies or are they knowledgeable about what you're doing, have you had any encouragement from the agencies wanting this type of approach taken into their accounting?

Merrill: We have not contacted them, other than I know they do have basically the same problem, that could be approached the same way.

Moss: This is one of the biggest problems we had in the department, Bettye, when you look at it. Actually if this system works here, it could be applied to any other department.

Fahrenkamp: We could get them up to snuff and start somewhere clean.

Merrill: The one thing, Senator, that's got me a little concerned, that we have set up these human controls that we're going to try to keep the data clean now, but that has to be always a little pressure, always emphasis maintained, the human has a tendency to relax. There is nothing in the system developed as we have today that will allow it to, set it to motion and forget it. Our commissioner is not willing to do that, he's not willing to set it in motion and forget it, we stress that he is going to keep the pressure on.

Fahrenkamp: I would hope that your commissioner would encourage other commissioners to look at the...and to share with them what he feels about the value of this kind of approach, because I know we've had good people to leave government agencies for the fear that, good Lord, the way some of the accounting processes are, somebody's going to go to jail, and it's not going to be me, I quit.

Merrill: I thought about that myself.

Chairman Moss adjourned the meeting.

CAPITAL PROJECTS CLEANUP

STATUS 9/27/84

The Capital Projects Cleanup (CPC) effort was started in November 1983 as a result of the Arthur Young Inc. Capital Projects Assumptive audit of October 1983. The CPC team is now preparing the Final Report of its year long effort.

Important Accomplishments

The CPC effort has some significant accomplishments, both as a direct result and as indirect spinoff.

1. The universe of projects in the system has been significantly reduced. 8,351 projects or project phases have been closed. Our project computer reports are now 3/4 inch thick instead of 3 1/2 inches. All projects have been assigned to the responsible Region and the Departments' reports are now available by Region. Special exception reports have been developed to highlight problems and errors.

2. Increased knowledge and awareness of good project management techniques and responsibilities. Projects with expenditures in excess of budget have been reduced from $45,509,539 to less than $10,000,000.

3. A detailed look into the idiosyncrocies of FMS and our whole project management and accounting system.

4. Confirmation of the continuing belief that our present "system" is not serving us well. This knowledge has strengthened the development of the Department's new Project accounting system (F.I.S.) and the Project Control Groups in the Region.

5. Development of an integrated approach to reconciliation of the Department's present project accounting system which would be acceptable to most interested parties. This involves a three element program accountability analysis.

6. Better understanding and teamwork between various Departments and the Legislature concerning the whole Capital Projects problem area. These various groups have become part of the solution, not critical onlookers.

CPC OBJECTIVES

The CPC Process and Procedures manual published in January of 1984 listed five objectives of our effort. The Final Report will show that these objectives either can be or have already been met by the Department.

Objectives

1. Restore confidence in Department of Transportation and Public Facilities (DOT&PF) ability to effectively manage Capital projects.

2. Separate the Department's C.I.P. program of work initially into active and inactive categories for analysis and accountability of current and previous C.I.P. activity. Subsequent refinements of status will place all projects in active, complete, closed, and unclassified classifications.

3. Find a suitable way to account for Departmental responsibilities in the past which will allow those old issues to be resolved.

4. Provide a "cross walk" to F.I.S. by idenfitying the projects and information reliability to be included in the new system.

5. Identify criteria, policy, procedures and training needed for effective future project management.

These five objectives will be thoroughly discussed with recommendations in the report.

CPC FINAL REPORT FORMAT

The CPC Final Report will contain five main sections and an extensive, detailed Appendix. The Report will include these sections:

1. CPC Objectives

   This section will show how the CPC effort has met the objectives.

2. CPC Process

   This section will build confidence in the solution and provide a detailed history of the effort which will provide an audit outline for future use by providing a complete outline of the whole CPC effort, the solution that the Department has developed, its strenghts, weaknesses, etc..

3. PBA/FMS Reconciliation

   This section will establish the reliability of FMS in relationship to PBA. Some old problems will be discussed and the conclusions that CPC arrived at will be detailed.

4. Program Accountability

   This section will be a summary type presentation of how well the Department has met its obligations. The detailed data will be cross-referenced from the Appendix. Use of charts and graphs will be extensive.

CPC will provide program accountability using three basic methods:

By Project: This will treat projects as a single entity regardless of funding source. This will show scope accomplishment including conformity factors.

By Appropriation: This method will provide the accountablity (or lack of) based on approriations.

By Fund: This method will provide the accountability by both project and appropriation within the designated fund.

The Program Accountability section will concentrate on the strengths of DOT&PF program/project management while readily admitting the weakness and unreconciliable problems. This section will be strictly "up beat" with concentration on understanding and acceptance. The three basic methods will be brought together in a rational analyses which will show the overall condition and accountability of the C.I.P. program activities.

The Program Accountability Section will also address program irregularities, program status, fund status and revenue questions. Appendices will be correlated to provide information in detail for those who wish the backup.

5. Corrective Action and Time Schedule

This section will detail the actions recommended by CPC using three general groupings.

a) Departmental

This group of recommendations and corrective actions including implementation schedules will cover items such as:
- program accountability recommendations
- system integrity and development
- recommended supplementals, etc.
- training
- policy, procedures
- Quality Assurance and Control
- organizational needs

b) Administration (other Departments of State)

This section will discuss interrelationships and recommendations with units such as OMB, DOA Finance, etc. Items such as:
- State Accounting System
- Revenue accountability
- RSA's etc.

c) Legislative

This section will present and discuss CPC recommendations for Legislative Actions. Items such as:
- Revenue
- C.I.P. implementation problems due to structure of appropirations, etc.
- Capital projects flexibility

The CPC effort will also produce for the Commissioner a Confidential Executive Report which will speak frankly about any strictly in-house items which he should be aware of.

This report can include items such as:
- confidential personnel matters
- inter-intra Departmental relationships and problems
- Legislative Recommednations
- Policy Recommendations

Time Schedule

The CPC Final Report will be ready for detailed Executive review by December 15, 1984. The Report data will reflect the C.I.P. status as of October 1, 1984. It is intended that the Final Report will be made available soon after the final Executive approval.

C P C

CAPITAL PROJECTS CLEANUP

INTERIM REPORT

No. 1

State of Alaska
Department of Transportation
& Public Facilities

CAPITAL PROJECTS CLEANUP COMMITTEE
INTERIM REPORT #1

This report is the first of several planned interim reports which will provide status of the project and outline the next steps needed in the Capital Projects Cleanup (CPC) effort. Included in this report will be problem identification, recommended solutions, and listing of resources needed to successfully keep the project on target and on schedule.

I. CPC PROJECT STATUS: (As of 4/1/84)

The major emphasis of the CPC to date has been focused on three principle areas:

1. a) classification of all projects listed as active and open in FMS and PDS into four categories (element III. See CPC Process and Procedures Manual for definitions).
    1) active
    2) complete
    3) closed
    4) unclassified
   b) proper assignment of Regional or Unit responsibility
   c) freezing "closed" projects in FMS (element IV)
2. determination of fund source status (elements V and VI)
3. verification of PBA/FMS reconciliations (elements I and II)

The effort in classification has been very successful. The areas where significant gains can be made have been highlighted and recommendations for these actions are contained in the recommendations section of this report.

CLASSIFICATION RESULTS

CLASSIFICATION	TOTAL #	% OF TOTAL	NUMBER OF PROJECTS/PHASES IN CLASSIFICAATION BY REGION OR UNIT RESPONSIBILITY							
			CENTRAL	NORTHERN	SE	NOME	VALDEZ	STATEWIDE	MHS	STATEWIDE
			1	2	3	4	5	6	7	8
Active	1360	45%	593	491	195	10	7	20	41	3
Complete	552	19%	388	94	56	3	3	2	6	0
Closed	986	34%	272	395	227	28	36	11	17	0
Unclassified	52	2%	13	18	11	3	1	4	0	2
TOTAL	2950	100%	1266	998	489	44	47	37	64	5

* The CPC had concentrated its efforts on FMS cleanup as the timing, priority, relationship to PBA, and resources available do not allow full operations on both FMS and PDS at this time. This does not mean that the PDS effort is dropped, only delayed until FMS is cleared up. In this interim, on-going activities in PDS should be coordinated with the results of the CPC classification and cleanup effort.

ESTIMATED COSTS TO CLOSE

CLASSIFICATION	TOTAL $(1,000)	REGION OR UNIT RESPONSIBILITY $(1,000)							
		CENTRAL	NORTHERN	SE	NOME	VALDEZ	STATEWIDE	MHS	STATEWIDE
		1	2	3	4	5	6	7	8
Active	453,800	194,458	130,552	60,021	464	128	24,666	42,634	897
Complete	28,409	20,747	2,343	1,643	203	43	2,850	580	-0-
TOTAL	482,209	215,205	132,875	61,664	667	171	27,516	43,214	897

* Does not include liabilities in 52 unclassified projects

ON LINE FMS ACTIVITY

Using the information supplied during the Regional CPC classification effort, 954 of the 986 projects or project phases identified as closed were "frozen" in the on-system FMS. This freezing action was accomplished by placing 00/00/00 as a cutoff date and where fund resources allow, funding the project equal to expenditures. This action will undoubtedly increase the number of transactions on the error register due to "after cutoff date." We plan to let these errors accumulate during April. A "window" will be opened during May for clearance of the error register. During this time period, CPC intends to correct all the "after cutoff date" errors caused by the CPC closure effort. This is a manual process which will impact the Headquarters unit. No regional effort will be required for this action. Other error types must also be cleared. This will be a regional responsibility.

The effect on the error register so far has been negligible, but we expect the April 30, 1984 errors "after cutoff date" will show a substantial increase.

TYPE OF ERROR	# OF ERRORS 2/29/84	# OF ERRORS 3/31/84
After cutoff date	1472	1339

DETERMINATION OF FUND SOURCE STATUS

Determination of fund source status has been one of the most difficult and labor intensive efforts. While some of the information already resided within the FMS data base, considerable effort has been expended to correlate this information to the original legislation and fund type. This effort involved a project-by-project search of the legislation, correlation of fund type (billable versus non-billable) with programmatic records and legislative appropriations. This effort is still in progress. Due to the magnitude of the difficulties encountered, additional resources from other units will be needed to verify and correct the data. This effort is the highest priority within CPC at this time as the data will also be required for FIS implementation and loading.

PBA/FMS RECONCILIATIONS

Elements I and II of the CPC task required verification of PBA/FMS reconciliation. The CPC team has monitored these elements for three months and has concluded that for all practical purposes PBA and FMS are in basic balance. By the term "in balance" it must be understood this represents an accounting balance which reflects the net collocode status in PBA/FMS.

NET ACCOUNTING BALANCE DIFFERENCE BETWEEN PBA AND FMS

DATE	AMOUNT
1/31/84	$ 5,132.00
2/29/84	$ 4,651.27
3/31/84	$ 4,674.02

The matter of "reconciliation" to the project level is another problem. When documents do not pass the edit checks built into FMS, it must be remembered that PBA already paid the bill and charged the collocode. When the document tries to process in FMS and cannot, it goes to errors. The costs already paid by PBA are placed in clearing accounts such as Z99996 and the collocodes in both FMS and PBA are then in an "accounting balance" but have not been reconciled to a specific project. If the error is ultimately identified to a specific project, it is removed from the error clearing accounts and charged to the project by manual adjustment. If it remains uncleared, project level reconciliation has not occurred.

The question of project specific reconciliation then becomes a matter of cost benefit. It makes very little sense to spend $100 to "reconcile" $5 to the specific project. Where federal aid projects are involved, these uncleared costs will never be reimbursed by federal aid. The general fund has already paid the bill. This may contribute to the "funny money" problem.

As of 3/31/84, the scope of these "unreconciled project specific" expenditures amounts to $39,275,057. This amount resides in various M and Z accounts in FMS. $16,001,892 of the total $39,275,057 of "unreconciled" expenditures is in the M90001 pre-FMS Accounting Transactions account. Some of this amount may represent actual unrecorded expenditures to specific projects. However, this condition may not be the case if the original expenditures were actually recorded to a project which has been lapsed improperly from the system. It would be difficult to determine the exact status of these "unreconciled" project specific expenditures.

A policy decision is needed relative to the resouces required to resolve this "unreconciled" project specific expenditure problem.

II. ACCOMPLISHMENTS AND BENEFITS OF THE CPC EFFORT (To 4/1/84)

The CPC effort so far has made several significant contributions to the Department's program/project management effort:

1. For the first time, all active projects have a Regional or Unit responsibility assignment. This has been previously impossible due to the many statewide programs and appropriations. Early in April, the first regionalized ROI-TBR-1615 (suppressed version) will be available to the CPC Regional Coordinator and Project Control Groups. This will allow regions to have a 1615 with just their projects shown.
2. Closing of 983 projects/phases which were previously identified "active" in FMS.
3. In addition to closing projects, the CPC has determined the scope of our "completed" project problem by categorizing those unresolved liabilities which do not allow closing of the project.

4. The CPC effort has identified the estimated costs-to-close of all active and completed projects. During the classification effort, costs-to-close for the active and completed projects were estimated to be $482,209.000 as of 1/31/84.

5. The CPC effort has identified several short-term objectives which should be accomplished before year-end closing and FIS startup:

    a. determination of fund source status (billable and non-billable),
    b. correction of a serious over-programming situation (see page 8),
    c. identification of training, policy, and procedure needs,
    d. correction of project overexpenditures, both in individual collocodes and projects level.

    These items will be discussed in the recommendations section.

6. Possibly more important than the information gained from the CPC effort is the renewed interest in program/project management. The CPC found a great enthusiasm among all DOT/PF personnel for development of a dynamic and on-going operation to overcome our program/project management problems. This opportunity must not slip away, nor this enthusiasm go unrewarded.

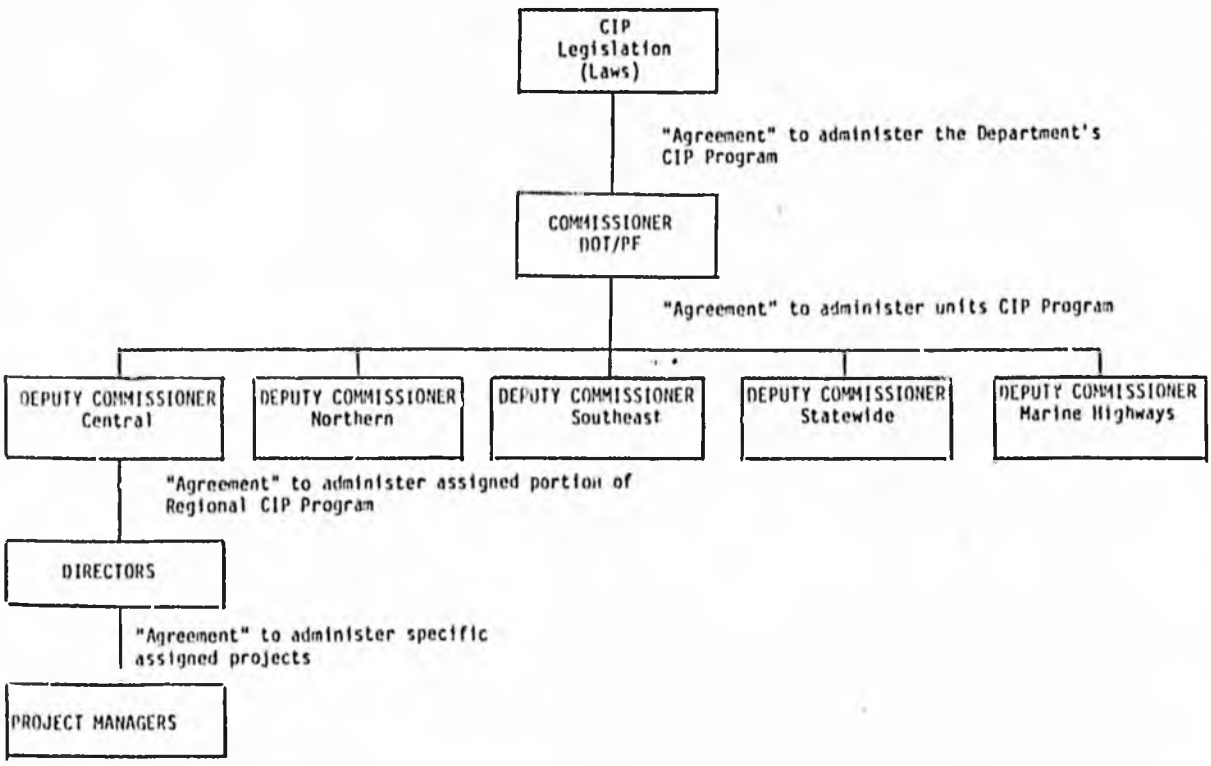
III. RECOMMENDATIONS

The CPC team has several recommendations which we feel must be carried forward. These recommendations will require significant expenditures of resources to accomplish and will impact the Regions and other units. Committment of these resources is essential for continued progress.

The recommendations in this section have been divided into CPC operational recommendations (which are usually short term) and Departmental policy and systems recommendations.

CPC OPERATIONAL

The CPC effort has identified several major problem areas which demand a concentrated effort for correction before full accounting and project reconciliation can be accomplished. The Department has many levels of responsibilities. Some of these responsibilities are internal to the organization and some external. In the program/project management area, these responsibilities can be characterized as a series of "agreements" between certain positions, sections, etc. and higher levels of responsibilities. For Example:



From the simplified diagram given, there are at least four levels of agreements within the Department's CIP program administration. Each of these levels carry basically the same responsibilities: the Commissioner "agrees" to administer the CIP program/projects within scope, budget, and time constraints, if any. This same "agreement" is present between the Directors and their Project Managers only at a more detailed level. The main goal of the CPC effort is to determine if these agreements are still applicable, if the parties are "out-of-agreement", and to correct areas where "out-of-agreements" occur.

CPC has identified projects in each region which are "out-of agreement." "Out-of-agreement" in CPC context is defined as projects or programs which:

1. expenditures have exceeded budgeted or authorized fundings,
2. expenditures exceed individual funding source or type,
3. project scope, etc. is significantly different from the "agreement" with the next level of responsibility.

The CPC effort has identified several major areas where these "out-of-agreement" conditions appear to be present. Other areas of "out-of-agreement" will be covered in later Interim Reports as more detail and corrective action has been identified. These problem areas are:

- A serious, possibly long term, over-programming problem is apparent. On 2/29/84 FMS records indicated a total of $5,845,732 over-programmed in 158 different collocodes. This represents a serious differential between our accounting, programmatic and project budget records. For example, in collocode 24-84-7-001, there is $1,240,180 programmed to specific projects in excess of funding available. There is only one project funded in this collocode...K93511 Fairbanks Flood Control.

R01-TBR-1615 DEPT 24 CIP PROJECT AUTHORIZATION BALANCES MONTH ENDING 03/31/84

PROJECT	NAME	COLLOCATION CODE	CUTOFF DATE	DATE LAST ACTIVITY	FUNDING	ENCUMBRANCE	ITD EXPENDITURE	BALANCE
K93448	KODIAK BOAT HARBOR BONDS	24841250	12/31/84	03/31/83	114,400.00		125,028.66	10,628.66-
		24843232	12/31/84	02/09/84			52.00-	52.00
		24847004	12/31/84	08/17/83	1,000,000.00		1,039,980.85	39,980.85-
	K93448 PROJECT TOTALS:				3,614,400.00	0.00	3,617,445.47	3,045.47-
→ K93511	FAIRBANKS FLOOD CONTROL	24847001	06/30/85	08/12/83	9,930,000.00	1,695,220.86	6,986,198.29	1,248,580.85
	K93511 PROJECT TOTALS:				9,930,000.00	1,695,220.86	6,986,198.29	1,248,580.85

R02-TBR-1615 DEPT 24 CIP COLLOCATION-PROJECT AUTHORIZATION BALANCES MONTH ENDING 03/31/84

COLLOCATION CODE	PROJECT	NAME	CUTOFF DATE	DATE LAST ACTIVITY	FUNDING	ENCUMBRANCE	ITD EXPENDITURE	BALANCE
→ 24847001	K93511	*FAIRBANKS FLOOD CONTROL	06/30/85	08/12/83	9,930,000.00	1,695,220.86	6,986,198.29	1,248,580.85
	UNALLO	*** NOT ON PROJECT MASTER FILE *			1,240,179.61-			1,240,179.61-
		COLLOCATION TOTALS:			8,689,820.39	1,695,220.86	6,986,198.29	8,401.24
24847004	K31406	*SAND POINT DOCK	00/00/00	02/02/84	438,922.49		438,922.49	
	K31438	UNALASKA HARBOR	08/31/84		233,039.37	2,500.00		230,539.37
	K78448	*KODIAK DOG BAY HARBOR DEVEL	12/31/84	03/31/84	75,350.00		1,693.09	73,656.91
	K83448	DOG BAY BREAKWATER	12/31/85	03/23/84			320.50	320.50-
	K93129	METLAKATLA BOAT HARBOR BONDS	12/31/85	06/10/82	1,199,000.00		1,227,706.84	28,706.84-
	K93153	*KETCHIKAN BAR HARBOR	12/31/83	12/31/83	818,505.64		761,515.92	56,989.72
	K93448	KODIAK BOAT HARBOR BONDS	12/31/84	03/17/83	1,000,000.00		1,039,980.85	39,980.85-
	M90807	UNCLEARED Z99996 PRE 81	12/31/83	00/00/00			1,318.78-	1,318.78
→	UNALLO	*** NOT ON PROJECT MASTER FILE *			223,839.29-			223,839.29-
	Z99910	P/R SUSPENSE AFTER 09/30/83		03/31/84			61.28-	61.28
	Z99999	A/P EQUIPMENT USAGE		12/31/82			378.30	378.30-
		COLLOCATION TOTALS:			3,540,978.21	2,500.00	3,469,132.91	69,340.28

The $1,240,180 was placed as a "negative unallocated" in the code to bring it in balance with PBA. The project budget still reflects funding of $9,930,000 with an unencumbered balance of $1,248,581. However, the funding source code as shown in the RO2-TBR-1615 has only $8,401 unencumbered balance. Simply stated, the project thinks it has $1,248,580 when in reality it has only $8,401.

These "negative unallocated" funds must be brought to zero so the project budget accurately reflects the funding available. Of interest on the same chart, the very next code -24-84-7-004 -- also has "negative unallocated" funding of $223,839. This code also reflects similar conditions.

- There are 796 projects/phases with expenditures in excess of budget as indicated by FMS records of 3/31/84. This situation of "negative balances" can be caused by a variety of reasons including data entry errors. In any case, this represents a failure to recognize in the Department's programmatic and budget records the actual funding necessary to offset expenditures which have already occurred.

The 3/31/84 records in FMS show $17,358,221 expenditures in excess budget. This does not mean the appropriation is overexpended. It does indicate, however, a lack of discipline in keeping the project records current. The lack of corrective action indicates an "out-of-agreement" situation. The summary of "out-of-agreements" by regional or unit responsibility are as follows:

REGION #	REGION OR UNIT	# OF PROJECT/PHASE	$EXPENDITURES IN EXCESS OF BUDGETS "AMOUNT OUT OF AGREEMENT"
1	Central	184	$12,988,908
2	Northern	141	813,736
3	Southeast	76	1,213,326
4	Nome	11	44,667
5	Valdez	14	31,829
6	Statewide	9	130,540
7	Marine Highways	8	26,613
8	Statewide Planning	1	5,005
	Headquarters/Financial Management (00/00/00 projects in process of closing)	352	2,103,597
	TOTAL*		$17,358,221

* Included in the $17,358,221 is $1,409,921 expenditures in Departments "16" and "25" and $344,118 in advance Right-of-Way funds (Q Funds) which may or may not be correctable at this time.

Of particular concern in the $17,000,000 total negative balances is the occurrence of expenditures which are not Federal-Aid reimbursable. Within project categories which are usually general-funded (and many times in a single appropriation) there has been $3,200,000 of expenditures in excess of FMS recorded project budgets.

CATEGORIES	$ EXPENDITURES IN EXCESS OF BUDGET
State Funded Highway Projects	$912,377
LSR&T	61,294
Buildings	593,686
Harbors	98,118
RSA and Department Contracts	1,139,845
Special State-Funded Projects	34,743

- There are many active project budgets which have one or more funding codes overexpended in FMS. In many cases, the correction will only involve moving expenditures to another code within the same project.

It is essential that these be corrected before year-end closing. Due to the rolling forward of net balances available in PBA, the Department's ability to correct this problem, in many cases, exists only until about August 15, 1984. After that date, correction will be virtually impossible. The over-expenditures in the project funding collocodes, if not corrected, could have serious consequences on the Department's ability to complete other projects in the same collocodes.

Numerous examples exist which show that collocode over-expenditure can have serious consequences for other projects funded in the same code. For Example:

CIP PROJECT AUTHORIZATION BALANCES

R01-TBR-1615 DEPT 24 MONTH ENDING 03/31/84

PROJECT	NAME	COLLOCATION CODE	CUTOFF DATE	LAST ACTIVITY	FUNDING	ENCUMBRANCE	ITD EXPENDITURE	BALANCE
H00204	DIOMEDE HIGH SCHOOL	24881100	01/01/84	04/06/83	1,097,969.00		1,145,498.91	47,529.91-
		24881350	01/01/84	11/28/83	2,561,000.00	47,529.91	2,513,470.09	
		24881454	01/01/84	11/28/83	1,000,000.00	630,000.00	318,969.91	51,030.09
	H00204 PROJECT TOTALS:				4,658,969.00	677,529.91	3,977,938.91	3,500.18
H00206	ST MICHAEL HIGH SCHOOL	24881100	06/30/85	04/25/83	1,793,707.00	33,570.00	714,028.00	46,109.00
		24882045	06/30/85		19,442.00			19,442.00
	H00206 PROJECT TOTALS:				1,813,149.00	33,570.00	1,714,028.00	65,551.00

CIP COLLOCATION-PROJECT AUTHORIZATION BALANCES

R02-TBR-1615 DEPT 24 MONTH ENDING 03/31/84

COLLOCATION CODE	PROJECT	NAME	CUTOFF DATE	LAST ACTIVITY	FUNDING	ENCUMBRANCE	ITD EXPENDITURE	BALANCE
24881100	H00202	ELIM HIGH SCHOOL	12/30/85	03/13/80	899,885.00		899,885.00	
	H00203	*SHAKTOOLIK HIGH SCHOOL	12/30/85	11/02/82	912,444.00		905,388.00	7,056.00
	H00204	DIOMEDE HIGH SCHOOL	01/01/84	04/06/83	1,097,969.00		1,145,498.91	47,529.91-
	H00206	ST MICHAEL HIGH SCHOOL	06/30/85	04/25/83	1,793,707.00	33,570.00	1,714,028.00	46,109.00
	H00207	GULOVIN HIGH SCHOOL	12/30/85	01/04/83	1,570,149.00	31,403.00	1,538,746.00	
	H00208	KOYUK HIGH SCHOOL	12/30/85	12/02/82	1,343,272.00	12,360.00	1,330,912.00	
	H00209	*STEBBINS HIGH SCHOOL	12/30/85	01/05/83	2,020,421.00	60,613.00	1,959,822.34	14.34-
	H00210	BREVIG HIGH SCHOOL	12/30/85	11/02/82	1,583,659.00	2,004.00	1,581,655.00	
		COLLOCATION TOTALS:			11,221,506.00	139,950.00	11,075,935.25	5,620.75

The over-expenditure in H00204, Diomede High School, occurred in the same collocode as the St. Michael High School project, project #H00206. The St. Michael High School with a cutoff date of 6/30/85 shows a project balance of $46,109 in collocode 24-88-1-100. The total code has only $5,620 unencumbered balance. Unless the Diomede project expenditures are transferred to 24-88-1-454, an additional funding source for the St. Michael project must be found. The St. Michael project has been put in jeopardy by the over-expenditure in this collocode of the Diomede High School project.

One interesting sidelight brought to light in the CPC cost-to-close effort is an estimate by the region that St. Michael School project #H00206 has cost-to-close of $99,000. If this estimate is correct, the project will also need additional funding to complete.

° To aid in the CPC effort of determining fund source status (elements V and VI), Financial Management has developed a series of reports which will tie each collocode and project to the proper authorization and fund source type (billable and non-billable). Within the Department, there has not been uniformity from one mode to another in how funding sources and expenditures are treated. Expenditures have usually been recorded as billable (participatiing) or non-billable (nonparticipating) but the authorized funding for these expenditures by fund source type has not been correlated in the FMS system with the expenditures. The Department must now validate the data in these reports to determine the true fund status.

This will require considerable effort by the regions and other units but it is essential to the CPC and regular Departmental operations efforts. Benefits of this effort will:

a) provide validated data on fund source status for cross-walking to the new FIS

b) determine if fund type (billable or non-billable) has been over-expended (this information is not available at current time) and the true status of the fund type

c) allow a better look at the revenue questions within the Department's systems.

The determination of fund source status is probably the most difficult part of the CPC. It is in this area that the Commissioner's "agreement" with the CIP legislation is most vulnerable. At this time, we are unable to determine if the Commissioner is "out of agreement" with the CIP Legislation, and if out of agreement, by how much, and what type of funding is involved.

° The CPC effort identified 552 separate projects or phases in which all work has been completed but the project cannot be closed due to claims, right-of-way problems, etc. The cost-to-close of these projects is estimated to be $28,409,000. Some of these "completed" projects have cutoff dates as far back as 1975; others are more recent but could be several years old. A concerted effort must be undertaken to close these projects and liquidate the liabilities.

RECOMMENDATION #1:

Each region or unit designate a minimum of two individuals with at least one from the accounting office, to review the new reports, verify or correct the data and expenditures, and prepare the input documents necessary for their corrections. As a part of this effort, these individuals will:

a) assist the CPC in driving the "negative unallocated" funding to zero by correcting if possible the funding programr to each project within each collocode where this occurs. (discussed on page 8)

b) review all projects/phases where there are expenditures in excess of funding and correct either the collocode over-expenditure or provide funding to bring the project/phase back into budget. (discussed on page 10)

c) clear error register assigned to the region (discussed on page 3)

d) update the programmatic records on active and complete projects to reflect the actions in a), b), and c).

These activities need to be completed before the fiscal year ends to prevent "locking" these conditions into the official State records when PBA rolls over. Since many collocodes contain projects from more than one region, any unilateral action on one specific project may impact other projects in the collocode. It is recommended that the Division of Statewide Planning and Policy be included in this effort and provide staffing and assistance to the CPC to resolve this problem. The committment of resources is needed to assure completion of this activity prior to the fiscal year end.

RECOMMENDATION #2:

For those projects classified as "completed projects" by the regions with anticipated additional expenditures, assign specialists from the Division of

Standards and Technical Services to assist CPC in spearheading a concerted effort to close these projects. Suggested assignments are:

Utilities	Bruce Freitag
Claims	Loren Rasmussen
Right-of-Way	Jack Bodine

Completed projects with "other" types of anticipated expenditure classifications should be handled on the same expedited basis by designating an individual in each region or unit to work full time to determine:

- exact nature of liability
- problem preventing closure
- recommended closure action
- schedule for closing action
- determination of costs and availability of funding to close

Close coordination with CPC is essential.

To prevent further erosion of the project funding required to liquidate the estimated cost-to-close of completed projects, it is recommended that where project funding is available to cover the cost-to-close, the amount be encumbered and the balance released back to unallocated. For those completed projects without sufficient funding to cover the cost-to-close, additional funding will need to be located or a management decision on project termination considered . If additional funding is found, it should also be encumbered.

The following table summarizes the problem based on CPC analysis performed to date:

#	REGION	SURPLUS FUNDING # PROJECTS	SURPLUS FUNDING $ EXCESS	UNDER FUNDED # PROJECTS	UNDER FUNDED $ UNDER
1	Central	157	$5,409,135	231	$14,426,518
2	Northern	48	1,541,724	46	515,014
3	Southeast	30	1,477,995	26	1,652,031
4	Nome	2	61,812	1	43,041
5	Valdez	0	0	3	41,970
6	Statewide	0	0	2	161
7	MHS	4	604,124	2	3,636
8	Statewide Planning	0	0	0	0
	Misc., already closed, etc.				2,631,839
	Total	241	$9,094,790	311	$19,314,210

RECOMMENDATION # 3:

The CPC team believes that there is a great need for basic departmental program/project Financial management training. This training must be tailored to a basic level as there is a wide range of knowledge levels in the project managers and Project Control Groups. The recent decentralization of DOT/PF activities has made it imperative that the Regions and units have a basic and broad understanding of DOT&PF program/project financial management principles. Training should be "targeted" to non-accounting personnel. If the training becomes too accounting-oriented the impact to on-going project management personnel will be lost. The training could establish the ground work for the "agreements" concept of program/project management. The concept, while very simple is a departure from prior Departmental philosophy and will require the support of both top management and project personnel for implementation.

DEPARTMENTAL POLICY AND SYSTEMS RECOMMENDATIONS

The CPC effort has identified several areas where policy decisions and system changes would increase the efficiency of our program/project management and would prevent recurrence of the problems which the CPC is now addressing. These recommendations should be considered as long term committments and not instituted as temporary measures to an ongoing problem. It is recognized that some elements of the recommendations are already underway within the Department. Other elements still need to be addressed.

The major deficiencies in the Department's program/project management efforts can be summarized into the following four categories:

1) fractionalization of the authority/command structure
2) lack of dependable and accurate CIP Regional and Statewide reports
3) lack of coordinated efforts, program goals, and objectives
4) lack of a comprehensive "systems" approach which not only would provide the needed subsystems but would include personnel training, motivation, and development of a reliable quality assurance program.

From CPC experience, the department does not have defined lines of responsiblity within either the headquarters or regional level relative to responsibility for CIP financial and programmatic direction and information. There does not seem to be a clearly defined responsibility assigned to develop, administer and monitor the performance of our programs, budgets and projects.

The CPC team feels that the many and varied efforts and approaches to the same basic problem of program/project management must be brought together into a unified effort. To our knowledge, there are at least 8 groups actively

working on the same effort, some only on a part of the problem. In most cases a single focus of reponsibility (similar to CPC effort) could contribute significantly to efficient, coordinated problem resolution.

The Department needs to be able to tie its operating budget requests to project workloads. (The capability exists within MIS). As the downward pressures on the operating budget increase, detailed analyses and backup tied to the CIP workload must be developed to assure full recognition of program impacts and allow alternatives to be developed and presented. The organization of Project Control Groups is a start but from the understanding the CPC team has of their duties, the PCG as presently staffed cannot provide the management analysis, direction and information needed for effective control. Classification problems may need to be overcome to allow qualified staffing at the appropriate levels of expertise and experience.

The CPC team has not seen clearly defined goals and objectives in Departmental program/project management. This lack of goals and objectives allows divergent development and management which does not contribute to our ability to pull together. For example, Southeast Region Design and Construction saw a vacuum in terminology used in program/project management and has developed a small guide. We applaud this effort but the same vacuum exists elsewhere and without a coordinated effort, the Department will have as many definitions as there are individuals dealing with program/project management.

RECOMMENDATION #1:

The Department should unify its efforts in program/project management by

developing an organizational structure with a single point of focus responsible for program/project management, development, direction and leadership. This recommendation is concerned with the operational procedures, coordination of programmatic and accounting information, evaluation, analysis, and monitoring of program and CIP performance.

RECOMMENDATION #2:

The Department should broaden its "systems" management approach to its operations. The more decentralized and diverse an organization the stronger its systems must be.

One of the first systems which should be installed is the Department Quality Assurance Program (QAP). This umbrella system would provide the Department-wide system for quality control. To be effective it must be highly visible. This visibility can be acheived by requiring each region to develop a quality control system in conjunction with the Department's QAP. The region quality control information base must be compatible with the Department's QAP. A commonly managed MIS would provide this.

RECOMMENDATION #3

Develop within the Department's CIP program/project management the concept of "agreements." This will clearly define the responsibility for corrective action when programs or projects "go out of agreement."

ADDITIONAL POLICY ISSUES NEEDING RESOLUTION

The CPC has identified additional policy issues which will need addressing in the near future. The investigation, analysis, and coordination has not been completed on these issues so recommendations are not given in Interim Report #1.

These issues are listed for identification purposes and to develop understanding for future discussion. This list may not be all inclusive.

Additional policy issues needing resolution are:

- "Reconciliation" of clearing and suspense accounts to the project level
- Audit requirements on TORA's, Grants, Agreements, etc.
- Over expenditure of RSA's
- Disposition of REAA balances
- Lapsing Policy for completed or closed projects
- Resolution of unfunded expenditures

Anchorage Daily News
October 7, 1984

DOT audit: Projects caught in a paper traffic jam

By LARRY CAMPBELL
Daily News reporter

The state Department of Transportation has failed to undertake more than $800 million in construction projects approved by the Alaska Legislature since statehood, according to a preliminary audit of the department released this week.

The whereabouts of some of the money is difficult to determine, the audit said.

In many cases, hard cash intended for those never-to-be projects was shifted to other efforts. The state also may have paid more than necessary for some projects because it failed to apply for available federal funds.

The audit, called the Capital Projects Cleanup preliminary report, was made public in a state Senate Transportation Committee work session Tuesday afternoon. The report is the result of two years of sifting through convoluted DOT accounting procedures used for the last 25 years, said Jim Merrill, DOT special projects engineer.

Auditors still are working to straighten out the confusing DOT accounting system in time to submit a final report to the Legislature on Dec. 15, Merrill said.

Perhaps 75 percent of the $897 million in DOT unfunded projects represents federal matching funds that no one apparently ever bothered to request, Merrill said.

"We're talking about a lot of small projects that just added up over the years," Merrill said. "In some cases, these projects were put back because they just weren't ready to go. In others, the DOT never had any intention of building them."

"This is something we haven't done since statehood," said Sen. Pappy Moss, D-Delta Junction, committee chairman, of the accounting review. "The philosophy has always been build it now and we'll straighten out the records later. Well, it's later now."

The problem grew as each Legislature through the years would approve appropriations for projects, Moss said. Each appropriation would contain formulas designating how much the state would pay and how much would come from the federal government.

While the dollar approval for projects grew, the paper work necessary to obtain federal funds for those projects fell behind in many cases, Moss said. In other instances the DOT never intended to begin the projects, at least within a time frame viewed by the Legislature.

Lax accounting procedures also may have cost the state hundreds of thousands of dollars because some projects would occasionally use state funds where federal dollars should have been used, Merrill said. An estimated accounting of how much the state has overspent also will be included in the Dec. 15 report.

Until recently, the department had kept about 11,000 projects in an open status that should have been closed or were never intended to be built, Merrill said. In the past month, Merrill and his staff have closed out more than 8,000 accounts that should have been closed years ago, he said.

One example was a $50 million plan years ago to build a new ferry to replace the state system's Tustumena ferry that sails between Kodiak and southcentral Alaska.

The project was to be completed with $3 million in state funds and the balance coming from the federal government. But the money was never requested.

Meanwhile, the Tustumena account was kept open, since the project was never completed. Merrill said, however, that building a new ferry is not in any future DOT plans.

Moss said the Capital Projects Cleanup evaluation at least has brought to light the lack of proper accounting procedures within the DOT.

Anchorage Times
October 8, 1984

State transportation audit tracks down $800 million

Associated Press

The Alaska Department of Transportation and Public Facilities has failed to begin more than $800 million in construction projects approved by the legislature since statehood, a preliminary audit says.

The audit is the result of two years' work and is titled the Capital Projects Cleanup preliminary report. It was made public in a state Senate Transportation Committee work session last week.

Auditors said it was difficult to track some of the money because in many cases cash for projects was shifted to other efforts.

The state also may have paid more than necessary for some projects because it failed to apply for available federal funds. Lax accounting procedures that allowed use of state money for projects that should have been financed by federal funds also may have cost Alaska, auditors said.

"We're talking about a lot of small projects that just added up over the years," Merrill said. "In some cases, these projects were put back because they just weren't ready to go. In others, the (agency) never had any intention of building them."

"This is something we haven't done since statehood," said Sen. Pappy Moss, D-Delta Junction, committee chairman.

The auditors still are working to straighten out the state agency's confusing accounting system in time to submit a final report to the legislature on Dec. 15, said Jim Merrill, the department's special projects engineer.

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Juneau Empire
October 8, 1984

DOT audit shows road problems

The Associated Press

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The project was to be completed with $3 million in state funds, with the balance coming from the federal government. But the federal money never was requested.

Meanwhile, the Tustumena account was kept open, Merrill said.

ATTACHMENT "B"

SENATE TRANSPORTATION COMMITTEE
STANDING COMMITTEE MEETING

***

October 2, 1984
Anchorage Legislative Information Office
10:00 a.m.

Members Present: Senator Moss, Chairman
Senator Fahrenkamp
Senator Faiks

Members Absent: Senator Gilman
Senator Kerttula

Other Legislators Participating: Representative Abood
Senator Josephson

COMMITTEE CALENDAR

A hearing to assess the transfer process of the railroad from a labor, management, and Federal Railroad Administration perspective, and to discuss the Alaska Railroad Transfer Team's work plan and time line. A work session on the Capital Project Clean-up and Financial System status report.

WITNESS REGISTER

Mark Hickey
Railroad Transfer Team Coordinator
Department of Transportation &
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ACTION NARRATIVE

No tape log numbers are on record as no tape counter was available.

Interim tape #1, Side A

Chairman Moss called the meeting to order at 10:00 a.m., and gave a brief overview of the railroad transfer issue. He commented that the meeting was called in an attempt to get cooperation back into the process. He stated that he hoped by the end of the meeting they would be able to determine that the federal railroad authorities and the state are proceeding with a single purpose, which may not be occurring. He referred to the letter to Jack Burton from Commissioner Knapp (Attachment #1), and the transition work plan (Attachment #2). Chairman Moss recognized Mr. Arthur Minton.

Minton: Mr. Minton introduced himself as a representative from the International Association of Machinists and Aerospace workers, which some of the railroad employees belong to. He stated they're concerned about the deteriorating conditions of employment that have been occurring - unilateral changes of classifications, the farming out of work, etc. He stated their concern for the temporary employees who have no protection and benefits who have been severed from employment. It's of concern to the railroad and the state of Alaska because their expertise is needed for the maintenance of the railroad. Preferential hiring for the recall of these people for employment to the railroad should be done. They feel that these employees are not getting a fair shake in the transfer. They are going to utilize the restraints under the existing labor agreement, which is not as easy under the federal statute as it would be under a contract that entails all the conditions of employment instead of just part of them. They want to see not only the railroad facilities turned over to the state in good form but also a competent labor force with the expertise to run it well.

Chairman Moss thanked Mr. Minton and recognized Mark Hickey, asking him for an update of the transfer.

Hickey: Mr. Hickey stated that they are about halfway through the

transition period, where the federal government still owns the railroad. Certification was provided after which came the federal government's statement that the state has agreed to meet all the transfer conditions including the employee protection provision of the federal transfer law. Transfer is expected to occur no later than January 5, 1985. He referred to the work plan. The major step which has not been taken is appointment of the board members, which is expected to occur before October 5, 1984. Chairman Moss asked for clarification that the Governor would make his appointment this week. Mr. Hickey answered that to his understanding this would happen, and that the board hopefully would start meeting no later than the 3rd week of October. The board will be able to make some final decisions that are necessary for transfer - adoption of health and life insurance program, and of existing collective bargaining agreements. The major focus right now is on employee issues. Answers are being given to individual employees.

Senator Faiks asked what has occurred since June 1st that has caused employee unrest - what is different this year from last year.

Hickey: Mr. Polanchek could better answer that question. One major change that he is aware of was a RIF (reduction in force) action of four employees in the machine shops in Fairbanks. Senator Faiks asked if this also occurred last year. Mr. Hickey answered it would be more appropriate to turn that question over to the railroad.

Senator Fahrenkamp asked if these people involved in the RIF action were told that they could either move to Anchorage or be dismissed.

Hickey: Jobs would be made available to these four employees in Anchorage. Existing pay was guaranteed for two years under federal procedure, then there would be reduced pay for these people. Senator Fahrenkamp asked if they would close down the maintenance shop in Fairbanks. Mr. Hickey answered that it had been a planned effort for several years to consolidate mechanical maintenance functions in the Anchorage area. It is not an entire closing of the mechanical shop in Fairbanks. Senator Fahrenkamp stated that this was a top concern to her.

Chairman Moss recognized Representative Abood. Representative Abood stated that he'd like to know from rank & file employees what's going on.

Interim tape #1, Side B

Hickey: Referred to letter to Jack Burton from Commissioner Knapp on the question of the Anchorage freighthouse. Given the closeness of the transfer and the size of the issue, in talking about it with the Federal Railroad Administration

people, all involved felt that the best decision would be to postpone the action until the board could review the decision on the merits of the business proposal. My understanding is the railroad has made that decision to postpone closing the freighthouse so the board can assess the proposal. The state's interested in having a self sustaining operation.

Senator Faiks asked what the issue of the freighthouse is, and what's happening.

Hickey: The freighthouse has about 20 permanent employees, and handles the deliveries of rubber tires in the Anchorage area for freight brought in on the railroad. They are also involved with the new Crowley and SeaWay Services in assisting with the trailers that come in. Senator Faiks commented that the Teamsters would like to have a decision made on the freighthouse.

Chairman Moss called a five minute break as Mr. Hickey had to take an emergency phone call.

Interim tape #2, Side A

Chairman Moss called the meeting back to order and asked Mr. Hickey back to testify.

Hickey: This is a difficult time, and the lines of authority are confused. The federal government still owns and operates the railroad. The Federal Railroad Administration (FRA) has the type of oversight they've always had. The state, as part of the federal transfer law, has specific authority over three kinds of actions by the railroad - any lease of land or real property in excess of five years, any individual capital expenditure in excess of $300,000.00 and any attempt to sell or dispose of real property. Other than that there are no formal arrangements where the state has any control over the railroad decision making. We do have pretty close cooperation. In any actions of this type the state will be alerted and briefed prior to implementation. Standard operating procedures should be followed.

Chairman Moss asked what would happen if the board was available before January 5th - if they'd take over operation of the railroad before then or not.

Hickey: They will not. Once the board comes into existence they will begin to be briefed on the railroad situation and be dealing with the responsibilities they will have. The actual legal responsibilities to direct and manage the railroad will not come to the board until that date of transfer.

Chairman Moss asked if they were in a situation where they had no titular head to guide them, and if they were trying to correct that.

Hickey: That's a reasonable question, which is why Commissioner Knapp feels that this is an appropriate forum to sit down and talk about it. The railroad management is there and doing the job that needs to be done, but it's a difficult time. Once the board takes over it will be a matter of time before they're really comfortable with their duties. Any change of this nature will have this time period of uncertainty. We've been able to get out a second question and answer booklet to the employees that was prepared jointly by the state and the FRA. The employees appreciate getting these answers, we've been getting some positive feedback. Chairman Moss asked who'd putting these out. Mr. Hickey answered the Transfer Team and railroad management and the FRA.

Chairman Moss recognized Jay Trumble.

Trumble: An ex-employee of the Alaska Railroad, was employed there from 5/82-9/84. There seems to be no effort being made to protect the railroad employees. As far as employees and employee rights as this time the state seems to disavow any responsibility. The federal government seems to treat the employees as though they're no longer federal employees. The employees who have been recently terminated and their families certainly think this is a difficult time. The employees who were terminated up to 9/14/84 have no commitment from the Alaska Railroad for reemployment. They have no reemployment rights due to the fact that they were employed as temporary workers with the ARR. Many were employed 2 to 3, 3 1/2 years. I was told the temporary employment status was a result of a federal hiring freeze, and I would not have to worry about unemployment. Now I'm unemployed with no commitment of reemployment. As of 9/14/84 there are a minimum of 25 mechanical maintenance employees terminated, I quote, due to a lack of projected revenues. Given my experience with the railroad during the last few years this is considerably out of proportion with the seasonal layoffs that we experience.

Chairman Moss asked Mr. Trumble to clarify what his employment status was. Mr. Trumble answered that when first hired he was considered a term employee. With the expiration of his term his status was changed to temporary.

Representative Abood asked Mr. Trumble what his job with the railroad was. Mr. Trumble answered he was a locomotive mechanic. Chairman Moss asked if that was similar to the activity that's being curtailed in Fairbanks.

Trumble: I worked in Fairbanks for 30 days last summer. It's in the

best interest of the state of Alaska to be able to understand how this action by the railroad affects the people. These personnel actions seem to be restricted to the mechanical department. Referred to Alaska Railroad Transfer Report about an increase in rolling stock. Reducing forces in the mechanical department is creating a hazard to the employee health and safety and to the safety of the public. Without proper maintenance the chances for accidents increase considerably. Customarily in the fall we store locomotives, coaches and boxcars. This year locomotives are being stored without proper maintenance, in an unserviceable condition. During the slack time of the year would be the best time to do the maintenance on these cars.

Chairman Moss asked if maintenance that should be performed during the off-season is not being performed.

Trumble: No question about that.

Chairman Moss recognized Senator Josephson.

Senator Josephson asked if these actions by the railroad prejudice or jeopardize the state's operation, and if experienced employees would not return because of the way they have been treated.

Trumble: Being unemployed I would have to take another job. I have 10 years of experience in the railroad industry, and feel that I was an asset to the Alaska Railroad. If the state is not able to employ qualified railroad personnel it will be a disadvantage to the state.

Senator Fahrenkamp asked if in his opinion they would have locomotives and rail cars that are not properly maintained this winter and therefore will not be ready to go and could be detrimental to the safety of Alaskans. Mr. Trumble answered yes. Sen. Fahrenkamp asked if there would be enough time between the 5th of January and the beginning of the season for correcting this lack of maintenance.

Trumble: The condition of the rolling stock is extremely substandard. I cannot envision such total reversal of management policy that the opportunity would present itself to correct these deficiencies. Those deficiencies could not be corrected, in my opinion, in a six-month period. We have deficiencies of a major proportion which have existed for many years. I think the State of Alaska will find upon purchasing the railroad that the cost of enforcing laws will be surprisingly high. Senator Moss asked if he was speaking to OSHA. Mr. Trumble answered no, but to FRA laws.

Senator Moss asked for clarification that management policy appears to have been changed this year in that normally in the winter a lot of maintenance work is done which is not being done this year.

Trumble: To a certain degree, yes. In the past the work has not been

performed to maintain the equipment at a level at which it should be maintained according to the FRA standards. This year the lack of maintenance is considerably more obvious in that there are less employees to perform the maintenance. If you checked into it I'm sure you'd find that the overall number of mechanics in the repair facilities in Anchorage is reduced to the lowest point that it's been in the last ten years.

Chairman Moss asked if he had anything more to say on this.

Trumble: Yes, I'd like to address the RIF's that occurred in Fairbanks. Since that time we have examples of supervisory personnel who have been sent to Fairbanks from Anchorage expediting maintenance on locomotives with which they are unfamiliar. When the original RIF's occurred management intention was that the mechanical maintenance that had been performed in Fairbanks would be performed in Anchorage. If this is true then why must we send supervisory personnel to Fairbanks? Why have we created three positions in Fairbanks when four positions were RIFed. There have been different titles given to the positions. Perhaps the RIF was an action to circumvent the U.S. code. This work is being performed, but by different people.

Chairman Moss asked if they were under different classifications.

Trumble: Yes. They are at a lesser rate of pay and a lesser level of qualifications. It would be in the best interest of the state to have employees who were the best qualified and most competent.

Senator Josephson brought out the point that as a buyer you would want the seller to run the business as you would want it run. He asked if the state was going into a situation where we are buying something the owners lost interest in and aren't operating it right until the new owners take possession.

Chairman Moss answered that this is what the hearing is all about. He recognized Representative Abood.

Representative Abood asked where is the monitor from the state to make sure the federal government is running the railroad right, and do we have such an agency.

Chairman Moss recognized Mark Hickey.

Hickey: The transfer law does not have a formal mechanism where these kind of actions can be scrutinized and consented to by the state other than leases, capital expenditures, and the sale of real properties. The proper responsibility currently rests with the Commissioners of the Department of Commerce and Economic Development and the Department of Transportation and Public Facilities.

Representative Abood stated that they were remiss in the legislature by not setting forth an investigatory or monitoring organization to monitor these problems. We do not have a mechanism for doing that, is that correct?

Hickey: We do not have a formal mechanism. The temporary employee question is a problem. The layoff may be larger than the normal seasonal layoff. The state's obligation is with permanent employees only. The state agreed that the temporary employees on board at the date of transfer will be reemployed the next day with full benefits. The board has to resolve the question of what commitments they want to make to the temporary employees that were previously terminated.

Senator Faiks referred to the acquisition document - SB 73 in which there is a paragraph that states that everything must be as is, a caveat that states abuse of maintenance could render the agreement null and void.

Hickey: There is a section in there that states that the state is responsible for insuring that the railroad as depicted in the transfer report document as amended is the property that will be transferred. There is concern that we'll get the property that's in there. A deficiency in the railroad is the rolling stock. We are concerned about the safety situation. In the transfer report we had an agreement with the FRA that they would do a full safety assessment which was done this summer, and they are required to correct the deficiencies noted in that assessment.

Representative Abood asked if there was the possibility that the federal government could change classifications of individuals up until transfer. There's got to be something that tells the feds to run the railroad like we've always run it.

Hickey: Any personnel action of the railroad today has to be in accordance with collective bargaining agreements and federal rules and procedures. We have the kind of understanding with the FRA that there will not be these kinds of actions without us being briefed on it. If these are standard operating procedures such as seasonal layoffs which do vary from year to year that's one kind of action, if it's a major attempt at reclassification it's another.

Senator Josephson asked that since the state planned to have a more intensive maintenance program than the feds, and money has been allocated for that purpose, then would they want to hire those temporary employees back.

Hickey: That's correct.

Senator Josephson asked at what point can the state say to these employees that they'll be rehired, and is there any mechanism by which

they can go to the federal government and say that we want these people to stay on even if on a cost reimbursement basis, because in the long run it would benefit the state.

Hickey: To answer the first question, by November when the board has met they could give some kind of an answer. We anticipate people retiring, so we anticipate an even greater need for people. There are no guarantees that someone who gets laid off in September will get reemployed next May.

Senator Josephson commented that the board would make the decision and he would assume the board would follow legislative intent. The railroad industry is a growth industry as far as we get the railroad up to a higher standard.

Hickey: I doubt you'd want to create a situation today where you'd want to tell the board that you have to rehire every single person who is a temporary employee of the railroad that's been laid off. You want to give the board discretion to do the hiring and firing.

Senator Fahrenkamp asked Mr. Hickey if he was able to see the financial statements to see how the railroad is doing revenue-wise.

Hickey: The railroad revenue-wise is doing better than last year due to Sea-Way traffic, but the cost is higher also so the profits aren't any higher.

Senator Fahrenkamp stated that since the RIF's were due to lack of revenue, she'd like to get in perspective what the difference is from last year, in order to know if this is a normal procedure in business, versus that this is a cut by the federal government to bare-bone it until the state takes over.

Hickey: In that context you'll want to look at the relationship of revenue costs versus revenue costs last year because you've got to deal with the net cash available for the two.

Chairman Moss thanked Mr. Hickey and recognized Mr. Allison, Mr. Polanchek and Mr. Blasingame.

Interim Tape #2, Side B

Allison: Introduced himself, Mr. Polanchek and Mr. Blasingame. The railroad administrator asked me to convey to you the degree of cooperation he has felt from the state in this process, which is impressive. It should be incumbent upon us to keep employees informed, admittedly we are somewhat late. The FRA in Washington has a strong interest in a successful, and that means that the railroad is successful post-transfer. There is no economic incentive for the federal government to cut maintenance expenses. That lessened expense is merely going to the revolving fund which is transferred to the state minus federal obligations.

We've been working in every way possible with the state to involve them in a current basis in decisions and we look forward to doing the same thing with the board once it's appointed.

Senator Josephson asked about the claim that maintenance is at a ten year low.

Polanchek: I would say that over the years maintenance has increased. Efforts to improve our roadbed and track structure have been intensified over the last five years. We've been investing more money in our roadbed, tunnels and bridges. One product of this increased maintenance is that the passenger trains now can operate at 59 miles per hour instead of 49. There's quite a difference between interchange and operational safety of rolling stock. Interchange has to do with the age of the equipment.

Senator Faiks commented that they know about the improvements in the track and roadbed, but what we want to hear about is the mechanical area. When the locomotives are being put away, are they being shortchanged of the maintenance they need to start up again at the high volume season?

Polanchek: Our maintenance efforts are system-wide. In addressing the storing of locomotives, maintenance expenses can be deferred until spring. Any locomotive that is brought back will certainly be in compliance with federal standards. There is a process to put it in storage and a process to ready it for spring. What isn't done now will be done in the spring.

Senator Faiks asked why the system had changed - that maintenance that was normally done in the fall has been shortchanged. Mr. Polanchek expressed disagreement. Senator Faiks asked if there was a checklist used in storing the locomotive, where last year there were, say 25 operations performed before storage, and this year only fifteen? Can it be equated to numbers?

Polanchek: No. The same thing is being done this year to store the locomotive as last year.

Faiks: I'm confused then why the gentlemen feel very strongly that the process has been changed this year.

Polanchek: Any repair that doesn't necessarily have to be done in before storage can be deferred. We will make the repair.

Faiks: There has been a policy decision of the Alaska Railroad that the checklist for storage procedures has been changed from last year to this year.

Polanchek: No, actually this is only the second year that we've been able to take advantage of storage at the military base.

Faiks: You could almost say that additional procedures have been instituted in the railroad in storing locomotives over the last ten years, say?

Polanchek: That would be correct. In prior years with the shortage of warm storage, instead of being able to put them inside, we had to keep them outside.

Fahrenkamp: Are you deferring any more of the work this year than you did last year, or the year before?

Polanchek: I would say no.

Fahrenkamp: Can you explain to me the change in policy concerning maintenance in the Fairbanks area, and the thinking behind it?

Polanchek: The gradual change has been occurring over the last ten years. Anchorage has always been our primary maintenance facility for locomotives and all our rolling stock - repairs, overhaul, any major function would come to Anchorage. Fairbanks is gradually phasing out, it's more of a trouble-shooting operation, refuel, inspections, nothing really significant. It's only 700 miles from Anchorage to Fairbanks, which for a diesel locomotive is a short trip. The need for the type of skills and technicians that we had previously in Fairbanks has changed and it's become more of a service station where all we're doing is normal daily inspections. All of our locomotives are based in Anchorage, they go to Fairbanks and return to Anchorage. With the exception of this winter we'll probably have four or five locomotives in Fairbanks to cover the traffic of the coal mines. Major maintenance and servicing will be done in Anchorage.

Fahrenkamp: What's the thinking behind this?

Polanchek: It's more efficient and cost effective. Anchorage will be the major center, Fairbanks will be a service station.

Fahrenkamp: I'm still bothered by the idea of the service station. But if we had four people that had to go and the job descriptions have changed and there's three people there - has the work changed significantly that there's a need for another type of worker, and what happens if a wheel comes off?

Polanchek: We have changed the classification because of the type of work that's being done. Mr. Blasingame could explain this.

Blasingame: The decision to move the major function to the Anchorage area as being a management decision is the sort of thing we do on a regular basis. My job is to insure the

process we go through is done properly according to the federal regulations. It becomes an adverse action to the individuals that these changes affect because these classifications are being changed. They have an opportunity based on seniority and their present job classification that we would offer them a job in another location - that's a requirement by law. In the process that we go through by offering these people jobs in another location we can lower the grade of the individual or skill that's needed, in this case in Fairbanks. Two of the employees have the option to retire.

Fahrenkamp: Are you saying that to be transferred to Anchorage that their rate goes down.

Blasingame: As part of that protection those individual employees have both their grade and their pay protected for a minimum of two years in the federal sections. We do have to offer them a like position, and that's the reason they were offered that position in Anchorage. If there is an opening for which they are qualified which is an equal or lesser position we are required by federal regulations to offer those individuals those positions.

Fahrenkamp: If there are no openings?

Blasingame: They could be out on the street or they could bump another employee with lesser seniority.

Chairman Moss recognized Representative Abood.

Abood: I'm getting the perception that if you wish to play games with the classifications, reduce the number of people in Fairbanks or Anchorage, you'd have the right to do so. If you put all of these pieces of equipment into storage without maintenance now and wait till spring for this maintenance factor, then the state is going to have to pick up the tab. It seems that your operation is changing in this particular area up to the two year period start, otherwise why would we have this confrontation with the employees of the railroad when the state has nothing to do with it? It is strictly a federal government situation. I was in on this railroad transfer and if I'd have known this I'd have gone back to the date we paid the $22 million that this would stay just like it is with oversight of the state until the two year period state. It seems the federal government is not acting in full faith up to this two year period, particularly in the case of the freighthouse. If we eliminate this, private industry might have to take it over.

Allison: Behind all this there seems to be the thinking that if the federal government gets rid of employees, or not properly maintain equipment, it will somehow be to their advantage. All money comes from the revolving fund which transfers to

the state minus any current obligations to the federal government. If we started cutting expenses in that way it would just add to the revolving fund. There is no economic incentive for us to do this in any case. Decisions like the change of classification employment in Fairbanks and the freighthouse which we decided not to give up in order that your board can review that, happen every year. This is a four employee issue of sizing the employee classifications and skills to jobs, otherwise we'd be wasting a more highly skilled individual on a job that doesn't require that.

Abood: Such as a gas station?

Allison: Right. It wasn't our understanding that's what you wanted us to do.

Faiks: Who's paying for the railroad transfer on your side?

Allison: From the revolving fund and the appropriating fund.

Faiks: Is the money coming out of the revolving fund hurting the ongoing operations of the railroad today? How would that money have been spent if the transfer wasn't going on?

Polanchek: We haven't spent very much money compared to you folks.

Faiks: Yes, I know. Hickey's expensive.

Polanchek: The railroad has always funded it's own operating maintenance. We expect maintenance will be funded out of our revolving fund from operating revenue generated. The money that you're addressing for the transfer was put in two years ago by Senator Stevens as a one-time appropriation of $7.6 million to be used by the railroad for maintenance and capital appropriations. Out of that appropriation $1 million was earmarked for transfer related expenses. $6.6 million was for maintenance. Up through this year we have expended all of those funds. The only funds available for the railroad is the money that we are able to generate internally.

Allison: There's another source of money on the federal side which is the other agencies - BLM, all the other agencies that are working on the transfer have funded it themselves.

Faiks: How are you going to pay for today's time?

Polanchek: Out of the operating fund.

Faiks: Is there a large sum of money being spent on this transfer that could have been spent on normal operations, maintenance and capital expenditures if we weren't going through this transfer?

Allison: It's the reverse. The purpose of the $7.6 million special appropriation was in part to deal with one-time transfer costs. If the railroad wasn't sold they wouldn't have that money.

Faiks: The locomotives are being stored in a heated place. There's such a divergence of opinions from the workers and the management as to the locomotive storage. If because they get to be stored in the warmth, has the been a change in the storage procedures based on temperature?

Polanchek: No, because we stored them in the same place they were last year.

Faiks: What about three years ago?

Polanchek: Three years ago we didn't have storage available. The locomotives were kept running.

Faiks: What do you account for this wide margin of difference in opinion on the maintenance of these locomotives?

Polanchek: Some of the concern is because we've expended the $7.6 million. We can't fund certain programs, and other things have to be set aside.

Faiks: That makes sense, if you were given one time only dollars. The state has a maintenance schedule that we want to project in the budget from here on out that would give you a healthy sum of money every year to keep that maintenance up to snuff. It makes sense that some of these programs were instituted under that one block of money.

Polanchek: In the locomotive area we know that the trucks on the locomotive need to be rebuilt. We took a portion of that money and had a truck rebuild program. Now that money is gone, and the program is over.

Faiks: What about safety rules and regulations? Are the citizens of Alaska going to be jeopardized because that program is shutting down, including the workers?

Polanchek: No. Under federal regulations there are specific things you are required to do to locomotives, and they will be maintained in accordance with the federal regulations.

Faiks: Last year we spent hours trying to save the temporary employees. There was no way the state could get into that labor problem without having control over the railroad. I believe we were able to get an extension on the two year federal temporary hire provision but we could not get the FRA to increase the number of permanent employees we were allowed to have. Is that right?

Blasingame: You're right. One of the problems we face is that the Alaska Railroad is part of the FRA, U.S. Dept. of Transportation which has a mandate for man hours. When we appoint an individual, they get a career service appointment, that's permanent, versus temporary. If you let that person go, it's an adverse action, you go through a reduction in force procedure, and they have certain rights and benefits under federal regulations. When a temporary comes on they know it's temporary, but we got a waiver from the Office of Personnel Management to extend those appointments because of the requirement that was placed on us by federal OMB to stay within a certain guideline. We're still under that mandate.

Faiks: We could not get David Stockman to give us a release so we could hire more permanent employees.

Blasingame: We're still in that process. We would bring temporary employees on for what we call a temporary term period. We could extend that term if we needed that employee and if the funds were available. When the funds run out, we have to let the individual go.

Chairman Moss stated recognized Mr. William Jachim, in Fairbanks.

Jachim: I was reduced to a locomotive servicer from a locomotive mechanic. We were told there were going to be 90-day inspections handled in Anchorage. We were told that we wouldn't be working out of our job descriptions. My job is a locomotive servicer and we still do repairs. In the past we had to have an inspector sign off a locomotive saying it was safe to be operated. Now we don't. In the past I couldn't move a locomotive because I was not a foreman. Now they're going to train us to move them. This is just a job I've always done that's been rewritten to a lower pay grade and different job title. We have now a permanent car foreman which is for the car repair section of our shop.

Moss: Any comments?

Polanchek: As far as a federally mandated inspection period, 90 days, 45 days, annual, certainly can be performed in Anchorage, it's simply a matter of rotating the locomotives so they can be inspected and receive the servicing or maintenance they need. As far as signing the daily inspection report no one on the railroad has ever told anyone it does not have to be signed. It's a federal requirement we must sign off on a daily locomotive inspection. What that entails is that a qualified employee make a visual walk-around of the locomotive - checking brakes, lube oil, fuel, etc. It must be done by a qualified person and that can be a locomotive engineer, it doesn't have to be a locomotive or mechanical department employee ..

Moss: Any other comments? Recognized Elmer Matlock in Fairbanks.

Matlock: Expressed agreement with Mr. Jachim.

Chairman Moss recessed the meeting until 1:30.

Interim Tape #3, Side A

Chairman Moss recognized Mr. Blasingame.

Blasingame: One point of clarification so the committee understands how the railroad operated under existing enabling legislation. We are required by law to live within the revenues which we can generate. The funds that the railroad has received from Congress in the past have been appropriations for the major capital improvements, but beyond that, all the decisions we make are based on the bottom line. We do not receive any operating subsidies whatsoever.

Moss: Could this be part of the reason that you're cutting off a few people?

Blasingame: Absolutely. We're required to live within these revenues. Those monies that we have presently have got to take us through the lean winter months. The temporaries that we've been talking about this morning were basically hired because of those funds that we had received a couple of years ago when the ARTA legislation had been passed. The $7.6 million appropriation Sen. Stevens had acquired for the railroad were meant for capital improvements, they were allocated throughout the railroad for capital improvements which creates jobs, so people are hired for these jobs and they understand that it's just a temporary appointment.

Abood: Are we going to curtail services to Fairbanks during the winter months? Is that why the cutback is happening?

Polanchek: The normal wintertime operation is cutting down. The passenger service has been cut from daily trains to Fairbanks to weekly. Gravel operations will go until freezing. There will be a drop-off in service to Fairbanks.

Abood: Didn't we have the same type of curtailment last winter?

Polanchek: That's correct, but the projects funded by the $6.6 million appropriation are coming to a close.

Abood: Now we're going to be living off the revenues we make, and we didn't have to for the past two years. Is there any deferred maintenance being taken care of in there?

Polanchek: You're correct, we're now back to running off what revenues we generate.

Abood: Did those people know that this was coming down?

Polanchek: Yes. They knew when they were hired they'd be on for a limited time as funds are available.

Abood: This was put into memo form?

Blasingame: That is correct. When they were hired we gave them a temporary appointment. It could be for a year or longer. Once the appointment goes beyond a year you're supposed to make it permanent. Unfortunately we were in a hiring freeze so we were unable to do that.

Moss: Does the railroad have less income than it had three years ago? It seems that we are delaying some of this maintenance until the state takes over. Don't we have income that comes in from the freight that would take care of the maintenance?

Polanchek: We use the money we generate for all operating and maintenance costs. Our revenues have increased but I would say our total available dollars for expenditures have probably decreased because of the lack of congressional appropriation for capital expenditures and major maintenance items. Our operating money has increased. When we get an appropriation from Congress those are for capital improvement items or major maintenance items. You have to go back about three years to see the changes that have taken place in our recording system.

Moss: Don't we have money that we've set up for routine maintenance? Don't we have something set aside in a regular fund?

Polanchek: No, it's not set aside in a particular fund. The departments will put together their budgets, projecting their maintenance requirements based upon a revenue forecast done by the marketing department.

Moss: What we're looking at is a difference between state fiscal year, and railroad fiscal year. Is that a problem?

Polanchek: No. From a railroad perspective it will not be difficult for us to project out our operating requirement for whatever fiscal year is adopted for the corporation.

Faiks: I would like to ask the chief maintenance man some questions. I would like you to tell us the status of the maintenance over the last three or four years. There are some strong statements being made that the locomotives are not being as well cared for as they were in past years, and I would like you address that.

Moss: I'd appreciate it if you'd identify yourself for the record.

Sudall: I'm Mike Sudall, Chief Mechanical Officer with the Alaska

Railroad. As far as locomotives going into storage in worse condition than ever before, that's not true. Over the last year we have run better than a 90% availability on the locomotives, which is good for 56 locomotives.

Faiks: 90% of 56 locomotives have always been ready to go?

Sudall: Yes, that takes care of routine maintenance, mechanical problems, and so forth. When I first started the locomotives that were in storage could never have run without many dollars put into them. Since then we've retired many locomotives that couldn't be used. Last year was the first time we got indoor storage. Every locomotive that went in we tried to have ready for service when it came out in the spring. We intend to do that this year. As far as maintenance goes, it's quite adequate. The state of the art locomotives do not require some of the intense maintenance that was needed on older locomotives. We have revised maintenance schedules and practices. Our locomotives are well serviced, they run 60-70,000 miles per year. That is not very much use, and they run in a clean environment. We have initiated a truck program and traction motor overhaul program which again increases efficiency. The major portions of maintenance will be grouped in a more systematic way of maintaining the locomotive.

Abood: I understood these gentlemen say that this equipment will be put in storage in its present condition, and nothing will happen until spring. You stated that it will be worked on and ready for spring.

Sudall: The locomotives we put in storage we hope to have ready for spring at the time they go into storage.

Abood: That isn't what we heard. We heard they were going to go into storage and not fixed up until spring, one of the reason for the cutbacks. If we're going to wait till spring, then that expense will be ours.

Polanchek: The reason we're storing them is because they don't need to be in service. We're not storing them because they need maintenance.

Abood: The question was regarding the RIF's. If we take over January 5th, then we're going to have to do the spring maintenance on those pieces of equipment. I understand they're in storage now with broken windows, etc.

Sudall: That may be true. As far as routine type slow maintenance, that is not cost-effective where anybody's going to absorb anything exorbitant. The intent is the same as last year, to have the locomotives that go into storage ready to come our for service. We do work on some to get them ready for storage.

Abood: That wasn't what we heard here.

Sudell: We did put some locomotives in there that we knew we couldn't get to until such a point in time. When we had other locomotives ready, we pulled those out, and completed the project on those. Our intent is to have those locomotives ready by spring.

Abood: You remember the example of my son who owns trucks. If he didn't do any maintenance on them during the spring or now before he puts them into storage, he'd have a hell of a time trying to get it done during the spring when he had to go to work with them.

Sudell: When they're in storage nothing's going to happen to them. They will be ready to run when they go in, when they come out all we do is put water and oil back in, check them over and fire them up, and do whatever federal inspection to bring them up to date and back in service.

Abood: When you change a classification to something else, and that person goes away and gets another job, then that expertise is gone. We've got to hire some else at a higher wage.

Blasingame: I understand what you're saying. We had those temporaries on in certain positions. I thought we clarified that most of those were working on the major maintenance projects that were funded throughout the appropriation, and they were laid off when that was exhausted.

Faiks: For another point of clarification, Mr. Allison, on the economic incentive. If we did the maintenance today, or if we wait and did the maintenance in March, it's still the same pool of money?

Allison: That's right. Anything that's spent today would come from the revolving fund.

Faiks: Which will go to the state, intact, minus transfer expenses? That pool of money is going to come to us anyway, so you get no benefit at at all for delaying maintenance?

Moss: How much is in that fund now?

Polanchek: Around $7 million.

Faiks: Federal law requires a minimum. Isn't that minimum about $5 million?

Blasingame: There is no federal law. There is an administrative requirement on the part of FRA.

Faiks: What was it?

Blasingame: $4.5 million.

Moss: Thanked the gentlemen for their testimony. Recognized Charles Schmidt.

Schmidt: I'm Charles Schmidt, General Chairman Local 75, Machinists Union. Work is being farmed out to outside organizations and other organizations in town when the railroad is laying off people, i.e. building locomotive power assemblies is done outside, not by Alaska labor. Other functions are performed out of town and by other companies in Anchorage that could be done in the Anchorage shop. Competitive bidding practices should be followed, and there should be preferential hire for Alaskans. If they have money to pay outside firms they should have money to pay present employees. A matter of concern is also whether the work is being charged to the proper account. Time cards are given to the foreman who turns in the proper account number. It would be possible that these accounts are being put into certain areas where work is not being done. This could be an attempt to put certain jobs down to make it look like a certain area's not profitable in order to justify shipping some...

Faiks: What you're suggesting is against the law. You're saying a supervisor or someone who is charged with correcting records is falsifying records. That's a felony.

Schmidt: I'm saying that most of the employees don't necessarily know the particular job account that their work is placed under.

Faiks: Is it necessary to know that?

Schmidt: I guess not.

Faiks: To accuse someone of the potential of falsifying records is a felony, it's very serious.

Schmidt: I didn't mean to accuse anybody. Another area I wanted to talk about is the RIF. This is not a seasonal thing. A RIF has to do with permanent employees. This is not what happens in the fall of the year.

Moss: It's not a seasonal thing?

Schmidt: No. In the past they've had temporary employees and they either terminate them or they were just temporarily laid off so they didn't have to go through the paperwork to hire them back.

Moss: What's the number of permanent-temporaries, or what?

Schmidt: There's a difference between a permanent-seasonal, someone

who comes back every year, like track labor, and the temporary who is hired for a certain length of time and can be terminated any time. As far as the action in Fairbanks - some of the employees are doing the same work as they were before, there's a crossing of craft guidelines there. I have some comments on employee unrest. I feel that it's greater. There's so many questions that employees have about the transfer. We need to have some kind of a meeting where employees could have their questions answered. There's a lot of turmoil. As far as the storing of locomotives there's no checklist that the employees follow. Management might have had one but as employees we were just told there were certain things to do. Fairbanks has not been phasing out over the last few years as stated. This last year there was a buildup in employees to do more maintenance and then there was this action to reduce that because they said it wasn't working out.

Moss: What you're saying is some of the work isn't being done that's supposed to be done?

Schmidt: We do have a layoff every fall, which is a mistake, because most of the work should be done in the wintertime. This year there has been a much greater layoff than what's been done in the past. There hasn't been the time to put these locomotives back in service.

Faiks: Do you have a labor agreement with the railroad?

Schmidt: Yes we do.

Faiks: And you have terms and conditions in that labor agreement?

Schmidt: Yes.

Faiks: Do you feel the railroad has violated any of those labor agreements?

Schmidt: Yes.

Faiks: Have you filed your grievance?

Schmidt: Yes.

Faiks: So you are in a grievance procedure now to adjudicate these kinds of things?

Schmidt: Yes, on certain issues.

Faiks: You are following that procedure?

Schmidt: Yes.

Abood: Would this also necessitate overtime in the spring?

Schmidt: Yes, in fact many of the locomotives will work overtime because we had so many of them working that we couldn't afford to keep them down for any length of time, we needed to put them right back in service so we could get the work done. They'd call for eight hours over time at a time. When a person works sixteen hours a day they're not very efficient. Profit doesn't mean anything, if management doesn't make wise decisions there's not going to be any profit.

Moss: He thanked Mr. Schmidt and recognized Clifford Proetz.

Proetz: I've been an employee of the Alaska Railroad for approximately ten years. I'm a machinist, locomotive mechanic, employed here in Anchorage. In that time I have been in various positions with the local unions such as president and local chairman. There are several things that have been stated in the past, one of which Sen. Faiks referred to there, about a statement that Mr. Schmidt had made about the illegality of controlling funds from one account to another. I realize that this is a dangerous statement but this happened and I know it for a fact. I have been told to leave my time cards empty so that the proper account can be put in. We can look at locomotives 2401 and 2401, scheduled at their purchase for a $100,000.00 each renovation, which probably amounted to $500,000.00 apiece. Excuse me, I'm a bit emotional. This has been a common occurrence, we would run out of funds in one account and other special accounts would be rifled for funds to finish the work in those projects.

Abood: Relax, have a cup of coffee. You're among friends.

Proetz: I would like to point out the discussion about temporaries. In the past the temporaries had been furloughed. At this time they had been terminated, they are no longer employees of the federal employees. The game has changed 100%. We were led to believe that these people could be extended to the point where the state would take them under their jurisdiction, to be allowed to go through the transfer and become state employees.

Faiks: You will never be a state employee.

Proetz: An employee of the corporation. Last year we carried approximately four or five temporaries through the winter, this year it's been pared to one or two, there in labor and support positions. Mr. Hickey referred to planned actions taken by management. These planned actions, though they may be legal to management, have failed in their obligation under federal law to consult and confer with the unions to inform them what's going on. This has been done in the past repeatedly, management pretty much ignores the unions.

Moss: Do you have in your possession a memorandum from Sept. 19, 1984 to Alaska Railroad Employees from Mark Hickey and William P. Loftus?

Proetz The letter you're referring to is about our rights and privileges?

Moss: It's just an informational letter. I wonder if it's part of the data that you need.

Proetz: That was handed out at work. The second piece I haven't seen. To my knowledge none of the employees have.

Abood: What was the date of that one?

Proetz: We received it two weeks ago.

Moss: The employees have two memorandums in their possession...

End of Side A

Interim tape #3, Side B

Proetz: The employees of the railroad have received this particular piece of information. Sen. Fahrenkamp asked about the ability of stored equipment to come on line next spring. I would like to bring up at this time a problem that the railroad experienced with Cunard, a cruise ship line. This year the railroad was informed that their service was substandard, if Cunard wasn't provided with better service, they would discontinue using the railroad to bring their passengers to Anchorage. The railroad replied the equipment would be updated. If you lay off all these employees how can you update these coaches and equipment in a period of four months. The equipment is so substandard the only way would be to buy new equipment to meet the deadline for Cunard. The program in Fairbanks had been on the increase before this action was taken. The program was to give the Fairbanks people the training they'd need to do 15 and 45 day inspections at their location, so the units that remained there over long periods of time would not have to be returned to Anchorage for inspections. This was in effect until the time of the termination of the mechanical department employees there. Last year was the first year we stored locomotives. Several of the locomotives that were stored required extensive maintenance. Last year the units were stored serviceable, but this year they have been stored in unuseable condition - they'd need heavy maintenance before going back into service. I gave you some federal cards on several units in Fairbanks. These are federally required cards which are supposed to be signed on a daily basis. If you note there's a period of almost two months on these cards with which they went without federal inspection, yet they want to reduce the work force in Anchorage. We've

been told there would be no more apprenticeships, which are essential in training Alaskans. Now we understand that all the journeymen being hired would come from outside. It's easier to bring them in from outside as temporaries than to train their own people.

Moss: Is that part of your contract?

Proetz: We have an apprenticeship agreement, but it doesn't guarantee that there will be apprentices. We merely have a guideline as a quota of how many apprentices to mechanics will be an acceptable level.

Chairman Moss thanked Mr. Proetz. Mr. Proetz stated he had more information. Chairman Moss pointed out that time was running short.

Proetz: About what transpired in Fairbanks. Management decided they'd create a new position in Fairbanks, a work leader. They didn't inform the union. Management found that they were in a supervisory vacuum. After laying off people in supervisory positions in Fairbanks they had to send supervisory people from Anchorage. As of January 1st the railroad is required to have bullet proof glass. This is quite an extensive program.

Chairman Moss thanked Mr. Proetz and recognized Jerry Valinske.

Valinske: Gerald Valinske, United Transportation Union. The United Transportation Union doesn't have the problem some of the other unions have. A lot of answers about the transfer were slow in coming. The state and transfer team have been helpful, FRA slower, and management has given us what I feel they've had available. As far as the issues the other organizations have, I don't know much about them. The transfer does have some rough edges. One of the biggest things holding us back is the board, and I'm confident the Governor is going to be making his appointments soon. They'll be able to start dealing with these issues and start giving the employees answers.

Moss: I appreciate your comments. We do have some rough edges, but I feel more comfortable than I did earlier. I hope what comes out of this session is that we'll have both the federal government and the state working together.

Faiks: I appreciate your coming here. Can you and Jack Burton's union take a lead in setting up a communication network with some of the other unions, so that they have as much information as you do?

Valinske: I'd be more than willing to do that. On August 17th when we met with management, FRA and the state transfer team a hotline was discussed so that an individual could get

specific answers. The organization endorsed that, hopefully they're pursuing that and will get it online soon.

Faiks: You're going to have to work together, so that turf battles between unions won't occur. If some of you have information, it's your duty as a railroader to share it.

Valinske: I have a lot of confidence in the other organizations. I'm more than happy to meet with their officers and work with them in the future.

Moss: Thank you Jerry. We have time for one more person in Fairbanks.

Matlock: This is Elmer Matlock. We have a fuel haul starting Sept. 1985. This is a good reason to keep our rolling equipment upgraded.

Moss: Is that fuel transfer out of MapCo.? Is it one of the same deals with the airport or into Anchorage?

Matlock: Yes. This fuel haul will be from Fairbanks to Anchorage.

Chairman Moss thanked all of the people in Fairbanks who participated and recognized Mr. Minton.

Minton: I'm Arthur Minton of the International Association of Machinists and Aerospace Workers. I'm here on behalf of the interest of the employees of the Alaska Railroad. There are some questions that haven't been answered with regard to the temporary employees whose jobs were terminated. Nobody has requested in this room today that those people be given a concrete job. The request was that these people be considered for preferential hiring. There has been no response to my knowledge to this request. I believe it's a moral obligation to the people who have the opportunity to make some policy as to what happens to those employees who were terminated.

Moss: I appreciate your comments, and I hope this will be considered.

Fahrenkamp: Is there a federal law that there has to be bullet-proof windows?

Hickey: There is a federal requirement for the glazing of windows. The state requested a waiver from the FRA because we feel that this is unnecessary. The waiver was denied. Starting in 1985 the railroad is going to have to comply.

Fahrenkamp: Who will prepare the agenda for the first board meeting?

Hickey: That's part of my job.

Fahrenkamp: As a personal favor to me, I would appreciate it if you would put this question of temporary hire to the board on the first agenda?

Hickey: That has been our intent. The board should have this put before them.

Fahrenkamp: I'm more confused than I was before the meeting. I think we set a very dangerous precedent. I for one don't feel qualified to be a labor mediation board. Mark's promise will help me a lot.

Chairman Moss thanked Mr. Hickey and everyone who was present today. He asked Mr. Hickey if there was the possibility of a board announcement by the 5th of October.

Hickey: That's correct.

Chairman Moss brought this portion of the meeting to a close.

The following testimony was submitted to Senator Moss at a later date, from Mr. John McDonell, 505 W. 2nd Ave. #20, Anchorage, AK 99501.

Senator Moss,

A note of appreciation for your considerations and concerns regarding the transfer process of the Alaska Railroad. I only accidently by way of passing by learned of your committee's meeting on October 2nd. I only heard 20 minutes of testimony in the morning session and the afternoon's comments were most revealing.

Not only am I a railroader myself, but I have been involved in such matters before. Formerly off the Milwaukee Railroad (1970-1980), which in 1979 declared bankruptcy and reorganized under the guise of abandoning over 2300 miles of track immediately. I have already seen one railroad inexorably and totally disrupt not only services and transportation corridors but devastate thousands of lives, careers and dignities as well. And through it all, I was struck by its finality. Once the train leaves, who calls it back? The inevitability of its own momentum. As trains go, so goes the responsibility.

Senator Moss, do not let the railroad get out of town without at least being held accountable for their actions. It is not an entity to itself. I'm sure you felt the vast discrepancy between management, worker and transfer peoples versions. It was notable to hear the testimony concerning these conflicting position and sensing the need for more vigorous determinations. Alas, I have learned, it could be four weeks before a transcript is available and as I'm sure you are aware, mountains of paperwork could materilize to

justify any position or performance in the meantime.

My only hesitation in voicing these concerns is that I am a "temporary" and if you get down to the vague and nonspecific descriptions of some 30-40% of the workforce from April to November despite "project and special monies availability." You will find we are "terminable at will" as well as for cause lack of work, or discipline. Therefore, I am reluctant to be heard, as I and many others on the property fear for their livelihoods. I realize there are no guarantees in life but if one stands up to be counted, the only thing to be counted is the fact he or she won't be returning.

But I do recognize your concern and would appreciate any comments you have concerning my thoughts.

I shall be terminated in a few weeks and despite the darkness I remain,

Respectfully yours,

John M. McDonell
Brkmn, Alaska Railroad

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

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OFFICE OF THE COMMISSIONER

September 25, 1984

Mr. Jack Burton, President
American Federation of
Government Employees
Local 183
P. O. Box 3
Anchorage, AK 99510

Dear Mr. Burton:

I am writing in response to your recent letters to Governor Sheffield, Commissioner Lyon and myself regarding the Alaska Railroad (ARR) freight house issue. On behalf of the Governor and Commissioner Lyon, we appreciate you taking the time to write voicing your concerns on this matter.

As you know, the Alaska Railroad remains federally-owned and operated by the Federal Railroad Administration until the actual transfer occurs, which we anticipate will be in late 1984. The State of Alaska has no official standing whereby it can change or alter these kinds of decisions while the Alaska Railroad remains under federal ownership.

There have been some similar issues involving decisions by current management that have been brought to our attention over the last few weeks. In discussing these with the ARR, we have reached an understanding that the State will be informed of all such activities prior to their initiation. In addition, it has been suggested to the ARR that these kinds of decisions should be carefully weighed during this transition period, and that it might be best to postpone such actions until after transfer, or at least until such time as the new Board of Directors for the Alaska Railroad Corporation has been appointed and begun its work.

The Alaska Railroad has recently informed us that because of the pending transfer and the imminent appointment of the Board of Directors, they have decided to postpone initiation of the proposed action on the freight house until early next year. This

will allow the new Board ample opportunity to review the issue, and then make a decision on the relative merits of the proposal.

We appreciate the willingness of the ARR to wait and allow the new Board of Directors a chance to review this matter, once its official work has been initiated. It is worth noting that the Alaska State Legislature placed heavy emphasis on the railroad conducting its operations on a self-sustaining basis under state ownership. Accordingly, a key criteria in this review will be an assessment of the long-term economic implications of such a decision.

Thank you again for taking the time to write on this issue. We look forward to developing a good working relationship with all of the unions representing employees at the Alaska Railroad as we move toward state ownership.

Sincerely,

R. E. Knapp
Commissioner

cc: The Honorable Bill Sheffield
Governor
Ben Harding, Special Staff Assistant
Office of the Governor
Mark S. Hickey, State Railroad Coordinator
Alaska Railroad Transfer Team
Richard Lyon, Commissioner
Department of Commerce & Economic Development
The Honorable H. Pappy Moss, Chairman
Senate Transportation Committee
Arnold T. Polanchek, Acting General Manager
The Alaska Railroad
John H. Riley, Administrator
Federal Railroad Administration
John Shively, Chief of Staff
Office of the Governor

ALASKA RAILROAD TRANSFER
INFORMATION BULLETIN

QUESTIONS AND ANSWERS FOR RAILROAD EMPLOYEES ABOUT TRANSFER OF THE ALASKA RAILROAD TO THE STATE OF ALASKA

Number One

August 1984

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Section 604 of ARTA contains employee transfer and protection provisions. In Section 604, Congress required that the State-owned Railroad establish arrangements to protect the employment interest of transferred employees. These arrangements require:

- Adoption of all collective bargaining agreements which are in effect on the date of transfer. These agreements are to continue in effect for the two-year period commencing on the date of transfer and are to be renegotiated during this period.

- Retention of all employees, other than officers who are defined in ARTA as five specific positions, who elect to transfer to the State-owned Railroad in their same positions for a two-year period commencing on the date of transfer. During that period, separation can only occur in cases of reassignment, separation for cause, resignation, retirement, or lack of work.

- Payment of wages at or above the base pay levels in effect on the date of transfer for a two-year period unless the parties agree otherwise.

- Priority reemployment based on seniority with the State-owned Railroad for any transferred employee who is separated for lack of work during the two-year period. Federal service is included in the computation of seniority for reemployment.

- During the two-year period, transferred employees will receive credit for annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment.

- COLA payments to transferred employees of an amount equivalent to the cost of living allowance to which they were entitled as Federal employees on the day before the date of transfer, provided that such payment shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost of living allowance on the day before the date of transfer, unless the parties agree to the contrary.

- Health and life insurance programs for transferred employees substantially equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer.

Section 607 of ARTA contains the following provisions regarding the continuing Federal rights of Alaska Railroad employees and the treatment of their retirement rights and benefits:

- Employees who transfer to the State-owned Railroad and who are subject to the Civil Service retirement law who transfer without a break in service shall continue to be covered in the Federal Civil Service Retirement System unless the State-owned Railroad decides to provide retirement benefits that reflect prior Federal service and are substantially equivalent to that provided State employees.

- Employees of The Alaska Railroad who elect not to transfer to the State-owned Railroad shall be entitled to all of the rights and benefits available to them under Federal law as discontinued Federal employees.

Railroad Lands

The Corporation Act places all Railroad lands transferred to the State under the direct control and ownership of the Corporation. The Corporation may generally lease its lands, but any exchange or sale of the entire interest in lands or lease in excess of 35 years is prohibited unless the Legislature approves action by law. The Corporation may request the Department of Natural Resources to select Federal lands for Railroad use under Alaska's Statehood entitlement and may apply on its own behalf for other Federal land and property. The Corporation may request State lands for Railroad use. It can also exercise the power of eminent domain, but only with the Governor's approval.

Financial Authority

All liabilities incurred by the Corporation must be satisfied from assets owned by the Corporation; but likewise, all revenue generated by the Corporation shall be retained and managed for use by the Railroad. With the Governor's approval, the Corporation may request direct appropriations from the Legislature. The Corporation may issue bonds with legislative approval, but the credit of the State cannot be pledged for their payment.

Oversight and Accountability

As previously noted, both the Governor and Legislature have approval power over certain Railroad actions. Perhaps the most significant oversight mechanism is the provision that all Board members serve at the pleasure of the Governor. The Corporation Act attempts to establish a balance between the principles of managing the Railroad in a business-like manner, while ensuring accountability for the large amount of public funds and interest associated with operation of the new State-owned Railroad.

Employee Protection

The employee provisions of ARTA set the framework by which ARR employee interests are to be protected. The basic premise is that the "status quo" for employee interests will be maintained for two years unless changes are negotiated sooner. Exceptions are allowed for separation for cause, resignation, retirement, or lack of work. Certain officers of the Railroad, as defined in ARTA, carry these protections for only a one-year period.

The Corporation Act is entirely consistent with the ARTA employee protection requirements and requires the Corporation to comply with these requirements. Although many of your questions regarding specific issues, such as personnel rules following transfer and new hire provisions, cannot be answered until the new Corporation begins its work, the Corporation Act does provide that Railroad employees are employees of the Corporation, not of the State, and as such, are exempt from the State Personnel Act and the Public Employment Relations Act.

The Corporation Act also establishes a Railroad Labor Relations Agency consisting of three members appointed by the Governor. This agency is to function as an independent body and will perform normal labor relations oversight duties, such as investigating and settling complaints of unfair labor practices.

September 19, 1984

Memorandum

To: All Alaska Railroad Employees

From: Mark S. Hickey
State Railroad Coordinator
Department of Transportation
and Public Facilities

William E. Loftus
Executive Director
Federal Railroad Administration

Subject: Alaska Railroad Transfer Information Bulletin

We are pleased to transmit to you the second issue of The Alaska Railroad Transfer Information Bulletin in response to questions you have presented.

This issue of the Information Bulletin contains information based on the best analysis presently available, relating to issues of concern to ARR employees in the areas of transfer procedure and employee protection period, benefits, leave, life and health insurance benefits, pay and positions, and other miscellaneous issues. We have tried to make the answers as clear and complete as possible. However, because the transfer process is complex and unique, some answers may be further explained as more information becomes available.

The Information Bulletin is an effort to explain the transfer process and employees' rights and benefits. The answers to these questions neither add to nor delete from your rights conferred by law. Answers provided in this bulletin represent the best efforts of the staffs of the Office of Personnel Management and Federal Railroad Administration as to Federal matters, and the Alaska Railroad Transfer Team as to issues relating to State action.

The effort to provide information to employees is continuing and more questions will be answered in the future. We appreciate your patience and cooperation as we work through this challenging period for The Alaska Railroad.

ALASKA RAILROAD TRANSFER INFORMATION BULLETIN

QUESTIONS AND ANSWERS FOR RAILROAD EMPLOYEES ABOUT TRANSFER OF THE ALASKA RAILROAD TO THE STATE OF ALASKA

No. 2

Sept. 1984

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American Train Dispatchers Association
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Work phone: 265-2646
Home phone: 563-4289

Mr. Leonard Black, General Chairman
Brotherhood of Railway Carmen of U.S. & Canada
Far North Lodge 67
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Home phone: 272-9695

Mr. Charles Schmidt, General Chairman
Int'l. Assoc. of Machinists & Aerospace Workers
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Work phone: 265-2679

Mr. Michael Olson, General Chairman
United Transportation Union
Lodge 1626
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Anchorage, Alaska 99502
Home phone: 344-5323

Key Contact for Non-Bargaining Unit Employees:

Mr. James B. Blasingame
Chief, Administration Department
Pouch 7-2111
Anchorage, Alaska 99510
Work phone: 265-2680

QUESTIONS AND ANSWERS

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3. Q. Will present pay and benefits be protected through the transition period?

   A. The State has agreed to retain all transferring permanent employees, adopt all collective bargaining agreements, pay current pay scales, including cost of living adjustments, to continue the Federal Retirement System or provide a system substantially equivalent to that of State employees and to provide health and welfare coverage substantially equivalent to present programs. The basic principle is that these permanent employee interests will be maintained subject to the exceptions identified in ARTA for reassignment, separation for cause, resignation, retirement, or lack of work. These interests will be maintained for two years unless changes are negotiated with collective bargaining agents.

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5. Q. What mechanism will be used to effect the separation of permanent employees from Federal employment and their reemployment by the Alaska Railroad Corporation for those employees who elect to transfer?

   A. The Office of Personnel Management has determined that the appropriate mechanism is reduction-in-force procedures. The required reduction-in-force notice will be issued with a concurrent offer of employment of the employee's same position from the Alaska Railroad Corporation. The RIF procedure will not require bumping and retreating for this process.

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   A. No. The Office of Personnel Management has determined that job protection provisions provided by ARTA constitute comparable employment with the Alaska Railroad Corporation and, therefore, employees will not be entitled to severance pay.

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   A. The Department of Transportation's Reemployment Priority Lis Office of Personnel Management's Displaced Employee Program, and other priority placement process normally available through the local office of the Office of Personnel Management will be open to ARR employees separated from Federal service. The details of the available programs will be provided during the reduction-in-force process.

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10. Q. Which retirement system will be used for current ARR employees?

A. The Civil Service Retirement System will be continued for all participating employees who transfer. Under an option provided by ARTA, the Board of Directors of the new ARR Corporation has a two-year period from date of transfer within which to decide whether or not to create a new system for transferring employees. If this option is exercised, such a system must be substantially equivalent to the retirement program maintained by the State for State employees and must reflect prior Federal service. Transferring employees and the Alaska Railroad Corporation will continue their contributions to the Civil Service Retirement System unless the Alaska Railroad Corporation decides to establish another system.

11. Q. Must an employee eligible for optional retirement decide to retire immediately upon transfer date, or will employees have the two-year protection period in which to decide?

A. Timing of the decision to retire depends upon the desires of the individual employee. Employees may exercise the right for optional retirement at any time they are eligible.

12. Q. If eligible to retire optionally within five years of transfer date, will those employees have the option to work for the Railroad under State ownership for that period and then retire under Federal retirement?

A. Yes. Timing of the decision to retire under the Federal retirement system depends on the eligibility and desires of the individual employee. For those transferring employees who are within five years of being eligible for optional retirement, ARTA provides that these employees may elect to remain in the Civil Service Retirement System even if the Alaska Railroad Corporation elects to create a new retirement system under the option provided by ARTA.

13. Q. Will there be a discontinued service retirement option available to qualified employees who choose not to transfer to the State?

A. Yes, up to and including the date of transfer.

14. Q. Does an employee eligible for discontinued service retirement at transfer have the two-year period in which to exercise the option to retire?

A. No. After the date of transfer, only transferred employees who are eligible and participating in the Civil Service Retirement System and whose employment with the Corporation is terminated (not for cause) shall be entitled to discontinued service retirement as provided by ARTA.

15. Q. If an employee decides not to retire, how will Federal service be transferred and counted toward retirement?

A. As long as the ARR Corporation elects to keep transferring employees who presently contribute to the Civil Service Retirement System in that system after transfer, the rules of that system will apply. However, if the Alaska Railroad Corporation elects to establish a retirement system substantially equivalent to the State employees' system, then credit reflecting prior Federal service as well as service with the ARR Corporation must be given subject to the rules established for the new system. Establishment of such a system is a policy matter to be addressed by the Alaska Railroad Corporation created to operate the ARR for the State.

16. Q. What will happen to the Federal employer's retirement contributions if an employee elects not to retire or not to transfer to the State?

A. In accordance with Federal regulations, those contributions remain in the Civil Service Retirement Fund.

17. Q. Under what circumstances may an employee receive a retirement contribution refund?

A. In accordance with Federal regulations, the employee who elects not to transfer to the Alaska Railroad Corporation and is not eligible to retire (optionally or discontinued service annuity) and does not elect to obtain other Federal employment may withdraw only those funds which the employee contributed to that system.

III. Sick and Annual Leave:

18. Q. What is the interpretation of "credit" for accrued sick and annual leave benefits?

A. For those Alaska Railroad employees transferring to the State-owned railroad under the provisions of ARTA, credit will be transferred for the actual number of hours of sick and annual leave accrued by the employee prior to the date of transfer.

19. Q. In accordance with Federal regulations, if an employee is not eligible for retirement and decides not to transfer to the State, will he be paid for both sick and annual leave accrued?

A. If the employee transfers to another federal activity, both the annual and sick leave are transferred with the employee. Under Federal regulations, there is no provision for payment of accrued sick leave upon separation from service. If the employee elects not to transfer and is not eligible for retirement, that individual will receive a lump-sum payment for accrued annual leave.

20. Q. If an employee does transfer to the State, can he be paid for his accrued leave and then begin State service with a zero balance of leave?

A. No. Section 607(d) of ARTA provides: "(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer."

IV. Life Insurance and Health Benefits:

21. Q. Will the State pick up our current health and life benefits as afforded by the Federal Government during the transition period?

A. One of the requirements of Section 604 of ARTA is that the State has provided..."for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except officers of The Alaska Railroad, who shall receive such credit for one year following the date of transfer)."

Efforts are nearing completion to finalize a proposal for presentation to the ARR Corporation Board of Directors and the Federal Railroad Administration to comply with the requirements of ARTA on this subject.

22. Q. Will the Railroad, under State ownership, continue to pay health benefit premiums for certain crafts as it now does?

A. To the extent that this issue is addressed by collective bargaining agreements or the ARTA provisions, those agreements and ARTA will apply. Further review on this issue is under way as part of the planning for health benefit requirements.

V. Pay and Positions:

23. Q. Will current pay plans remain? How will pay be set for GS equivalent employees?

A. One of the requirements of Section 604 of ARTA is that the State has agreed to provide for the payment of compensation to transferred employees for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during the two-year period or unless the employee is separated under the provisions of ARTA.

24. Q. Will there still be an "A" and "B" pay plan as there currently is in the White Collar pay plan?

A. To the extent that the existing collective bargaining agreements adopted by the ARR Corporation address this issue, they will apply.

25. Q. Will COLA for GS equivalent employees be rolled into the base rate? Will COLA be subject to Federal income tax?

A. ARTA provides that the State has agreed to pay..."an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph;..." ARTA further provides that payment of COLA to transferred employees ..."shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary." Research is still ongoing as to whether COLA is required to be part of total pay or provided as separate compensation.

Taxation of such COLA payments is subject to Federal tax laws and regulation which currently provide no special treatment for such income.

VI. Miscellaneous Questions:

26. Q. Will turnaround leave still be honored?

A. Yes. One of the requirements of Section 604 of ARTA is that the State has provided "...for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment (except for officers of The Alaska Railroad, who shall receive such credit for one year following the date of transfer);"

27. Q. Will the State be eligible to sell the Railroad to a privately owned corporation after the transition period?

A. Although there is no prohibition contained in ARTA on sale or transfer of the Railroad after acquisition by the State, any such sale or transfer would have to conform with relevant ARTA requirements. Further, there are no current plans for any such transfer of the ARR after acquisition by the State. The State's attention is presently focused on the transfer process and the issues that must be resolved before transfer can take place.

28. Q. Is there still the possibility of an employee corporation buying the Railroad?

A. Such arrangements are not precluded by either ARTA or legislation enacted by the State. However, the transfer process must be completed prior to consideration by the State of any such disposition of the Railroad.

29. Q. Can transfer rights later be extended to a former employee who elected not to accept the offer of State employment?

A. The Office of Personnel Management's interpretation of ARTA is that transfer rights and benefits are contingent upon continuity of employment without an actual break in service between Federal and Alaska Railroad Corporation employment. Therefore, while the Corporation has the discretion to hire a former Railroad employee at a later date, the Corporation is not required to extend ARTA transfer rights.

September 19, 1984

Memorandum

To: All Alaska Railroad Employees

From: Mark S. Hickey
State Railroad Coordinator
Department of Transportation
and Public Facilities

William E. Loftus
Executive Director
Federal Railroad Administration

Subject: Alaska Railroad Transfer Information Bulletin

We are pleased to transmit to you the second issue of The Alaska Railroad Transfer Information Bulletin in response to questions you have presented.

This issue of the Information Bulletin contains information based on the best analysis presently available, relating to issues of concern to ARR employees in the areas of transfer procedure and employee protection period, benefits, leave, life and health insurance benefits, pay and positions and other miscellaneous issues. We have tried to make the answers as clear and complete as possible. However, because the transfer process is complex and unique, some answers may be further explained as more information becomes available.

The Information Bulletin is an effort to explain the transfer process and employees' rights and benefits. The answers to these questions neither add to nor delete from your rights conferred by law. Answers provided in this bulletin represent the best efforts of the staffs of the Office of Personnel Management and Federal Railroad Administration as to Federal matters, and the Alaska Railroad Transfer Team as to issues relating to State action.

The effort to provide information to employees is continuing and more questions will be answered in the future. We appreciate your patience and cooperation as we work through this challenging period for The Alaska Railroad.

ALASKA RAILROAD TRANSFER INFORMATION BULLETIN

QUESTIONS AND ANSWERS FOR RAILROAD EMPLOYEES ABOUT TRANSFER OF THE ALASKA RAILROAD TO THE STATE OF ALASKA

No. 2

Sept. 1984

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Train Dispatchers Unit
American Train Dispatchers Association
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MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: See Distribution

DATE: September 10, 1984

FILE NO:

TELEPHONE NO: 465-3900

SUBJECT: Alaska Railroad Transfer Project - Transition Work Plan

FROM: R. L. Knapp
Commissioner
DOT&PF

Richard Lyon
Commissioner
DC&ED

Attached for your review and information is a final draft of the Transition Work Plan for the Alaska Railroad Transfer Project. This document depicts all of the major work tasks that need to be accomplished in the period before or immediately following actual transfer.

Due to the time constraints of the transfer schedule and the complex nature of many of these work efforts, a considerable amount of this work has already been initiated, or in some cases, actually completed. Attachment A to the Overview depicts the overall organization for management of this project. Attachment B provides a general schedule with indications for major milestones and work deadlines.

As can be seen by a quick perusal of the remaining attachments to the Overview, the dynamic nature of much of this work effort requires a flexible and changing work plan. It should also be noted that many of the major work areas or "components" have already been scoped out with considerable detail reflecting the importance and priority of that particular area. Some of the other components have not yet been addressed with the same level of specificity, either because they are of a lower priority or not as time-sensitive as other tasks.

A quick review of the Work Plan Overview should provide policymakers with a thorough and current understanding of the Alaska Railroad Transfer Project. We would recommend that everyone take the time to review at least that section in order to better understand the schedule and complexity of this new step about to be taken by the State.

If there are any questions regarding this material, or if anyone would like a more detailed briefing on this project, please feel free to call us or Mark Hickey, the State Railroad Coordinator. Thank you for your attention to this matter.

Attachment

DISTRIBUTION LIST

The Honorable Bill Sheffield
Governor
John Shively, Chief of Staff
Office of the Governor
Norman Gorsuch, Attorney General
Department of Law
John Katz, Special Counsel
Office of the Governor
Washington, D.C.
Pete McDowell, Director
Office of Management and Budget
Office of the Governor
Jim Robison, Commissioner
Department of Labor
Lisa Rudd, Commissioner
Department of Administration
Robert Sundberg, Commissioner
Department of Public Safety
Esther Wunnicke, Commissioner
Department of Natural Resources
The Honorable H. Pappy Moss, Chairman
Senate Transporation Committee
The Honorable Bette Cato, Chairman
House Transportation Committee
Ben Harding, Special Staff Assistant
Office of the Governor
Mark S. Hickey, State Railroad Coordinator
Alaska Railroad Transfer Team
Dave Haugen, Deputy Commissioner
Central Region, DOT&PF
Glen Glenzer, Deputy Commissioner
Northern Region, DOT&PF
Warren Sparks, Deputy Commissioner
Statewide Planning, DOT&PF

ALASKA RAILROAD TRANSFER PROJECT

TRANSITION WORK PLAN

OVERVIEW

I. Introduction.

On July 5, 1984, Governor Sheffield signed into law an Act establishing the Alaska Railroad Corporation to own and operate the Alaska Railroad (ARR) upon transfer. That event was followed on July 12, 1984, by an exchange of documents between the Governor and John Riley, Administrator of the Federal Railroad Administration (FRA), which provided Secretary Dole's certification that the State of Alaska has agreed to meet all of the conditions of the federal Alaska Railroad Transfer Act of 1982 (ARTA).

The certification ceremony was in direct response to state acquisition legislation enacted and signed into law earlier this year, and is the last major milestone before actual transfer can occur. It represents the culmination of over three years of work by state and federal officials, which formally started on July 17, 1981, when Senate Bill 1500 was introduced in the United States Congress to authorize transfer of the ARR to the State of Alaska.

Under the terms and conditions of ARTA, certification by Secretary Dole means that the State has agreed to meet the following specific conditions:

(1) to continue operations of the ARR as a rail carrier in intrastate and interstate commerce;

(2) to assume all rights, liabilities and obligations of the Alaska Railroad on the date of transfer, except for tort claims and legal liabilities which occurred during federal ownership;

(3) to protect the retirement benefits and other employee interests of all permanent employees for a two-year period following the date of transfer;

(4) to allow representatives of the Secretary of Transportation adequate access to railroad employees' records when needed in relation to the period of federal ownership; and

(5) to compensate the United States for the $22.271 million which has been determined by the United States Railway Association to be the railroad's fair market value.

ARTA requires actual transfer of ownership and responsibility to occur as soon as practical after certification. The State has agreed to set the specific date by October 12, 1984, and if at all possible, to achieve the transfer by the end of this calendar year. Establishment of the transfer date is contingent, in part, on how quickly we can complete the support work necessary to achieve a smooth and orderly transfer of operations; on how long it takes to make proper board appointments; and on how long a period of time is needed for the board to become familiar with their new responsibilities.

The State's Alaska Railroad Corporation Act (Corporation Act) provides for the establishment of the Alaska Railroad Corporation (ARC) as an independent, public corporation within the Department of Commerce and Economic Development (DC&ED) to operate and manage the railroad upon transfer to state ownership. The corporation is to be managed by a seven-person Board of Directors, consisting of the Commissioners of Commerce and Economic Development and Transportation and Public Facilities, plus five public members. The new corporation is charged with carrying out its management responsibilities on a self-sustaining basis according to sound business management practices.

Given these time considerations and the complexity of the overall project, there is a considerable amount of work to be performed within a short period of time. The Alaska Railroad Transfer Team (Transfer Team), which was created by Governor Sheffield in February 1983 to coordinate and direct this project, has been charged with the following mission during the transition period: (1) to ensure a smooth and orderly transfer of operations from federal to state ownership; and (2) to assist with the establishment of the new corporation as it assumes its new duties.

This document has been prepared to provide policy-makers a detailed overview of project activities during this period. There are several additional documents attached to the Overview as Attachment C, which more fully depict the project's organization and schedule, while also providing a more in-depth explanation of individual work tasks.

II. Project Organization.

With passage and enactment of the Corporation Act, the Commissioners of Commerce and Economic Development and Transportation and Public Facilities now share lead responsibility for policy direction of the Alaska Railroad Transfer Project. In order to minimize disruption of project activities, it has been decided to leave the core staff of the Alaska Railroad Transfer Team in the Department of Transportation and Public Facilities (DOT&PF) reporting directly to the DOT&PF Commissioner for performance of their duties. In turn, policy decisions and project direction will be provided on a coordinated basis by the two commissioners.

The Transfer Team, working under the direction of the State Railroad Coordinator, has responsibility for coordination and direction of project activities by all state agencies pertaining to the ARR during the transition period. The Transfer Team also has the responsibility to provide all coordination and interface with federal officials at the ARR and FRA during this period. In addition to the core staff within DOT&PF, the Transfer Team consists of additional resources from the Office of the Attorney General (AG), the Department of Administration (DOA), the Department of Natural Resources (DNR), the Office of Management and Budget (OMB), the Department of Labor (DOL), and the Department of Public Safety (DPS), along with additional outside counsel and consulting expertise as needed.

Attachment A to this document depicts the project's organizational arrangement and highlights each agency's primary responsibilities in the project. It is essential that this organizational arrangement is followed during the transition period in order to ensure timely and responsive performance of work tasks, while also minimizing the potential for conflicting direction to federal officials at the ARR and FRA.

III. Project Schedule.

The project schedule for the transition period extends from the date of certification to a period of time beyond actual transfer. There is no need at this point to specify the end for this period since it will vary depending on the task to be performed. For example, the re-negotiation of all collective bargaining agreements, an effort for which planning needs to begin shortly, will probably not be finished until well after transfer.

The most important milestone at this juncture is the actual date of transfer. Although it has not been officially established as yet, we are working for planning purposes with a date of no later than January 1, 1985. Both the federal and state transfer laws include numerous specific requirements which must be addressed and completed before that date. As a result, all such tasks are identified in the Work Plan as "Immediate/Pre-Transfer," which classifies it as a task with highest priority for staff attention.

There are other tasks, such as budget preparation and capital planning, that need to be initiated pre-transfer because of external scheduling considerations such as the upcoming legislative session, but will continue well beyond transfer as a corporation responsibility. These are identified as "Pre-Transfer/Ongoing," and usually carry secondary priority for attention by the Transfer Team.

Finally, there is another category of tasks which cannot be initiated before the new corporation assumes a legal existence and do

not have to be underway before transfer. These items are designated as "Corporation/Post-Transfer," and carry the lowest priority for staff attention.

Another important milestone during the next month or two is the projected time period for when board appointments for the new corporation will be completed and the new board can begin its work. Although there is some indication that this may be expedited, it is currently anticipated that the first board meeting will not occur prior to October 1, 1984.

Attachment B presents the current schedule for this project, with particular attention focused on the transition period. It is important to reiterate that the specific milestones depicted on this chart are not definitive, but are only Transfer Team estiimates for purposes of project planning.

IV. Work Task Components.

This portion of the Overview provides an explanation of the individual work tasks by major topic or "component" area. For purposes of this part of the project, all work has been divided into the following four broad components: (1) Property Transfer Issues; (2) Employee/Personnel Issues; (3) Financial/Administrative Issues; and (4) Corporate Development Issues. Although there is some duplication and overlap between these major components, particularly in the corporate development area, this structure ensures that all work tasks are identified and addressed in a timely manner consistent with the overall transfer schedule.

Each topic or component area is divided into a brief background section that outlines the basic issue, a specific list of work tasks and assigned priorities, and a final section which discusses relevant schedule and deadline considerations. Attachment C provides a more detailed explanation of the individual components and major work tasks identified below.

A. Property Transfer Issues.

Background: This area includes all of the work necessary to obtain acceptable transfer documents for conveyance of the ARR's real and personal property at transfer; to resolve by negotiation or adjudication the ANSCA "3(e)" Native claims against railroad lands; and to ensure proper title recording in coordination with the DNR throughout the transition period. Additional work needs include monitoring of the ongoing cadastral survey work by the Bureau of Land Management (BLM) and resolution of record transfers and the disposition of railroad archives.

Work Tasks: Specific tasks in this area are as follows:

-- Review and acceptance of BLM/FRA conveyance documents (Immediate/Pre-Transfer).

-- Resolve outstanding real property issues with the BLM, the Departments of Defense and Agriculture, and the National Park Service (Immediate/Pre-Transfer).

-- Prepare and obtain an acceptable bill of sale for transfer of all personal property (Immediate/Pre-Transfer).

-- Continue negotiations with affected Native Village and Regional Corporations (Immediate/Pre-Transfer -- Ongoing).

-- Prepare state filings and participate in the "3(e)" adjudication process (Immediate/Pre-Transfer -- Ongoing).

-- Monitor ongoing BLM cadastral survey of all ARR real property (Pre-Transfer/Ongoing).

-- Locate, catalog and procure railroad records other than personnel records and resolve other ARR archival issues (Pre-Transfer/Ongoing).

-- Resolve miscellaneous personalty matters such as the GSA motor vehicle fleet and ARR Seattle Office (Pre-Transfer/Ongoing).

-- Coordinate work by corporation and DNR to record real property conveyance transfer and establish a land record management system (Pre-Transfer/Ongoing).

-- Coordinate work by corporation and DNR to resolve overlapping title issues. (Corporation/Post-Transfer).

Schedule: As indicated by the priority assignments, almost all of these efforts have to occur or at least begin during the pre-transfer period. A considerable amount of this work is well underway and on schedule. Although there is no statutory deadline for the preparation of the real and personal property conveyance documents, ARTA requires that they must be basically finished in order for actual transfer to occur. Accordingly, the federal government is on schedule to have these documents completed in draft form by early September, which should allow sufficient time for the State to complete its in-depth review process.

In the area of Native claims against railroad lands, the State is required to have its "3(e)" submissions filed with the BLM by October 15, 1984, and ARTA establishes that final administrative adjudication of these claims must occur by January 14, 1985, unless resolved sooner by negotiation.

B. Employee/Personnel Issues.

Background: The Transfer Team must ensure that the employee protection provisions of ARTA are met, and that all personnel/administrative functions are transferred to the new corporation in an orderly manner. To accomplish this mission, employee benefit systems must be designed and implemented for transferring employees. Assistance must also be given to the corporation on the issue of new hires after transfer. Other work areas include ensuring that employee records are available to the new corporation, and providing assistance for transition-related labor relations activities. Finally, the Railroad Labor Relations Agency must be established in order to properly serve its mission after transfer.

Work Tasks: The major tasks in this work area are as follows:

-- Monitor determinations by the U.S. Office of Personnel Management (OPM) of federal personnel questions that arise under ARTA (Immediate/Pre-Transfer).

-- Ensure that non-retirement benefits (i.e., health insurance programs; annual/sick leave requirements; etc.) are provided to transferring employees by appropriate systems established prior to transfer (Immediate/Pre-Transfer).

-- Ensure that retirement benefits are provided to transferring employees in systems selected and/or established prior to transfer (Immediate/Pre-Transfer).

-- Resolve the status of ARR recipients of workers compensation benefits (Immediate/Pre-Transfer).

-- Coordinate establishment of the Railroad Labor Relations Agency as required by the Corporation Act (Immediate/Pre-Transfer).

-- Address personnel questions pertaining to new hires following transfer (Immediate/Pre-Transfer -- Ongoing).

-- Provide ongoing communications with railroad employees during the transition period (Pre-Transfer/Ongoing).

• July 12 - Aug. 1
Resolution of federal questions by OPM

Sept. 1-30
Presentation of Answers to employees

• July 12 - Oct. 15
Address Employee Benefit Issues

• Oct. 15 - Nov. 1
Present Solutions to RRC Board

Nov. 1 - Dec. 15
Implement Solutions

Sept. 1 - Dec. 1
Establishment of Railroad Labor Relations Agency

Oct. 15 - Dec. 15 (approx.)
Monitor Federal Reduction-In-Force Process

Sept 15 - Dec. 15 (approx.)
Assist w/New Hire Issues

Oct. 1 - Dec. 1
Assist w/Adoption of CB Agreements - Personnel Rules by Board

-- Assist with the labor relations function as required (Pre-Transfer/Ongoing).

-- Ensure that appropriate employee personnel records are available to the corporation prior to transfer (Pre-Transfer/Ongoing).

-- Assist corporation management with establishment of personnel rules prior to transfer as required by the Corporation Act (Pre-Transfer/Ongoing).

-- Ensure that the corporation's EEO program is coordinated with the State's overall EEO program (Pre-Transfer/Ongoing).

-- Assist corporation management with other personnel-related corporate development tasks as assigned (Corporation/Post-Transfer).

Schedule: A majority of these tasks have a high priority and require completion before transfer can occur. Many of these work efforts are already underway and are scheduled for completion in the October-to-November time frame. In many cases, implementation of the work products from these tasks will require board endorsement.

C. Financial/Administrative Issues.

Background: The Transfer Team must ensure that ARR financial assets are transferred to the State-owned railroad in accordance with the provisions of ART\, and that the financial operations of the railroad are transferred without disruption. In order to accomplish these goals, the Transfer Team must provide a pre-transfer audit and assist with the development of financial planning and accounting systems for the new corporation. Short-term and long-range program and capital improvement plans also need to be developed, and procurement and contracting functions must be continued without disruption. One final important task involves the monitoring of current Revolving Fund activities and negotiation with the FRA regarding final disposition of this account.

Work Tasks: The major tasks in this work area are as follows:

July 12 - Sept. 30
Design + Contract
Pre-transfer Audit

Oct. 1 - Mar. 1 '85
Perform Audit

July 12 - Nov. 1
Monitor + Negotiate
Disposition of ARR
Revolving Fund

-- Design and manage the pre-transfer audit of the ARR's financial condition and accounting system (Immediate/Pre-Transfer).

-- Monitor Revolving Fund activity and negotiate final disposition of this account with the FRA (Immediate/Pre-Transfer).

- Aug. 15 - Nov. 1 Assist w/ Preparation of FY '86 Budget Submittals
- Sept. 1 - Nov. 1 Address Accounting/ Contracting Transfer Issues
- Nov 1-15 Present Solutions to T&C Board
- Nov. 15 - Dec. 15 (approx) Implement Solution
- Aug 15 - Oct 15 Prepare Risk Mgt. Options Presentation

-- Assist the corporation with the development of railroad program and capital improvement plans, including any relevant FY'86 budget submittals (Immediate/Pre-Transfer -- Ongoing).

-- Assist in development of alternative plans for immediate post-transfer accounting operations (Immediate/Pre-Transfer -- Ongoing).

-- Ensure that contracting and procurement systems are not disrupted by the transfer (Pre-Transfer/Ongoing).

-- Ensure coordination between the corporation and state data processing activities (Pre-Transfer/Ongoing).

-- Ensure that supply and property management activities are transferred without disruption (Pre-Transfer/Ongoing).

-- Prepare risk management plan for corporation's review and action (Pre-Transfer/Ongoing).

-- Assist the corporation with the development of new contracting and procurement systems consistent with the Corporation Act (Corporation/Post-Transfer).

-- Assist the corporation with the development of a new accounting system consistent with the Corporation Act (Corporation/Post-Transfer).

-- Assist with work by the corporation to review and modify personal property inventory and management systems, including re-marking of all personalty (Corporation/Post-Transfer).

-- Monitor Whittier shuttle operations and other possible commuter rail proposals as needed (Corporation/Post-Transfer).

Schedule: A few of these tasks have an immediate priority because of the transfer relationship. Others such as those with respect to budget preparation also carry an immediate priority because of the timing for the State's FY'86 budget cycle. Most of the remaining tasks should be initiated before transfer, but will continue beyond as a corporation responsibility (i.e., accounting and procurement system issues). The current schedule for the pre-transfer audit is to advertise for the work in September, with an award by the end of October.

D. Corporate Development Issues.

Background: Enactment of the Corporation Act is only the first step in the process required to properly establish the new corporation. There are a considerable number of tasks to ensure that a correct and properly functioning entity is in place prior to the date of transfer. Timing in this area is particularly acute considering the abbreviated time frame provided by the federal transfer law. The corporate development work during the pretransfer period can be categorized into the following two areas: (1) activity required by ARTA which the corporation must address in order to satisfy all of the transfer conditions; and (2) legal and organizational work central to the establishment and initial functioning of the new corporation as a legal entity within the State. Although a considerable amount of this work will eventually be taken over by the new Board of Directors and performed by corporation personnel, the Transfer Team has the primary responsibility to oversee and direct performance of this work prior to corporate assumption of these responsibilities.

Work Tasks: The following specific work tasks in this area are as follows:

- Aug. 1 - Sept. 20 Solicitation & Review of Candidates for ARTA Board of Directors
- Sept 30 - Oct. 15 Appointment of Board
- Sept. 1 - Nov. 15 Preparation & Delivery of Briefing Materials
- Sept. 30 - Oct. 31 Orientation of Board Activity
- Oct 15 - Nov 15 (approx.) Board Transitory/ Orientation Period
- Sept 15 - Oct. 15 Negotiation & Establishment of Transfer Date
- Oct. 15 - Dec. 1 Obtain ICC Certificate of Public Convenience & Necessity

-- Assist with the review and selection process for board appointees, including preparation of briefing materials and technical research as assigned to support work by the Office of the Governor (Immediate/Pre-Transfer).

-- Assess legal requirements which must be met to properly establish this entity in a timely fashion (Immediate/Pre-Transfer).

-- Prepare briefing books, articles of incorporation, interim by-laws and other materials as needed for first set of board meetings (Immediate/Pre-Transfer).

-- Prepare an in-depth overview and sectional analysis of the Corporation Act for presentation to the Board of Directors (Immediate/Pre-Transfer).

-- Obtain certificate of public convenience and necessity from the Interstate Commerce Commission as required by ARTA (Immediate/Pre-Transfer).

-- Assist board with executive official searches as required (Pre-Transfer/Ongoing).

July 1 - Summer '85
• Coordinate OSHA/Building Code Compliance Surveys

Dec. 8 - Jan. 5 '85
Actual Date of Transfer

-- Prepare briefing papers on individual railroad issues which summarize current situation and provide recommendations for further action or analysis (Pre-Transfer/Ongoing).

-- Coordinate review and approval of products from other three Work Plan components which require board knowledge and action (Pre-Transfer/Ongoing).

-- Coordinate initiation of OSHA and building code compliance surveys and planning work (Pre-Transfer/Ongoing).

-- Identify functions performed by the railroad security section and coordinate their ongoing roles with state and local law enforcement agencies as required (Pre-Transfer/Ongoing).

-- Coordinate initiation of valuation study work necessary to support Interstate Commerce Commission rate-making filings (Corporation/Post-Transfer).

-- Coordinate interagency liaison for the new corporation with other state agencies and federal groups as needed (Corporation/Post-Transfer).

-- Coordinate initiation of planning efforts to explore privitization options, with particular emphasis on lease arrangements (Corporation/Post-Transfer).

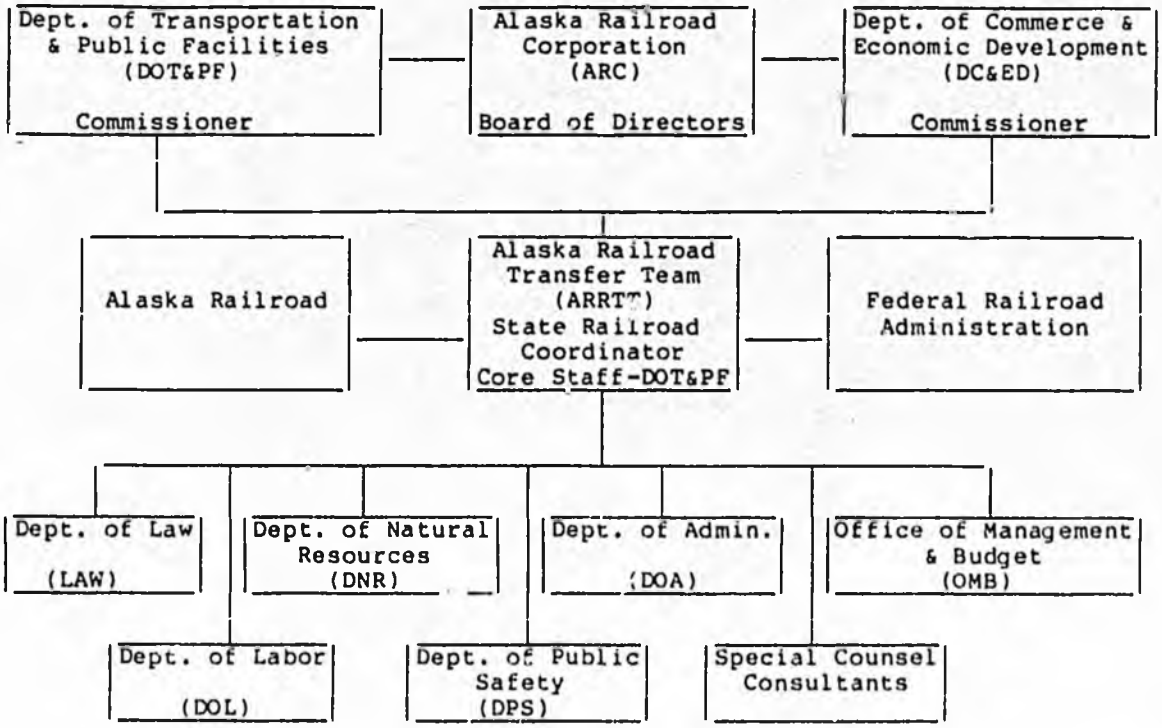
Schedule: Several of the first tasks need to be completed prior to the first official board meeting, which for planning purposes is scheduled for early October. Several of the other tasks must be accomplished prior to the date of transfer, which again for planning purposes is scheduled for no later than January 1, 1985. The remaining tasks will carry over beyond transfer and will eventually become a corporation responsibility, although it is recommended that several of these be initiated before actual transfer.

ATTACHMENT A

ALASKA RAILROAD PROJECT

TRANSITION WORK PLAN

PROJECT ORGANIZATION



PRIMARY RESPONSIBILITIES

° DOT&PF
- -Joint Lead Agency
- -Parent Agency for ARRTT

° DC&ED
- -Joint Lead Agency
- -Parent Agency for ARC
- -Administrative Coordination of FY'85 Financial Matters

° ARRTT
- -Overall Project Direction
- -Interface With the ARR and FRA
- -Management of FY'85 Financial Matters

° DOA
- -Technical Assistance on Employee/Personnel Issues
- -Technical Assistance on Financial/Administrative Issues
- -Project Management of Pre-Transfer Audit

° DPS
- -Survey of Life and Safety Code Issues at ARR

° DOL
- -Survey of OSHA and Mechanical/Boiler System Issues at ARR

° Special Counsel/Consulting Asst.
- -Special Legal Assistance ("3(e)" work; ICC issues)
- -Capital Planning and Land Appraisal Assistance

° Law
- - Coordination of Project Legal Work

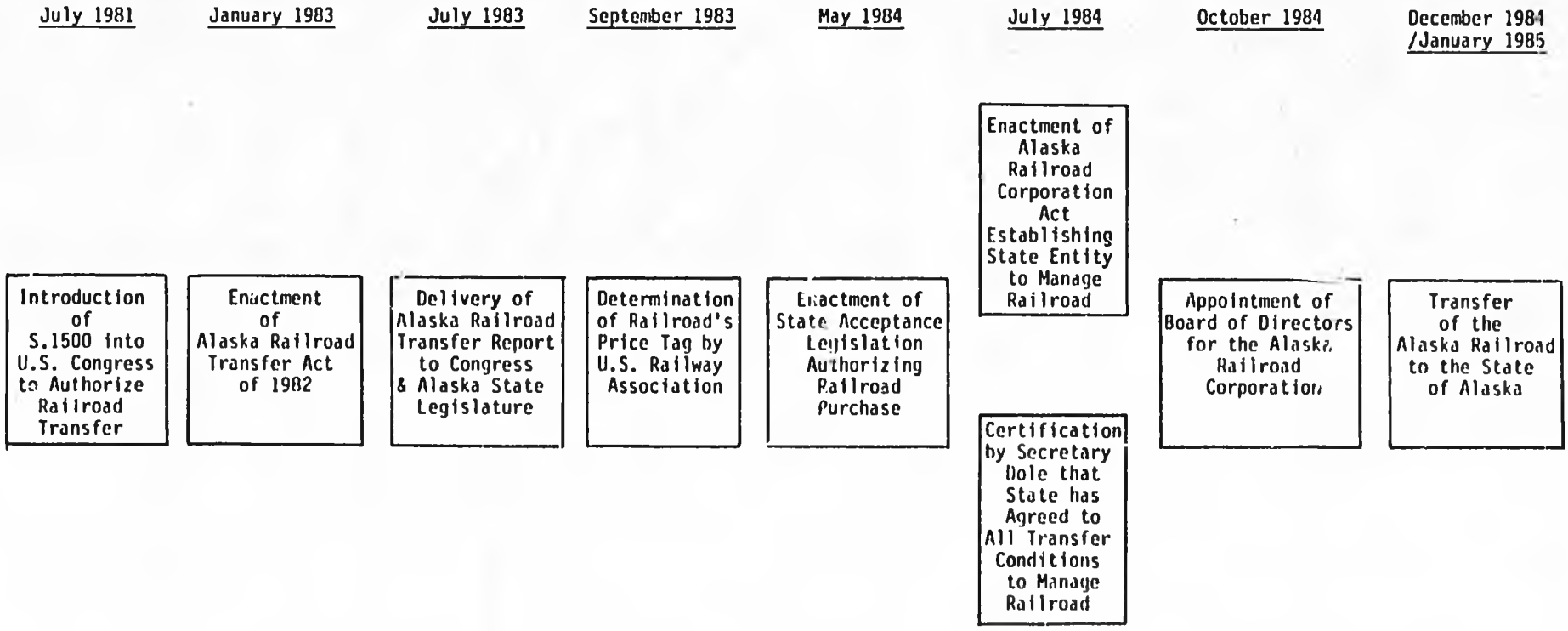
° DNR
- - Technical Review of Real Property Conveyance Documents.
- - Related Title Work and Monitoring of Cadastral Survey

° OMB
- - Technical Assistance on FY'86 Budget Preparations
- - Technical Assistance on Performance of Pre-Transfer Audit

ATTACHMENT B

ALASKA RAILROAD TRANSFER PROJECT
TRANSITION WORK PLAN
PROJECT SCHEDULE

°Schedule of Major Milestones



°Transition Period Schedule

ATTACHMENT B (Cont'd)

	July 1984	August	September	October	November	December	January 1985
°Project Development							
-Establishment of Project Organization	12 ——— 15						
-Funding Arrangements		1 ——— 1					
-Scoping of Work Plan	15 ———	———	——— 15				
°Property Transfer Issues							
-Preparation of Transfer Documents	12 ———	———	——— 15				
-State Review of Documents		15 ———	———	——— 31			
-Negotiation of Unresolved Issues			1 ———	———	——— 15		
-Final Preparation & Delivery of Documents				1 ———	———	——— 1	
-Preparation of State's "3(e)" Filing	12 ———	———	———	———	15		
-Adjudication by BLM of "3(e)" Issue				15 ———	———	———	——— 14
-Negotiation of "3(e)" Issue	12 ———	———	———	———	———	———	15
°Employee/Personnel Issues							
-Resolution of Federal Questions by OPM	12 ———	———	1				
-Presentation of Answers to Employees			1 ——— 30				

	July 1984	August	September	October	November	December	January 1985
-Address Employee Benefit Issues	12			15			
-Present Solutions to ARC Board				15	1		
-Implement Solutions					1	15*	
-Establishment of Railroad Labor Relations Agency			1			1	
-Monitor Federal Reduction-In-Force Process				15		15*	
-Assist with New Hire Issue			15			15*	
-Assist with Adoption of CB Agreements & Personnel Rules by Board				1		1	
°Financial/Administrative Issues							
-Design and Contract I.e-Transfer Audit	12		30				
-Perform Audit				1			March 1, 1985
-Monitor & Negotiate Disposition of ARR Revolving Fund	12				1		

* Note: This is an approximate date that will have to correspond to the actual transfer date once set.

	July 1984	August	September	October	November	December	January 1985
-Assist with Preparation of FY '86 Budget Submittals		15			1		
-Address Accounting/ Contracting Transfer Issues			1		1		
-Present Solutions to ARC Board					1 15		
-Implement Solution					15	15*	
-Prepare Risk Management Options Presentation		15		15			
°Corporate Development Issues							
-Solicitation & Review of Candidates for ARC Board of Directors		1	30				
-Appointment of Board			30 (Anywhere Between)	15			
-Preparation & Delivery of Briefing Materials			1		15		
-Initiation of Board Activity			30 (Anywhere Between)	31			
-Board Transition/ Orientation Period				15		15*	
-Negotiation & Establishment of Transfer Date			15	15			

* Note: This is an approximate date that will have to correspond to the actual transfer date once set.

	July 1984	August	September	October	November	December	January 1985
-Obtain ICC Certificate of Public Convenience & Necessity				15		1	
-Coordinate OSHA/Building Code Compliance Surveys	1						Summer 1985
-Actual Date of Transfer						8 (Anywhere Between)	5

ALASKA RAILROAD TRANSFER
REAL/PERSONAL PROPERTY ISSUES

DRAFT WORK PLAN

1.0 Task: Review BLM/FRA conveyance documents to assure proper conveyance of all interests granted under ARTA.

Priority: 1

Resource Team: Braden, Kluis, Hickey, McGee, O'Leary, H. Rice, Akres

1.1 Establish procedure for State acceptance of title conveyance documents.

1.1.1 Real Property

1.1.2 Personal Property

1.2 Work with ARC & DNR to establish proper recording of real property conveyance documents.

1.3 Establish procedure for State review of conveyance documents.

1.3.1 Real Property

1.3.2 Personal Property

1.4 Identify and verify Federal interests being conveyed.

1.4.1 Identify lands not identified in Exhibit 1 of Transfer Report that meet criteria for rail property.

2.0 Task: Resolve remaining real property issues with interested Federal agencies.

Priority: 1

Resource Team: Hickey, Rogers, O'Leary, McGee, Braden

2.1 BLM

2.2 Department of Defense

2.3 Department of Agriculture, U.S. Forest Service

2.4 National Park Service

3.0 Task: Prepare and obtain acceptable bill of sale for transfer of all personal property.

Priority: 1

Resource Team: O'Leary, Hickey, McGee

3.1 Draft Document

3.2 Negotiate acceptance with FRA

3.3 Ensure proper delivery to corporation

3.4 Resolve miscellaneous personalty matters

4.0 Task: Continue negotiations with affected Native Village and Regional corporations with respect to ANCSA claims against railroad lands.

Priority: 1

Resource Team: Hickey, Rogers, Walsh, Kavasharov

4.1 Toghetthele Village Corporation

4.2 Eklutna Village Corporation

4.3 Knikatnu Village Corporation

4.4 Deloycheet Village Corporation

4.5 Tanana Village Corporation

4.6 Cook Inlet Regional Corporation

4.7 Ahtna Regional Corporation

4.8 Chugach Natives, Inc.

4.9 Doyon, Ltd. Regional Corporation

5.0 Task: Prepare State filing and participate in the 3(e) process for adjudication of Native claims against railroad lands.

Priority: 1

Resource Team: Kavasharov, Rogers, Hickey

5.1 Prepare filing

5.2 Present oral findings and necessary follow-up work with BLM

5.3 Prepare appeal work if appropriate

6.0 Task: Ensure performance of cadastral survey of all real property interests to be conveyed under ARTA.

Priority: 2

Resource Team: Rice, Duren, Braden, McGee, O'Leary, Hickey

6.1 Monitor coordination of survey activities with review of conveyance documents.

6.2 Monitor coordination of survey activities with resolution of remaining real property issues with interested Federal agencies.

6.3 Monitor coordination of survey activities with activities relating to Native claims against railroad lands.

7.0 Task: Ensure proper disposition of all railroad records in accordance with ARTA. Coordinate archives and records management activities.

Priority: 2

Resource Team: McKinney, McAlister, Braden, Blasingame

7.1 Develop project plan

7.2 Select Steering committee

7.3 Select and obtain staff for project

7.4 Monitor staff work

7.5 Coordinate with steering committee

7.6 Coordinate with land transfer activities

7.7 Coordinate with personnel transfer activities

8.0 Task: Coordinate work by corporation and DNR to record real property conveyance at transfer and establish a land record management system.

Priority:

Resource Team:

(Tasks yet to be identified.)

9.0 Task: Coordinate work by corporation and DNR to resolve overlapping title issues.

Priority:

Resource Team:

(Tasks yet to be identified.)

ARR TRANSFER

Personnel Issues

REVISED WORK PLAN

7-24-84

1.0 Task: Monitor determination of Federal Personnel questions.

Resource Team: Stan, Mark, Jack, Wendy, Al, Jim B.

1.1 Participate with FRA in formulation of questions addressed to OPM.

1.2 Participate with FRA and OPM in process of providing answers to questions addressed to OPM.

1.3 Memorialize agreements on how continuing issues are to be handled.

1.4 Assure that answers are properly implemented.

2.0 Task: Assure that non-retirement benefits (e.g. life and health insurance, etc.) are provided to transferring employees, permanent and temporary as required, by systems established prior to transfer.

Resource Team: Al, Wendy, Don

2.1 Assess present RR non-retirement benefit package.

2.2 Assess availability of equivalent programs.

2.3 ARRC contracts with benefit provider and otherwise implement benefit package.

2.4 Establish necessary administrative procedures within RR personnel office.

2.5 Coordinate these programs for transferring employees with programs for new hires.

2.6 Coordinate with collective bargaining process.

2.7 Coordinate with establishment of Personnel Rules.

3.0 Task: Assure that retirement benefits are provided to transferring employees in systems selected and/or established prior to transfer.

Resource Team: Al, Wendy, Don, Mark

3.1 Complete actuarial work and explain calculations in a narrative report.

3.2 Complete MOU with OPM on retirement.

3.3 Implement MOU according to procedures it establishes.

3.4 Establish necessary administrative procedures through RR personnel office.

3.5 Appeals

3.6 Coordinate with programs for new hires.

3.7 Coordinate with collective bargaining process.

3.8 Prepare analysis package for action by ARRC management.

4.0 Task: Assess the legal independence of RR employees from the State after transfer.

5.0 Task: Provide on-going communications with RR employees during the transition process.

Resource Team: Stan, Jim B., Wendy, Jack

5.1 Establish a positive, affirmative communications process.

5.2 Coordinate with Federal RIF procedure.

5.3 Coordinate with Labor Relations activities.

5.4 Designate person to answer personnel questions after transfer.

6.0 Task: Assist with pre-transfer labor relations functions.

Resource Team: Al, Don, Wendy, Mark

6.1 Review all collective bargaining agreements.

6.2 Prepare procedure for adoption of agreements as required by State law and ARTA.

6.3 Implement procedure to adopt Agreements.

6.4 Review RR Labor Relations Files.

6.5 Establish procedures (ground rules) for contract negotiations as required by ARCA.

6.6 Assist with renegotiation of collective bargaining agreements.

6.7 Assess labor relations needs with respect to nonrepresented employees.

6.8 Assist with establishment of ongoing labor relation functions.

6.9 Coordinate with records management activities.

7.0 Task: Coordinate establishment of the RR Labor Relations Agency prior to transfer as required by Section 42.40.730 of ARRCA.

7.1 Assist Governor's Office as needed in organizing RR Labor Relations Agency.

7.2 Assess legal position of RR Labor Relations Agency.

7.3 Assist RR Labor Relations Agency with establishment tasks and administrative matters as needed.

7.3.1 Assist RRLRA in definition of its mission.

8.0 Task: Assure that appropriate employee personnel records are available to the ARRC prior to transfer.

Resource Team: Don, Al, Wendy

8.1 Railroad updates all files prior to transfer to ARRC in time for record transfer to take place before ownership transfer.

8.2 Make legal determination of what ARRC is entitled to receive.

8.2.1 Legal assessment of Privacy Act liability.

8.2.2 Legal assessment of procedure required to support records transfer.

8.2.3 Other relevant legal considerations.

8.3 Coordinate with agreements with OPM for post transfer needs.

8.3.1 Assure access to Fed records in case of State owned record destruction

8.4 Assure timely delivery of appropriate information to ARRC.

9.0 Task: Assist ARRC management with establishment of personnel rules prior to transfer as required by Section 10(b) of ARCA.

9.1 Draft a package analyzing alternative personnel rules and related systems for presentation to ARRC management.

9.2 Legal review of draft personnel rules.

9.3 ARRC management selects desired alternative.

9.4 Assist with implementation of alternative selection.

9.5 Coordinate selection and implementation of personnel rule system with union leadership.

9.6 Coordinate selection and implementation of personnel rules system with collective bargaining process.

10.0 Task: Address personnel questions pertaining to new hires following transfer.

10.1 Non-retirement benefits.

10.2 Retirement benefits.

10.3 Assist ARRC management in establishment of wages and salary for new hires not covered by collective bargaining agreements.

10.4 Coordinate with establishment of personnel rules.

11.0 Task: Assure that the EEO program of the State-owned RR is coordinated with the State's overall EEO program.

11.1 Review current RR EEO programs and practices.

11.2 Assess requirements to be met by ARRC with respect to EEO.

11.2.1 Legal requirements.

11.2.2 Policy requirements.

11.3 Provide interface for the activities of the Division of EEO in the Department of Administration with ARR preparation of EEO plan.

11.4 Determine action needed, if any, by ARRC management.

11.4.1 Assist ARRC management with Adoption of EEO plan.

11.4.2 Assist ARRC management with Implementation of EEO plan.

12.0 Task: Assess the status of recipients of Worker's Compensation benefits with respect to transfer.

12.1 Assess eligibility for transfer of employees receiving worker's compensation benefits.

12.1.1 Make legal determination as to which employees are to be extended the employment offer required by ARTA.

12.1.2 Assure that any offer required is made and acceptance or rejection completed.

12.2 Coordinate with activities related to determination of liabilities, revolving fund, etc.

13.0 Task: Assist ARRC management with personnel related corporate development tasks as assigned.

14.0 Task: Coordinate the above tasks and others that arise in the personnel aspects of the transfer process.

14.1 Assist Project Coordinator with assignment of resources.

14.2 Assist resource teams as needed in the following:

14.2.1 Ascertaining policy direction.

14.2.2 Interface with activities of other resource teams.

14.2.3 Assessing timelines.

14.2.4 Defining work products needed or desirable to accomplish tasks.

14.2.5 Locating and providing special expertise not available on the resource team.

14.3 Assure that work tasks are completed in a timely manner.

14.4 Coordinate personnel group activities of transfer process with other activities such as financial matters, corporate development matters, lands matters, etc.

September 2, 1984

ARR TRANSFER
Financial Issues
WORK PLAN

1.0 Task: Survey of ARR financial planning

Priority: 1

Resource Team: McAlister, Wiggins, Killoran, Gray, and Carr

1.1 Summarize existing ARR financial planning activities

1.2 Assemble financial data base for budget preperation

-- Analyze ARR debt financing capability

1.3 Identify needed financial planning system improvements

2.0 Task: Prepare draft budget for state FY 1986

Priority: 1

Resource Team: McAlister, Wiggins, Kiloran, Gray, and Carr

2.1 Prepare operating budget

2.2 Prepare capital budget

3.0 Task: Coordinate transfer audit of the ARR.

Priority: 1

Resource Team: O'Meara, McAlister, Carr and Blasingame

3.1 Develop RFP for audit

--coordinate with FRA

3.2 Prepare scope

3.3 Develop cost-reduction plan

3.4 Obtain bids

3.5 Select contractor

3.6 Manage contract

3.7 Coordinate results with accounting and financial planning task

4.0 Task: Assist in development of the accounting policy and system for the ARC.

Priority: 1

Resource Team: McAlister, McKinney, O'Mea[illegible] Blasingame, and Carr

4.1 Survey ARR's existing accounting systems and policies as part of transition audit

4.2 Assist in development of alternative plans for immediate post-transfer accounting operations--for each issue we will review legal requirements, review existing systems, assess available options, develop time frame for neded changes, and make recommendations to the board.

4.2.1 Payroll

4.2.2 Other disbursements

4.2.3 Banking

4.2.4 Receivables

4.2.5 Fiscal Year

4.2.6 Seperation of federal and state money

4.3 Prepare presentation for ARC Board

5.0 Task: Coordinate development of a risk management plan for the ARC.

Priority: 1

Resource Team: McKinney, Blasingame

5.1 Review alternatives

5.2 Present to ARC Board

5.3 Finalize proposed risk management plan

5.4 Assist in implementation of risk management plan

5.5 Identify employees to be bonded

5.6 Coordinate bonding of employees

5.7 Assist in development of draft policy on employee bonding, for presentation to the ARC Board

6.0 Task: Analyze federal withholdings from the ARR revolving fund.

Priority: 2

Resource Team: McKinney, Hickey, and Carr

6.1 Survey of revolving fund

6.2 Estimate federal withholdings

6.3 Estimate fund balance at transfer

6.4 Monitor fund activity

6.5 Assure accuracy of any federal withholdings

6.6 Assure accuracy of final settlement

6.7 Review legal requirements

6.8 Negotiate written agreement with Federal Railroad Administration

6.8.1 Definition of "revolving fund"

6.8.2 Process for handling fund at transfer

7.0 Task: Assure smooth transition of contracting, procurement, supply, and property management activities.

Priority: 2

Resource Team: Blasingame, McKinney, McAlister

7.1 Transition of contracting and procurement activities

7.1.1 Survey of ARR procurement and contracting policy and procedure

7.1.2 Assist in identification of critical procurement items

7.1.3 Coordinate purchases requiring long lead time

7.1.4 Assist in identification of needed revisions in contracting procedures

7.1.5 Prepare presentation for ARC Board

7.2 Transition of supply and property management activities

7.2.1 Survey ARR supply and property management policies, procedures, and activities

7.2.2 Identify post-transfer supply and property management alternatives

7.2.3 Prepare presentation to ARC Board

8.0 Task: Assure coordination, as needed, between ARR and State data processing systems.

Priority: 2

Resource Team: Blasingame, Carr, and McKinney

8.1 Summarize existing ARR data processing systems

8.2 Identify issues and needs

8.3 Identify needed improvements

ALASKA RAILROAD TRANSFER
CORPORATE DEVELOPMENT ISSUES
WORK PLAN

1.0 Task: Assist with the review and selection process for board appointees.

Priority: 1

Resource Team: Hickey, McGee, Wiggins

1.1 Preparation of necessary/preferred qualifications for board appointees.

1.2 Assist with technical research and candidate searches as assigned.

2.0 Task: Assess legal requirements which must be met to properly establish this entity in timely fashion.

Priority: 1

Resource Team: Hickey, McGee, Wiggins, Johnson

2.1 Prepare Articles of Incorporation, interim by-laws, and other materials needed for first set of board meetings.

2.2 Identify and register Corporation Registered Agent and Registered Office.

2.3 Identify requirements for installation of board members.

2.4 Identify and implement procedures necessary for compensation and travel for board members.

3.0 Task: Prepare briefing materials on individual railroad issues for presentation to board.

Priority: 1

Resource Team: Hickey, Wiggins, Rogers, McGee, Johnson

3.1 Prepare an in-depth overview and sectional analysis of the Corporation Act.

3.2 Prepare agenda for presentation to board.

3.3 Summarize current situation during transition period before transfer for all railroad issues, including personnel, financial, administrative/operational issues and real property.

3.4 Provide recommendations for further action or analysis.

4.0 Task: Coordinate review and approval by board for actions required from this and other work plan components.

Priority: 1

Resource Team: Hickey, McAlister, Wiggins, McGee, Rogers

4.1 Prepare analysis of available options and provide a recommendation.

4.2 Assist board with adapting and implementing approved recommendations.

4.3 Assist board with negotiation and adoption of various agreements or memorandums of understanding.

5.0 Task: Obtain certificate of public convenience and necessity from the Interstate Commerce Commission as required by ARTA.

Priority: 1

Resource Team: Hickey, McGee, Wiggins, Johnson

5.1 Assist board with review of requirements

5.2 Prepare and submit filing to ICC

6.0 Task: Coordinate initiation of OSHA and building code compliance surveys and planning work.

Priority: 2

Resource Team: Hickey, Rice, Wiggins

6.1 Coordinate budgetary requirements with the Departments of Public Safety and Labor.

6.2 Coordinate initiation of survey work with the ARR.

6.3 Assist board with implementation of survey and planning work.

7.0 Task: Coordinate the ongoing railroad security function with State and local law enforcement agencies as required.

Priority: 2

Resource Team: Hickey, Wiggins, McGee

7.1 Identify functions performed by railroad security.

7.2 Coordinate resolution of issues with the Department of Public Safety.

8.0 Task: Coordinate initiation of valuation study work necessary to support Interstate Commerce Commission's rate-making filings.

Priority: 2

Resource Team: Hickey, McGee, Wiggins, Johnson

8.1 Prepare analysis of costing and rate-making procedures.

8.2 Coordinate with board.

(Remaining tasks yet to be identified.)

9.0 Task: Assist board with executive official searches as required.

Priority: 2

Resource Team: Hickey, Wiggins

(Tasks yet to be identified.)

10.0 Task: Coordinate initiation of planning efforts to explore privitization options.

Priority: 2

Resource Team: Hickey, Wiggins, Rogers, McGee

10.1 Explore possible lease arrangements.

10.2 Explore possible sale arrangements.

(Remaining tasks yet to be identified.)

11.0 Task: Coordinate inter-agency liaison for the new corporation.

Priority: 2

Resource Team: Hickey, Wiggins, McAlister, Rogers

11.1 Identify all involved agencies and contacts.

(Remaining tasks yet to be identified.)

Anchorage Times
October 15, 1984

Workers prepare for rail transfer

by Kenneth R. Allen
Times Writer

State officials and the Federal Railroad Administration are working to allay fears among Alaska Railroad employees who will be transferred from federal payrolls to state rosters on Jan. 5 when the 526-mile line is turned over to the Alaska Railroad Corp. for $22.3 million.

Mark Hickey, state railroad transfer team coordinator, and William Loftus, executive director of the Federal Railroad Administration, have issued bulletins that address some employee concerns. They say the bulletins contain the "best analysis" available on what the future might hold for workers.

Most employees will move from federal to state payrolls under a two-year transition agreement.

The state has agreed to retain all transferring permanent employees, adopt all collective bargaining agreements and pay current pay scales, including cost-of-living adjustments, according to Hickey and Loftus.

They say the state will continue the Federal Retirement System or provide a system substantially equivalent to that of state employees and to provide health and welfare coverage much like current federal programs.

Permanent employee interests will be maintained subject to exceptions for reassignments, firings for cause, resignations, retirements and lack of work, Hickey and Loftus say.

They say employees can be fired during the two-year transition period, subject to existing collective bargaining agreements with the five unions that represent various workers and the personnel policies and rules applicable at the time of termination.

Employees must decide within 30 days before the federal-to-state transfer whether they wish to retire, resign or transfer to employment by the Alaska Railroad Corp.

All temporary workers employed as of the date of transfer will be separated from federal service on Jan. 5. The state has agreed to re-employ those workers at transfer in line with the terms and conditions of their previous federal employment and existing collective bargaining agreements, where they apply.

The five unions, which represent most of the railroad workers, include:

- The United Transportation Union, representing locomotive engineers and firemen, train conductors and breakmen and baggagemen.
- The American Federation of Government Employees represents blue-and white-collar workers. Freight handlers, heavy-equipment operators, on-track section crews, and clerical and administrative staffs are among its membership.
- Locomotive mechanics and maintenance workers are represented by the International Association of Machinists and Aerospace Workers.
- The American Train Dispatchers Association has two locals, one for train dispatchers and another for agent telegraphers.
- Workers on railroad rolling stock, which includes everything but locomotives, are members of the Brotherhood of Railway Carmen of the United States and Canada.

Juneau Empire
October 12, 1984

State to take over railroad from Feds Jan. 5.

The Associated Press

Ceremonies signing over the continent's northernmost railroad from the federal government to the state of Alaska will be held Jan. 5, officials said Thursday.

John Shively, Gov. Bill Sheffield's chief of staff, said the transfer date signifies the formal and legal change of ownership for the Alaska Railroad.

Effective Jan. 6, the Alaska Railroad Corporation will be responsible for ownership and operation of the 526-mile line. The changeover follows several years of negotiations between federal and state officials as well as the passage of two major bills by the Legislature.

One measure authorized Sheffield to buy the line, its rolling stock and facilities for $22.3 million, while the other laid out ground rules for how the railroad was to be run.

"I'm pleased that the transfer process, set up under federal and state law, continues to remain on schedule," Shively said in a prepared statement. "We have a lot of hard work ahead of us to ensure that the transition is a smooth one, and that the railroad is run as efficiently as possible."

The railroad, which has about 500 permanent employees, has been operated by the federal government since 1924. The line extends from Fairbanks, in Alaska's interior, to two south central ports — Seward and Whittier.

The railroad passes through one national forest, one national park — Denali — and is the last remaining flag stop line in the United States, officials said.

Ceremonies in the Railbelt area commemorating the transfer are being organized, including a formal exchange of transfer of documents at Nenana on Jan. 5, Shively said.

Anchorage Daily News
October 12, 1984

State to sign for railroad in ceremonies on Jan. 5

The Associated Press

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Fairbanks Daily News-Miner
October 3, 1984

ARR workers unhappy with operation

ANCHORAGE (AP)—Alaska Railroad employees testifying at a state legisative committee hearing Tuesday said their federal bosses may be undermining the line's safety, cost-effectiveness and worker morale.

The state has purchased the Alaska Railroad for $22.3 million, and is to take control Jan. 5, 1985. The line had been owned by the federal government.

Senate Transportation Committee Chairman Pappy Moss, D-Delta Junction, said he called the special hearing because he has been hearing about the workers' allegations for about a month.

"I began hearing about people losing jobs in Fairbanks, and operations being shut down and the state knew nothing about it," Moss said. "I began to think we were not getting the railroad we thought we were."

The workers warned Moss that the state might be getting stuck with a $3.5 million bill to comply with a year-old federal regulation requiring special safety glass in all railroad equipment. The rail employees said the installations have not been done.

The employees also said temporary workers are being laid off before necessary maintenance is completed on locomotives, certain maintenance operations are being shut down and labor from outside the state is being hired instead of Alaska residents.

Anchorage Times
October 3, 1984

Rail workers warn of misdealings

Associated Press

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ATTACHMENT "C"

MINUTES OF OCTOBER 26, 1984

ALASKA RAILROAD CORPORATION

REGULAR BOARD MEETING

I. CALL TO ORDER/COMMENCEMENT OF CORPORATE EXISTENCE

Meeting was called to order at 9:00 a.m. by Dick Lyon, Commissioner of the Department of Commerce and Economic Development, who introduced Dick Knapp, Commissioner of the Department of Transportation and Public Facilities; Mr. Jim Campbell, President of Spenard Builders Supply, Inc.; Mr. Frank Chapados, President of H&S Forwarders, Inc.; Mr. Lewis Dickinson, a partner of DOWL Engineers; and Mr. Gerald Valinske, an Alaska Railroad employee. Commissioner Lyon administered the Oath of Office to the four appointed members.

The first item of business on the agenda was the introduction of the Organic Resolution, which was read by Commissioner Lyon and is included in these minutes as Attachment #1. Mr. Dickinson made the motion to accept the resolution, which was seconded by Mr. Campbell. Mr. Chapados expressed concern over what he felt was a potential conflict of interest and suggested that he should not participate in the voting because of an Interstate Commerce Act provision that prohibits the participation of an officer or owner of certain freight forwarding corporations as a director of a railroad corporation. He indicated that his involvement in a freight forwarding corporation might be a conflict and is presently being reviewed by the Interstate Commerce Commission (ICC). It was his position that it would be better if he abstained from voting on the action items until the ICC completed its review.

Mr. Chapados did state, however, that he would like to participate in the discussions. He then requested to abstain from voting. Mr. Campbell indicated that he had no problem as long as Mr. Chapados could have input into the meeting. Mr. Campbell asked Mr. Jack McGee, legal counsel from the Department of Law, when they might get a ruling on this matter. Mr. McGee's response was that the ICC was reviewing it and a determination could be forthcoming within a month and possibly as soon as two weeks. Mr. Chapados said that there were alternatives to avoid this conflict if it existed and he had them under consideration as well. Mr. Campbell moved that the Board permit Mr. Chapados to refrain from voting, which was seconded by Commissioner Knapp. The motion carried without objection.

Commissioner Knapp suggested setting up a temporary Chairman and Board Secretary. He then moved that Commissioner Lyon be appointed as temporary Chairman. Commissioner Lyon suggested that Commissioner Knapp move to table the motion in order to vote on the pending Organic Resolution. Commissioner Knapp moved to table his motion, which was seconded by Mr. Valinske. His motion was tabled without objection. Mr. Campbell then said that it would be proper to vote on the Organic Resolution on the table. The motion carried unanimously with Mr. Chapados abstaining.

Commissioner Knapp then requested that the motion be put back on the table to nominate Commissioner Lyon as temporary Chairman, which was seconded by Mr. Campbell. The motion carried by unanimous decision. Commissioner Knapp then made a motion to nominate Mr. Mark Hickey as temporary Board Secretary. Motion seconded by Mr. Valinske. Commissioner Lyon asked for additional nominations, there being none, the motion carried by unanimous decision with Mr. Chapados abstaining.

Mr. Campbell moved for adoption of the agenda but asked to have discussion of an orientation trip for Board members added to the agenda. The motion was seconded by Commission Knapp. Chairman Campbell asked for objections but receiving none, the motion carried by unanimous decision with Mr. Chapados abstaining.

II. OFFICIAL BUSINESS

Commissioner Knapp introduced and moved the bylaws, which were prepared by the State Attorney General's Office and Special Counsel to the Alaska Railroad Transfer Team with the assistance of counsel from The Alaska Railroad, for discussion and adoption. Motion was seconded by Mr. Campbell. Mr. Campbell asked if the bylaws could be amended at a later date as he had questions on the definition of the executive officer group and the adopting of a corporate fiscal year. Mr. Hickey said the bylaws could be amended later and that the Corporation Act gives the Board the flexibility to adopt the State fiscal year, the federal fiscal year, or whatever other fiscal year they might wish. Commissioner Lyon asked for any proposed changes to the bylaws. Hearing none, he called for a roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Mr. Campbell - yes; Mr. Dickinson - yes; Mr. Chapados - abstain. Bylaws adopted and included as Attachment #2.

Commissioner Lyon stated that the next item on the agenda was the introduction and adoption of Resolution #1, Finding of Necessity for Adoption of Emergency Rules. Commissioner Knapp noted that the election of Board officers was the next item on the agenda.

Commissioner Lyon called for election of Board officers. Mr. Dickinson nominated Mr. Campbell for Chairman. Motion seconded by Mr. Valinske. There were no additional names offered for Chairman. Commissioner Lyon declared the nominations closed. Commissioner Lyon asked Mr. Hickey to conduct a roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Mr. Campbell - abstain; Mr. Dickinson - yes; Mr. Chapados - abstain. Motion carried.

Mr. Campbell nominated Mr. Chapados as Vice Chairman. Mr. Valinske seconded the motion. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Mr. Campbell - yes; Mr. Chapados - abstain; Mr. Dickinson - yes. Motion carried.

Commissioner Knapp nominated Mr. Hickey as interim Board Secretary to serve until the Board's first regular meeting in January after the transfer. Mr. Valinske seconded the nomination. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Mr. Campbell - yes; Mr. Chapados - abstain; Mr. Dickinson - yes. Motion carried. Commissioner Lyon yielded the chair to Chairman Campbell.

Chairman Campbell welcomed everyone to the first Board meeting and said that he considered it a great pleasure to serve. He felt that it was important to give the employees of the Railroad an understanding of what was going to happen and that the Board was there to represent the entire Railbelt as well as the State of Alaska. Commissioner Lyon and Mr. Chapados echoed these comments.

Chairman Campbell introduced Item C, Introduction & Adoption of Resolution #1, on the agenda. He asked Mr. Hickey to comment on the resolution. Mr. Hickey said the resolution was consistent with the Corporation Act and what was in the Corporation's bylaws. Mr. Valinske made a motion to adopt Resolution #1, which was seconded by Mr. Dickinson. Mr. Campbell asked the Board Secretary to read the resolution into the record which was done. That resolution is included in these minutes as Attachment #3. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Chairman Campbell - yes; Mr. Chapados - abstain; Mr. Dickinson - yes. Resolution passed.

Chairman Campbell next introduced Emergency Rule #1 and asked the Board Secretary to comment. Mr. Hickey said it was an emergency rule regarding public notice of regular and special Board meetings. He said it was consistent with state law requiring public notice be given in three newspapers of general circulation. A motion was made by Commissioner Lyon and seconded by Mr. Valinske to adopt Emergency Rule #1. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Chairman Campbell - yes; Mr. Chapados - abstain; Mr. Dickinson - yes. Motion carried.

Introduction of Emergency Rule #2, Meeting by Telecommunications (Attachment #4), was made and the Board Secretary was asked by the Chairman to comment. Mr. Hickey said that it was consistent with the Corporation Act which authorizes the Board to confer by telecommunication methods. He said that any actions taken, however, would be subject to providing proper arrangements for public access to those discussions prior to making decisions. A motion to adopt Emergency Rule #2 was made by Mr. Valinske and seconded by Commissioner Knapp. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Chairman Campbell - yes; Mr. Chapados - abstain, Mr. Dickinson - yes. Motion carried.

Next item on the agenda was Emergency Rule #3 (Attachment #5), Public Participation at Meetings. The Board Secretary told the Board that the rule was designed to govern the process for public participation at regular and special meetings. Thereafter followed a general discussion followed by questions and answers. Commissioner Lyon moved to adopt Resolution #3. The motion was seconded by Mr. Valinske. Mr. Hickey stated that the rule they were adopting did not reflect the first component that they wished. Chairman Campbell asked staff to prepare an amendment during the lunch hour so that they could look at it immediately following lunch. Mr. Valinske made a motion to table the item until that afternoon. Motion seconded by Mr. Dickinson, and Emergency Rule #3 was tabled without objection.

Emergency Rule #4, Public Disclosure of Information (Attachment #6), was introduced. The Board Secretary was asked to comment. Mr. Hickey explained that the Corporation Act provides that information in the possession of the Corporation is public and available to public inspection at reasonable times.

Consistent with the need to operate a railroad corporation, however, is the need to protect information of a private or proprietary nature from public disclosure. He stated the federal transfer law requires that the State protect information of the federal Alaska Railroad which includes its proprietary business data, personnel records, etc. from public disclosure. Mr. Chapados moved for adoption of Emergency Rule #4 and Commissioner Knapp seconded the motion. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Chairman Campbell - yes; Mr. Chapados - abstain; Mr. Dickinson - yes. Motion carried.

III. GENERAL BRIEFINGS

Chairman Campbell moved on to Item #3, General Briefings. Mr. Hickey gave a brief overview listing the major milestones of the transfer process. He also showed a Transition Chart which highlighted remaining pre-transfer work tasks. Commissioner Knapp pointed out that the reduction-in-force (RIF) process is only a procedural matter in transferring from federal ownership and wanted to make all employees aware of that fact.

Chairman Campbell introduced Arnold Polanchek, Assistant General Manager of The Alaska Railroad. Mr. Polanchek presented an overview organizational chart which indicated how the Railroad is structured. He next presented a brief overview of the Railroad's financial condition as of September 30, 1984. Additional charts were presented on Selected Operational Data, ARR Operations Summary, Positive Cash Flow, Passenger Statistics, and Selected Employment History. Mr. Chapados asked him to comment briefly on the declining revenues in 1983-84. Mr. Polanchek introduced Mr. John Gray, Manager of Marketing & Sales, who commented on the ARR Operational Summary Chart.

The meeting adjourned at 10:30 a.m. for a brief recess and reconvened at 10:45 a.m.

Commissioner Knapp noted that the next two items on the agenda were briefings on banking services and leasing activities. He noted the potential for conflicts of interest with certain members and stated that the law says that if you have a conflict of interest, you are precluded from engaging in or even discussing the items. Commissioner Knapp moved that an executive session of appropriate staff be convened during the lunch hour to discuss those specific matters, as well as transfer-related legal matters. Mr. Chapados seconded the motion.

Chairman Campbell pointed out that they would only hold executive sessions for matters of personnel and proprietary matters. He thought the Board needed to fill the Chief Executive Officer slot and wanted to include that as well in a discussion of employee and personnel matters. Commissioner Knapp changed his motion to do so and Mr. Chapados seconded the motion. The motion carried by unanimous consent.

Chairman Campbell stated that since they could not talk about banking services or leasing activities, they should move to Item E, Other Transfer Issues. Mr. Polanchek provided a brief rundown of the fiscal year 1986 budget by means of a Pro Forma Income Statement and showed the Revenue Analysis by Commodity Chart. Mr. Polanchek continued by presenting the Alaska Railroad Corporation Chart, a Summation of Freight Revenue by Freight Category Chart, and a Monthly Summation Statement of Estimated Revenues Chart.

Chairman Campbell asked the Board Secretary to address the Health & Life Insurance Program issue. Mr. Hickey presented a Health & Life Insurance Chart and introduced Mr. Evan McKinney to help explain the key issues. Mr. Hickey explained that part of the complexity of the issue is the short time limit involved and the fact that Railroad employees currently have about 20 separate programs from which to choose. There are 10 programs now in use by employees, although 89% of the employees are enrolled in three main programs. Mr. McKinney continued by saying that it was a complicated issue but the State had agreed to provide a program that was substantially equivalent to what they presently had. Mr. Hickey said they had come up with a recommended program and have informally presented it to the Federal Railroad Administration and the Office of Personnel Management. Their reaction was that it was not only substantially equivalent on the health side, but also about 20% cheaper on a cost basis.

Mr. Hickey also addressed the issue of The Alaska Railroad Medical Association. He said it was the State's recommendation to keep it in place as an adjunct to the health and life insurance program since it was incorporated in existing collective bargaining agreements. Mr. Hickey continued by saying that the Board should make a decision on the recommendations by their November 7th meeting. Mr. Hickey continued on to say that the issue has not been discussed to any degree with the employees. Chairman Campbell stated that the Board should not take any action until the employee groups could react on this issue. Mr. Dickinson asked the status of the Transfer Team's recommendation. Mr. Hickey responded that they recommended a single insurance plan and recommended continuing the ARR Medical Association as it presently exists.

Chairman Campbell asked if the Board had any objections or thoughts about having a committee to sit in on employee briefings. There were no objections. Art Minton, International Representative of the International Association of Machinists & Aerospace Workers, suggested joint sessions. Chairman Campbell suggested proceeding with joint sessions.

Chairman Campbell asked if there was time to go on to the final briefing item of Corporate Employment Offers. Mr. Hickey explained that RIF letters would be going out to all employees along with an offer of a new position with the Corporation. The employees would have a 21-day notice period in which to review these offers. Mr. Hickey said that members of the Railroad staff and State will be touring the property and answering questions and there would be an opportunity for personal counseling for employees once the RIF letters were sent out.

Meeting recessed for lunch and the executive session at 11:45 a.m. and reconvened at 1:45 p.m.

IV. SPECIAL ACTION ITEMS

Chairman Campbell announced that he was appointing a committee of Mr. Chapados, Mr. Valinske, and Commissioner Knapp to sit in on employee briefings. He asked Mr. Chapados to serve as Chairman. Commissioner Knapp inidcated that Commissioner Lyon would serve as an alternate member if he was unable to attend some of the meetings.

Chairman Campbell introduced Item C, Banking Services, and stated that as Director of the National Bank of Alaska, he had a conflict of interest on this issue and thought Mr. Chapados did as well. At this time, he passed the gavel to Commissioner Lyon. Mr. Chapados said that he, too, had a conflict of interest.

Mr. Hickey asked Mr. McKinney and Mr. Bruce Carr, Alaska Railroad, to walk the Board through the banking service issue. Mr. McKinney explained that the object is a process to establish banking services between the Railroad and a private bank. The objective is to assure that the Railroad can go through the transfer without losing the ability to receive and disburse funds and for the Corporation to accrue any interest on the excess revenue. The process they suggested was a modified bid procedure. Based on the proposals, they would evaluate the proposals on the two criteria of the ability to provide services and the cost. He suggested a one-year contract with an option to renew. He stated that it was necessary to move quickly. Their plan was to distribute the request for proposals later in the afternoon to the four banks which currently carry the Railroad's accounts and, hopefully, would have the response back by next Friday. They would then evaluate the responses and bring that evaluation back to the Board at their next meeting on November 7th so the Board could make a decision at that time. Commissioner Knapp asked if the Board would be violating any banking procedures as the plan was limited to the consideration of only four banks. Mr. McKinney said "no" because there was an Emergency Rule on the agenda that authorized limited procurement.

Commissioner Lyon said he thought the Treasurer Team would like authorization to issue the request for proposals. Commissioner Knapp responded that it would come later under the subject of Special Resolution #2. The Board Secretary commented that Item 4, Special Action Items A-B related to banking authorization, but that they could move to that point on the agenda. Commissioner Lyon asked if there were any objections to doing so, and hearing none, moved to that point on the agenda. Commissioner Knapp said if there were no objections, he would move to adopt Special Resolution #2 and Emergency Rule #5 (Attachment #7). Commissioner Knapp moved for adoption of the Resolution and Emergency Rule #5 as one item. Mr. Dickinson seconded the motion. Roll call vote: Commissioner Lyon - yes; Commissioner Knapp - yes; Mr. Valinske - yes; Mr. Dickinson - yes; Chairman Campbell - abstain; Mr. Chapados - abstain.

The next item on the agenda was Item D, Leasing Activities. Mr. Polanchek made a brief overview of the leasing activities on the Railroad. He said that the Railroad owned about 3,000 acres of industrial land and that in 1974 the leasing policy of the Railroad had not been formalized. The major area of concern from the 1974-75 audit pertained to the Railroad's leasing policies. The outcome of the audit was that the Railroad was mandated to revise its leasing policies. One criteria was that all leases had to be brought up to the fair market value and a fair market rental rate applied. A leaseholders' association was formed in 1981 and they subsequently filed several actions in the courts. The initial suit was dismissed; however, there was a motion filed for reconsideration and a secondary suit filed which would probably reopen the original suit.

Commissioner Lyon asked if there were any current unresolved areas between the Railroad and leaseholders. Mr. Polanchek responded that he thought it would just be a question of the method the Railroad uses in determining the fair market value of the land as some of the leaseholders did not believe that lessee below-ground improvements to the property should be included in the appraisal. Mr. Polanchek stated that this was probably the major source of contention. Commissioner Lyon returned to gavel to Chairman Campbell.

Chairman Campbell asked if there were any other questions of the Board at that time under employee issues. The Board Secretary told the Board that they would be hearing later that day during the public comment period on these issues. Chairman Campbell suggested that if there were no objections, they would move into the public comment period since the Board had not yet adopted the procedures for signing up to speak, they would just try to allow as much time as possible but try to stay within the time restraints of five to ten minutes. He asked that all speakers sit at the front of the room and state their name for the record.

V. OPPORTUNITY FOR PUBLIC COMMENT

Mr. James Kirsch, Alaska Railroad employee representing himself, was the first speaker. He said there had been discussions on how the transfer was to transpire but that he had questions as to what was really going to happen after transfer. He stated that at the present time there were numerous rumors. His main concern was for those employees ready for retirement. He felt that they should be allowed to retire from the Railroad and then go back to work for the Corporation in the same job with the same seniority. His second area of concern centered around Railroad trackage that ran through the military area from Whitney Road to Eagle River. He suggested that someone negotiate with the Army to try to get a different right-of-way so the train could move faster and more efficiently with less cost to the Railroad.

Mr. Robert Collopy, Alaska Railroad Section Foreman, was the second speaker. He stated that he had 32 years of Government service--4 with the Army and the rest with The Alaska Railroad. He said that he was in the same position as Mr. Kirsch and would also like to retire from the Railroad and go back to work for the Corporation. He said he was represented by the American Federation of Government Employees and the President, Mr. Jack Burton, felt that the seniority question would be a union issue.

Mr. Jack Burton, President of the American Federation of Government Employees, spoke next. He said that these people wanted to take advantage of retirement and return to the same position, but felt that because of the way the contracts were now written, it was a political issue for the unions. He stated that he was neutral on this particular issue because it did not affect him one way or the other. Mr. Burton asked Mr. Hickey if health insurance premiums may go down for some people. The response from Mr. Hickey was that the overall cost might be as much as 20% less. He then asked if in some instances the premiums could increase and the response was that they might on a case-by-case basis. Mr. Burton stated that he would have a problem with that simply because he didn't think those people should subsidize the portion that the Railroad would otherwise pay for others.

Mr. Art Minton, International Representative of the International Association of Machinists & Aerospace Workers, addressed the issue of temporary employees who had been laid off and were subject to recall on a seasonal or as-needed basis. He suggested that temporary status implied someone who worked 30-90 days to as much as 6 months, but he did not feel that was the true picture. He said that some of these employees held positions for up to two-year periods. He felt that it was necessary to approach the Board to obtain a preferential hiring list for those temporary employees who had been terminated. He mentioned the fact that everything discussed to date spoke only to career or full-time employees. He also raised the question of those people who were within five years of retirement but said there were a lot of questions for those people who were not yet to that point and suggested that the Board also needed to address that issue.

Mr. Ray Sanderford from the United Transportation Union (UTU) was the next speaker. Mr. Sanderford said that the UTU welcomed the new ARR Board of Directors and the new ideas and expertise that they brought with them. He said they envisioned a smooth transition and that the UTU had benefited from an excellent rapport with the Railroad administration in the past. He said they were anxious to go forward with the new administration, always keeping in mind their common goal of service to the public and the State of Alaska.

Mr. Richard Farmer, representing Alaska Day Tours, Ltd., spoke next. He said over the past two years he had received a lot of support from the Railroad on the passenger side. He hoped that the Board would consider expanding the passenger side as there were not enough railroad cars available. He also mentioned that there were no passenger facilities in Whittier and said that he would like to see better facilities for the tourists.

Chairman Campbell asked if anyone else wished to speak. As there were no further comments, he closed the public speaking portion of the meeting and called a short recess at 2:35 p.m.

VI. CLOSING BUSINESS

The meeting reconvened at 2:45 p.m. when Chairman Campbell asked the Board Secretary to read the new draft of Emergency Rule #3 which dealt with Public Participation at Meetings. Mr. Hickey read the substitute rule.

Commissioner Knapp said that he thought Emergency Rule #3 was on the table and it would be appropriate to lift it and amend it accordingly. Chairman Campbell asked for a motion to lift it off the table. Commissioner Lyon moved to remove the motion so the table was clear. Mr. Chapados seconded the motion. Mr. Chapados said he thought it would be appropriate to have a voice vote to clear the motion off the table. The vote was unanimous with Mr. Chapados abstaining. Commissioner Knapp made a motion to adopt the amended rule and Mr. Valinske seconded it. As there were no further objections to Emergency Rule #3 (Attachment #5), the motion carried with Mr. Chapados abstaining.

Chairman Campbell said that Thursday the Board would go to Seward. The next official meeting was set for November 7 at 9:00 a.m. in the same location. He further stated that he would like the agenda to include a discussion of selection of a new Chief Executive Officer for the Corporation.

Commissioner Knapp commented on the fine presentation and preparation of the Transfer Team and appropriate staff.

Chairman Campbell said that concern had been expressed over an audit project. Mr. Hickey explained that the pre-transfer audit which was being done as part of the State's part of the transfer was basically to perform a balance sheet assessment at the date of transfer and to assess the accounting system of the Railroad and recommend changes that might be needed for the Railroad to comply with generally accepted accounting principles. Selection of this auditor dealt only with performing that work. Mr. Hickey stated that there had been confusion that the selection of this firm was the selection of the independent financial auditor for the Corporation. He stated that this selection had nothing to do with that decision which had to be a Board decision.

Commissioner Lyon said there was an element of confusion that needed to be cleared up about the fiscal year '86 budget. The bylaws called for a fiscal year which tracks the State's fiscal year but the Railroad was currently operating under the federal fiscal year. It was his hope that the Railroad would make some modification to the budget process so that the people who worked with the state system could understand it more readily. He felt that with regard to capital items, something needed to be done because of the time frame. He said that he didn't know how much flexibility they had but if the Board needed to ask for state funding in the future, they might like to address the issue.

Mr. Hickey suggested that the Board might like to take this up as an action item for the next meeting and Chairman Campbell requested a briefing on the trip to Seward. He said there would be no action, just a briefing.

Chairman Campbell asked Lee Fischer, who had just joined the meeting, if he had any questions. Mr. Fischer asked if the Board was going to take charge of the selection of the auditors. Mr. Campbell said that they would make the selection as to the final independent financial auditor for the Corporation. Mr. Hickey again explained the situation with respect to the existing audit project.

Chairman Campbell asked if there were any further comments or questions. Mr. Chapados moved to close the meeting, which was seconded by Mr. Dickinson. Hearing no objections, the meeting was adjourned at 3:00 p.m.

Anchorage Daily News
November 11, 1984

Pipeline president named railroad manager

The Associated Press

The man who runs the trans-Alaska oil pipeline was named Saturday to be the new general manager of the Alaska Railroad.

Frank Turpin, president of the Alyeska Pipeline Service Co., will assume his duties Feb. 15 when he retires from Alyeska, according to James Campbell, chairman of the railroad's board of directors.

"In Frank Turpin, we have a chief executive of proven ability," said Gov. Bill Sheffield, who appointed the railroad's directors.

Turpin took over as chief executive of Alyeska in 1978, the first year of operation of the pipeline which carries oil from Prudhoe Bay on the North Slope to the marine terminal at Valdez on the Gulf of Alaska.

Turpin said his retirement has been planned for nearly a year, and the railroad job just happened to coincide.

"My wife and I had been looking forward to our new freedom after my retirement," Turpin said. "We even built our home here in anticipation of our new life of leisure in Alaska.

But he said the challenge of running the railroad was "irresistable."

Turpin has been employed by Exxon for 38 years in various capacities. Alyeska is a consortium of the oil companies which produce the oil in Prudhoe Bay, and Turpin technically remained an Exxon employee.

The railroad is to be transferred from federal to state control on Jan. 5.

Campbell said the board will name an interim management team to oversee the railroad's operation until Turpin takes over.

Frank Jones, the man who ran the railroad for the federal government, has been on leave for most of the year recuperating from a heart ailment. Campbell said earlier he didn't believe Jones' health would allow him to resume his duties.

Initially, the board intended to hire former Anchorage Mayor George Sullivan, but those plans fell through last week when the two sides were unable to agree on a contract.



Frank Turpin

Alyeska's Frank Turpin named to head ARR

Fairbanks Daily News-Miner
November 11, 1984

Frank G. Turpin, who is stepping down as president of Alyeska Pipeline Service Co., will take over as head of the Alaska Railroad, effective Feb. 15.

His selection as the railroad's president and chief executive officer was announced Saturday by James Campbell, chairman of the state's Alaska Railroad Board.

The state assumes control of the railroad Jan. 5, under terms of an agreement with the federal government. In the meantime, the state board is planning for an interim management from Jan. 6 until Turpin assumes the top job.

Turpin has worked for the Exxon Co. USA for 38 years, and has been "on loan" to Alyeska the past six years. Alyeska is the company that operates the trans-Alaska oil pipeline for the North Slope producers.

"My wife and I had been looking forward to our new freedom after my retirement," Turpin was quoted in a news release. "We even built our home here in anticipation of our new life of leisure in Alaska. But the offer from the railroad board provides an opportunity for me to make a contribution to the state, and in an area of particular significance to me."

Speculation on who would be tapped to be the first executive of the railroad under new state ownership had been accelerating. Former Anchorage mayor George Sullivan missed the bid when he and the board failed to agree on terms. At least two other candidates reportedly had engaged in discussions with the seven-member state railroad board.

James O. Campbell, board chairman, issued Saturday's statement, and he said, "Frank Turpin was our choice among several candidates, with whom we have had discussions over the past several weeks. We're very pleased that he has chosen to accept this very important position."

Gov. Bill Sheffield was quoted as expressing pleasure at the choice, saying Turpin has proven ability and he "brings to this new position the complex administrative and executive skills which we think will be required at this state in the railroad's history, which is both transitional and inaugural."

Earlier this year the Alaska Legislature passed the bills required to effect the transfer of the rail ownership from federal to state governments. The actual transfer occurs on Jan. 6.

Since his arrival in Alaska in 1978, Turpin has been active in numerous organizations. He was president of the Anchorage Chamber of Commerce in 1982-83, and served on that group's board and natural resources committee. He chaired the Anchorage 1981 United Way campaign, and has been a board member of the Alaska Repertory Theatre, Providence Hospital, and has been active in the University of Alaska Foundation and the Alaska affiliate of the American Heart Association. He is a member of Rotary.

Frank Chapados, a Fairbanks member of the state railroad board, said Saturday he was pleased with Turpin's selection.

"We're benefiting from the work the transition team has done," Chapados said. The board still has many weighty matters to address, though, including plans for capital projects and employee pay and benefits.

According to Chapados, the federal Alaska Railroad management has prepared a budget for capital projects and improvements, but that's on a federal fiscal year, Oct. 1-Sept. 30, while the state operates on a July 1-June 30 budget cycle.

At the board's last meeting, approval was given for seeking bids on an employee health plan. Chapados said the state board wants one plan, rather than the 14 programs offered under federal management.

On pay, 71 of the 500 ARR employees receive federal cost-of-living adjustments because of longevity. Chapados cites that as an example of issues the board must resolve before the actual transfer. The board meets again Nov. 21.

Seward Phoenix Log
October, 1984

Rail board tours Seward terminal

by Carole Jaffa

Seward and Whittier were the first stops on an Alaska Railroad board initial tour of railroad holdings November 1. Purpose of the tour was to familiarize new board members with what the railroad now owns, what it needs and how it is being run.

The new board members are Jim Campbell, chairman of the board and owner of Spenard Builder's Supply; Lew Dickenson, chairman of Anchorage Port Commission, director of Anchorage Sand and Gravel and partner in DOWL Engineering; Frank Chapados, owner of H & S Freight Forwarders of Fairbanks; Gerald Valinske, an Alaska Railroad employee of the United Transportation Union; Commissioner of Commerce & Economic Development Dick Lyon, and Commissioner of Transportation Dick Knapp.

Also on the tour were top management people from ARR, and Bill Loftus of the Federal Railroad Administration.

Dickenson, whose appointment drew fire from the City administration and Council on grounds of possible conflict of interest (due to Dickenson's gravel buisness and position as chairman of the Anchorage Port Commission), stressed to the LOG that he sought "good communication" with the City, the "advance invitation" (protest of his appointment) notwithstanding.

The Railroad administration is sympathetic to Seward, he said, that came across clearly in our briefing.

Dickenson said priority capital outlay for the railroad will be for new equipment to handle the coal shipments.

Commissioner Lyon also spoke of capital outlays, commenting new gantry cranes for the Seward dock are a definite part of our proposed five year plan. He noted the railroad has always hauled more freight north than south, so the rails are reinforced for the stress of northbound traffic. This will have to change to handle coal trains.

A major problem the board must face is how to provide passenger service without losing money (last year passenger service cost $6.3 million and brought in only $4.6 million—a $1.75 million loss. That translates to a $300 loss per passenger.)

Mainline tourist trains that run from Anchorage to Fairbanks do compensate somewhat for the costly local trains that run all winter.

Another problem is replacement of rolling stock. No one builds passenger cars in the U.S. anymore; the railroad must either buy refurbished Amtrack cars or new ones from Canada to replace the old cars.

The passenger cars now in service date from the fifties. Some use steam for heat and air conditioning; others use electric. The steam cars cause problems with pipes breaking in cold weather; plus they will not interface with electric cars. All electric stock is required.

The board members met with local business people and City Council administrators aboard their special train on the 1st. Representatives of the ILWU were among those who voiced concerns about the railroad's operation (see related article).

Anchorage Daily News
October 30, 1984

Operations report details rail finances

The Associated Press

When the federal government sells the Alaska Railroad to the state in January, it will be handing over a line that had a net profit of $1.8 million in fiscal year 1984.

A report presented last week at the first meeting of the Alaska Railroad Corp.'s board of directors said the line has $118.2 million in assets and $182.3 million in total liabilities and U.S. government proprietary interests.

Railroad operations were in the red for passenger traffic and in the black for freight hauling during 1984, the report said.

On Jan. 5, the state will pay $22.3 million for the railroad line, and the seven-member board of directors will run it as a state business.

The railroad has 482 miles of main line, running from Fairbanks to Seward. Branch lines to Palmer and Whittier make up an additional 48 miles, and 126 miles of yard and siding tracks are in use.

The line has 46 passenger coaches, 1,439 freight cars, and 57 locomotives. The report said the railroad has 465 full-time employees. There are 18 full-time executives and two part-time executives.

Anchorage Times
October 29, 1984

Report gives financial state of rail

by Kenneth R. Allen
Times Writer

The federally owned Alaska Railroad, which will become a state property in January, has total assets of $118.2 million and total liabilities and U.S. government proprietary interests of $182.3 million.

A report given last week at the first meeting of the Alaska Railroad Corp. board of directors also showed that the line had total revenues of $62.2 million in fiscal year 1984 and total expenses of $60.3 million, with a net profit of $1.8 million. Cash flow was reported at $6.7 million.

The federal fiscal year runs from Oct. 1 through Sept. 30. The Alaska Railroad Corp. board has not said whether it will follow the federal fiscal year or change to the state's fiscal calendar, which runs from July 1 through June 30.

At midnight on Jan. 5, the railroad will be turned over to the state in a $22.3 million transaction. The line then will be operated as a state business under direction of the seven-member Alaska Railroad Corp. board of directors, which met Friday.

Only six panelists took the oath of office. The seventh has not been named by Gov. Bill Sheffield, and one already on the board — vice chairman Frank Chapados, who is president of a Fairbanks freight company — might have to step down if the Interstate Commerce Commission rules against his membership on conflict-of-interest grounds.

The ICC is reviewing whether Chapados' interest in the freight company might be too closely related to his position on the railroad board. The board will oversee freight rates for the railroad.

The railroad, commonly called a 526-mile line, which probably is a loose reference to the railroad's linking of Fairbanks and Seward, has 482 miles of main line, according to the report. Another 48 miles of branch lines are in place, and 126 miles of yard and siding tracks are in use. Total track miles was listed at 656.

The railroads' tracks actually run from Eielson Air Force Base southeast of Fairbanks to Seward, with branches linking Palmer and Whittier. Railroad linemen have said the tracks are in various stages of repair.

Forty-six passenger coaches are in the rolling stock inventory, as are 1,439 freight cars. The line, which is correctly called a "road" in the parlace of the railroad community, has a fleet of 57 locomotives.

Some in the Brotherhood of Railway Car Men of the United States and Canada, the union representing those who maintain the rolling stock, have said that quipment is in need of serious attention. Rolling stock means only the freight cars and passenger coaches.

Word from among the membership of the International Association of Machinists and Aerospace Workers holds that the locomotives are newer than the rolling stock and are in better condition. The machinists group is the union that represents those who maintain the locomotives.

The report to the board showed 18 persons were in executive positions as full-time employees for the railroad. Two others were listed as temporaries.

Full-time employees were numbered at 465. Sixty-eight were shown as permanent part-timers, and 126 were shown as temporaries.

Under total employee listings, including full-time, permanent part-time and temporaries, 80 were shown in administration, with another 232 in transportation, 180 in engineering, 131 in locomotive power and equipment, and 16 in marketing and sales.

The report indicates that railroad operations are in the red for passenger traffic and in the black for freight hauling.

A statistical summary for 1984 annual operations showed, in round numbers, the railroad took in $4.6 million in passenger revenues but lost $1.8 million doing it, because passenger expenses totaled $6.3 million. Summer trains carried 75,000 passengers, which cost the railroad $4.79 per rider. Winter trains carried less than 3,000 passengers and cost the railraod $295 per rider.

Anchorage Times
Ocotber 28, 1984

Rail panel member could lose post

by Kenneth R. Allen
Times Writer

A question over conflicts of interests threatens the Alaska Railroad board of directors post held by Frank Chapados of Fairbanks.

Chapados might be required to step down from the railroad board if the Interstate Commerce Commission rules that his business affiliations and his position on the board are too closely related.

Railroad board members will be in a position to rule on shipment rates set by management when the state takes control of the federally owned line in January.

He is president of H & S Freight Forwarders. Chapados also is a board member of Lynden Inc., which is a holding company for Lynden Transport trucking.

Lynden Transport does business throughout Alaska. The freight-forwarding company deals principally in contracting with trucking companies and the Alaska Railroad for shipment of household goods belonging to military service personnel and families stationed in the state.

Chapados, who was named to the railroad board by Gov. Bill Sheffield on Oct. 3 along with three other men, said that the ICC will rule within two weeks whether it thinks he should step aside. The governor still has to fill a seat on the panel, which is a seven-member body.

"I don't own any trucks or lease any trucks," Chapados said, referring to H & S Freight Forwarders. "I do, however, arrange for the shipment of military service household goods, but I don't do anything directly with the railroad."

Chapados said he plans to relinquish his position on the Lynden board.

Membership on the railroad board would "in no way" benefit his freight-forwarding company, Chapados said.

Juneau Empire
October 26, 1984

Rail panel meets for first time

By HAL SPENCER
The Associated Press

ANCHORAGE — Meeting for the first time, the state board formed to run the Alaska Railroad unanimously named James Campbell of Anchorage as chairman and Frank Chapados of Fairbanks as vice chairman Friday.

The Alaska Railroad Corp. board meeting, which drew a small crowd consisting mostly of railroad employees, focused largely on housekeeping chores ranging from swearing in board members to adoption of corporate by-laws.

There was one hint of controversy in the otherwise quiet meeting.

Chapados, with the approval of his colleagues, refrained from voting on grounds it may be a conflict of interest for him to serve on the board.

Chapados, the owner of H&F Forwarders, a shipping concern, said Interstate Commerce Commission regulations may prohibit him from serving.

He said the ICC has been asked to rule on the question, and may make a decision with two weeks.

Jack McGee, an assistant state attorney general, said later he is optimistic that the ICC would not find Chapados has a conflict of interest. He said it was possible, however, that Chapados would have to surrender his seat.

Chapados is one of six members recently appointed by Gov. Bill Sheffield. A seventh is still to be named.

Besides Chapados and Campbell, who is president of Spenard Builders Supply, board members include Lew Dickinson of Anchorage, a partner in DOWL Engineers and chairman of the Anchorage Port Commission, Gerald Valinske of Anchorage, an Alaska Railroad employee, Commerce Commissioner Dick Lyon, and Transportation Commissioner Dick Knapp.

The board tried to allay concerns that its members would take a provincial view in overseeing operation of the railroad, which is to be transferred from federal to state control on Jan. 5 in a formal ceremony at Nenana.

"There's only one way to do things, and that's to work together," said Chapados.

"I consider this one of the most opportunist things I've ever done in my life," said Campbell. "I want to put to rest the idea that any of us on this board represent a (single) community in the Railbelt."

The board was briefed by the Alaska Railroad Transfer Team on current operations and the line's financial condition. The board intends to adopt a budget for fiscal 1986 next month. It also will take up the sensitive issue of job security for railroad employees.

The Alaska Legislature this year authorized the purchase of the railraod for $22.3 million. It also passed a measure to create the board.

Anchorage Times
October 17, 1984

Railroad board selection difficult

The seventh member of the new Alaska Railroad Corp. board of directors will remain a question mark until Gov. Bill Sheffield returns from China at the earliest, according to an administration official.

The 526-mile line, which has been operated by the federal government since the early 1920s, will be transferred to state ownership on Jan. 5 in Nenana in a $22.3 million transaction.

Carol Derfner, Sheffield's assistant for selecting board and commission members, said 37 persons had applied for the seventh board seat and that the field has now been narrowed to a dozen. Sheffield, however, is in China on a two-week Alaska trade mission.

"This has been the hardest board to name," Derfner said. "There are so many requirements that must be satisfied, both those contained in the state legislation creating the board and those of the Interstate Commerce Commission."

State law requires the governor to select a seventh member of the board who has 10 years of railroad management experience and has worked for a U.S. railroad as its chief executive officer. The Interstate Commerce Commission requires that the person cannot be affiliated with another railroad that does business with the Alaska Railroad. The line is not physically linked with others roads, but it does move other railroad's cars that have been sent to Alaska aboard barges.

State law provides that the governor may name five board members and that the commissioners of the Department of Transportation and the Department of Commerce and Economic Development are automatically a part of the board.

Anchorage Daily News
October 12, 1984

Alaska Railroad board member wants to entice private buyers

The Associated Press

FAIRBANKS — A board member of the new Alaska Railroad Corp. said one of his goals is to make the railroad attractive to private buyers and get it off the state's hands.

But, Frank Chapados said, "I don't see that occurring right away."

Private owners "pretty much have to do it at a profit," he said. They probably could not do that, even with the same $22 million price tag the federal government gave the state.

"Even at that, I think they would have a tremendous investment that they'd be faced with," Chapados said.

Chapados, 70, is one of five public members appointed to the board. Born in Juneau, he has served as a U.S. marshal, a federal Fish and Wildlife enforcement agent and a two-term state representative.

Chapados said taking over the railroad will have great challenges, one of which will be dealing with employee rights and problems uncovered as the transfer takes place.

"The employees of the railroad are very important people and a real asset," he said. "I don't know if we really have any choice but to do right by them. I don't have any problem with that."

Chapados also said he's not an advocate of extending the railroad north, or south to the Canadian rail system, until the extensions serve a purpose.

A link south without a big increase in loads would throw a wrench into a fairly sophisicated system now split between water and truck transportation, he said.

No board meetings have been scheduled. One public member has not been named yet.

Two seats on the board will be held by state Commerce Department Commissioner Dick Lyon and Transportation Department Commissioner Dick Knapp.

The three other public members named so far are James Campbell of Anchorage, president of Spenard Builders Supply; Lew Dickenson of Anchorage, and chairman of the Anchorage Port Commission, and Gerald Valinske of Anchorage, an Alaska Railroad employee of the United Transportation Union.

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

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KINY NEWS 10/10/84

Seward officials have suggested there is an appointee to the Alaska Railroad Board of Directors may have a conflict of interest because he also serves on the Anchorage Port Commission. In a letter to the Interstate Commerce Commission, Seward Mayor, Don Cripps, says his city has serious concerns about railroad board member Lew Dickinson's ability to serve impartially on a seven member rail panel. Cripps also asks the ICC to review the credentials of other board members who were appointed to their post on October 3rd by Governor Bill Sheffield. Seward City Manager Ron Garzinni says Dickinson sets tariffs for freight shipped to the Port and then trucked to other destinations. Garzinni says that as a member of the railroad Board Dickinson also will set tariffs for cargo hauled on the Alaska Railroad when it's taken over by the State in January. And Garzinni says no individual should be actively involved in the competing modes of transportation. Cripps and Garzinni also suggest Dickinson may have a conflict because he is a Board member of Anchorage's Sand and Gravel. The official says gravel hauling operations are the largest revenue producers of the railroad. Garzinni also says Seward city officials are miffed that nobody from Seward was named to the Rail Board.

Anchorage Daily News
October 10, 1984

Seward protests businessman's appointment to rail board

By RONNIE CHAPPELL
Daily News reporter

The Seward City Council has protested the appointment of Anchorage businessman Lew Dickenson to the board of the Alaska Railroad Corporation.

Dickenson is one of four non-government people appointed to the board by Gov. Bill Sheffield last week. The board will run the railroad for the state, which bought it from the federal government for $22.5 million and will take over its operation in January.

Monday, the council voted unanimously to ask the Interstate Commerce Commission to examine Dickenson's business and civic affairs for possible conflicts of interest.

He is chairman of the Anchorage Port Commission and a director of Anchorage Sand and Gravel, a company that ships large amounts of bulk freight from Palmer to Anchorage via the railroad.

Although he termed Dickenson a "fine Alaskan" in his letter to the ICC, Seward Mayor Don Cripps said he and other city officials had "serious concerns about (Dickenson's) ability to serve with impartiality."

An agency spokesman said Tuesday that the ICC has "limited authority" to review Dickenson's appointment if questions of conflict of interest have been raised.

Federal laws provide for ICC review when a railroad director controls or owns significant amounts of stock in another carrier, said Martin Zell, deputy director for state and community affairs for the agency. The laws are designed to ensure that railroads treat all shippers fairly.

Zell did not know if the ICC could block Dickenson's appointment.

Dickenson, who is working and duck hunting in the Eureka-Chickaloon area, was unavailable for comment Tuesday.

In his letter, Cripps says, Dickenson is "directly involved in the railroad's gravel haul tonnage, which I believe is the railroad's largest revenue source.

"He, as a railroad board member, would be involved in decisions regarding future competing gravel sources and rates for competing services."

Seward city officials believe the startup of a new coal export facility will make it possible to use empty coal cars to backhaul large amounts of gravel to the Anchorage area.

Dickenson's position as chairman of the Anchorage Port Commission also creates problems, Cripps said.

"In most instances," he wrote, the interests of the railroad and the Port of Anchorage are "in direct conflict. We do not believe that one individual can effectively serve both bodies."

The statement is based on the theory that high railroad freight rates encourage the movement of freight through the Port of Anchorage. That's because most of the major shippers serving the city have union contracts requiring them to truck most of their freight inland.

"Ninety percent of the carrier traffic using the Port of Anchorage is by truck and, therefore, is competing with the Alaska Railroad," Cripps said.

Despite that fact, Cripps continued, Dickenson will be "directly or indirectly setting tariffs and practices for the railroad."

Anchorage Port Director Tyler Jones termed Cripps' analysis a "narrow interpretation of the role of the Port of Anchorage and our partnership with the Alaska Railroad."

Jones said he and other port officials would like to see more extensive use of the railroad.

"That's been a longstanding position," Jones said.

Sheffield knew about "Dickenson's interests" before he appointed him to the railroad board, said Sheffield Press Secretary John Greely.

"The issues were reviewed by the attorney general's office and it was determined that all (of the men appointed to the board) could pass muster," Greely said.

Other businessmen named were Jim Campbell of Anchorage, president of Spenard Builder Supply; and Frank Chapados, owner of H & S Forwarders Inc. of Fairbanks. Gerald Valinske will represent unions on the board and Transportation Commissioner Richard Knapp and Commerce Commissioner Richard Lyon will represent state government.

Campbell's company moves substantial amounts of freight over the railroad, Greely said.

The Chapados nomination already is being reviewed by the ICC, said assistant attorney general Jack McGhee. The state requested the review, McGhee explained, because it is "unclear in our minds" whether ICC statutes governing freight forwarders "would preclude him from serving."

None of the appointees has filed a financial disclosure statement with the state.

Financial disclosure is not required by law, Greely said, and it "is not standard practice to ask for financial disclosure in the course of a job interview. Usually there's a verbal assurance that there are no conflicts of interest."

Sheffield elected Dickenson, Campbell and Chapados because "they know how the railroad operates."

Anchorage Daily News
October 4, 1984

Sheffield appoints 6 to Alaska Railroad panel

United Press International

JUNEAU — Gov. Bill Sheffield Wednesday appointed six people, including three Anchorage men, to the seven-member board that will oversee the Alaska Railroad when it is transferred to the state from federal ownership.

The three Anchorage residents, two businessmen and a union official, were among four members of the public selected by Sheffield.

Chosen were James Campbell, 52, president of Spenard Builders Supply and a former Anchorage city councilman and borough assemblyman; Lewis Dickinson, 52, a civil engineer and member of the Anchorage Port Commission; and Gerald Valinske, 33, who will fill the seat designated by law for a representative of labor unions affiliated with the railroad.

Campbell will serve a five year term on the board, Dickinson a four-year term and Valinske a three-year term, Sheffield said.

The other non-government appointee was Frank Chapados, 70, of Fairbanks, president of H & S Forwarders Inc. and a former state representative, who will serve a five-year term.

The appointments are subject to approval by the Interstate Commerce Commission.

The board will oversee the Alaska Railroad Corporation, established by the state legislature last year to manage the railroad when the state buys it from the federal government for $22.3 million, Sheffield said.

The state is expected to take over ownership in December or by January of next year, Sheffield said.

The state offered to buy the railroad, which runs from Seward to Fairbanks, to keep it running after the federal government decided to stop operating it.

Two appointments to the board from state government were required by law. The governor appointed Richard Knapp, commissioner of the Department of Transportation and Public Facilities, and Commissioner Richard Lyon of the Department of Commerce and Economic Development, as voting members.

A seventh seat is designated by law for a person with at least 10 years of railroad management experience.

port, a trucking firm in Alaska. Chapados has said he would give up his Lynden association and that his forwarding company is not in the trucking business.

"The successful operation of the railroad is critical to our city," Seward Mayor Don Cripps said Thursday. Dickinson and other railroad board members were in the Resurrection Bay community as part of an orientation tour of railroad facilities in Seward and Whittier.

Dickinson and Cripps met during the board's Seward stop. Cripps said he had received a letter from ICC which cleared Dickinson.

"There was nothing personal in our criticism," Cripps said. "We just felt uncomfortable with his nomination. It's essential that this railroad be operated correctly, and we were simply trying to voice our concern."

Seward is a deep-water port. The railroad is constructing coal loading facilities there. Seward also is a major barge port, which competes with the Anchorage port for business.

Cripps said he and other city officials had sent the names of two Seward residents to Sheffield for board consideration. "We wanted Beverly Dunham, a former local newspaper publisher in Seward, and Dale Lindsey, a local businessman," Cripps said. "If a board vacancy comes up, we'll submit those names again."

No further challenge is planned, Cripps said.

"We perceived a concern, and we've voiced that concern," he said. "The decision has been made, and we'll go with that decision."

Dickinson said his railroad board membership was no more of a conflict than that of board chairman James Campbell, president of Spenard Builders Supply Inc., which also is a major Alaska Railraod customer.

"From our point of view (his and Campbell's), and that of the governor," Dickinson said, "we know something about the railroad. I have done business with the railroad for 20 years as a consultant."

Dickinson said he would abstain from board voting anytime his participation might be considered a conflict of interest.

"Campbell plans to do the same thing," he said.

The board traveled to Whittier and Seward on a special train assembled for the orientation tour.

ICC OKs position of rail board member

by Kenneth R. Allen
Times Writer

The Interstate Commerce Commission has ruled Alaska Railroad Corp. board member Lewis Dickinson's position is acceptable, even though he is on the Anchorage Port Commission and Anchorage Sand and Gravel Inc.'s boards of directors.

Dickinson, a partner in DOWL Engineers of Anchorage, was criticized earlier this month by Seward city officials who said his Anchorage business and public board memberships would be in conflict with interests of the railroad.

The railroad board will oversee freight rates. Alaska Sand and Gravel is a principal customer of the railroad. The port commission has jurisdiction over tariffs on freight moving through Anchorage.

Gov. Bill Sheffield named Dickinson and four others to the board on Oct. 3. Seward officials wrote ICC criticizing Dickinson shortly after his nomination.

Another board member, Frank Chapados of Fairbanks, is still being reviewed by the ICC. Chapados is president of H & S Forwarders Inc. and a board member of the holding company of Lynden Trans-

See Rail, page B-4

port, a trucking firm in Alaska. Chapados has said he would give up his Lynden association and that his forwarding company is not in the trucking business.

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Another board member, Frank Chapados of Fairbanks, is still being reviewed by the ICC. Chapados is president of H & S Forwarders Inc. and a board member of the holding company of Lynden Trans-

See Rail, page B-1

ATTACHMENT "D"

LEGISLATIVE TRANSPORTATION COMMITTEE

WASHINGTON STATE LEGISLATURE
SECOND FLOOR • HOUSE OFFICE BUILDING • OLYMPIA, WASHINGTON 98504 • TELEPHONE: 753-6830
REP. GEORGE WALK, CHAIRMAN • SEN. LOWELL PETERSON, VICE CHAIRMAN • SEN. PAT PATTERSON, SEC.

October 24, 1984

MEMORANDUM

TO: ALL CONFERENCE PARTICIPANTS

FROM: REPRESENTATIVE GEORGE WALK, CHAIRMAN
LEGISLATIVE TRANSPORTATION COMMITTEE

I wanted to take this opportunity to thank each of you for participating in our statewide Transportation Safety Conference October 1-3 at the Sea-Tac Marriott. I also want to express our gratitude to the Traffic Safety Commission and the other co-sponsoring agencies.

This was the first such Conference ever held, and judging by the comments we've received, you found it a worthwhile effort. We are most appreciative of the enthusiastic participation by all attendees, and by your generous compliments on the Conference Evaluation forms. We also appreciate the many suggestions for additional topics and speakers should we decide to repeat the Conference in the future.

We are enclosing a final attendance roster, and a summary of conclusions from the Workshops as reported by the moderators at the Wednesday morning closing session.

During the coming months we will be talking with the other sponsoring agencies to determine whether we should continue this Conference, and, if so, at what frequency. We will advise you of our decision.

In the meantime, thank you again for attending, and for your continuing efforts to improve highway safety for all of us.

GW:tl

Enclosures

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DICK FISCH
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PAUL CONNER
W. H. "BILL" FULLER
BARBARA GRANLUND
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LOWELL PETERSON*
GEORGE SELLAR
PETER VON REICHBAUER

*EXECUTIVE COMMITTEE MEMBER

WORKSHOP REPORTS

WASHINGTON TRANSPORTATION SAFETY CONFERENCE

The Seattle Marriott
October 3, 1984

The issues set forth below represent the areas of concern and recommendations for possible legislative or administrative action expressed by participants in a series of workshops held during the Washington Transportation Safety Conference, October 1st through 3rd, at the Seattle Marriott Hotel. The Conference was sponsored by the Legislative Transportation Committee and the Washington Traffic Safety Commission.

ALCOHOL AND THE DRIVER

Moderator: Dr. Carl Klingberg, Bureau of Health Statistics, Department of Social and Health Services

1. Stronger sanctions for individuals driving without a drivers license, or while suspended or revoked.

2. Implementation of administrative license suspension for positive and swift control over the license of a driver convicted of driving while under the influence of alcohol.

3. Legal authorization of random sobriety checkpoints for detection of drinking drivers.

4. Clarification of a universally accepted definition for DWI. At what point does the individual become impaired to the extent that it interferes with safe driving practices? There is a disparity among states regarding consumptive levels implying intoxication, ranging from blood alcohol content levels of .08, .10, .15, to determining intoxication based upon observed behavior by law enforcement officials.

5. Development of a stable funding source for DWI enforcement, prosecution and education efforts.

6. Elimination of deferred prosecution for DWI offenders.

BICYCLE SAFETY

Moderator: Todd Littman, Secretary-Treasurer, Bicycle Federation of Washington

1. Recommends that the legislature address the problem of bicycle safety in the most cost effective manner:

   a) Create a statewide bicycle safety coordinator position to provide expertise for bicycle safety education programs;

BICYCLE SAFETY, cont'd.

b) Provide pilot project grants to communities with high bicycle accident rates to allow those communities the ability to develop bicycle safety plans -- with the objective of extending the program beyond state funding.

Notes:

Bicycling accidents have increased in Washington State by 15% in the last year.

The Seattle Cascade Bicycle Club has developed a program for the Seattle public school system which includes on-bike exercises and training for 4th graders.

The Olympia Police Department has developed a public bicycle education program, which includes increased bicycle safety presentations in the schools and increased enforcement of bicycle traffic laws.

COMMERCIAL VEHICLE SAFETY

Moderator: Captain David Boyd, Washington State Patrol

Presentation of Report: Don Lewis, Motor Carrier Law Enforcement Training Officer, Washington Utilities and Transportation Commission

1. Expansion of categories for commercial endorsements to include buses, tractors, or a "train", which is a semi-tractor, and two full trailers.

2. Notification by the Department of Licensing to municipalities and to the trucking industry of the suspension or revocation of commercial drivers licenses.

3. Bringing the private commercial carriers under the same safety regulation as the common and contract commercial carriers -- for both highway and terminal enforcement, including hazardous materials regulations, qualifications of drivers, parts and accessories necessary for safe vehicle operation, reporting of accidents, maintenance repair, as well as requiring that a copy of public liability and property damage insurance be filed with the state.

4. Authorization for state enforcement agencies to check medical certificates and drivers' hours of service on the highway.

Note:

Enactment of proposals 3 and 4 would qualify Washington State for federal funding from the Surface Transportation Act, which subsidizes enforcement of safety regulations for both private and contract commercial carriers.

LICENSING

Moderator: Charles Stansbury, Assistant Director, Driver Services, Department of Licensing

Recommendations for Possible Legislation:

1. A "conditional" license for all first-time drivers in the state, regardless of age, to promote safer driving. Driving privileges might be withdrawn if the driver has one hazardous moving violation or two minor moving violations within a certain period of time. (Similar to the juvenile "provisional" licensing concept.)

2. A one-time 90-day instruction permit for motorcycle riders. This would encourage the rider to enter a comprehensive motorcycle training program to learn to ride safely, and be able to pass the motorcycle licensing test, rather than renewing the instruction permit indefinitely.

3. Permitting the employer of a commercial driver accessibility to both the driver's personal and commercial driving record, rather than just the commercial portion.

4. Stronger sanctions against individuals driving without a valid operator's license, or with a license that has been suspended or revoked.

5. Sanctions to prevent vehicle operators from obtaining multiple drivers licenses from many different states. Suggestions were to include the social security number on all drivers licenses, or at least in the licensee's file; or to include an individual's thumb print on the driver's license.

6. Reclassification of a "steering trailer" to a motor vehicle -- and a classified license endorsement required for the operator.

   A "steering trailer" is used in the construction industry for moving concrete reinforced beams which may weigh up to 100,000 pounds. The beam sits over the top of the trailer, and a driver sits in the trailer, steering it around curves. Because it is not classified as a motor vehicle, the driver currently does not even need a drivers license to operate it.

7. A driver licensing classification for the recreational vehicle driver. Some recreational vehicles require additional skills for driving, particularly vehicles over 15,000 pounds gross weight, or the 40-foot fifth-wheel trailer pulled by a pickup.

8. Driver licensing pretesting.

   A pre-testing questionnaire containing 10 basic driver training questions could be mailed with the driver license renewal notice. The driver would be advised that three of the ten questions will be asked at the time the license is renewed. If the driver is unable to answer the questions, he/she will not be issued a license until they complete a standard driving examination.

LICENSING, cont'd.

Recommendations for possible legislation, cont'd.

9. Dissemination of information, possibly by the Department of Licensing or the Washington Traffic Safety Commission, to inform state residents, or at least those with driver licenses and vehicle and boat registrations of any relevant statutory changes adopted by the Legislature.

Recommendations for possible administrative change:

1. Behind-the-wheel testing of commercial vehicle drivers by the Department of Licensing to develop a more in-depth testing program.

2. Expansion of the commercial vehicle endorsements at a more comprehensive level, separating the different classes of commercial vehicles; for example, the common and combination endorsements.

   There are marked differences in skills required for driving a truck, a semi-tractor, a full trailer or a "train", which is a semi-tractor, and two full trailers.

3. Inclusion of more information for bicyclists on rules of the road in the Washington State Drivers Manual.

4. Development by the Commission on Equipment of a more comprehensive definition regarding the licensing of three-wheeled vehicles (as motorcycles or their own special category) and determination of the type of driver license endorsement, if any, they should have.

MOTORCYCLE SAFETY

Moderator: Don Mapp, State Coordinator, Washington Motorcycle Safety Program, Department of Licensing

1. Allocation to the motorcycle safety education account of an additional dollar from the motorcycle endorsement fee for such projects as promotion of the motorcycle training locations throughout the state, and motorcycle safety campaigns.

   Currently the only money used for these programs and allocated to the motorcycle safety account is the first dollar of the $2.00 endorsement fee.

2. Reduction in the time allotted for the term of a motorcycle instruction permit, from one year to ninety days.

   Some riders are continuing to drive with a motorcycle instruction permit in lieu of taking the motorcycle licensing test.

3. Allocation of the moneys collected from the $2.50 motorcycle instruction permit fees to be placed in the motorcycle safety education account, so that the motorcyclists are supporting their own program.

MOTORCYCLE SAFETY, cont'd.

4. Completion of an approved motorcycle training program to be required of a driver applying for his/her first motorcycle license.

5. Special license plates for mopeds and motorscooters.

6. Highway safety signing for motorcyclists should be included in the Department of Transportation's master traffic safety plan.

THE ROADWAY

Moderator: Wes Bogart. Chairman, Washington Highway Users Federation

1. Prohibition of the use of studded tires in Washington State.

   A Washington Department of Transportation study indicates that studded tires are only effective in temperatures from 10 to 34 degrees. Their use adds to the overlay costs for highway maintenance of approximately $3.9 million per year.

2. Better coordination between the Department of Transportation and the highway construction industry regarding a proper traffic control plan, particularly in the area of highway safety signing.

3. Encouragement of law enforcement to have vehicles which become disabled along the roadway moved to a location where there is an area wider than the shoulder to deposit the vehicle until the due process period has been completed.

TRAFFIC SAFETY EDUCATION

Moderator: Charles Hayes, Assistant Director, Washington Traffic Safety Commission

1. Development of a general communications system, with coordination between the Legislature, the Washington Traffic Safety Commission, and other state agencies, to keep the public informed of the most current traffic safety information.

2. Development of a comprehensive state approved health-education program which will include an alcohol and safety education format.

3. Enactment of a provisional driver licensing program for drivers under age 18, possibly withdrawing the driving privilege if the driver has one hazardous moving violation or two minor moving violations.

4. Mandatory safety belt usage for the first two years of driving.

5. Opposition to any movement to eliminate high school driver education programs in Washington State.

6. Motorcycle education programs to cover more of the motorcycling public (which is now one percent of the driver population).

VEHICLE OCCUPANT RESTRAINT SYSTEMS

Moderator: Katie Hicks, Passive Restraints Program Manager, Washington Traffic Safety Commission

1. Mandatory seatbelt laws for Washington State, and as many other states as possible.

   a) There is a need to disseminate more information on the federal "208"ruling, explaining that passage of a mandatory seatbelt law will not eliminate the existence of passive restraint systems (including air bags).

   b) Introduction of a multiplicity of slightly varying mandatory restraint bills should be avoided in order to maintain strong support.

   c) Sunset clauses and effective dates set far into the future should also be set aside in favor of an early or immediate effective date.

   d) No exemptions from the law other than for medical reasons.

   e) Development of a plan of action for grass roots support for this needed legislation.

PARTICIPANTS IN
WASHINGTON TRANSPORTATION SAFETY CONFERENCE

SEPTEMBER 30--OCTOBER 3, 1984
SEATTLE MARRIOTT HOTEL
SEATTLE, WASHINGTON

OCTOBER 22, 1984

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JOHN COOK	DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-2101
GEORGE L. COOK	GEORGE L. COOK, CONSULTANT	P.O. BOX 795	OLYMPIA	WA.	98507	206-491-5325
ROLAND COOK	WASH. ST. DEPARTMENT OF TRANSPORTATION	1827 JEFFERSON	WENATCHEE	WA.	98801	509-663-8673
DENNIS L. CRUMBLEY	CITY OF TACOMA	747 MARKET, RM. 308	TACOMA	WA.	98402	206-591-5262
JOHN DAVIS	DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-3244
STEVE DAVIS	SEATTLE & WSDOT BICYCLE ADV. BOARDS	1407 N. 9TH - APT. 6	SEATTLE	WA.	98119	206-284-3440
FRANK DILLON	WASH. TRUCKING ASSN.	P.O. BOX 81086	SEATTLE	WA.	98108	206-682-0259
BOYD W. DONLEY	WOLFSTONE DONLEY MCMANNAMA	P.O. BOX 9428	SEATTLE	WA.	98109	206-284-0100
SUSAN DORMAN	BENTON FRANKLIN D.W.I. COUNTERMEASURES	205 NORTH DENNIS	KENNEWICK	WA.	99336	509-783-0[illegible]1
MARGARET A. (MIDGE) DOWLING	NATIONAL ASSOC. WOMEN HIGHWAY SAFETY LEADERS	E. 3811 CLEVELAND AVENUE	SPOKANE	WA.	99207	509-483-4255
JOHN DOYLE	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-6043
RUBY DeSANTIS	MADD	4020 BLEDSOE K-7	BREMERTON	WA.	98310	206-377-5594

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
PAT EAGAN	SAFTYE	1124-A W. VIOLA	YAKIMA	WA.	98902	
JUDITH A. EDMONDSON	BRANCH, RICHARDS, ANDERSON & CO.	411 FIRST AVE. SO,. SUITE 300	SEATTLE	WA.	98104	206-624-4853
ROBERT ENGLE	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-6182
NAN FARWELL	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAY-LICENSES BLDG.	OLYMPIA	WA.	98504	206-753-6977
ED FERGUSON	WASH. ST. DEPARTMENT OF TRANSPORTATION	15903 N.E. 29TH AVE.	RIDGEFIELD	WA.	98642	206-573-9010
JACOB J. FERRO	NYS DEPARTMENT OF MOTOR VEHICLES	EMPIRE STATE PLAZA	ALBANY	NY.	12228	518-474-1223
DON FITZMAHAN	ROBERTS , FITZMAHAN & ASSOCIATES	9131 CALIFORNIA AVE. S.W.	SEATTLE	WA.	98136	206-932-8409
DENNIS FLEENOR	HOUSE DEMO. COMMUNICATIONS	RM. 226 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-7748
DONNA FRITTS	NTSI	1235 WOODROW N.E.	SALEM	OR.	97303	503-364-3565
REP. AVERY GARRETT	LEGISLATIVE TRANSPORTATION COMMITTEE	602 S.W. LANGSTON RD.	RENTON	WA.	98055	206-255-7117
JOYCE GIBBONS		P.O BOX 909	GOLDENDALE	WA.	98620	509-773-5487
MARK GIBSON	HIGHWAY USERS FEDERATION	[illegible] NO. 8TH, #209	BOISE	ID.	83702	208-342-6970
JOHN GONSALEZ	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAYS-LICENSES BUILDING	OLYMPIA	WA.	98504	206-753-5029
SARAH S. GORDON	WASH. ASSOC. OF WOMEN HIGHWAY SAFETY LEADERS	7801 SOUTH ALASKA	TACOMA	WA.	98408	206-475-5177
SEN. BARBARA GRANLUND	SENATE TRANSPORTATION COMMITTEE	3777 PINE TREE DRIVE	PORT ORCHARD	WA.	98366	206-871-2584
DON GRIFFITH	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BLDG.	OLYMPIA	WA.	98504	206-753-7192
KATHLEEN GROSHONG	KENT DRINKING DRIVER TASK FORCE	220 4TH AVENUE SOUTH	KENT	WA.	98032	206-872-4011
ZELMA M. GROCE	WASH. ASSOC. OF WOMEN HIGHWAY SAFETY LEADERS	2510 WEST MEAD	YAKIMA	WA.	98902	509-452-5190
ELLEN "SLICK" GRUE	ADATE OF WASHINGTON	19512 BING ROAD	LYNNWOOD	WA.	98036	206-345-5679
WAYNE T. GRUEN	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BLDG.	OLYMPIA	WA.	98504	206-753-6090
THOMAS GULLICKSON	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	206-753-6197

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
HAR "KRIS" GUPTA	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-6167
ELAINE HAGSETH	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAY-LICENSES BLDG.	OLYMPIA	WA.	98504	206-753-6977
GARY V. HAHN	GREYHOUND LINES , INC.	8TH AND STEWART	SEATTLE	WA.	98101	206-628-5529
PATRICK HALSTEAD	WASH. RAILROAD ASSOCIATION	612 HOGE BUILDING	SEATTLE	WA.	98104	206-623-8714
SENATOR TED HALEY	LEGISLATIVE TRANSPORTATION COMMITTEE	5800 100 ST. N.W. #30	TACOMA	WA.	98499	206-584-3186
WANDA HANSEN	SAFTYE	911 E. 2ND	ELLENSBURG	WA.	98926	509-962-2224
PHILIP HASELTINE	U.S. DEPARTMENT OF TRANSPORTATION	400 7TH ST. S.W.	WASH.	D.C	20590	202-426-4540
SCOTT HAWES	ABATE OF WASHINGTON	19512 BING ROAD	LYNNWOOD	WA.	98036	206-345-5679
CHARLES F. HAYES	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	206-753-6197
HENRY HEIN, JR.	CITY OF YAKIMA	2301 FRUITVALE BLVD.	YAKIMA	WA.	98902	509-575-6226
JACK S. HERRICK	BELLINGHAM SCHOOL DIST. 501	2020 CORNWALL AVENUE	BELLINGHAM	WA.	98225	206-676-6471
PAUL G. HERRON	AUTOMOBILE CLUB OF WASH.	330 SIXTH AVE. NORTH	SEATTLE	WA.	98109	206-292-5300
BILL HIBLAR	SPI	OLD CAPITOL BLDG.	OLYMPIA	WA.	98504	206-753-6736
KATIE HICKS	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	206-753-6197
BURKE HINSHAW	WASH. STATE MOTORCYCLE ASSN.	405 STEWART STREET	PUYALLUP	WA.	98371	206-848-4501
PAUL C. HOOPER	KING COUNTY DEPT. OF PUBLIC WORKS	956 CO. ADMINISTRATION BLDG.	SEATTLE	WA.	98104	206-344-7490
ORLANDO HOWELL	HOQUIUM POLICE DEPARTMENT	215 10TH	HOQUIUM	WA.	98550	206-532-8892
HARLEY HUDGENS	KING CT. MEDICAL EXAMINERS OFFICE	850 ALDER ST.	SEATTLE	WA.	98104	206-344-4242
AMY C. HUGHES	SKAGIT COUNTY D.W.I. TASK FORCE	203 CO.ADMINISTRATIVE BLDG.	MOUNT VERNON	WA.	98273	206-336-9400
ELMER C.HUNTLEY		3114 ANCHOR LANE N.W.	OLYMPIA	WA.	98502	206-866-9199
ALLAN ISLEY	MOTORCYCLE SAFETY FOUNDATION	CHADSFORD WEST RT. 1	CHADDS FORD	PA.	19317	215-388-1555

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
KERN JACOBSON	WASH. ST. DEPARTMENT OF TRANSPORTATION	6431 CORSON AVE. S.	SEATTLE	WA.	98108	206-764-4030
DIANE JANES	KING COUNTY MADD	724 TULALIP RD. NE	MARYSVILLE	WA.	98270	206-653-1324
ROBERT F. JARRELL	BONNEVILLE POWER ADM.	P.O. BOX 491 - EJW	VANCOUVER	WA.	98666	206-690-2441
VICKI L. JENNINGS	KAPPA SYSTEMS, INC.	250 N.W. 39TH, SUITE 7	SEATTLE	WA.	98107	206-[illegible]709
AUGUSTIN R. JIMENEZ	SEATTLE CITY ATTORNEY OFFICE	1000 MUNICIPAL BLDG.	SEATTLE	WA.	98104	206-625-2404
KATHLEEN JOHNSTON	INSURANCE CORP. OF BRITISH COLUMBIA	RM. 240, 151 W. ESPLANADE	NO. VANCOUVER	B.C.	V7M 3H9	604-661-6651
MURL JONES	CLARK COUNTY	P.O. BOX 5000	VANCOUVER	WA.	98668	206-699-2379
ROSS KELLEY	SPOKANE CT. ENG/WASH. ASSN. TRAF. SAFETY REP.	N. 811 JEFFERSON STREET	SPOKANE	WA.	99260	509-456-3600
JEFF KELSEY		4424 S.W. 102ND ST.	SEATTLE	WA.	98146	206-937-3267
FORD W. KIENE	CITY BEVERAGES/KENT D.W.I. TASK FORCE	P.O. BOX 1357	KENT	WA.	98032	206-852-4010
MIKE KILBORNE	ADMINISTRATOR FOR THE COURTS	TEMPLE OF JUSTICE	OLYMPIA	WA.	98504	206-753-3365
JERRY KIRK	KENT SCHOOL DISTRICT	37929 53RD. AVE. S.	AUBURN	WA.	98001	
BOB KLEKITZ	CITY OF REDMOND	15670 NE 85TH ST.	REDMOND	WA.	98052	206-882-6497
DR. CARL KLINGBERG	DSHS - BUREAU OF HEALTH STATISTICS	1112 SO. QUINCE	OLYMPIA	WA.	98504	206-753-5982
CAROL KNIGHT-WALLACE	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	206-753-6197
KENNETH KOHAGEN	CITY OF YAKIMA TRANSIT	705 S. 26TH AVE.	YAKIMA	WA.	98902	
HARRIET KRUEGER	WASH. ASSOC. OF WOMEN HIGHWAY SAFETY LEADERS	W. 2030 AUGUSTA	SPOKANE	WA.	99205	509-328-7993
JOHANNES W. KURZ	SNOH. COUNTY DEPT. OF PUBLIC WORKS	COUNTY ADMIN. BLDG.	EVERETT	WA.	98201	206-259-9555
LOU KYLER	WHIDBEY ISLAND NAVAL AIR STATION	415 E. HELDER RD.	OAK HARBOR	WA.	98277	
BERNHARD J. LANG	WALLA WALLA SCHOOL DISTRICT #140	FERN & ABBOTT ROADS	WALLA WALLA	WA.	99362	509-529-5551
BILL LATHROP	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
NANCY LANTON	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAYS-LICENSES BUILDING	OLYMPIA	WA.	98504	206-753-6996
JOSEPH LENZ	WHATCOM CO. ALC/TRAFFIC SAFETY COOR.	1229 CORNWALL AVE. #213	BELLINGHAM	WA.	98226	206-676-6674
DON LEWIS	W.U.T.C.	HIGHWAYS-LICENSE BLDG.	OLYMPIA	WA.	98504	206-753-3950
CANDY LIGHTNER	MADD	669 AIRPORT FREEWAY #310	HURST	TEX.	76053	817-268-6233
BRIAN LIMOTTI	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	
VERNA LIPFOLD	SNOH. COUNTY MADD	P.O. BOX 1113	EVERETT	WA.	98206	206-259-MADD
MONTY LISH	METRO	600 1ST AVE.	SEATTLE	WA.	98119	206-447-6870
TOM LISTON	WASH. STATE PATROL	GENERAL ADMIN. BLDG. AX-12	OLYMPIA	WA.	98504	
TODD LITTMAN	BICYCLE FEDERATION OF WASH.	113 DECATUR	OLYMPIA	WA.	98502	206-943-9025
PAULA K. LOEWEN	MADD - CLARK COUNTY	5710 N.E. 115 ST.	VANCOUVER	WA.	98665	
JOHN J. LOGAN	KING COUNTY DEPT. OF PUBLIC WORKS	900 CO. ADMINISTRATION BLDG.	SEATTLE	WA.	98104	206-344-2696
ROBERT LONSBERY	TRAFFIC ENGINEER, CITY OF OLYMPIA	P.O. BOX 1967	OLYMPIA	WA.	98507	206-753-8314
TERRY LONSBERY	LEGISLATIVE TRANSPORTATION COMMITTEE	232 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-6830
LT. LARRY LOPACK	BELLEVUE POLICE DEPARTMENT	P.O. BOX 1768	BELLEVUE	WA.	98009	
RON LORENTSON	LEGISLATIVE TRANSPORTATION COMMITTEE	232 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-6830
BRAD LOVAAS	LEGISLATIVE TRANSPORTATION COMMITTEE	232 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-6830
ARNOLD K. LUKIN	SNOHOMISH COUNTY D.W.I. PROGRAM	C/O SNOH.PROSECUTOR'S OFFICE	EVERETT	WA.	98[illegible]	206-258-2855
DONALD L. LUND	WASH. ST. DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BUILDING	OLYMPIA	WA.	98504	206-753-6095
DIANE MAC MASTER	CLARK COUNTY D.W.I. TASK FORCE	P.O. BOX 5000	VANCOUVER	WA.	98668	206-699-2434
PATRICIA MANDUCA	INSURANCE CORP. OF BRITISH COLUMBIA	RM. 240, 151 W. ESPLANADE	NO. VANCOUVER	B.C.	V7M 3H9	604-661-6651
DON MAPP	WASH. MOTORCYCLE SAFETY PROGRAM	HIGHWAYS-LICENSES BLDG.	OLYMPIA	WA.	98504	206-753-1349

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
GLEN MARTIN	ASSOCIATED GROCERS , INC.	3301 S. NORFOLK	SEATTLE	WA.	98124	206-762-2100
NANCY MATHEWS	CITY OF KENT	220 4TH AVE. S.	KENT	WA.	98032	206-872-3300
CATHY MAYO	LEGISLATIVE TRANSPORTATION COMMITTEE	236 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-1215
KAY McAVINEW	KING COUNTY	BOEING FIELD	SEATTLE	WA.	98108	206-344-4006
CLYDE McBRAYER	ESD 113--TRAFFIC SAFETY EDUCATION	601 McPHEE ROAD S.W.	OLYMPIA	WA.	98502	206-754-2943
ANITA L. McINTOSH	MASON COUNTY DISTRICT COURT PROBATION	MASON COUNTY COURTHOUSE	SHELTON	WA.	98584	206-426-2878
THAIS McKEE	INSURANCE CORP. OF BRITISH COLUMBIA	RM. 240, 151 W. ESPLANADE	NO. VANCOUVER	B.C.	V7M 3H9	604 661-6651
MARY MEYER	LEGISLATIVE TRANSPORTATION COMMITTEE	234 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-7948
TERRY MICHALSON	LEGISLATIVE TRANSPORTATION COMMITTEE	233 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-0346
WALT MIERZWA	ABERDEEN CITY COUNCILMAN	923 W. MARKET STREET	ABERDEEN	WA.	98520	206-249-4121
ROGER MITTLESTADT	MADD - KITSAP CHAPTER	25604 PIONEER WAY	POULSBO	WA.	98370	206-478-4671
BRENT MOBERG	SEATTLE POLICE DEPARTMENT	610 3RD AVENUE	SEATTLE	WA.	98104	206-625-2696
CHIEF NEIL MOLONEY	WASH. STATE PATROL	GENERAL ADM. BLDG. AX-12	OLYMPIA	WA.	98504	
LILLIE L. MORRIS	WASH. ASSOC. OF WOMEN HIGHWAY SAFETY LEADERS	7801 SOUTH ALASKA	TACOMA	WA.	98408	206-475-5177
DEPUTY CHIEF JAMES D. MUNGER	WASH. STATE PATROL	GEN. ADM. BLDG.,AX-12	OLYMPIA	WA.	98504	206-753-1904
FRED NELSON	CITY BEVERAGE	1025 N. 6TH	KENT	WA.	98032	206-852-4010
JEAN E. NELSON	WASH. ASSOC. OF WOMEN HIGHWAY SAFETY LEADERS	1716 FIRGROVE PLACE N.W.	GIG HARBOR	WA.	98335	205-756-3015
FRANZ NIEGEMANN	WASH. STATE TRAFFIC SAFETY COMMISSION	1000 S. CHERRY STREET	OLYMPIA	WA.	98504	206-753-6197
HAROLD OCCOCK	YAKIMA COUNTY PUBLIC WORKS	408 COUNTY COURTHOUSE	YAKIMA	WA.	98901	509-575-4151
DICK ODABASHIAN	WASH. ST. TRANSPORTATION COMMISSION	TRANSPORTATION BLDG.	OLYMPIA	WA.	98504	206-753-6170
PETER ODABASHIAN	REID , MIDDLETON & ASSOCOATES	121 5TH AVE. N., SUITE 200	EDMONDS	WA.	98020	206-775-3434

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
LT. RONALD O'GWIN	WASHINGTON STATE PATROL	GENERAL ADMINISTRATION BLDG.	OLYMPIA	WA.	98504	206-753-2845
BRUCE D. OLSEN	AAA WASHINGTON	330 SIXTH AVENUE N.	SEATTLE	WA.	98109	206-292-5366
BRIAN O'NEILL	INSURANCE INSTITUTE FOR HIGHWAY SAFETY	600 NEW HAMPSHIRE AVE.	WASH.	D.C.	20037	202-333-0770
BOB OVERSTREET	CITY OF EVERETT	3002 WETMORE	EVERETT	WA.	98201	206-526-0600
BERI PARKER	OREGON TRAFFIC SAFETY COMMISSION	4TH FL., ST. LIBRARY BLDG.	SALEM	OR.	97310	503-378-3669
JOANNE PARKER	SNOHOMISH COUNTY MADD	P.O. BOX 1113	EVERETT	WA.	98206	206-259-MADD
TOM PENTIN	LAKESIDE INDUSTRIES	P.O. BOX 1379	BELLEVUE	WA.	98009	206-641-4600
SEN. LOWELL PETERSON	LEGISLATIVE TRANSPORTATION COMMITTEE	P.O. BOX 2[illegible]	BURLINGTON	WA.	98233	206-755-9080
JULIA PETERSON	D.W.I. COORDINATOR--PIERCE COUNTY	1133 COUNTY/CITY BLDG.	TACOMA	WA.	98402	206-591-7792
CAROL PLOCK	CARTA	N.811 JEFFERSON	SPOKANE	WA.	99260	509-456-2342
LARRY PURSLEY	WASH. TRUCKING ASSN.	P.O. BOX 61086	SEATTLE	WA.	98108	206-682-0250
GERRI RAINWATER	CITY OF TACOMA	747 MARKET, RM. 1220	TACOMA	WA.	98402	206-591-5120
FRED RANCK	NATIONAL SAFETY COUNCIL	444 N. MICHIGAN AVE.	CHICAGO	ILL.	60611	312-527-4800
MARY RANTS	LEGISLATIVE TRANSPORTATION COMMITTEE	232 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-6830
JANET E. RAY	AAA WASHINGTON	330 SIXTH AVENUE N.	SEATTLE	WA.	98109	206-292-5365
TOM R. RETTERATH	UNITED TRANSPORTATION UNION	1019 PACIFIC AVE., RM. 1111	TACOMA	WA.	98402	206-572-6444
DAVID C. RIKER	THURSTON COUNTY PUBLIC WORKS	2000 LAKERIDGE DRIVE	OLYMPIA	WA.	98502	206-786-5490
W.P. ROBERTS	WASH. HIGHWAY USERS FEDERATION	111 W. 21ST	OLYMPIA	WA.		206-357-9975
ROBBIE ROBINSON	WSGR	3525 PINE RD.	BREMERTON	WA.		206-373-6385
LARRY ROEDIGER	WASH. STATE DEPARTMENT OF TRANSPORTATION	TRANSPORTATION BLDG.	OLYMPIA	WA.	98504	206-754-2257
DAVE ROHRER	SKAGIT COUNTY COMMISSIONER	SKAGIT COUNTY COURTHOUSE	MOUNT VERNON	WA.	98273	206-336-9300

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
DR. MILTON ROKEACH	SOCIAL RES. CENTER	W.S.U.	PULLMAN	WA.	99164	
THAYER ROBABAUGH	CITY OF VANCOUVER	P.O. BOX 1995	VANCOUVER	WA.	98668	206-696-8299
RICHARD ROSENGREEN	W.U.T.C.	HIGHWAYS-LICENSE BLDG.	OLYMPIA	WA	98504	206-753-3950
WILLIAM ROURKE	N.Y. GOVERNOR'S TRAFFIC SAFETY COMMISSION	ROCKEFELLER EMPIRE PLAZA	ALBANY	N.Y.	12228	518-474-5777
ELAINE RUDDELL	WTSC/PTA BUCKLE"UP" PROJECT	9725 51ST AVENUE N.E.	MARYSVILLE	WA.	98270	206-653-0664
JOHN RUMSEY	SKAGIT CO. PUBLIC WORKS DEPT.	203 CO. ADMINISTRATIVE BLDG.	MOUNT VERNON	WA.	98273	206-336-9400
MIKE RYHERD	JT. COUNCIL OF TEAMSTERS/B.N.I.	1925 E. MILLER	SEATTLE	WA	98112	206-324-4444
MARVIN R. RYSER	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAY-LICENSES BLDG.	OLYMPIA	WA.	98504	206-753-6977
MARILYN SALLA	MADD	P.O. BOX 1971	TACOMA	WA.	98401	206-572-MADD
JESUS SANCHEZ	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAYS-LICENSES BUILDING	OLYMPIA	WA.	98504	206-753-6914
DONALD P. SANFORD	SEATTLE PUBLIC SCHOOLS	13720 ROOSEVELT WAY N.	SEATTLE	WA.	98133	206-587-5656
ROBBIE SCHNEIDER	MARSVILLE PTSA COUNCIL	3501 SUNNYSIDE BLVD.	MARYSVILLE	WA.	98270	206-334-3631
LAUREL ANN SCHEPMAN		204 S.W. 292ND	FEDERAL WAY	WA.	98003	
DALE SCHROEDER	TRAFFIC ENGINEER, CITY OF EDMONDS	250 5TH AVENUE N.	EDMONDS	WA.	98020	206-775-2525
ELEANOR SCHOULTZ	CACHS	W. 2121 WEILE	SPOKANE	WA.	99208	509-327-4867
EUGENE SCHLATTER	LEGISLATIVE TRANSPORTATION COMMITTEE	232 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-6830
BOB SEEBER		210 E. UNION	OLYMPIA	WA.	98501	206-753-9300
K.D. SEELEY	CITY OF KENT	220 S. 4TH AVENUE	KENT	WA.	98032	206-872-4174
MICHAEL S. SHANAHAN	UNIVERSITY OF WASHINGTON POLICE DEPT.	1117 N.E. BOAT STREET	SEATTLE	WA.	98105	206-543-9331
LOUISE G. SHOWALTER	WHSL & PIERCE COUNTY SAFETY COUNCIL	802 SOUTH MASON	TACOMA	WA.	98405	206-752-4888
FLOYD SICKLER	LEWIS CO. DEPARTMENT OF PUBLIC WORKS	P.O. BOX 899	CHEHALIS	WA.	98532	206-748-9121

NAME	ORGANIZATION	ADDRESS	CITY	ST.	ZIP	PHONE
T.J. SIMEK	ABATE OF WASH.	P.O. BOX 217	DUPONT	WA.	98327	206-675-4997
JAY SKEWES	CITY OF KENT	220 S. 4TH AVENUE	KENT	WA.	98032	206-872-4174
RICHARD C. SMITH	BELLEVUE POLICE DEPARTMENT	P.O. BOX 1768	BELLEVUE	WA.	98009	206-455-6940
RON SMYTHE	MARYSVILLE MIDDLE SCHOOL	4923 69TH ST. N.W.	MARYSVILLE	WA.	98270	206-653-0615
WILLIAM G. SPENCER	MOTORCYCLE TRAINING CENTERS	P.O. BOX 272	PUYALLUP	WA.	98371	206-841-3563
CHARLES W. STANSBURY	WASH. ST. DEPARTMENT OF LICENSING	HIGHWAY-LICENSES BLDG.	OLYMPIA	WA.	98504	206-753-6977
JAN STEINBACH	STEVENS CT. TRAFFIC SAFETY COORDINATOR	P.O. BOX 38	CHEWELAH	WA.	99109	509-684-5048
BERNICE STERN	WASH. ST. TRANSPORTATION COMMISSION	TRANSPORTATION BLDG.	OLYMPIA	WA.	98504	206-753-6170
REP. DEAN SUTHERLAND	LEGISLATIVE TRANSPORTATION COMMITTEE	23503 N.E. 108TH ST.	VANCOUVER	WA.	98662	206-892-5548
JAN SWENSON	LEGISLATIVE TRANSPORTATION COMMITTEE	236 HOUSE OFFICE BLDG.	OLYMPIA	WA.	98504	206-753-1214
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DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NORTHERN REGION, DESIGN AND CONSTRUCTION

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September 14, 1984

Re: High Float Emulsion Treatment

The Honorable Bette Cato
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Juneau, AK 99811

Dear Representative Cato:

When I last saw you at the Red Dog Mine meeting in Kotzebue on September 5, you asked about the success of the High Float Emulsion Treatment that is being tested in the Fairbanks and Haines areas. I'm pleased to send you a copy of a memo I received from Billy Conner, Research Engineer, which summarizes the feelings of the Research Section on the use of this method of surfacing. As you will note, it cannot be judged a success or a failure at this point in time.

I hope this information will answer your questions. If I can be of further assistance, please contact me.

Sincerely,

William B. McMullen, P.E.
Director, D & C
Northern Region

kk

Enclosures

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: William B. McMullen
Director, D & C
Northern Region

DATE: September 12, 1984

FILE NO:

TELEPHONE NO:

FROM: Billy Conner
Research Engineer

SUBJECT: High Float
Emulsion Treatment

Pursuant to your inquiry of September 5, 1984 concerning the status the high float emulsion, I have prepared a brief summary of the project to date. During the past summer, approximately 6.4 miles of high float emulsion treated surface was placed in the State. Of this, 4.7 miles were placed near Fairbanks. The remaining 1.7 miles was placed in Haines. The performance of these sections is inconclusive to date, due to the newness of the surface.

Prior to proceeding with the discussion, a few basic concepts must be understood. First, the term "high float" refers to the asphalt cement type used and not to the placement process. This asphalt type must be purchased from Canadian rather than USA sources. Other types of asphalt can also be used and our field testing included a Chevron asphalt emulsion, grade CMS-2. However, the Canadians feel the high float works best for them primarily because of its cold weather characteristics and its workability. Our experience thus far has been that the high float emulsion seems to be a bit easier to handle.

As with any surface treatment, the technique in question provides no more structural strength to the roadway than linoleum flooring adds to the strength of a house. Its only function is to provide a dust free road surface. The performance of surface treatments therefore, will mirror the foundation materials. (1)

It is impossible to determine the success or failure of our high float projects at this time. With any new technique, there are several start up problems due to the lack of experience. These problems are reflected in the bid prices. The emulsion costs in Haines were equivalent to 1½ inches of a hot asphalt which is a far superior surface. Unless this cost can be reduced to less than ½ the cost of hot asphalt, the process will not be economically viable for some time. (1)

Generally, the construction of the three projects has gone as expected. There have been a few complaints. These complaints have stemmed primarily from the surface not meeting the publics expectations. The attached memo dated August 3, 1984, explains the problem in greater detail. This pavement is definitely not the surface the public visualizes when we use the term pavement. It is rougher and noisier than hot asphalt. Whether or not this type of surface is publically acceptable remains to be seen. We probably will not know how well the high float emulsion technique will perform for (2)

two or three more years. However, the following comments can be made at this point:

1) High float should only be used on low volume roads where the surface must be replaced every few years no matter what the surface. Such areas may be over permafrost, or in areas where the roadway will soon be reconstructed.

2) Each roadway must be analyzed on its own merits to determine the best surface alternative.

3) The foundation materials must be solid. A poor foundation will cause immediate failure of a surface treatment.

4) The maintenance budget for these surfaces must be increased because they are known to require a higher maintenance effort than hot mix asphalts. Canadian experience has shown that potholes must be repaired immediately or the surface will deteriorate very rapidly.

The Research Section intends to visit the Yukon Territory to determine the long term performance of their projects. This should give us an idea of what we should expect.

In summary, high float emulsion surfaces may have application. However, they are not a replacement for high type surfaces Because this is a surface treatment, it is more sensitive to the foundation and requires more maintenance effort.

I hope your questions have been answered. We cannot say that the high float technique is a failure or success at this juncture. However, we will continue to closely monitor the performance of these sections closely through the Research Section.

BC/cv

Attachment

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities
SOUTHEASTERN REGION

TO: Dave Waldron
Director/Maintenance & Operations
Southeastern Region

DATE: August 3, 1984

FILE NO: 244E-1802

TELEPHONE NO: (907) 789-6215

SUBJECT: Mud Bay Road Surface Treatment Inspection Trip

FROM: Richard A. Hamilton
Ray D. Miller
Dale Miller
Ed Cavagnaro

Pursuant to your request of July 31, 1984 Ray Miller, Materials Engineer, Dale Miller, Assistant Construction Engineer, Ed Cavagnaro, Design Project Manager, and Dick Hamilton, Maintenance Manager travelled to Haines to meet with a concerned citizen, Mrs. Betty Holgate, and to make a field inspection of the recently completed Mud Bay Road project.

A brief history of how this particular project was developed follows in order to clear up any questions you might have in this regard.

This section of roadway was selected for the test project using High Float Emulsion Bituminous Surface Treatment (BST) per the attached Senate Resolution No. 27. It was scheduled for interum BST to protect the required structural section until funds were programmed for final paving. The Reconnaissance Report calls for placing hot asphalt pavement on this route when reconstruction of the roadway is completed to the Chilkat State Park or Flat Bay. It should also be noted that reconstruction of this road was programmed due to increased traffic on the route created by the opening of the Chilkat State Park. The present Average Daily Traffic is 250 while projected for the year 2000 is 450.

Reconstruction of the first stage of this project took place over the last two construction seasons and the roadway was accepted for traffic and maintenance on July 18, 1984. The prime contractor on the project was a joint venture between Taylor/Ritchie with the High Float Emulsion BST being constructed by Associated Sand & Gravel as the subcontractor. Since this was a new type of construction for Alaska contractors, considerable time was spent in researching and developing the specifications. Personnel assigned to the project, both Design and Construction, made several trips to Canada to observe this type of construction first-hand.

As in all new types of construction, there are certain instances where the specifications may have been improved or made more explicit. No major problems were evident that adversely affected the overall intent and scope of this project. Attached for your information is a memorandum from Larry Geise, Project Engineer, to Dale Miller, commenting on the project and specifications.

Our inspection of the project on July 31, 1984, as well as the final inspection of the project on July 16, 1984, revealed nothing out of the ordinary and the surface appeared to be as expected at this stage

of the project. The surface, as it exists, is loose gravel with the surface treated gravel at a depth of ±1 inch under the surface gravel. The gravel surface has not been dispersed of as fast as desirable because of low speed and low volume traffic. As stated, the general roadway appearance is that of a gravel highway and not a Bituminous Surface treatment at this stage. Some areas, particularly on the small tracts portion have the appearance of a BST roadway without the loose gravel. This is probably due to higher traffic volumes.

On August 1st, Mr. Hamilton discussed the situation of the loose gravel on Mud Bay with Ray Magnuson of Yukon Highways. Ray has put down several hundred miles of High Float BST with high success. It was Ray's recommendation that the loose gravel be removed, as leaving it in place will tend to erode the treated surface. He suggested using a grader with a rubber blade and then brooming the fines.

It should be noted that some slight washboarding may exist in the Cemetary/hill portion of the project because of the steep grade encountered, however, these are certainly not of the magnitude as expressed in Mrs. Holgate's complaint. The possiblity of washboarding in steeper grades is not a surprise as the Canadians had expressed this possiblity during conversations with them. When the excess gravel is removed, washboarding will be more identifiable and some corrective action may be necessary, but no major amount of work is anticipated. It is felt that nearly all the washboarding is in the loose surface gravel.

It is too early to tell the percentage of success of the project, however, it cannot be classified as a complete failure as indicated by Mrs. Holgate in her complaint to the Department. As with any test project, only time and close monitoring of the conditions will identify the success of the project. It should be pointed out that this type of surfacing when 100 percent successful does not create the ride of a hot asphalt pavement. The aggregate is coarse and the riding surface will have a cohesive but rough texture.

Striping of the project may have been ill-advised because brooming and the low speed traffic had not removed the excess cover coat material, however, safety was the prime concern in making the decision to proceed with striping. It was fully understood that the completed striping was of an interum measure, but it would suffice until next spring when the Department will be restriping the project as part of their annual restriping program. There is at least 50 percent of the striping remaining at this time.

All of the above points were discussed with Mrs. Holgate during our visit. The residents along the route, it appears based on our conversation with Mrs. Holgate, fully expected the black, smooth appearance of a hot asphalt pavement surface. It appears that a press release should have been issued to inform the residents that we were doing a test project and explain what the completed surface would be like. This should be Standard Operating Procedures for any new or experimental construction techniques.

This should sum up the facts concerning the project and should you have any specific question about the project or points not covered in this memorandum, please advise. Additionally, our Research Section in Fairbanks is doing a complete study of this type of surface treatment and will be collecting data from all projects in the state in order to assemble the facts and issue a final analysis. It is recommended that the project be inspected weekly after it is broomed.

Attachments: As Stated

XC: D.D. Dieckmeyer, Director, Design & Const.
Dale Miller, Assist. Const. Engineer
Ray D. Miller, Materials Engineer
Ed Cavagnaro, Project Manager
Richard A. Hamilton, Maintenance Manager

MEMORANDUM State of Alaska

JUL 27

TO: Dale Miller
Assistant Construction
Engineer, Southeast Region

DATE: July 19, 1984

FILE NO:

TELEPHONE NO: 225-4690

FROM: Larry Seise
Project Engineer

SUBJECT: Mud Bay Road
Stage I - RS-0987(3)

File

Considerable interest has been generated relative to the placement of high-float emulsion on subject project. Please find enclosed some comments on the procedure.

Specifications required the aggregate stockpile to have a moisture content between 2% and 4%. Baines had an extremely dry spring and the moisture content was achieved without difficulty. Under most conditions, in S.E. Alaska, this could not have been achieved without expending substantial time and money. Perhaps specifications should be reviewed to see if additional moisture is acceptable.

It would appear for this concept to be successful the unit cost has to be reduced considerably. The emulsion work was equivalent to the cost of a reasonable price 1½ inch hot asphalt overlay.

The lay-down crew's experience is critical in this operation. The chip spreader operator is more important than a paving machine operat Any variances in speed transmits through to mat surface immediately.

Prior concern about this type of placement on a steep hill (9.44%) appears warranted. The application technique difficulty is compounde on steep grades. Stopping the chip spreader smoothly while on oil and loose gravel is difficult. Gravel application has to be do so the wave of oil is of reasonable height. On this project we considered a satisfactory wave height to be 2 inches. Controlling traf action on the grade is mandatory.

The comb arrangement mounted on the chip spreader was a complete failure. This device was designed to delay aggregate transport to the grade. In reality, the only thing it accomplished was clogging the aggregate distribution. After the comb was damaged, th contractor was instructed to remove it. It was not utilized on the roadway main line.

The major delay encountered was due to the size of the distributor truck. The small truck (1300 gallons) allowed for the construction of only 900 feet of surface before refilling. This caused numerous unneeded stops. I suggest a change in specifications to require larger oil capacity.

The oil application rate of 0.75 gallons/sq. yd. was close to a practical maximum for equipment utilized. Maximum spray bar pressure, pump capacity, and truck speed of approximately 100 feet per minute was required to achieve the application rate.

The contract specified the roadway to be broomed not less than 10 days after aggregate application. Then the surface was to be painted. I suggest, if it is possible, to allow traffic action to remove loose aggregate. If this cannot be done brooming and painting should be accomplished at least a month after laydown.

My personal impression was that the EP-350S was an easier oil to use then the CRS. It definitely sprayed better with less clogging of the distributor bar. In addition, the oil flowed together easier and created a more uniform oil mat.

Most difficulties encountered on the project were standard start-up difficulties. These will be a problem encountered in all such types of applications until contractors personnel become familiar with the high float technique.

Referred: Transportation

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 27 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the designation of three sites for the application of high float emulsion asphalt.

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

WHEREAS a substantial portion of the state's money is spent on the rehabilitation and rebuilding of our highways; and

WHEREAS the present road building techniques are extremely expensive and may not be the most cost effective method for northern climate highways; and

WHEREAS the Yukon Territory Department of Highways and Transportation has had success with a less expensive and more durable surfacing technique known as high float emulsion asphalt; and

WHEREAS the climate and highway demands of Alaska are very similar to the climate and highway demands of the Yukon Territory; and

WHEREAS there are highway surfaces in the Interior region, the Southcentral region, and the Southeast region that are in need of rehabilitation and could therefore be designated as test sites for an alternate surfacing technique;

BE IT RESOLVED by the Alaska State Legislature that the governor is respectfully requested to direct the commissioner of transportation and public facilities to designate a representative site in each of the Interior, the Southcentral and the Southeast regions to be used as a test application site for high float emulsion asphalt; and be it

FURTHER RESOLVED that the Department of Transportation and Public Facilities document the cost effectiveness of the test applications and

report its findings and recommendations to the governor and legislature within 10 days of the convening of the 14th Alaska Legislature

Committee Meetings Schedule 1983

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

R E V I S I O N

TRANSPORTATION PHONE: 465-4858/4859
MEETS: Capitol 112, M-F, 8:30 a.m.

PLEASE CANCEL MEETING SCHEDULED FOR JUNE 17 for SCR 27 am

RE-SCHEDULE SCR 27 am FOR TUESDAY, JUNE 21 (see attached committee schedule)

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF JUNE 21-24, 1983

TRANSPORTATION PHONE: 465-4858/4859
MEETS: Capitol 112, M-F, 8:30 a.m.

TUESDAY, JUNE 21

SCR 27 am: Relating to the designation of three sites for the application of high float emulsion asphalt.

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

WEEK OF JUNE 13, 1983

TRANSPORTATION PHONE: 465-4858/4959
MEETS: Capitol 112, M-F, 8:30 a.m.

FRIDAY, JUNE 17

SCR 7 am: Relating to the designation of three sites for the application of high float emulsion asphalt.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISED 6/1

WEEK OF MAY 30-June 3, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 30
No meeting scheduled

Tuesday, May 31
No meeting scheduled

Wednesday, June 1
Confirmation Hearings

Thursday, June 2
No meeting scheduled

Friday, June 3
WORK SESSION - TENTATIVE: Continuation of Confirmation Hearing

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

WEEK OF MAY 30-June 3, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 30
No meeting scheduled

Tuesday, May 31
No meeting scheduled

Wednesday, June 1
Confirmation Hearings

Thursday, June 2
No meeting scheduled

Friday, June 3
**HB 287: "An Act making a special appropriation to the Department of Transportation and Public Facilities for the stabilization of Pillar Mountain; and providing for an effective date.

Cancelled

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

REVISION
WEEK OF MAY 23-27, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 23
Meeting cancelled due to lack of quorum.

Tuesday, May 24
SCR 5: "Requesting DOTPF to reconstruct and upgrade Petersville Road in Mat-Su Borough"

SCR 6: "Encouraging the upgrading and resurfacing of the Old Glenn Highway from the Knik River to the Matanuska River.

Wednesday, May 25
HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

Thursday, May 26
NO MEETING SCHEDULED

Friday, May 27
~~WORK SESSION~~ Cancelled

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF MAY 23-27, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 23

SCR 5: "Requesting DOTPF to reconstruct and upgrade Petersville Road in Mat-Su Borough"

5/19 Notified Kerttilla's office

SCR 6: "Encouraging the upgrading and resurfacing of the Old Glenn Highway from the Knik River to the Matanuska River.

Tuesday, May 24

NO MEETING SCHEDULED

Wednesday, May 25

HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

Spoke w/ Sara 5/18 - notified of meeting - She's working w/DNR - I'm to get pos. paper from DOT

Thursday, May 26

NO MEETING SCHEDULED

Friday, May 27

WORK SESSION

5/18 Notified Ray of DOT — Fin. on 390/391 delivered 5/18 are incorrect — revised, correct ones to be delivered Mon. or Tues.

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

REVISION
WEEK OF MAY 23-27, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 23
Meeting cancelled due to lack of quorum.

Tuesday, May 24
SCR 5: "Requesting DOTPF to reconstruct and upgrade Petersville Road in Mat-Su Borough"

SCR 6: "Encouraging the upgrading and resurfacing of the Old Glenn Highway from the Knik River to the Matanuska River.

Wednesday, May 25
HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

Thursday, May 26
NO MEETING SCHEDULED

Friday, May 27
WORK SESSION

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF MAY 23-27, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 23

SCR 5: "Requesting DOTPF to reconstruct and upgrade Petersville Road in Mat-Su Borough"

SCR 6: "Encouraging the upgrading and resurfacing of the Old Glenn Highway from the Knik River to the Matanuska River.

Tuesday, May 24

NO MEETING SCHEDULED

Wednesday, May 25

HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

Thursday, May 26

NO MEETING SCHEDULED

Friday, May 27

WORK SESSION

MAY 18 1983

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N
WEEK OF MAY 16-20, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 16
WORK SESSION

Tuesday, May 17
**HB 405: "An Act making special appropriations to the Department of Transportation and Public Facilities for road construction and right-of-way acquisition; and providing for an effective date."

5/13 Contacted Rep. Malone's office

HB 237: "An Act making special appropriation for payment as a grant to the Matanuska-Susitna Borough for construction, reconstruction, upgrading, and bridge work on roads; and providing for an effective date."

5/13 Contacted Foster's office

Wednesday, May 18
**HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

5/13 Contacted Foster's office

**HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

5/13 Contacted Foster's office

Thursday, May 19
NO MEETING SCHEDULED

Friday, May 20
WORK SESSION

Ray Brown (replaced Barbara)?
5/13 Phoned ~~Barbara~~ - DOT
5/13 Put schedule (revised) in members boxes

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION
WEEK OF MAY 16-20, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 16
WORK SESSION Cancelled

Tuesday, May 17
**HB 405: "An Act making special appropriations to the Department of Transportation and Public Facilities for road construction and right-of-way acquisition; and providing for an effective date."

HB 237: "An Act making special appropriation for payment as a grant to the Matanuska-Susitna Borough for construction, reconstruction, upgrading, and bridge work on roads; and providing for an effective date."

Wednesday, May 18
**HB 390: "An Act relating to the designation of state highways as scenic highways; and providing for an effective date."

**HB 391: "An Act making a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation; and providing for an effective date."

No Quorum

Thursday, May 19
NO MEETING SCHEDULED

Friday, May 20
WORK SESSION Cancelled

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

REVISION
WEEK OF MAY 9-13, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 9
WORK SESSION

Tuesday, May 10
NO MEETING

Wednesday, May 11
**HB 399: "An Act naming A and C streets in Anchorage Wickersham Boulevard and Eisenhower Boulevard."

HB 294: "An Act establishing an Alaska Toll Bridge and Causeway Authority."

HB 295: "An Act making special appropriation to the Alaska Toll Bridge and Causeway Authority for the design and construction of Knik and Causeways; and providing for an effective date."

Thursday, May 12
NO MEETING

Friday, May 13
**HB 248: "An Act making special appropriation to the Department of Transportation and Public Facilities for construction of a bridge in Eagle River; and providing for an effective date."

**HB 237: "An Act making special appropriation for ~~payment as a grant to the Matanuska-Susitna Borough for construction, reconstruction, upgrading, and bridge work on roads;~~ and providing for an effective date." Cancelled

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEDNESDAY, MAY 4 THE HOUSE TRANSPORTATION COMMITTEE WILL MEET
IN THE HOUSE FINANCE COMMITTEE ROOM - ROOM 519.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION
WEEK OF May 2-6, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, May 2
~~WORK SESSION~~ Cancelled

Tuesday, May 3
NO MEETING

Wednesday, May 4
HB 69: An Act relating to the Department of Transportation and Public Facilities and establishing the Board of Transportation and Public Facilities at the head of the department.

CSSB 184(L&C): An Act extending the termination date of the Alaska Transportation Commission; and providing for an effective date.

Room 519

Thursday, May 5
NO MEETING

Friday, May 6
HB 170: ~~An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of harbor facilities at St. George and St. Paul; and providing for an effective date.~~ Cancelled

CSSSSB 165 (Rls) am: An Act relating to racing events on public highways.

HB 69
HCR 10

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF APRIL 25-29, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, April 25

SB 7: An Act making an appropriation to the Department of Transportation and Public Facilities for local service roads and trails; and providing for an effective date.

Tuesday, April 26

**HB 321: An Act making a special appropriation to the Department of Transportation and Public Facilities for improvements and expansion of the terminal at the Anchorage International Airport; and providing for an effective date.

**HB 322: An Act increasing the bond authorization for international airport revenue bonds for $62,825.00; and providing for an effective date.

Wednesday, April 27

3:00 p.m. DEPARTMENT OF TRANSPORTATION BRIEFING ON THE KNIK ARM CROSSING IN COURT ROOM A.

Thursday, April 28

HB 321: An Act making a special appropriation to the Department of Transportation and Public Facilities for improvements and expansion of the terminal at the Anchorage International Airport; and providing for an effective date. Cancelled

HB 322: An Act increasing the bond authorization for international airport revenue bonds for $62,825.00; and providing for an effective date.

Friday, April 29

HCR 10: Relating to access to Whittier, Alaska

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE — 21 April 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**HB 321: Anchorage International Airport expansion	4-26-83	8:30 a.m.	112 Capitol
**HB 322: International airport revenue bonds	4-26-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION
WEEK OF APRIL 18 - 22, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, April 18
WORK SESSION ON HB 69

Tuesday, April 19
**HB 294: An Act establishing an Alaska Toll Bridge and Causeway Authority

**HB 295: An Act making a special appropriation to the Alaska Toll Bridge and Causeway Authority for the design and construction of Knik and Causeways; and providing for an effective date.

Wednesday, April 20
**HB 303: An Act making a special appropriation to the Department of Transportation and Public Facilities for the reconstruction and paving of Pittman Road in the Matanuska-Susitna Borough; and providing for an effective date.

Thursday, April 21
**HCR 10: Relating to access to Whittier, Alaska

Friday, April 22
**HB 170: An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of harbor facilities at St. George and St. Paul; and providing for an effective date.

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

REVISION

TRANSPORTATION COMMITTEE — APRIL 14, 1983 DATE

BILL NO. AND TITLE		HEARING DATE	TIME	PLACE
**HB 303:	Spec. approp. DOTPF for reconstruction/paving Pittman Road in Mat-Su Bor.	4-20-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF APRIL 11 - 15, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, April 11
HB 69: DOTPF/Establish Board of Transp/Pub Facilities
** HB 335: Act relating to Motor Fuel Tax Revisions

Tuesday, April 12
** ~~HB 170:~~ ~~Spec. Approp./DOTPF/St. George/St. Paul/Harbor~~ Cancelled
HB 335

Wednesday, April 13
** ~~HB 248:~~ ~~Spec. Approp/DOTPF/Bridge/Eagle River, Ed.~~ Cancelled

Thursday, April 14
** HCR 29: DOTPF Use Calcium-Magnesium Acetate/Ice

Friday, April 15
** HB 313: Extend AK Transportation Commission

Notified 4-7-83

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE April 7, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**HB 335: Motor Fuel Tax Revisions	04-11-83	8:30 a.m.	112 Capitol
**HB 170: Spec. approp/DOTPF/St. George/ St. Paul/Harbor	04-12-83	8:30 a.m.	112 Capitol
**HB 248: Spec. approp/DOTPF/Bridge/ Eagle River	04-13-83	8:30 a.m.	112 Capitol
**HCR:29: DOTPF use Calcium-magnesium Acetate/Ice	04-14-83	8:30 a.m.	112 Captiol
**HB 313: Extend Alaska Transportation Commissi[illegible]	04-15-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Week of April 4-8, 1983

TRANSPORTATION PHONE: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

MONDAY, APRIL 4
No Meeting Scheduled

TUESDAY, APRIL 5
HB 70: DOTPF/Duties/Regional Directors
HB 228: DOTPF/Duties/Regional Directors

WEDNESDAY, APRIL 6
HB 55: Decrease/Motor Fuel/Offset Federal Increase
HB 150: Repeal Tax/Motor Fuel/Watercraft

**HB 199: Outdoor Recreational Facilities

THURSDAY, APRIL 7
~~HCR 10: Access Whittier~~

FRIDAY, APRIL 8
WORK SESSION on HB 69: DOTPF/Establish Board of Transportation/Public Facilities

TRANSPORTATION COMMITTEE 3-31-83 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**199 Outdoor Recreational Facilities	4-6-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Week of March 28 - April 1, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, March 28

HB 70: ...regions in DOT/PF & prescribing duties of regional transportation & public facilities directors

HB 22[illegible]: ...regions in DOT/PF & prescribing duties of regional transportation & public facilities directors

Tuesday, March 29

WORK SESSION

Wednesday, March 30

**HB 173: Spec. approp. DOT/PF for turn lanes & signs at access to Weller Elementary School/Fairbanks

**HCR 25: Requesting a speed zone in Nikishka, Kenai Borough

Thursday, March 31

**HB 199: Outdoor recreational facilities, state historical recreational & wilderness trails, waterways, camp sites system

Cancelled

Friday, April 1

No meeting scheduled

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Week of March 21-25, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, March 21

SSHB 55: An Act decreasing motor fuel tax to offset tax increase by federal government.

SSHB 40: Repeal Motor Fuel Tax

HB 150: Repealing tax on motor fuel used in or on watercraft; and providing for an effective date.

Tuesday, March 22

**HB 154: An Act relating to train crew size

**HB 41: State aid to municipalities for roads

Wednesday, March 23

**HB 70: An Act...regions in DOT/PF & prescribing duties of regional transportation and public facilities directors

**HB 228: DOT/PF regionalization

Thursday, March ~~24~~

HB 70: ~~An Act...regions in DOT/PF & prescribing duties of regional transportation and public facilities directors~~

HB 228: ~~DOT/PF regionalization~~ Cancelled

Friday, March ~~25~~

WORK SESSION

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE March 17, 1983 DATE

BILL NO. AND TITLE		HEARING DATE	TIME	PLACE
**HB 154	An Act relating to train crew size	3-22-83	8:30 a.m.	112 Capitol
**HB 41	State aid to municipalities for roads	3-22-83	8:30 a.m.	112 Capitol
**HB 70	...regions in DOT/PF & prescribing duties of regional DOT/PF directors	3-23-83	8:30 a.m.	112 Capitol
**HB228	DOT/PF regionalization	3-23-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

WEEK OF MARCH 14-18, 1983

TRANSPORTATION PHONE: 465-4858/4859

Monday, March 14
Review previous DOT overview discussion topics

Tuesday, ~~March 15~~
HB 68...establishing Alaska Marine Highway ~~Authority~~ CANCELLED

Wednesday, March 16
Commissioner Casey, DOT Overview hearing

Thursday, March 17
**HB 189 Spec. approp./grant/municipality Anchorage/
Lake Otis Parkway upgrading

Friday, March 18
HB 68...establishing Alaska Marine Highway Authority

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE March 19, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**HB 189: Spec. approp./grant/ municipality Anchorage/ Lake Otis Parkway upgrading	3-17-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Week of March 7-11, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, March 7
WORK SESSION

Tuesday, March 8
**HCR 4: Relating to expansion of ferry service

Wednesday, March 9
WORK SESSION: DOT Overview/discussion of DOT issues and goals

Thursday, March 10
WORK SESSION: DOT Overview/discussion of DOT issues and goals CANCELLED - NO QUORUM
members present: Miller, Phillips, Herrmann

Friday, March 11
WORK SESSION: DOT Overview/discussion of DOT issues and goals

10-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE MARCH 3, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**HCR 4 Relating to expansion of ferry service	3-8-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Week of February 28 - March 4, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 28
~~WORK SESSION~~ Cancelled

Tuesday, March 1
**SSHB 55: An Act decreasing motor fuel tax to offset tax increase by federal gov't

**SSHB 40: Repeal Motor Fuel Tax

Wednesday, March 2
SSHB 55: An Act decreasing motor fuel tax to offset tax increase by federal gov't

SSHB 40: Repeal Motor Fuel Tax

Thursday, March 3
WORK SESSION

Friday, March 4
**HB 203: Spec. approp. to DOT/PF for Phase I of Nome Port Facility

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Week of February 28 - March 4, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 28
WORK SESSION

Tuesday, March 1
**SSHB 55: An Act decreasing motor fuel tax to offset tax increase by federal gov't

**SSHB 40: Repeal Motor Fuel Tax

Wednesday, March 2
SSHB 55: An Act decreasing motor fuel tax to offset tax increase by federal gov't

SSHB 40: Repeal Motor Fuel Tax

Thursday, March 3
WORK SESSION

Friday, March 4
**HB 203: Spec. approp. to DOT/PF for Phase I of Nome Port Facility

TRANSPORTATION COMMITTEE February 24, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**SSHB 55 ...decrease motor fuel tax to offset tax increase by federal gov't	3-1-83	8:30 a.m.	112 Capitol
**SSHB 40 Repeal motor fuel tax	3-1-83	8:30 a.m.	112 Capitol
**HB 203 Nome Port Facility	3-4-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

REVISION

Week of February 21, 1983

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Thursday, February 24
HB 98: Spec. approp. to DOT/PF for construction of four lane hwy from the south end of Eklutna Flats to Palmer-Wasilla junction.

Friday, February 25
**HB 150: repealing tax on motor fuel used in or on watercraft; providing for an effective date.

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 21
Work Session

Tuesday, February 22
HB 68: An Act relating to ferries and ferry terminals and establishing AK Marine Hwy Authority

Wednesday, February 23
HB 98: ~~Spec. approp. to DOT/PF for construction of four lane hwy from the south end of Eklutna Flats to Palmer-Wasilla junction.~~ CANCELLED

Thursday, February 24
Work Session HB 98

Friday, February 25
**HB 150: repealing tax on motor fuel used in or on watercraft; providing for an effective date.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION 2/11

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 14

**HB 169: App./DOTPF/local service roads/trails

Tuesday, February 15

**HB 190: An Act making a special appropriation for payment as grants to the cities of Newhalen and Nondalton for road construction.

**HB 68: ...establishing AK Marine Highway Authority

Wednesday, February 16

HB 68: ...establishing AK Marine Highway Authority

Thursday, February 17

**HB 72: ...spec. approp. to DOT/PF for various construction projects

**HB 74: An Act...Nenana for construction of dock and water facilities

Friday, February 18

Work session on previously heard legislation.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 14

**HB 169: App./DOTPF/local service roads/trails

Tuesday, February 15

**HB 190: An Act making a special appropriation for payment as grants to the cities of Newhalen and Nondalton for road construction.

**HB 68: ...establishing AK Marine Highway Authority

Wednesday, February 16

HB 68: ...establishing AK Marine Highway Authority

Thursday, February 17

**HB 72: ...spec. approp. to DOT/PF for various construction projects

**HB 74: An Act...Nenana for construction of dock and water facilities

Friday, February 18

Work session on previously heard legislation.

FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE Feb. 11, 1983 DATE

BILL NO. AND TITLE		HEARING DATE	TIME	PLACE
** HB 72:	...Spec. approp. to DOT/PF for various construction projects	2-17-83	8:30a.m.	112 Capitol
**HB 74:	An Act...Nenana for construction of dock & water facilities	2-17-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 14

**HB 169: App./DOTPF/local service roads/trails

Tuesday, February 15

**HB 190: An Act making a special appropriation for payment as grants to the cities of Newhalen and Nondalton for road construction.

**HB 68: ...establishing AK Marine Highway Authority

Wednesday, February 16

HB 68: ...establishing AK Marine Highway Authority

Thursday, February 17

Work session on AK Marine Highway Authority

Friday, February 18

No meeting scheduled

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE — FEBRUARY 10, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**169:App/DOT/PF/local service roads/trails	2-14-83	8:30 a.m.	112 Capitol
**190:An Act making a special appropriation for payment as grants to the cities of Newhalen and Nondalton for road const.	2-15-83	8:30 a.m.	112 Capitol
**68:establishing AK Marine Hwy Authority	2-15-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N

PLEASE DISREGARD ALL PREVIOUS COMMITTEE SCHEDULES FOR THE HOUSE TRANSPORTATION COMMITTEE.

PLEASE FIND ATTACHED THE FINAL SCHEDULE FOR WEEK OF FEBRUARY 14, 1983.

MY APOLOGIES FOR ANY INCONVENIENCE THIS MAY HAVE CAUSED.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

REVISION

Wednesday, February 9, 1983

HCR 2: ...travel by senior citizens aboard vessels of State Marine Highway

Commissioner Casey/DOT/PF Overview

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Committee on Transportation

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

Monday, February 7

HCR 2: Travel/senior citizens/vessels/Ak Marine Hwy System

Tuesday, February 8

No meeting scheduled

Wednesday, February 9

TENTATIVE Commissioner Casey, overview of DOT/PF

Thursday, February 10

No meeting scheduled

Friday, February 11

**HB 98: Spec. Approp. to DOTPF for construction of four-lane highway from south end of Eklutna Flats to Palmer-Wasilla junction.

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE February 1, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
HB 98: Spec. Approp. to DOT/PF for construction of four-lane Hwy from south end of Eklutna Flats to Palmer-Wasilla junction	2-11-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

FRIDAY, February 4

COMMITTEE MEETING CANCELLED
**HB 98: Spec. Approp. to DOT/PF for construction of four lane hwy from south end of Eklutna Flats to Palmer-Wasilla junction.

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

TRANSPORTATION

Meets: Capitol 112, M-F, 8:30 a.m.

Monday, January 31

Presentation by Federal Highway Administration

Tuesday, February 1

No meeting scheduled

Wednesday, February 2

C&RA Orientation, Municipal Grants overview

Thursday, February 3

No meeting scheduled

Friday, February 4

**HB 98: Spec. Approp. to DOT/PF for construction of four-lane hwy from south end of Eklutna Flats to Palmer-Wasilla junction.

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

TRANSPORTATION COMMITTEE January 26, 1983 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
HB 98 - Spec. approp. to DOT/PF for construction of 4-lane hwy from south end of Eklutna Flats to Palmer-Wasilla junction.	2-4-83	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

TRANSPORTATION R E V I S I O N

FRIDAY, January 28

No meeting scheduled

Alaska State Legislature

Florida

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

HOUSE TRANSPORTATION COMMITTEE

MEETING SCHEDULE

ROOM 112, CAPITOL

8:30 a.m.

Monday, January 24

Orientation for Committee members

Tuesday, January 25

NO MEETING

Wednesday, January 26

HB 72 Spec. Approp. DOT/PF construction projects
HB 74 Spec. Approp. rehab. on Tanana River Dock & waterfront facilities

Thursday, January 27

NO MEETING

Friday, January 28

WORK SESSION

1/19 Telephone Notification - Meeting Mon. / Weekly schedule in box
Rep. Davis - Jonathon
Rep. Miller - Marty (Horrita)
Rep. Phillips - Audrey
Rep. Hermon - Helen
Rep. Szymoniak - Mark
Rep. McBride - Rena
Rep. Abood -
Rep Lacker - hand delivered to Mary

Committee Meeting Schedule

1984

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

April 16-20, 1984
(* indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, April 17, 1984
*HB 622 Spec. Approp./DOTPF/Roads/Public Schools/FA

Wednesday, April 18, 1984
Confirmation Hearings for nominees to the Board of Marine Pilots: James Hodgman and Judith Brady

Thursday, April 19, 1984
CSSB 389 (Fin) Spec. Approp./DOTPF/Kenai and Tunanak River Bridge
*HB 660 Spec. Approp./DOTPF/Constr Kenai River Bridge

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION
April 9-13, 1984

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

The following bill has been added to the House Transportation Committee calendar for Thursday, April 12, 1984: CSHB 661 Constr Knik Arm Crossing/Toll Facilities/Provide Toll Collection

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

April 9-13, 1984

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, April 10, 1984
SCR 9 Farm Loop Road/Mat-Su Borough/Upgrade

Wednesday, April 11, 1984
Confirmation Hearings for Commissioner Knapp,
Department of Transportation and Public Facilities

Thursday, April 12, 1984
Confirmation Hearings for Commissioner Knapp,
Department of Transportation and Public Facilities

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N
April 2-6, 1984

TRANSPORTATION	CAPITOL 112	8:30 a.m.
	465-4858	T-W-TH

The committee meeting scheduled for Wednesday, April 4, 1984 has been cancelled.

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

R E V I S I O N
April 2-6, 1984

TRANSPORTATION	CAPITOL 112	8:30 a.m.
	465-4858	T-W-TH

The committee hearing on HB 644 scheduled for Wednesday, April 4, 1984 has been cancelled.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

April 2-6, 1984
(* indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, April 3, 1984
95 CSSB 315(Fin)am RE: Road Maintenance Service Areas

Wednesday, April 4, 1984
*HB 622 Spec. Approp/DOTPF/Roads/Public Schools/FA
*HB 644 Require Station/Emergency Medical Technicians/Ferry (CANCELLED)

Thursday, April 5, 1984
96 CSHB 661 RE: Constr Knik Arm Crossing/Toll Facilities/Provide Toll Collection

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 26-30, 1984
(* indicates first public hearing)

TRANSPORTATION CAPITOL 112 8:30 a.m.
465-4858 T-W-TH

Tuesday, March 27, 1984
92 CSHB 558 RE: Local Service Roads and Trails

Wednesday, March 28, 1984
93 *HB 661 RE: Toll Facilities/Provide Toll Collection

Thursday, March 29, 1984
94 *HB 701 RE: Rename Klutina Road/Brenwick/Craig Road

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION
March 19-23, 1984

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

The following bill has been added to the Transportation Committee's Schedule for this week:

Friday, March 23, 1984
91 CSHB 512 Establish Alaska Railroad Corp/Manage and Operate

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

R E V I S I O N
March 19-23, 1984
(* indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

The following bill has been added to the Transportation Committee's Schedule after having the 5 day notice for the first public hearing waived on the Floor 2/10/84 for:

Wednesday, March 21, 1984
*HJR 72 Propose Amendment/Alaska Constitution/AK RR

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION 3/16 #2
March 19-23, 1984
(* indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	3:30 a.m. T-W-TH

Tuesday, March 20, 1984
88 CSSB 370(Trsp)am Acquire AK Railroad/Gov Negotiate Transfer

Wednesday, March 21, 1984
89 HB 512 Est. AK Railroad Corp/Manage and Operate
HFR 72

Thursday, March 22, 1984
90 HB 399 Name A & C St/Anch/Wickersham & Eisenhower
*HB 510 RE: Accidents Involving State Aircraft

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

REVISION #1
March 19-23, 1984
(* indicates first public hearing)

TRANSPORTATION — CAPITOL 112, 465-4858 — 8:30 a.m., T-W-TH

Tuesday, March 20, 1984
Railroad Work Session

Wednesday, March 21, 1984
HB 512 Est. AK Railroad Corp/Manage and Operate

Thursday, March 22, 1984
HB 399 Name A & C St/Anch/Wickersham & Eisenhower
*HB 510 RE: Accidents Involving State Aircraft

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

March 19-23, 1984

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, March 20, 1984
Railroad Work Session

Wednesday, March 21, 1984
HB 512 Est. AK Railroad Corp/Manage and Operate

Thursday, March 22, 1984
HB 399 Name A & C St/Anch/Wickersham & Eisenhower

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Committee on Transportation

March 12-16, 1984
(* Indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, March 13, 1984
85 HB 512 Est AK Railroad Corp/Manage and Operate

Wednesday, March 14, 1984
86 *HB 349 Spec Approp./Kenai/Harbor and Boat Ramp

Thursday, March 15, 1984
87 *HB 558 RE: Local Service Roads and Trails

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Committee on Transportation

March 5-9, 1984

TRANSPORTATION	CAPITOL 112	8:30 a.m.
	465-4858	T-W-TH

Tuesday, March 6, 1984
83 HB 512 Est AK Railroad Corp/Manage and Operate

Wednesday, March 7, 1984
84 Work Session

Thursday, March 8, 1984
~~HB 512 Est AK Railroad Corp/Manage and Operate~~ (CANCELLED)

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

February 27 - March 2, 1984

TRANSPORTATION CAPITOL 112 8:30 a.m.
465-4858 T-W-TH

Tuesday, February 28, 1984
HB 512 Est AK Railroad Corp/Manage and Operate

Wednesday, February 29, 1984
HB 512 Est AK Railroad Corp/Manage and Operate

Thursday, March 1, 1984
HB 512 Est AK Railroad Corp/Manage and Operate

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

MEMORANDUM

TO: Chief Clerk's Office

FROM: Representative Bette Cato
Chairman, House Transportation Committee

DATE: February 20, 1984 BC

RE: Committee Schedule Change

This is to advise you of a revision in our committee schedule for the week of '20/84:

Thursday, February 23, 1984 No Meeting in Juneau. Public Hearing in Anchorage Legislative Information Office at 1:30 pm on HB 512.

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Committee on Transportation

February 20-24, 1984

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, February 21, 1984
HB 512 Est AK Railroad Corp/Manage and Operate

Wednesday, February 22, 1984
HB 512 Est AK Railroad Corp/Manage and Operate

Thursday, February 23, 1984
Work Session

Saturday, February 25, 1984
Public Hearing in Fairbanks Legislative Information Office on HB 512

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

February 13-17, 1984
(* indicates first public hearing)

TRANSPORTATION CAPITOL 112 8:30 a.m.
465-4858 T-W-TH

Tuesday, February 14, 1984
HB 399 Name A & C St/Anch/Wickersham and Eisenhower
"Highway Symposium" 12:00-1:30 pm in Gold Room at
Baranof Hotel

Wednesday, February 15, 1984
*HB 543 Acquire AK Railroad/Gov Negotiate Transfer
"Highway Symposium" 12:30-7:00 pm in Gold Room at
Baranof Hotel

Thursday, February 16, 1984
*HB 512 Est AK Railroad Corp/Manage and Operate AK
Railroad

Friday, February 17, 1984
Public Hearing: Seward HB 512 Est AK Railroad
Corp./Manage and Operate AK

Saturday, February 18, 1984
Public Hearing: Soldotna HB 512 Est AK Railroad
Corp/Manage and Operate AK

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Committee on Transportation

February 6 - 10, 1984
(* indicates first public hearing)

TRANSPORTATION	CAPITOL 112 465-4858	8:30 a.m. T-W-TH

Tuesday, February 7, 1984
Work Session

Wednesday, February 8, 1984
*HB 472 Spec. Approp./DOTPF/Right-Of-Way/Iditarod Trail

Thursday, February 9, 1984
Work Session

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

TRANSPORTATION PHONE: 465-4858/4859
MEETS: CAPITOL 112, M-F, 8:30 a.m.

Monday, January 30, 1984
No Meeting

Tuesday, January 31, 1984
69 HB 399 Name A & ; St/Anch/Wickersham & Eisenhower
HB 493 Spec. approp./DOTPF/Auto/Moose/Collisions

Wednesday, February 1, 1984
HB 400 Spec. approp./Kenai/Construction Greer Road

Thursday, February 2, 1984
HB 401 Spec. approp./Kenai/Airport Main Apron

Friday, February 3, 1984
No Meeting

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

WEEK OF JANUARY 23 - 27, 1984
* Indicates first public hearing)

TRANSPORTATION CAPITOL 112 8:30 a.m.
T-W-TH

Tuesday, January 24, 1984
Work Session

Wednesday, January 25, 1984
*HB 493 Spec. approp./DOTPF/Auto/Moose/Collisions
(teleconference)

Thursday, January 26, 1984
HB 399 Name A & C St/Anch/Wickersham & Eisenhower

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

TRANSPORTATION PHONE: 465-4858/4859
MEETS: CAPITOL 112, M-F, 8:30 a.m.

Monday, January 16, 1984
No meeting

Tuesday, January 17, 1984
**HB 452 An Act making special appropriation to DOTPF for Phase I of Nome Port Facility; effective date.

Wednesday, January 18, 1984
Presentation/discussion of DOT budget process

Thursday, January 19, 1984
Work Session

Friday, January 20, 1984
No meeting

FIVE-DAY NOTICE OF FIRST PUBLIC HEARING

HOUSE TRANSPORTATION COMMITTEE 1-11-84 DATE

BILL NO. AND TITLE	HEARING DATE	TIME	PLACE
**HB 452: Spec. approp. to DOTPF for Phase I of Nome Port Facility; eff. date	1-17-84	8:30 a.m.	112 Capitol

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Transportation Phone: 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

WEDNESDAY, JANUARY 11
WORK SESSION: Committee goals, objectives, etc. for 1984.

FRIDAY, JANUARY 13
Introduction of H. Glenzer and Admiral Knapp to Committee
General overview of the Department of Transportation

ATC Confirmation Hearings

WHAT IS THE PURPOSE OF THE ATC AND HOW DO YOU PERCEIVE YOUR ROLE AS COMMISSIONER OF ATC?

DO YOU HAVE ANY PREVIOUS OR CURRENT RELATIONSHIPS WITH ATTORNEYS THAT PRACTICE BEFORE THE COMMISSION?

WHY WOULD YOU ACCEPT APPOINTMENT TO A COMMISSION THAT MAY BE ABOLISHED IN THE NEAR FUTURE?

WHAT IS YOUR RELATIONSHIP WITH WITS TRAVEL? ALL WAYS TRAVEL?

WHAT IS YOUR JUDICIAL ATTITUDE?

WHAT IS THE PURPOSE OF THE ATC AND HOW DO YOU PERCEIVE YOUR ROLE AS COMMISSIONER OF ATC?

DO YOU HAVE ANY PREVIOUS OR CURRENT RELATIONSHIPS WITH AIR CARRIERS? MOTOR CARRIERS?

DO YOU HAVE ANY PREVIOUS OR CURRENT RELATIONSHIPS WITH ATTORNEYS THAT PRACTICE BEFORE THE COMMISSION?

WHAT DO YOU FEEL IS THE FUTURE OF THE NTC?

WHY WOULD YOU ACCEPT APPOINTMENT TO A COMMISSION THAT MAY BE ABOLISHED IN THE NEAR FUTURE?

OTHER THAN PREVIOUSLY SERVING AS COMMISSIONER OF ATC, WHAT TRANSPORTATION EXPERIENCE DO YOU FEEL QUAILFIES YOU TO BE APPOINTED TO THE ATC AS THE MEMBER WITH 10 YEARS MANAGEMENT EXPERIENCE IN TRANSPORTATION?

WHAT TYPE OF TRANSPORTATION CONSULTING DO YOU CONDUCT?

DO YOU FORESEE ANY PREVIOUS OR CURRENT CLIENTS COMING BEFORE THE ATC?

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 24, 1984

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Pursuant to applicable law, I submit the following name for legislative confirmation of appointment to the position noted:

BOARDS AND COMMISSIONS
(with Appt/Term)

Alaska Transportation Commission

Robert C. Rocker, Anchorage, 84/04/17 - 89/02/01

Sincerely,

Bill Sheffield
Governor

UA

R E S U M E

ROBERT C. ROCKER
4111 Raspberry Road
Anchorage, Alaska 99502
(907) 243-4521 - Home
(907) 276-1446 - Work

Box 100345
Anc., 99510

PERSONAL BACKGROUND:

Date of Birth: November 13, 1927, Buffalo, N. Y.

Married to Annamae Rocker in 1971. Wife is independent owner/manager of All Ways Travel, a full service retail travel agency in Anchorage. We have no children.

Political Affiliation: Lifelong registered democrat.

Hobbies: Golf, fishing, swimming.

Have never had any judgments or liens filed against me or my wife.

Never accused of or convicted of any felony.

Approximate Net Wroth: $500,000

All federal and state taxes filed and current.

EDUCATION:

Lafayette High School Graduate, 1946 - Buffalo, N. Y.

University of Buffalo - 1947-1948
University fo Washignton - 1957-1959
Degree in Business Administration, 1959
Major in Finance and Minor in Accounting

MILITARY:

U. S. Navy - 1945-1946 Honorable Discharge

BUSINESS BACKGROUND:

Miscellaneous jobs until 1948.

Employed by Northwest Airlines from 1950 - 1958 in capacity of Transportation Agent and Senior Transportation Agent. Duties consisted of weight and balance preparation, passenger service functions and shift supervision. Moved to Alaska - 1951 (33 year resident)

1959 - 1961	Manager, Brad Phillips Travel Service
1961 - 1964	Vice President, Western International Travel Service & WITS Air Cargo
1964 - 1971	Owner and Manager, WITS Travel Service and Vice President, North Land Tours, Seattle, Washington.
1971 - 1977	Served as Commissioner on Alaska Transportation Commission. 1971 - 1975 served as Chairman. Personally prepared budget and oversaw all functions of the Commission. The Commission lapsed funds every year that I was in charge.
1974 - 1977	Served on the Motor & Air Committee of the National Association of Regulatory and Utility Commissions from 1974 - 1977. Represented the State of Alaska through the Alaska Transportation Commission at many hearings before the Civil Aeronautics Board and the Interstate Commerce Committee.
197. - Present	Transportation consulting and operate as Owner/Broker ERA-Rocker Realty, a franchised real estate office. I am a licensed Real Estate Broker in the State of Alaska #3667.

COMMENT:

I have been in a management capacity for the past twenty five years. More details or authentication of any of the above as well as personal and financial references are available upon request.

BOARD: TRANSPORTATION COMMISSION, ALASKA

TITLE: Alaska Transportation Commission

DEPT: DCED

AUTHORITY: AS 42.07.011

STATUS: ACTIVE

REQUIREMENTS: LEGISLATIVE CONFIRMATION AND FINANCIAL DISCLOSURE

PROHIBITIONS: Conflict of Interest - restrictions in AS 42.07.061

TERM: 6-year - staggered

DESCRIPTION: 3 members appointed by Governor: with regard to fitness and ability to exercise the powers and duties of the commission, based upon experience and familiarity with principles of public utility regulation or educational and experience background (refer to statute); 1 graduate of accredited university with major or degree in economics; 1 with major or degree in financial management or business administration; and 1 with 10 years management experience in transportation; terms begin on February 1; Governor designates chair for 2-year term.

SPECIAL FACTS: May be removed for cause; quorum - 2 members; AG is legal counsel; annual report to Legislature

FUNCTION: Supervise and regulate transportation in the State

COMPENSATION: SALARIED - Range 26, Step C

MEETINGS: Continuous hearings throughout year

*CONTACT: Commerce, Alaska Transportation Commission 3601 C Street Suite 778 Frontier Building Anchorage 99503 - 561-4216

Transportation Commission

MEMBER	APPT	REAPPT	TERM
Keith Miller 338 Denali St. Anchorage 99501 Salaried/Econ. - Chair	77/01/20		85/02/01
Hesden D. Scougal P.O. Box 29 Petersburg 99833 Salaried/Bus.	81/02/19		87/02/01
VACANT Salaried/Mgmt.			89/02/01

Confirmation Hearings

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NEWS RELEASE

Rhonda

FOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900

FOR IMMEDIATE RELEASE

DOT&PF Appointments
124

MAR 9 1983

March 8, 1983

Commissioner Dan Casey today outlined his streamlining of deputy commissioner duties to make the Department of Transportation and Public Facilities more quickly responsive to regional and local needs.

At the same time, in a speech at Fairbanks, Casey announced the appointment of two deputy commissioners, two more in an acting capacity, and several directors to carry out his goals in a reorganized department.

Topping Casey's staff are H. "Glen" Glenzer, previously Executive Director of Alaska Construction Industry Advancement Program, as Deputy Commissioner for the Interior Region; Fred Seeger, a former private engineering consultant and construction manager, as Deputy Commissioner for Standards and Statewide Programs; Jon Scribner, formerly Deputy Commissioner for Design and Construction, as Acting Deputy Commissioner for Southeast Region; and William Snell, who has been Director of Planning and Programming, as Acting Deputy Commissioner for Central Region.

In addition, the Commissioner has appointed John Bates, a former Deputy Commissioner, as Director for Planning and Programming, and Ron Lind, who moved from Deputy Commissioner for Administration to Director of Administrative Policy and Fiscal Management. He also announced that Marty Nusbaum remains Acting Director of the

(More)

Marine Highway System, and Mark Hickey is Coordinator for the Alaska Railroad Transfer Team.

Commissioner Casey said making the new deputy commissioners directly responsible for all DOT&PF operations in their regions will greatly improve first hand attention to regional needs, and will strengthen close contact with local officials and residents.

He explained the reorganization is a change from statewide deputy commissioner authority based on departmental functions to "a line organization" structure of responsibility. The new system, he said, will enable deputy commissioners to respond decisively to the whole range of needs in their regions rather than, as in the past, having their powers to act fragmented along functional lines. The public, he said, now will have a designated person to turn to below the commissioner level who is conversant with all the needs and problems of their regions. This same approach will also apply to the Marine Highway System.

The only other exception, Casey said, is Standards and Statewide Programs which logically remains on a statewide basis since its area of responsibility involves not day-to-day operations but department-wide policies and positions.

The commissioner noted that the reorganization reaches only to the top management alignment, and he stressed that it impacts few employees as to where they are assigned and what they do.

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Fred Seeger

BACKGROUND INFORMATION

Summary

Fifteen years experience in engineering and construction of oil and gas industry related capital projects with emphasis in the State of Alaska.

1979-1983: Engineering and construction management consultant engaged in providing management service to major oil industry engineering and construction companies, including North Slope producers such as ARCO Alaska, Inc. Specific service functions included construction planning and design during the engineering phase of the projects, estimating and scheduling, economic analyses, and contracting strategy. Represented clients as construction manager to deliver projects within budget, schedule and quality requirements during the construction phase of the projects.

1978-1979: Employed by Northwest Alaska Pipeline Company in Senior Project Planning position involved with the Alaska Natural Gas Transportation System. Performed conceptual engineering and construction planning for the gas pipeline project relating to capital cost estimates, schedules, manpower and equipment estimates, labor relations, procurement and logistics.

1975-1977: Employed by Alaska Pipeline Service Company, in Senior Project Management position during construction of the Trans Alaska Pipeline. Developed and implemented policy and procedure to improve quality of construction on a section of the oil pipeline. Directed various construction programs, particularly those associated with the special Arctic construction and engineering problems; provided direction to contractor's management in planning and engineering.

1974-1975: Employed by Bechtel Incorporated, as Assistant Deputy Manager on Trans Alaska Pipeline and Roads Project. Handled administration and coordination of personnel in Engineering, Procurement, Inspection, and Traffic Departments for the proper and timely supply of over $2 billion worth of materials and equipment for camp and pipeline construction; coordinated task force groups in the development of unique Arctic construction procedures for the installation of engineered pipeline components; generated estimates and budgets for management.

1969-1973: Employed by Shell Oil Company, as Project Engineer and Project Manager. Through various assignments was responsible for producing project feasibility studies, capital budgets, project design, specifications, contracts, negotiations on right-of-way, and managing construction.

EDUCATION

Purdue University, School of Civil Engineering, Lafayette, Indiana. Earned Master of Science in Civil Engineering and Construction Management.

Clarkson College, School of Civil Engineering, Potsdam, New York. Earned Bachelor of Science in Civil Engineering.

Registered Professional Engineer in the States of Alaska, California, New York, and Washington.

H. "Glen" Glenzer

BACKGROUND INFORMATION

Summary

Over 30 years of active service as a U.S. Naval Aviator in positions of increasing responsibility, including command, exercising management control of national programs. Record of achievement in planning functions and policy development.

Experienced in the administration and management of a large air station and maritime terminals with all the problems and considerations of a civilian facility including management, operation, maintenance, development and FAA and maritime rules and regulations, as well as all other civil and governmental agencies.

Served as chief staff executive with Alaska Chapter of Associated General Contractors of America, Inc. involved with all problems and considerations commensurate with the construction industry. Directly involved with highway, building and utility construction as well as labor negotiations, personnel administration, education and training programs. Also active in safety, equal employment opportunity, ecology, budgeting, and all management functions pertaining to large construction contractor firms dealing extensively with governmental and civilian agencies and corporations. Most recently served as Executive Director of the Alaska Construction Industry Advancement Program involved with all the above activities including A.G.C. members plus others in the industry.

1981-1983: Executive Director - ACIAP. All duties encumbent upon previous position as they related to not only AGC members but entire industry at large. Also had various consulting jobs mainly pertaining to Aviation and Marine Transportation.

1973-1981: Chapter Manager, Alaska Chapter Association General Contractors of America, Inc. Responsible for Safety Public Relations, Equal Employment Opportunity & Ecology compliance as well as participated in and reviewed bargaining agreements and grievances of labor union contracts. Performed all duties attendant with personnel and engineering management functions, in relation to heavy construction industry. Also taught courses in financial management, economics and marketing at Alaska Pacific University.

1970-1973: Naval Safety Center, Norfolk, VA., Director of Aviation Safety Directorate. Supervised, established and adiministered safety programs within entire naval establishment and with other service and agencies including FAA, CAB and all airlines connected with them.

1968-1970: Commanding Officer, Naval Station, Adak, Alaska. Commanded large Naval Station which in addition to the administration of a community of 6000 people included a naval station and terminal as well as surface shipping harbor and terminal. Administrated a $4.5 million operating budget and $5 to $12 million annual construction project funds. Conducted contract negotiations and awarded and supervised contracts with airlines, contractors and industrial concerns.

1947-1968: U.S. Navy

EDUCATION

BA, University of Maryland. Earned Business Administration degree, Master of Science Degree from the George Washington University of business Administration. Graduate of University of Southern California Safety Management Course, the George Washington University Safety Course, the George Washington University Course in Multi-Variants and Naval Post Graduate School of Monterey, California.

Jonathan W. Scribner BACKGROUND INFORMATION

Summary

Fifteen years experience in engineering and engineering management. Has worked for private industry, military, and government in the fields of design and construction of all types of public facilities, environmental engineering and public health. Experience includes engineering investigations, teaching, planning, and management.

1982 - 1983: DOT&PF; Acting Deputy Commissioner, Design & Construction. Responsibility included those described for the Assistant Deputy Commissioner.

1979 - 1982: DOT&PF; Assistant Deputy Commissioner, Design & Construction. Supervised over 1500 positions. Program size of $400 million representing about 600 projects. Under general administrative direction of deputy commissioner. Responsible for administrative activities and programs of the unit, including budgeting, accounting, purchasing and supply, data processing, and personnel management.

1975 - 1979: Department of Environmental Conservation, Director, Division of Water Programs. Headed up division with major responsibility for statewide planning, water supply, water pollution control, monitoring, construction grants and village safe water programs. Overall manager of $20 million C.I.P. per year grant program for water and waste water systems and $3 million C.I.P. per year for sanitation facilities in rural villages. Responsible for preparing and managing construction of annual operating budget ($2 million/year).

1974 - 1975: Department of Environmental Conservation, Acting Director, Division of Water & Air Quality Control. Duties similar to above.

1971 - 1974: Department of Environmental Conservation, Chief of General Engineering. Responsible for water supply, radiation control, solid waste management, pesticide control, air faculty control on statewide level. Established and directed state's first village safe water program. Responsible for preparation and management of operating budget and management of $8 million C.I.P.

1969 - 1971: Department of Health and Welfare, Regional Sanitary Engineer. Responsible for all environmental health and engineering activities in the northern half of Alaska. Independently planned, directed and controlled all areas of responsiblity as Office Manager. Conducted pollution surveys, assisted government and industry to meet pollution requirements reviewed and approved water/sewer plans.

1967 - 1969: Employed by the U.S. Army as Captain, Sanitary Engineer. Instructor of graduate sanitary engineering officers in advanced sanitary engineering. Also gained practical experience in water supply, solid waste treatment, sanitation, industrial hygiene engineering and air pollution control.

1967 - 1967: Employed by Metcalf and Eddy Engineers as a Sanitary Engineer. Responsible for investigation, laboratory analysis, and reporting on ways to economically improve existing waste water treatment systems for a major west coast refinery to meet state standards for oil and suspended solids content.

EDUCATION

University of California. Earned Bachelor of Science in Civil Engineering. Stanford University. Earned a Master of Science in Civil Engineering. University of Alaska, Juneau and Fairbanks. Engineering and Management, Personnel Management, and Construction Management Systems.

Registered Professional Engineer, Alaska

John C. Bates

BACKGROUND INFORMATION

Summary

Thirteen years of experience in transportation in Alaska. Including design construction planning and administration.

1979 - 1983: Employed by the Department of Transportation & Public Facilities as Deputy Commissioner, Planning and Programming. Administered the development of the state transportation planning system leading to the development of the Department's Capital Improvements budget.

1979 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Interior Region Planning and Programming. Directed the Interior regional development of the State's transportation plans. This included management of consultant contracts in the areas of transportation planning.

1978 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Research. Handled the administration of the Department's research staff. Areas included advanced transportation systems, permafrost engineering related to transportation systems, building and engineering systems.

1977 - 1978: Employed by the Department of Transportation & Public Facilities as State Maintenance Engineer. Establised policy for the maintenance of the States roadways by the various regions. Compiled the Department's statewide M & O budget.

1974 - 1977: Employed by the Department of Transportation & Public Facilities as the Central District Maintenance Engineer.

1972 - 1974: Employed by the Department of Transportation & Public Facilities as the Central District LSR&T Engineer.

1970 - 1972: Employed by the Department of Transportation & Public Facilities as the Central Region Design Engineer.

1967 - 1970: Employed by the Pearl Harbor Naval Shipyard as a General Engineer, GS-11. Was head of the scientific computer section for the shipyard.

EDUCATION

Bradley University. School of Engineering, Peoria, Illinois. Earned a Bachelor of Science in Civil Engineering.

University of Hawaii. School of Engineering, Honolulu, Hawaii. Earned a Master of Science in Civil Engineering.

Registered Professional Engineer in the State of Alaska. Registered Land Surveyor in the State of Alaska

Ronald Lind

BACKGROUND INFORMATION

Summary

1980-1983: Deputy Commissioner for Administration and Marine Operations. Responsible for supervision and operation of five major divisions of DOT&PF with an authorized staff of approximately 1200 and an operating budget of approximately $75 million. These divisions are responsible for the operation of the Alaska Marine Highway, State equipment fleet, data processing development and operation, financial services, personnel, supply, payroll and EEO.

1979-1980: Deputy Commissioner for Administration, DOT&PF. Responsible for direction and supervision of the State equipment fleet, financial management, data processin, personnel, supply and general administrative services of the Department of Transportation and Public Facilities. 400 employees and an operating budget of $25 million.

1976-1979: Director of the Division of Budget and Management, Office of the Governor, State of Alaska. Responsible for preparation of operating, capital and supplemental budgets submitted by the Governor to the Legislature. Provided recommendations to the Governor on fiscal impact of legislation and programs proposed to him for approval. Responsible for presentation of budget revisions to the Legislatvie Budget and Audit Committee (an interim committee of the Legislature) to obtain their approval. Reviewed proposed budgetary amendments of State agencies to assure that they were within legal and policy boundaries.

1973-1976: Deputy Director, Division of Budget and Management, Department of Administration. Responsible for providing recommendations to Budget Director for budgetary items from all State agencies. Responsible for coordination of technical aspects fo budget preparation, printing of budget documents and providing computer tapes to Legislative Finance staff. Provided testimony to legislative committees concerning specific programs and coordinated budgetary information with House and Senate finance committee chairmen. Responsible for analysis and review of the Transportation category.

1972-1973: Administrative Officer III, Department of Commerce. Responsible for the supervision and provision of administrative services of the Department of Commerce. Areas included Personnel, supply and financial activities.

1971-1972: Program Budget Analyst IV, Division of Budget and Management, Department of Administration. Responsible for supervision of budget analysts as well as personally responsible for the analysis of the Transportation and General Government categories. Among others, was specifically responsible for the analysis of the Department of Highways and Department of Public Works.

1969-1971: Budget and Management Analyst III, Division of Budget and Management, Department of Administration. Responsible for the review of State agency budget requests. At this time, the division of Budget and Management had only five professional staff memberts fo the evaluation and preparation of the entire State budget; therefore through rotation of assignments, gained knowledge of all State agencies' operations.

EDUCATION

University of Alaska, Fairbanks, Graduated 1966, Cum Laude, Bachelor of Business Administration Degree.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45 329)

March 8, 1983

Dear Employee:

I want to inform you first-hand of some changes the Department is undergoing to bolster our efficiency in carrying out projects and programs. This entails an improved system of direct responsibility through regional deputy commissioners, each in charge of all of the Department of Transportation and Public Facilities operations, except for the ferry system, for their region. Marine Transportation also will be headed by a deputy commissioner.

Heading regional offices at this time under the new system will be Jon Scribner, as Acting Deputy Commissioner of Southeast region, a move from his post as Deputy Commissioner of Design and Construction; H. "Glen" Glenzer, previously Executive Director of Alaska Construction Industry Advancement Program, as Deputy Commissioner Interior Region; William Snell, who has been a Director of Planning and Programming as Acting Deputy Commissioner for Central Region; and Fred Seeger, formerly a private engineering consultant and construction manager, as Deputy Commissioner for Standards and Statewide Programs.

In other changes, John Bates, who has been Deputy Commissioner for Planning and Programming becomes Director of Planning and Programming, and Ron Lind moves from Deputy Commissioner for Administration to Director of Administrative Policy and Fiscal Management. Marty Nusbaum remains Acting Director of Marine Transportation, pending a permanent deputy commissioner appointment to head the ferry system. Clark Hickey is Coordinator for the Alaska Railroad Transfer Team.

The reorganization is a change of statewide deputy commissioner authority, based on departmental functions, to one of a line organization. The Department through the regional deputy commissioner, can respond decisively to any need in the region, rather than, as in the past, have its power to act fragmented along functional lines.

The only other exception will be planning and programming functions, which will remain on a statewide basis. This unit will not be involved in day-to-day operations, but will formulate the department-wide policies and positions for overall relations with the state agencies and the legislature.

As permanently assigned deputy commissioners proceed on the job, they in turn will make their own assessments of directors and operations. There are several functions in the Department, as regards decentralization, that we need to work through together. Our plan is to initiate task force teams made up of representatives across the Department to develop specific proposals.

I recognize there has been considerable anticipation about possible changes in the Department but the these are in fact only in top management alignment and they impact few employees as to where they are assigned and what they do. I continue to find lots to be proud of, able work and good efforts, and the intent is that these changes will provide more opportunity for lower-level authority and localized team work.

Sincerely,

Daniel A. Casey
Commissioner

State of Alaska
Department of Transportation &
Public Facilities

ORGANIZATION CHART 3/8/83

- DOT/PF Commissioner
  - Special Assistant
  - Exec Secretary
  - Public Info Off.
- Railroad Transfer Team — Coordinator: Mark Hickey
- Interior Region — Deputy Commissioner: Glen Flenzer
  - Design & Construction — Director, Dep. Director
  - Planning & Programming — Director
  - Admin Services — Director
  - Interior MFO — Director
  - Western MFO — Director
  - S. Central MFO — Director
  - Aviation DFC
  - Statewide Research
  - Admin. Office Interior Reg
  - Fairbanks Int'l Airport Manager
  - Hwys & Airport MFO Manager
  - Hwys & Airport MFO Manager
  - Buildings & Harbors DFC
  - Regional Planning
  - Admin. Office Western Reg
  - Hwys & Airport MFO Manager
  - Buildings MFO Manager
  - Buildings MFO Manager
  - Highways DFC
  - C.I.P. Coord.
  - Admin. Office S. Central Reg
  - Buildings MFO Manager
  - Right of Way
  - State Equip. Fleet Interior Reg
  - Tech Serv.
  - State Equip. Fleet Western Reg
  - Nome Residency
  - State Equip. Fleet S. Central Reg
  - Valdez Residency
  - Airport Leasing *
- Central Region — Deputy Commissioner: W.R. Snell
  - Design & Construction — Director, Dep. Director
  - Planning & Programming — Director, Dep. Director
  - Admin Services — Director
  - Maintenance & Operations — Director
  - Tech Serv. DFC
  - Regional Planning
  - Admin Serv. & Support
  - Hwy & Airport MFO Manager
  - Aviation DFC
  - C.I.P Coord
  - State Equip. Fleet
  - Buildings MFO Manager
  - Buildings & Harbors DFC
  - Airport Leasing *
  - Anchorage Int'l Airport Manager
  - Highways DFC
  - Right of Way
- Southeast Region — Deputy Commissioner: Jon Scribner
  - Design & Construction — Director
  - Planning & Programming — Director
  - Admin Services — Director
  - Maintenance & Operations — Director
  - Right of Way
  - Regional Planning
  - Admin Serv. & Support
  - Hwy & Airport MFO Manager
  - Tech Serv. DFC
  - C.I.P. Coord
  - State Equip. Fleet
  - Buildings MFO Manager
  - Hwys & Aviation DFC
  - Airport Leasing *
  - Harbors & Marine DFC
  - Buildings DFC
- [illegible] System — Deputy Commissioner: Marty Newsbaker
  - Director
  - Asst. Director
  - Stewards Port Steward
  - Admin Services
  - Traffic Manager
  - Passenger Services Inspections
  - Engineering Port Engineer
  - Labor Relations
  - Dock Port Captain
- Standards & Statewide Programs — Deputy Commissioner: Fred Seeger
  - Special Assistant
  - Internal Review Chief
  - Stds & Tech Services — Director, Dep. Director
  - Planning & Programming — Director
  - Admin Policy & Fiscal Mgmt — Director
  - Information Services — Director
  - Claims & Bonding — Chief
  - Bridge & Hydrology
  - Unit Support
  - EEO, MSE & Admin
  - Stds & Procedures
  - Engineers in Training
  - Right of Way & L.A.
  - Statewide Planning
    - Transportation
    - Aviation
    - Facilities
  - Financial Management Dep. Director
  - Data Base Admin
  - Engineering Standards & Review
  - Project Status & POS Coord
  - Supply
  - Mgmt Info System
  - M&O Standards
  - Personnel
  - Systems & Programming
  - Technical Services
  - Payroll
  - Central/Internal Systems & Programming
  - Graphics & Mapping
  - Contracts
  - Data Mgmt & Engineering Systems
  - Materials Engineering
  - Airport Leasing *
  - State Equip. Fleet
  - Optics Lab

* All "Airport Leasing" functions and personnel will report to the Central Region's Administrative Services Director until refinements in the organizational structure are completed.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-3281)

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In other changes, John Bates, who has been Deputy Commissioner for Planning and Programming becom Director of Planning and Programming, and Ron Lind moves from Deputy Commissioner for Administration to Director of Administrative Policy and Fiscal Management. Marty Nusbaum remains Acting Director of Marine Transportation, pending a permanent deputy commissioner appointment to head the ferry system. Mark Hickey is Coordinator for the Alaska Railroad Transfer Team.

The reorganization is a change of statewide deputy commissioner authority, based on departmental functions, to one of a line organization. The Department through the regional deputy commissioner, can respond decisively to any need in the region, rather than, as in the past, have its power to act fragmented along functional lines.

The only other exception will be planning and programming functions, which will remain on a statewide basis. This unit will not be involved in day-to-day operations, but will formulate the department-wide policies and positions for overall relations with the state agencies and the legislature.

As permanently assigned deputy commissioners proceed on the job, they in turn will make their own assessments of directors and operations. There are several nctions in the Department, as regards decentralization, that need to work through together. Our plan is to initiate task e teams made up of representatives across the Department to dev pecific proposals.

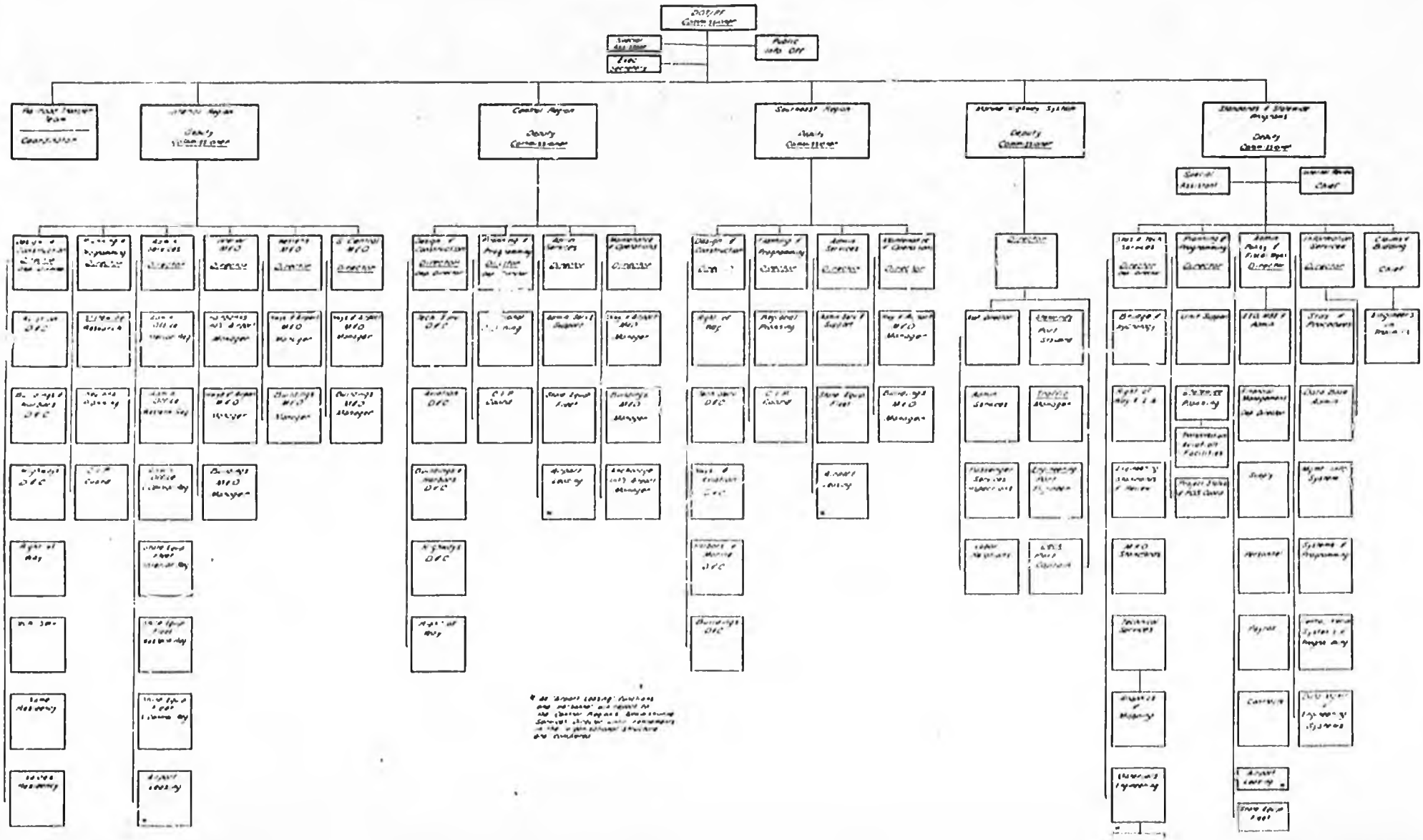
I recognize there has been rable anticipation about possible changes in the Department e these are in fact only in top management alignment and th m act few employees as to where they are assigned and what they do. I continue to find lots to be proud of, able work and good efforts, and the intent is that these changes will provide more opportunity for lowerlevel authority and localized team work.

Sincerely,

Daniel A. Casey
Commissioner

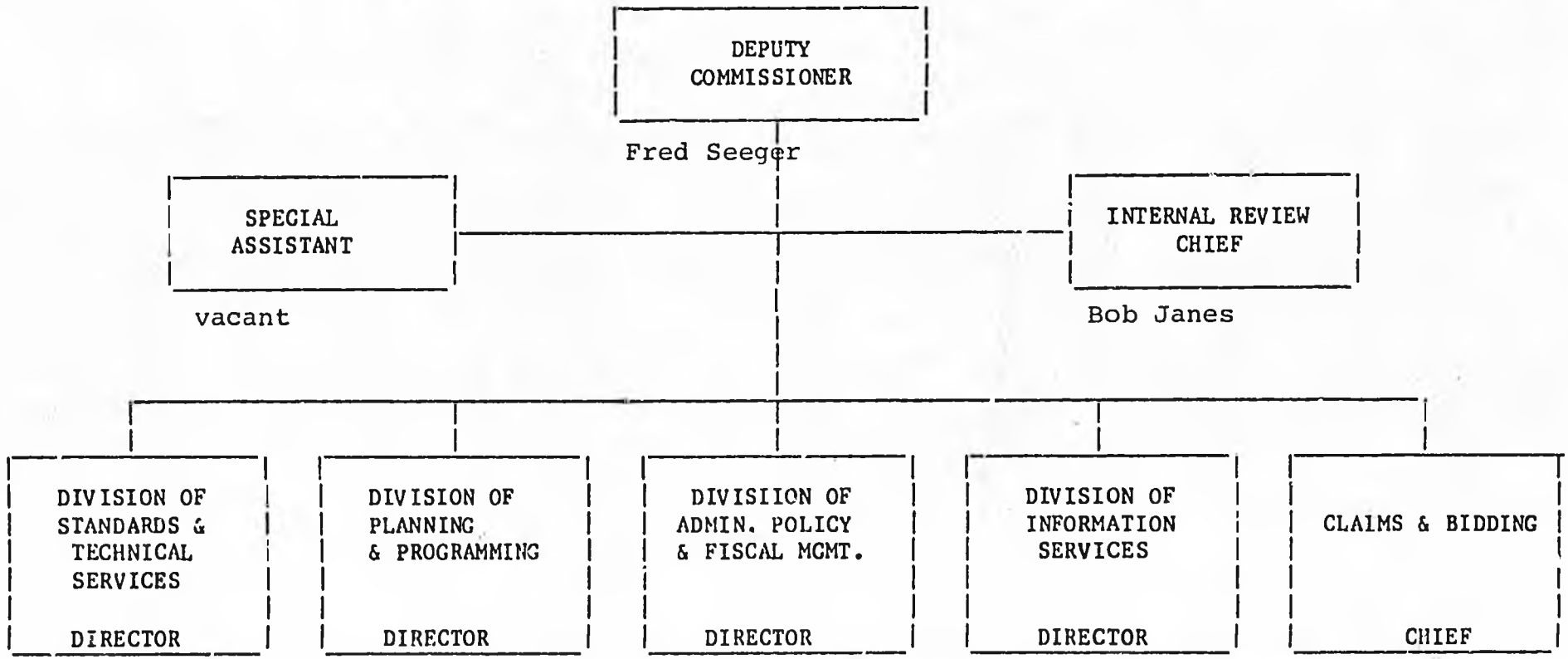
State of Alaska
Department of Transportation &
Public Facilities

ORGANIZATION CHART 3/8/83



DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

STANDARDS AND STATEWIDE PROGRAMS



Approved: _____
Commissioner of Transportation & Public Facilities

Approved: _____ 5/20/83
Director of the Office of Management & Budget

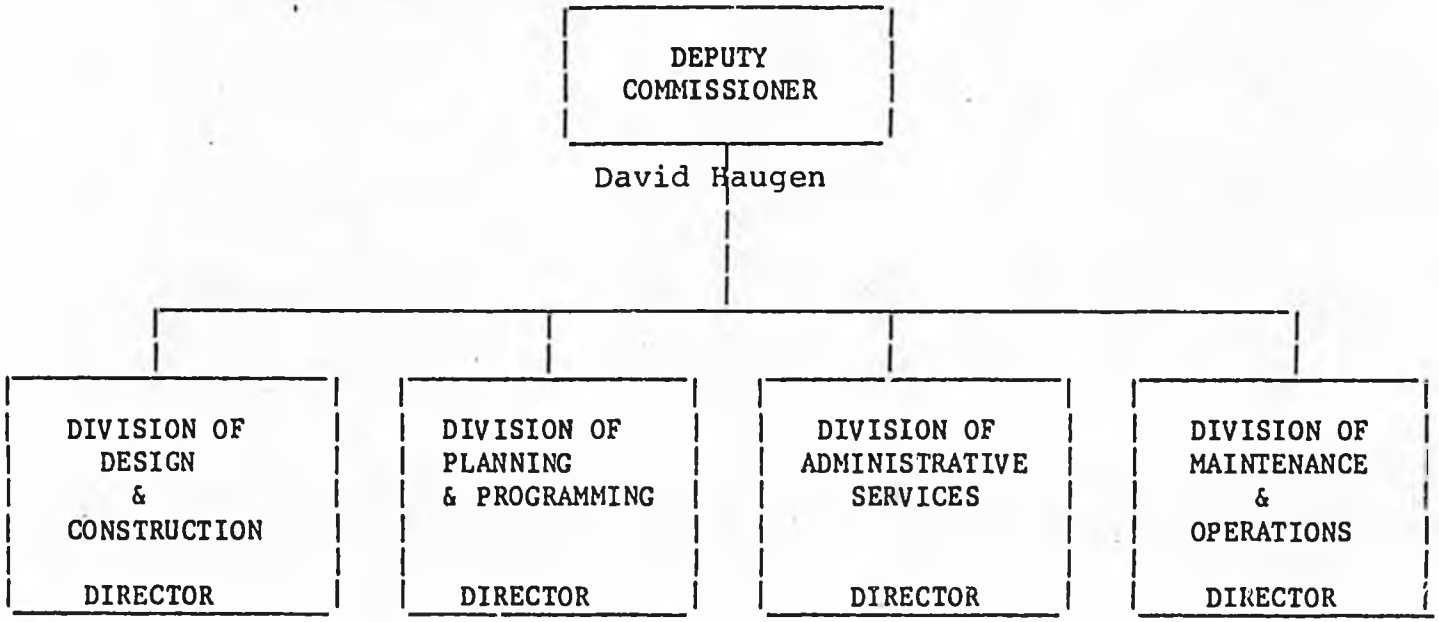
Approved: _____ 5/23
Governor of Alaska

Effective Date: 2/4/83

* Acting

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

CENTRAL REGION



* Acting

Approved: _____
Commissioner of Transportation & Public Facilities

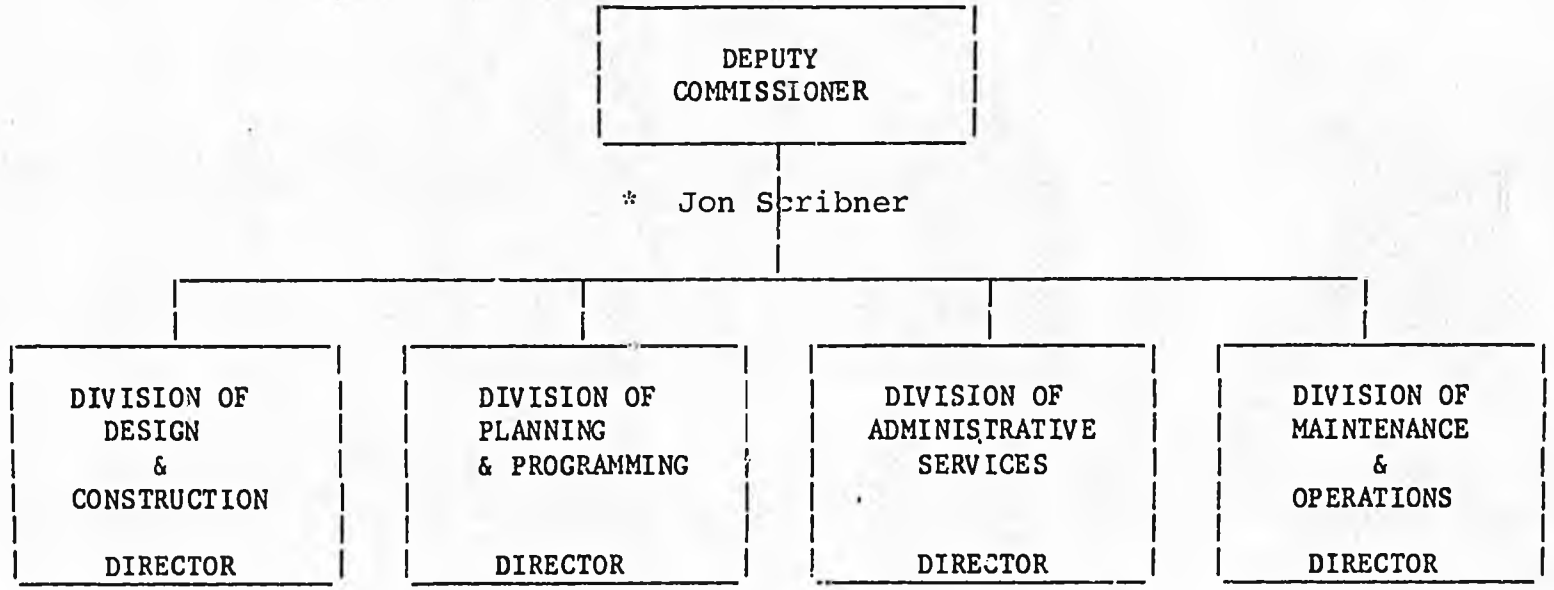
Approved: _____ 5/20/83
Director of the Office of Management & Budget

Approved: _____ 5/23
for Governor of Alaska

Effective Date: 2/4/83

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

SOUTHEAST REGION



* Acting

Approved: _____
Commissioner of Transportation & Public Facilities

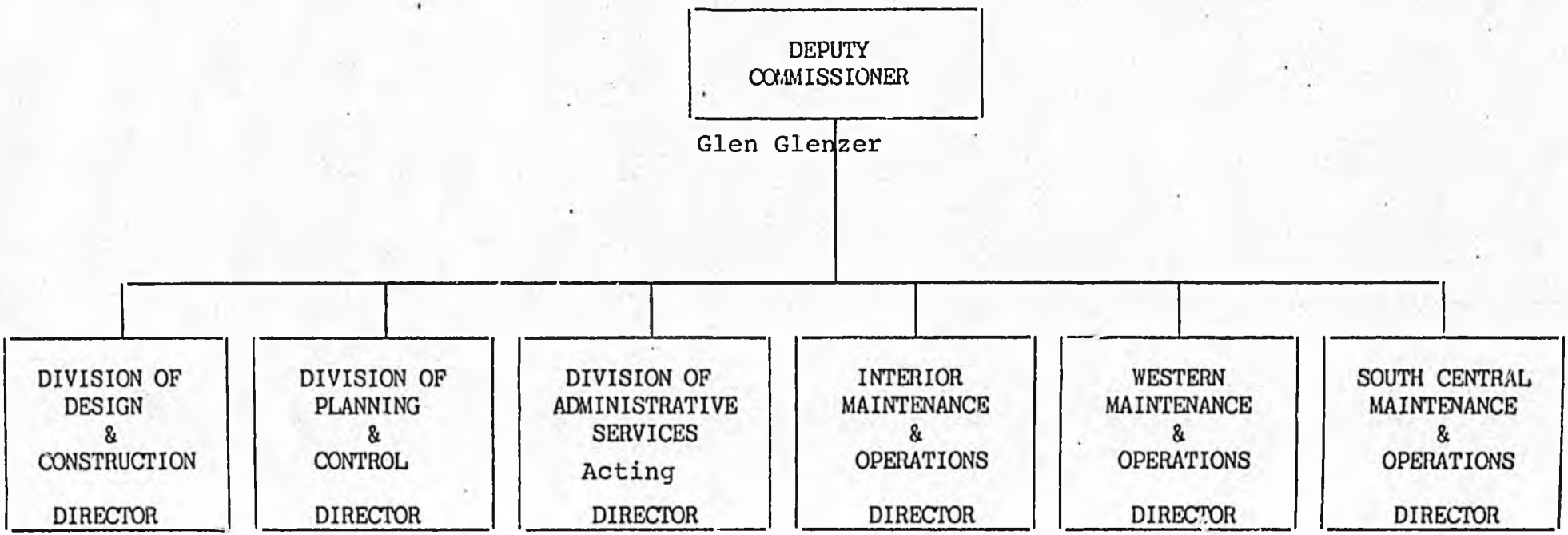
Approved: _____ 5/20/83
Director of the Office of Management & Budget

Approved: _____ 5/23
Governor of Alaska

Effective Date: 2/4/83

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

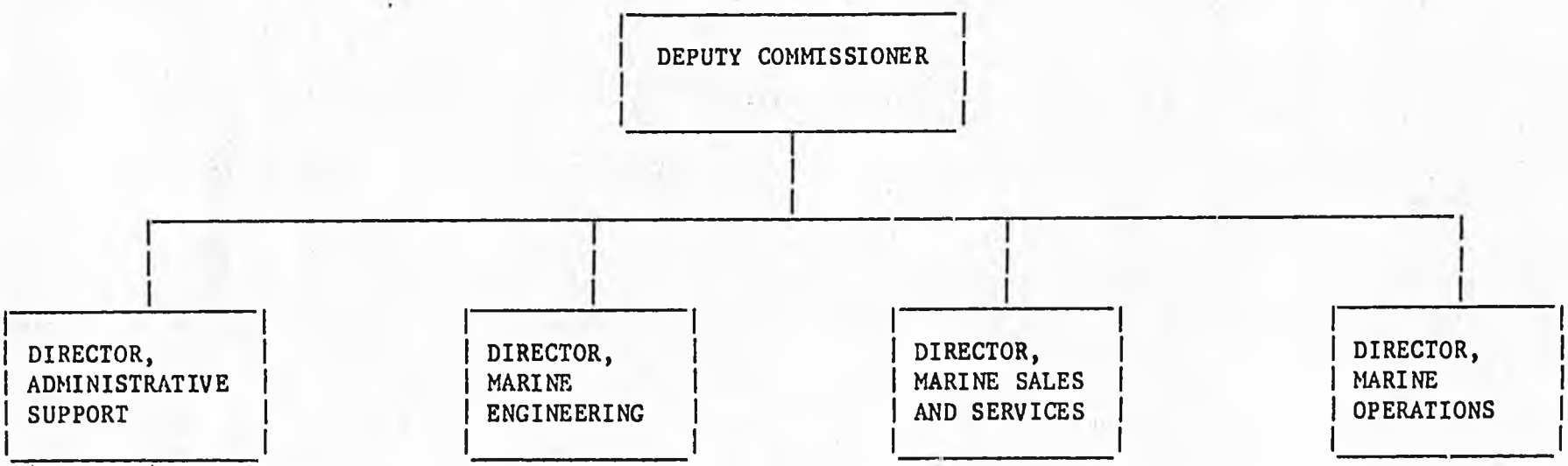
INTERIOR REGION



* Acting

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

MARINE HIGHWAY SYSTEM



* Martin Nusbaum
* Acting

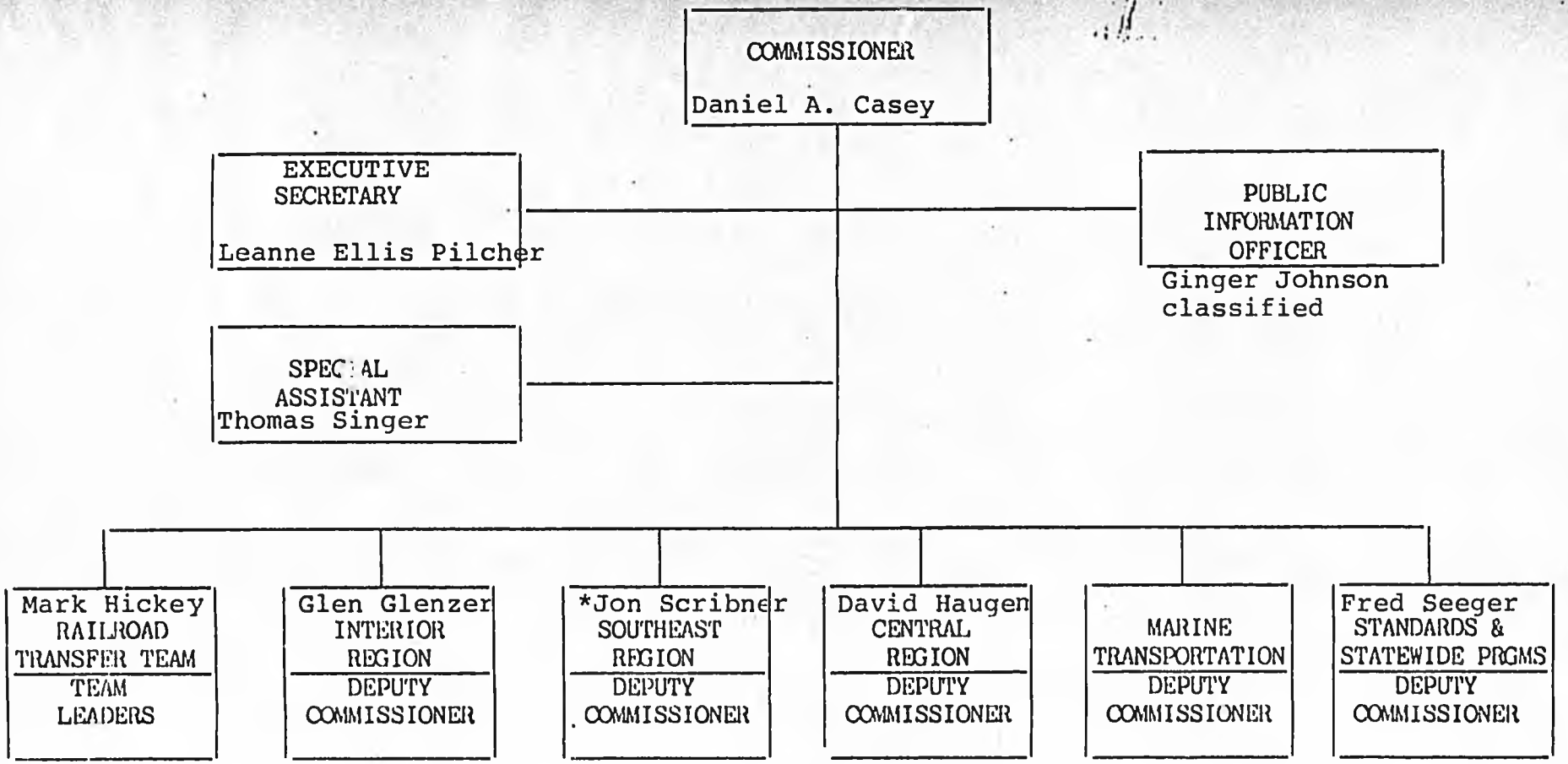
Approved: _____
Commissioner of Transportation & Public Facilities

Approved: _____ 5/20/83
Director of the Office of Management & Budget

Approved: _____
for Governor of Alaska

Effective Date: 5/23/83

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES



* Acting

Approved: _____
Commissioner of Transportation & Public Facilities

Approved: _____ 2/3/83
Director of the Office of Management & Budget

Approved: _____
Governor of Alaska

Effective Date: 2/7/83

CONFIRMATION HEARING
INDEX OF MATERIALS

I Daniel Casey's Resume

II House Transportation Committee questions, answers, and committee minutes of DOT overview.

III Capital Improvement Projects supplemental requests related correspondence i.e. Commissioner Casey's commitments, Committee correspondence to Commissioner Casey and his response.

IV Senate Transportation Committee questions, answers, and committee minutes of DOT overview.

V DOT News Release of March 8, 1983 regarding DOTPF appointments.

RESUME OF DANIEL A. CASEY

Business Address:
3201 'C' Street, Suite 560
Anchorage, Alaska 99503
Phone: 907/276-3868

Home Address:
1901 West 15th Avenue
Anchorage, Alaska 99501
Phone: 907/276-3606

Single 6 feet 2 inches 190 pounds Excellent Health

EDUCATION

1972-74 HARVARD GRADUATE SCHOOL OF BUSINESS ADMINISTRATION Boston, Massachusetts

Received the degree of Master in Business Administration in June, 1974. Degree conferred with High Distinction. Elected Baker Scholar by Faculty. Awarded First Year Honors. General management curriculum, including Urban and Service Operations. Worked with Professor Pifer evaluating financing alternatives for the Trans-Alaska Pipeline and developing a case on the North Slope project.

1964-1972 UNIVERSITY OF CALIFORNIA Berkeley, California

Received Bachelor of Arts degree in Economics, with Political Science minor emphasis in June, 1972. Although at Berkeley only six and one-half semesters, undergraduate schooling was discontinuous for broader work experience prior to selecting graduate curriculum. Freshman Crew Team. R.O. Freshman Leadership Medal. Professorial nomination to Senior Honors Study. Field Project, "High School Aged Mothers and Their Children: A Challenge for Day Care," used later by congressional and legislative investigators and quoted in graduate research. GPA 3.9 during last two years.

1969-1969 UNIVERSITY OF ALASKA College, Alaska

Junior year completed as honor student. Awarded Alaska Businessmen's Association Scholarship. Presidential Representative to Conference on "Development of the Indian Ocean Basin," Annapolis, Maryland.

WORK EXPERIENCE

2 Years MANUFACTURING STRATEGY/MANAGEMENT Connecticut/New York

As Corporate Consultant, developed programs for integrating heretofore autonomous foreign operations. As Manufacturing Team Advisor, served as leading force in formulating organizational strategy for a new plant, including novel compensation and functional responsibility approaches to combat "Blue Collar Blues." Follow-on charge involved supervising startup of first two manufacturing lines.

8 Years PROJECTS MANAGEMENT Anchorage/Cook Inlet/Prudhoe Bay, Alaska

Employed initially as Construction Safety Inspector. Supervised all on-site personnel safety and material quality control for major projects on ARCO offshore platforms. Later, as Construction Superintendent responsible for total systems installations. As ARCO's Administrative and Planning Supervisor, oversaw all cost control, scheduling and contract administration for construction activities at Prudhoe Bay. After progressive technical/management assignments, promoted to North Slope Project Manager responsible for all construction activities for ARCO's Prudhoe Bay facilities. This entails several departments, involving 2,000 people and over $240 million annually.

1 1/4 Years GOVERNMENT RESEARCH/ADMINISTRATION Fairbanks/Juneau, Alaska/Washington, D.C.

Employed as Research Consultant to OEO field team evaluating co-ops as a vehicle for economic development. During 1971 legislature, served as Administrative Assistant for House Commerce and State Affairs Committees. Following this session, retained as Legislative Consultant to develop recommendations for telecommunications legislation and state's strategy. As Consultant to Washington-based consulting firm, developed Alaska telecommunications proposals for federal grant applications.

2 Years FIRE SUPPRESSION Oregon/Alaska

After two seasons as Mounted Wilderness Patrolman, employed as Smokejumper. Mission was quick control of inaccessible fires throughout Northwest, with project fire overhead assignments. Finally, as Line Boss, assumed responsibility for firewide operations on large burns.

PERSONAL BACKGROUND

Have lived in eight states and travelled throughout the United States and neighboring countries. Alaska has claimed most of my time, and through friends, investments and loyalty; my roots are here. Activities and interests include running, insightful reading, investments, skiing, socio-economic policy, tennis and racquetball. Climbed Mt. McKinley. Presented successful arguments before the Alaska Supreme Court reinforcing obligation to advise defendants representing themselves, as well as insuring accurate notice by police officers on citations. Member of Anchorage Chamber of Commerce, Commonwealth North, and the ACLU.

REFERENCES

Personal references available on request. January, 1982

SUPPLEMENT TO RESUME OF DANIEL A. CASEY
WORK EXPERIENCE

LINE EXPERIENCE

3/81-Present ATLANTIC RICHFIELD COMPANY Anchorage/Prudhoe Bay, Alaska

As North Slope Project Manager, Anchorage-based Contract Administration, Accounting, Employee Relations, Labor Relations and Lower '48 based Coordinators were added to my responsibilities. The organization subsequently tripled again with the total Project growing to 2000 people and over $250 million annually. As the largest spending unit for ARCO in Alaska and the largest construction employer in the state, added emphasis was placed on labor relations strategy, contracting strategy, including the involvement of the Native Regional Corporations, incentives for contractors' affirmative action, and community/government relations.

5/79-2/81 ATLANTIC RICHFIELD COMPANY Anchorage/Prudhoe Bay, Alaska

Promoted to North Slope Construction Manager responsible for all aspects of the company's construction activities at Prudhoe Bay. During this time organizational build-up (three-fold) was a major undertaking. Four departments were set up encompassing field construction, administration and planning, quality assurance and safety, and construction support. Warehouses, equipment fleets, camps, EDP systems, policies and procedures were implemented as the construction program grew to require 1200 people at $100 million annually.

6/77-4/79 ATLANTIC RICHFIELD COMPANY Prudhoe Bay, Alaska

As Senior Facility Engineer, supervised a team of engineers and contractors handling one-half of ARCO's field construction activities at Prudhoe Bay. This responsibility encompassed all technical disciplines for process facilities, (including the world's largest gas compression plant) pipelines and civil construction.

9/74-1/76 CUMMINS ENGINE COMPANY, INC. Jamestown, New York

Employed as Manufacturing Team Advisor. Worked with top plant management in developing organizational plans, involving "Plants within a plant" and "Job Enrichment" approaches, for a new, one million square-foot, diesel components manufacturing facility. Supervised debug of new equipment for first two lines, including multiple station transfer machine-tools using minicomputer controllers. Responsible for hiring and training first two manufacturing teams. Developed and obtained top management approval of the application of a system of computer controlled industrial robots and automated conveyance which was a precedent-setting first for the machining industry. These organizational plans, machines and teams are successfully intact today.

6/70-9/72 V. E. CONSTRUCTION, INC. Kenai, Alaska

Employed as Construction Foreman, and subsequently Superintendent. Responsible for new system installations on ARCO oil platforms in the Cook Inlet. Also represented firm in making contract proposals to primary producers. Supervised crew assignments, on-board equipment arrivals, material procurement, on-site changes and startup tests to yield least cost, quality performance without compromising platform personnel safety. (Interim leaves for school and government assignments totaled ten months.)

7/69-2/70 WAGELY CONSTRUCTION INC. (McDERMOTT SUBSIDIARY) Anchorage, Alaska

Employed as Construction Safety Inspector supervising all on-site personnel safety for multimillion dollar projects on ARCO oil platforms. Responsibility included insuring proper use of protective gear, hot work clearance, approval of system tie-ins, and material quality control (ASTM specs and component-system design compatibility).

6/69-7/69 UNITED STATES FOREST SERVICE Anchorage, Alaska

Although scheduled to begin preceding job, employed as Fire Line Boss. Assumed emergency responsibility for firewide strategic planning on several thousand-acre burn. Charge included over three hundred fire fighters from throughout Northwest with numerous tankers, bulldozers, helicopters and transport vehicles.

4/68-9/68 BUREAU OF LAND MANAGEMENT Fairbanks, Alaska

Employed as Smokejumper providing swift attack on new fires throughout Alaska. Assumed major overhead positions on project fires (as illustrated in preceding job description). Assisted in air cargo and loft operations when not deployed.

WORK EXPERIENCE
(Continued)

6/67-4/68 UNITED STATES FOREST SERVICE Cave Junction, Oregon

Employed as Smokejumper. Upon successful completion of jump training, mission was quick control of inaccessible fires throughout Northwest. Winter work included jumps for emergency helispot construction, qualifying for FAA Senior Rigger License and experimental jumps to test new equipment.

6/66-1/67 UNITED STATES FOREST SERVICE Platina, California

Employed as Mounted Wilderness Patrolman. Given an assistant, government vehicles, horses and mules, responsible for fire prevention and game regulation programs affecting visitors to the Yolla-Bolly Wild Area. Also provided logistical support to forest service crews in the back country.

STAFF EXPERIENCE

2/76-5/77 ATLANTIC RICHFIELD COMPANY Prudhoe Bay, Alaska

Employed as Administrative and Planning Supervisor. Responsible for all aspects of cost control, construction planning, contract compliance, document control, accounting, and administrative procedures for the Prudhoe Facilities Project Group at Prudhoe Bay. Directly, or through those managers and senior professional people reporting to me, supervise a staff of 15-40, depending on the level of construction activities. Total project was $1.7 billion.

6/73-9/73 BEROL CORPORATION, INC. Danbury, Connecticut

Employed as Corporate Consultant. Assignment was initiating programs to better integrate marketing and manufacturing operations of heretofore autonomous subsidiaries. Completed firm's first set of international product line displays and data comparisons, proposals for enhancing intercountry marketing and product standardization and a cost/benefit analysis of interaffiliate production mold exchanges.

12/72-3/73 ARTIC ENTERPRISES, INC. Washington, D.C.

Employed as part-time Consultant while at Harvard. Developed proposal suggestions on Alaskan Federation of Natives Application for National Science Foundation Sponsorship of ETV experiment in Bethel, using satellite carry. Assisted in analysis of TELSAT, Canada's Northwest Territories programming application to Alaska.

5/71-8/71 LEGISLATIVE AFFAIRS AGENCY Juneau/Washington D.C.

Employed as Legislative Consultant to develop recommendations for telecommunications legislation in Alaska. Worked with House Speaker, Finance Committee Chairman and State officials on budgetary programs. Represented legislative thinking to those involved in FCC hearings on domestic satellite certification (i.e., Alaskan Congressional Delegation, COMSAT, Fairchild Corporation, HEW, Lockheed, President's Office of Telecommunications, RCA, etc.).

1/71-5/71 ALASKA STATE LEGISLATURE Juneau, Alaska

Employed as Administrative Assistant to the House Commerce and House State Affairs Committee. Given unique dual assignment by the Speaker: Responsibility was smooth functioning of each committee while advising both Chairmen on their personal legislative programs. Either directly or through my staff, exemplary function included arranging for appropriate witnesses and briefs; drafting bills, amendments and press releases; speech and letter writing; and sounding out lobbyists, officials and constituents impacted by bills under consideration.

5/69-6/69 INSTITUTE OF SOCIO-ECONOMIC RESEARCH College, Alaska

Employed as Research Consultant, evaluating central management and finances of Native Fishing Cooperatives in western Alaska. This report provided background for an OEO field team evaluating co-ops as a vehicle for development.

COMMENT For each job held, there exists a standing invitation to return.

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

MEMORANDUM

TO : Dan Casey, Commissioner
Department of Transportation and
Public Facilities

FROM : Rep. Bette Cato, Chairman
House Transportation Committee

DATE : March 7, 1983

RE : Committee Briefing Meetings

In anticipation of your visit to the House Transportation Committee next week, I have put together some general topics that we would like to discuss. At this writing, I am unsure of your schedule as to which day(s) you will be attending the meetings.

The committee had a general discussion of issues in our meeting. Transportation issues are foremost in the minds of many Alaskan's and the committee feels the need to become informed and address these issues.

This list of issues and concerns covers almost all phases and modes of transportation. We would like you to address these discussion questions and it has been strongly requested by the committee that as much visual aid as possible be used in making your presentation, i.e. maps of proposed roads and facilities, etc.

-We have been led to expect a change in the philosophy and in organization of the Department of Transportation and Public Facilities from the previous administration. Is this true and in what ways will it be different?

-What is your policy, as Commissioner, and that of the Governor, on surface transportation on new and existing infrastructure, such as: Alaska Highway, other state highways.

-In regards to Capital Improvement Projects, what are the plans of DOT/PF for new and existing projects; i.e. major international airports, rural airports, strips? Would you describe the system you use to put together the CIP

proposal? What are the priorities? Who determines the priorities?

-What improvements have been made or will be made to the Alaska Marine Highway System? What is the ferry maintenance plan for the ferries? What are the completion dates? What is the overall plan for the next 6 years for new and existing dock and port facilities; river transportation?

-What priority does maintenance have in DOT/PF? What is the status of maintenance on new and existing roads? Are you keeping up with the State of the art? What is the feasibility of contracting maintenance?

-How do you plan to develop a regional organization structure to improve the efficiency of administering the CIP within the region?

-Do you plan to increase, decrease or maintain the present level of department-wide personnel? How will you make DOT more responsive to local entities?

-How do you plan to improve dialogue with the Legislature to notify them of funding problems or other technical problems on approved CIP's?

Do you plan to continue the Local Service Roads and Trails program?

In addition to the above "discussion" questions, the committee has requested the following questions be answered with a written response:

1) Do you have established procedures for review and control of incumbrances and related expenditures in the capital projects area in accordance with the State Administrative Manual? Is a copy of these procedures available? Who is responsible for assuring they are being followed?

2) "What" type of monitoring and "who" monitors departmental expenditure controls and budgets to prevent overexpenditures? (travel and other)

3) Are specific and distinct appropriations commingled or combined for reporting purposes on the Management Information System? What on the MIS differentiates between allocations, appropriations or bonded projects? How are theses handled by the Department?

4) How do you plan to improve budgetary and expenditure controls over Reimbursable Service Agreement projects?

5) How do you plan to improve flow of data to Legislators (existing project status, funding levels of projects,

expenditures to date, etc.) and also how do you intend to provide estimates for future Capital Project appropriations? Does DOTPF reduce program appropriations when program revenues fall short and request supplemental appropriations? Or are funds transferred from the accounts to make up the shortfall? How is this handled? Who makes the determination of shortfall or overexpenditure?

6) Do you maintain perpetual inventory systems that provide accurate accountability of departmental assets?

7) What determining factors are used to justify transfer of expenditures between budget accounts? Transfer between appropriations? What happens to balances in accounts after projects are completed? Are General Fund project authorizations left on DOTPF books after projects are completed for use at a later date? Once a project is closed what is considered a "late" billing? What method is used to allow funds to remain for payment of these bills?

8) Do you obtain legislative approval before expending program receipts? Are expenditures against program receipts approved by the legislature?

9) Is it the procedure of DOTPF to reduce appropriated CIP funds to establish funding for administrative and planning positions that were not approved in DOTPF's operating budget request? If so, are these truly associated projects costs or operations cost?

10) What is your formal budgeting process for CIP planning and overhead cost?

11) What accurate and timely financial information is available on various projects?

12) Do you have a two-year(or two-phase) budget cycle for projects appropriated by the Legislature as additions to the Department's proposed budget?

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

March 25, 1983

MAR 2 [illegible] 1983

The Honorable Bette Cato
Chairman
House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Thank you for the opportunity to respond in writing to the questions you raised in your March 7 letter. To shorten our reply, numbers were assigned to each paragraph and our response follows in the same sequence.

1) Yes we follow the State Administrative Manual and in addition a copy of the appropriate section of our Financial Management Operations Manual is enclosed for your information.

2) Project Managers and Section Heads are responsible for monitoring expenditure controls and budgets through the review of cost accounting records indicating funds which are expended and their own projection of funds required to complete the work.

3) The control of appropriations and accounting by allocation as contained in legislation is done through the state accounting system and not the Department's current Financial Management System, FMS. Our current FMS provides reporting capability which identifies the project number and the various state accounting codes associated with it, as well as the total funding and expenditures related to the project.

The Management Informations System (MIS) which we are developing will continue to be subsidiary to the state accounting system but its capability to provide information concerning legislative allocations, appropriations, funding sources and interrelationships of projects will be greatly enhanced.

5A-T2LH

4) Individual RSA's are set up in a separate State accounting code and separately controlled. Identification of funding data and related controls will be enhanced by the MIS.

5) We have completed develoment and have entered the operational phase of automated systems called Program Development System (PDS) and Scheduling and Resource Allocation System (SRA) to provide the Department and the Legislature with more timely information. Also a publication entitled "Capital Budget Project Status" is enclosed.

Estimates for future capital project appropriations will be developed during the Capital Improvements Program process or via fiscal notes. When funds are not adequate to complete a project, continguency funds are used if available. If those funds are not available, then other projects in the allocation are reviewed for possible transfer. If funds are not available, and the scope of the project cannot be reduced, a supplemental is requested to complete the project.

Funds transferred between projects are handled in accordance with statutory procedures.

6) Perpetual inventory is maintained for accountable property and items of a sensitive nature, such as guns, ticket validators, museum items and licensed communication equipment.

7) Transfer between budget accounts are evaluated for their impact on each activity. Budgets are estimates made some time in advance, and there is a need as well as an expectation that changes will be required. Managers are expected to make these adjustments to provide the highest priority service. Each condition requires a separate evaluation. Transfers between appropriations may only be made by a bill which is enacted into law and, therefore, is also evaluated by the legislature.

Project balance are "left on the books" if there is an expectation that they will be needed to complete other projects in the same allocation. A project is then closed so that new activities may not be started, however, the funds are not immediately lapsed. A late billing, if received after closure but before lapse, would be paid by "reopening" the project record to allow payment. If the funds had been lapsed, the billing could only be paid from a contingency source or held and submitted to the legislature for a supplemental appropriation.

8) Our procedure is to obtain legislative approval before spending program receipts.

9) The Department does not reduce CIP funds to establish funding for administrative and planning positions. Since FY83, all planning and administration positions are listed in the operating budget.

10) All CIP planning and overhead costs are shown in the operating budget request.

11) We have monthly full cost reports; however, there is a four to six week delay in the personnel and equipment information due to processing and printing time. This should be corrected when the FMS becomes operational.

12) Once funded and approved, legislative add-ons are handled in the same manner as projects developed by the Department. There are no special two year budget cycles for those projects. Projects that we do not have Preliminary Engineering or right of way for, usually take two years to complete. For projects that are scoped and have cost estimates with adequate data, through Public Facilities Planning Fund funding or advance project definition funding, the Department uses a one year cycle.

During the coming months, you can expect to see improvements made in several of the areas of concern.

Sincerely,

Fred J. Seeger
Deputy Commissioner

Enclosures

cc: John C. Bates
Wayne E. Weeks
Ron Lind
Daniel A. Casey

FJS/WW/ag

CHAPTER: Accounts Payable

SUBJECT: CIP Project Contract Payments & Encumbrances

EFFECTIVE: February 1, 1982

UNIT: Regional Accounting Units

PURPOSE:

To establish a standard procedure for the payment and encumbering of CIP contracts.

POLICY:

The CIP Project Authorization Balances (R01-TBR-1615) will be referred to when preparing all CIP project contract payments and encumbrances.

PROCEDURE:

The instructions for preparing a payment or encumbrance on a CIP project contract are:

1. The payment clerk must verify that the collocation code where payment of encumbrances is requested is on the Outstanding Encumbrance Analysis under that project.

2. The payment clerk will check the project number in the R01-TBR-1615 (1615) to verify that sufficient funds are available in the project collocation code being encumbered, and the project net balance is sufficient to pay the bill or encumber the cost.

3. If the funding and collocation code do not agree, or if funding is not available, the clerk will inform the Accounts Payable Supervisor.

The Accounts Payable Supervisor will do the following:

1. Contact Budget & Analysis to determine if funding is available and in process of being input into FMS. Also determine what collocation code the funding is being recorded into in FMS.

2. Notify person who requested payment or encumbrance of funding of the collocation code problem.

3. Notify Planning & Programming of any project funding problem that cannot be solved by Budget & Analysis.

If supervisor is unable to solve the problem, the Accounting Supervisor and Regional Administrative Officer are to be notified and will take whatever action is necessary to bring the problem to a conclusion.

Project funding must be available in the 1615, or a PDA to establish the funding must have been received before bills are paid or contracts encumbered.

If the payment and/or encumbrance passes the manual edits, the documents can be prepared and processed. If the payment is against an encumbrance consult the latest Outstanding Encumbrance Analysis, use either a 371 or 381 transaction code and hand code the collocation code on to the document.

Any final payment against an encumbrance should use a 381 transaction code, though since this will liquidate the entire encumbrance, supervisory approval must be sought before this transaction code may be used.

HOUSE TRANSPORTATION
STANDING COMMITTEE
March 9, 1983
8:30 a.m.

Members Present: Rep. Cato, Chairman
Rep. M. Miller, Vice-Chairman
Rep. Phillips
Rep. Lacher
Rep. Davis
Rep. Herrmann
Rep. Abood
Rep. Szymanski

Members Absent: Rep. McBride

COMMITTEE CALENDAR

Department of Transportation Overview/Discussion of issues and concerns

WITNESS REGISTER

Dan Casey
Commissioner
Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811
465-3900
Position Statement: Respond to committee questions and explain re-organization of department.

PREVIOUS ACTION

NONE

ACTION NARRATIVE

TAPE #22
Recording
Number 0003 Chairman Cato called the meeting to order at 8:35 a.m. Staff present were Rhonda Cargill and Steve Soenksen. The purpose of this meeting was to talk with Commissioner Casey as to what his plans and programs are for the department and to give the committee a chance to ask various questions.

Number 0041 Commissioner Casey began his presentation by

explaining he had just returned from Fairbanks where he made an announcement of his appointments and to describe his shift from a functional organization to the line management organization. This change includes the establishment of three regions with headquarters in Fairbanks, Juneau and Anchorage, as well as a stand alone organization in the marine highway system and a headquarter's organization titled Standard and Statewide Programs. He gave further explanation of the above.

Each region will have a Deputy Commissioner who will have resources reporting to them in regions that execute the program. These appointees include: Glenn Glenzer-Interior; Riley Snell, Acting Deputy Commissioner for Anchorage; John Scribner, Acting Deputy Commissioner, Southeast Region.

Number 0112 — Rep. Phillips requested resumes and re-organization plans in writing in save some time.

Number 0124 — Commissioner Casey agreed and finished with information that a Deputy Commissioner for the ferry system has not been appointed but Marty Nusbaum is Acting Director; Fred Seger is Deputy Commissioner for Statewide Standards Programs. John Bates is Director of Planning and Program within the Standards and Statewide Programs; Ron Lind is Director of Administrative Services within the Standard and Statewide Program.

All Directors are acting until the Deputy Commissioners have been put in place and have had the chance to work with the Directors and they will have the latitude to make a decision.

In terms of a change in philosophy; the change from an organizational management to a line organization structure is reflective of personal style preference and feels that the Deputy Director level will provide for better teamwork and coordination of functions at local levels; explanation of reorganization plans.

One change Commissioner Casey pointed out is the moving of bid openings to local regions rather than in Juneau; try to get in place

prior to summer construction programs.

Questions and discussion on procedures for bid openings.

Commissioner Casey continued that he would like to see more emphasis on project control and cost accounting; the department realizes they have a long way to go. Needs more visibility on regular reporting basis on distinction between engineer estimates and actual bids received; then can highlight the differences and focus attention on improvement.

Will apply the concept of the learning curve to project improvements or problems for projects in order to be more effective.

In regards to cost accounting in relationship to maintenance and operation; maintenance and operation had been funded at maintenance level or continuation level. He has grave concern of "deferred maintenance". He feels there are techniques which can be applied to get a handle on what those maintenance liabilities are; ought to be able to catalogue the capital stock of transportation facilities and public facilities...to compute the total budget of what maintenance should be. One of the challenges the department has is, exactly where does the department stand on maintenance liabilities as compared to traditional maintenance levels; to get a better judgement on development of the budget.

Number 0336

Rep. Abood asked if Commissioner Casey has any plans for replacement of equipment for road work or if he will contract it out to private industry. Also interested in the type of equipment which can be used for interchange...to become more efficient in equipment problems.

Number 0358

Commissioner Casey replied that they do charge equipment at hourly rate (or milely rate) to cover maintenance cost as well as replacement cost. This year's operating budget reflects a decrease to cover maintenance cost and depreciation of equipment.

As a matter of philosophy, we should position users to have increased flexibility to make their own trade-offs between cost to use the state equipment fleet and cost to use private sector provided equipment. Commissioner further explained cost effectiveness of equipment.

Number 0418 — Chairman Cato asked if Commissioner Casey will continue his low bid equipment procedure, whether equipment fits the situation or not?

Number 0430 — Commissioner Casey explained that where you have a defined scope, low bid is the best way to go. The problem you may have with the equipment not doing the job, may not have defined specifications for equipment provisions; then have to make sure low bidder is meeting specifications.

There has been frustration relative to control and selectability of equipment. Within the re-organization, have decentralized responsibility of equipment within the regions. There needs to be statewide procedures and policies and accounting, which will attempt to give more authority over equipment fleet at lower level so those people can budget to do the work within the budget - alot of trade-offs. Create environment of delegation and accountability; area manager responsible for maintenance of road system within the budget.

Number 0468 — Rep. Phillips asked if the $85 million the administration has projected is for the three regions.

Number 0472 — Commissioner Casey replied yes; the type of projects would merit conclusion in capital budget as opposed to part of maintenance and operation.

Number 0480 — Rep. Phillips asked what projects are in the $85 million.

Commissioner Casey referred to John Bates who then listed the various projects which would cover all major highways in the State.

Number 0499 — Rep. Phillips asked how they do research? Who are you dealing with as far as research?

Number 0508	Commissioner Casey said that the research division works at the U of A campus. He went into further detail explaining about the research division and John Bates added to the types of research which has and is being done. Further discussion and questions by the committee.
Number 0652	Rep. M. Miller requested a listing of equipment in different regions. Discussion of equipment and inventory.
Number 0702	Commissioner Casey ended with voicing his concerns with the equipment and accountability and realized there are legitimate concerns which DOT should be able to have control over and that needs to be addressed.
Number 0719	Meeting was adjourned.

HOUSE TRANSPORTATION
STANDING COMMITTEE
March 11, 1983
8:33 a.m.

Members Present: Rep. Cato, Chairman
Rep. M.Miller, Vice-Chairman
Rep. Lacher
Rep. Herrmann
Rep. McBride
Rep. Phillips
Rep. Abood
Rep. Davis

Members Absent: Rep. Szymanski

COMMITTEE CALENDAR

Department of Transportation/Overview

WITNESS REGISTER

Daniel A. Casey
Commissioner
Pouch Z
Juneau, Alaska 99811
465-3900

John Bates
Deputy Commissioner
Planning and Programming
Pouch Z
Juneau, Alaska 99811
465-3900

PREVIOUS ACTION

NONE

ACTION NARRATIVE

TAPE#24, Side 1
Recording
Number 0003

Chairman Cato called the meeting to order at 8:33 a.m., and indicated the members present. Staff members present were Rhonda Cargill and Steve Soenksen. Chairman Cato requested Commissioner Casey to go through the DOT news release which tells of his appointees as she noticed quite a few

individuals have remained.

Number 0034 — Commissioner Casey asked to defer the question as the members' copies didn't appear to have the organizational chart which should have been attached. Commissioner Casey continued on with an explanation of the policy development regarding surface transportation. He explained the dramatic shift of $85 million in the capital budget and the development of a policy and cost...surface maintenance of state inventory. DOT is working on an inventory of road systems and has a good handle on the amount of years a road will last between refurbishing; department needs the inventory of these life cycles and test the budgeting to maintain inventory stock.

Discussion of inventory of roads.

Number 0158 — Rep. Herrmann asked about plans for rural Alaska refurbishing.

Number 0164 — John Bates answered that in this budget road systems in rural areas were not in the plan for refurbishing; but rural airports were.

Discussion of refurbishing roads - techniques, gravel and paving - effectiveness.

Number 0214 — Discussion of making trade-offs and questions of existing capital stock and new facilities. Commissioner Casey pointed out that through needs assessments over $6 billion of needs have been identified.

Commissioner Casey; what isn't known is on annual basis how much should the administration spend? Don't know where the breaking point should be - directionally concerned with maintenance.

Number 0290 — Rep. Davis asked if they knew how long it will take to know how much to take.

Number 0295 — Commissioner Casey felt alot of background has been put together and alot of history can be pulled out, its a matter of pulling it together before the 1985 budget process. Commissioner Casey continued to give explanation on what should be spent out of the operating budget on maintenance; the

volume has grown but the budget has been kept at a continuation level. He also gave policy for new and existing infrastructure, trade-offs and examples of projects and reason for road access and dock facilities.

Commissioner Casey said they are wrestling with the "authority" concept. Authorities were originally envisioned as optimism match that revenues will meet their cost - they are stand alone; viewed with public sector domain...explanation of policy view on authorities.

Number 0453 — Rep. Phillips showed interest in the planning process and explained that presently the delegates had to try to initiate planning and design and he feels this is DOT's responsibility.

Number 0470 — Commissioner Casey was in agreement and explained that in port it is happening; but it's not being done sufficiently. The Commissioner gave an example of recent meeting with Kenai Peninsula delegation where the people are marching together.

Continuation on discussion of planning process.

Number 0565 — Chairman Cato asked about the department's priority list.

Number 0570 — Commissioner Casey explained the problems of prioritization and the introduction of using a rating sheet for each project, its the beginning of an effort to recommend priorities on basis all can agree to. He feels one problem both the Administration and Legislature has is to educate the public of the gap between "needs" and "money available". Once the public is appreciative of the gap, then they can do battle with merits and try to reach an agreement.

Discussion on public understanding of gap, on percentage of money spent on planning as opposed to construction and what it takes to get a project done.

Number 0766 — Brief discussion on what is done with money not in use, (invested by Department of Revenue).

Number 0793	Brief discussion on gag rule, more delegation of responsibilities within the department.
Number 0835	The meeting was adjourned.

HOUSE TRANSPORTATION
STANDING COMMITTEE
March 16, 1983
8:30 a.m.

Members Present: Rep. Cato, Chairman
Rep. M.Miller, Vice-Chairman
Rep. Herrmann
Rep. Abood
Rep. Phillips
Rep. McBride

Members Absent: Rep. Davis
Rep. Lacher
Rep. Syzmanski

COMMITTEE CALENDAR

Commissioner Casey, Department of Transportation Overview

WITNESS REGISTER

Daniel A. Casey
Commissioner
Department of Transportation and
Public Safety
Pouch Z
Juneau, Alaska 99811
465-3900

Fred Seeger
Deputy Commissioner
Standards and Statewide Programs
Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811
465-3900

Jon Scribner
Acting Deputy Commissioner
Southeast Region
Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811
465-3900

John Bates
Director
Planning and Programming

Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811
465-3900

PREVIOUS ACTION

See minutes of March 9, 11 and 14, 1983.

ACTION NARRATIVE

TAPE#26, Side 2

Recording Number 0003	Chairman Cato called the meeting to order and indicated all the members present. The purpose of the meeting was to talk with Commissioner Casey on the reorganization of the department and questions of the Marine Highway System.
Number 0050	Rep. Phillips requested visual aid for the Governor's budget on roads, airstrips, ports, docks and etc., and get down to the Administration's plan for the next four years.
Number 0075	Chairman Cato; referring to the memo - have not received written response to the questions we posed.
Number 0086	Rep. Abood; (February 3, 1983), December 1981 - Capital Improvement Projects - status projects; noted there were allocations made for project - fund sourcing - total of $5-9 million for Sand Point dock, but its not in the book.
Number 0114	Mr. Scribner said the reason the Sand Point project is not in the book is because its a completed project.
Number 0131	Mr. Scribner said it took all the money, plus there was a design error, and so the Legislature last year funded additional funds for the project. They went back to the designer who made up the money on error; the money goes back to the state.
Number 0152	Rep. Abood requested a breakdown on monies given and recuperated on Sand Point project.

Further discussion on funding of Sand Point project and old ports and harbor bond issues; enabling legislations.

Number 0292 — Rep. Abood; Capital Improvement Project status project system is provided for the Legislature? Is this report compiled from data by the department? Is it used for anything other than for Legislature?

Number 0299 — Mr. Bates stated it actually wasn't developed as main function of reporting to the Legislature. It was developed to keep the people above the project manager informed of the capital project status, its a quick and easy reference. It started two years ago in the House as a tool to keep track of capital projects because the existing accounting system was not oriented to keep track of capital project system; actually stored in computer in Texas contracted with Boeing. Developed a new Management Information System which takes over project status system and puts on state computer. It started 2 1/2 months ago and still debugging the program; its a major effort; installing capability to have regional office input on active basis. Inter-active type data with Texas, it can get information from terminal once the data is converted from the old system.

Further discussion on new data system and access to reports, it should be on screens for next session.

Number 0396 — Rep. Abood said one or two years ago the Legislature came up with over $900 million in balance of total Capital Improvement Projects - what happened to the balance?

Number 0406 — Mr. Scribner; have a breakdown of what the Legislature authorized - actual contract awards - $900 million; looked like $500 million did not get out; in between showed $1.1 billion; cash available got out $900 million; $1.1 billion and $1.4 billion authorized; backlog of $200 million - backlog of one year of projects. Mr. Scribner continued to explain breakdown of funds, including federal funds and what happened there and (over program funds).

Discussion of response to memo written by

committee to Commissioner Casey.

Number 0483 — Rep. Abood said will the report show balance of Capital Improvement Projects?

Number 0490 — Mr. Scribner gave a summary of the balance.

Number 0503 — Rep. Phillips; seems you don't know where committee is coming from on direction of committee in relationship to DOT.

Number 0521 — Rep. Abood; do you understand the committee's problem with DOT?

Number 0526 — Mr. Scribner; we see problems from different points of view and trying to communicate.

Discussion by committee of communication between the department and committee; committee's purpose as oversight committee for DOT.

Number 0661 — Chairman Cato; plans to make reason out of chaos on the marine highway system.

Number 0666 — Commissioner Casey; do not sense attitudinal problem but workable problem and lack of understanding. Takes re-organization to operation while Legislature is in session. Commissioner Casey's presentation of problem and solution to communication with the Legislature.

Number 0719 — Rep. Phillips; is there one person to contact to get answers on a variety of problems?

Number 0756 — Commissioner Casey; don't have ready answers but do agree should give you answers minus a number of transfers.

Number 0791 — Commissioner Casey gave explanation of reorganization plan referring to the organizational chart. He explained the role of the Deputy Commissioners as having responsibility for execution in his regional area; the purpose of the standards and statewide programs division and if a policy is unique to a division or region. He used the Marine Highway System as an example - pointed out the problems and reasons for the problems and the steps to be taken for solutions. He also explained the importance of the visibility of management level and

giving more attention to the system.

Commissioner Casey also explained the concept of "authorities" and where he feels the difference of opinion lies between Chairman Cato and DOT on establishing a Marine Highway Authority.

He asked the patience or indulgence of the committee on the Marine Highway System for him to bring "quality" to the system.

Number 0931

Chairman Cato adjourned the meeting.

MAR 23 1983

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

March 18, 1983

Representative Al Adams, Chairman
House Finance Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Legislators:

The Governor's FY '83 Capital Improvement Projects supplementary request (SB 162) includes provision for funding allocations to cover both State executed programs as well as grants. Recognizing this change in approach for DOT&PF from the past several years, I would like to provide some accompaning commitments on my part and this Administration's part.

Allocations for Department-executed projects are important in recognition of inadequacies inherent in the estimating process that occur at the early stages in a project's evolution. On the other hand, I empathize with the frustration on the part of the Legislature and the Public where in the past some projects, approved on an allocation basis, were subsequently shelved because of agency desires to expend monies for differing projects or to spend more money on one project than anticipated to the detriment of another project. Not only is legislative intent undetermined in the latter case with regard to which projects should be undertaken, but also, within a reasonable range of dollars, the legislative intent with regard to even authorizing a project based on the Legislature's and Governor's comparison of merits relative to anticipated cost. To notably increase the amount of money spent on a given project is to undermine the decision making process. Consequently, the Legislature and the Governor may not have approved that project had they known it was going to involve significantly higher cost. Therefore, I pledge the following policy for the Department of Transportation and Public Facilities:

> EVERY PROJECT WILL BE EXECUTED AS LONG AS THE SCOPE CAN BE COMPLETED WITHIN THE DOLLARS SET FORTH IN THE FUNDING BILL APPROVED BY THE LEGISLATURE AND SIGNED BY THE GOVERNOR. THIS WILL BE THE CASE EVENTHOUGH THE MONIES ARE APPROVED ON AN ALLOCATION BASIS. IN ADDITION, ANY PROJECT WHERE IT IS ANTICIPATED THAT THE COST WILL EXCEED THE CORRESPONDING LISTED AMOUNT IN THE BUDGET BY MORE THAN 20% WILL BE TERMINATED UNTIL SUCH TIME AS LEGISLATIVE APPROVAL IS OBTAINED TO PROCEED AT THE REVISED HIGHER COST ESTIMATE.

The above approach will accommodate a reasonable estimating range wherein projects may be completed for somewhat more cost than anticipated at the time the original budget estimate was developed. At the same time, if the costs exceed that budget estimate by a certain amount (as determined by the percentage) the Legislature has an opportunity to review whether or not the anticipated benefits still are meritorious in light of the additional cost. In the absence of allocation flexibility, however, we lose the ability to proceed with projects involving nominal estimating variances until the reconvening of the Legislature.

SA-T1LH

As many of you recognize, this trade off between cost control through the line item appropriation and execution flexibility through allocation has been, in the past, presented in extremes that have prevented the advantages of both. I am hoping that the approach contained herein will provide an optimal balance. I might add that similar flexibility is a common practice for construction projects within the private sector.

The administration of grants through the Department is also an area in the past that has been of concern. Once concern involves experiences where overhead charges appeared to be unreasonable coupled with the untimeliness of funding transmittals to local municipalities, etc. In addition, the Department was not charged with reviewing grants and sponsoring grant programs in parallel with those program that it was to execute directly. We have implemented several changes in the last year and most recently in the last few months in this regard. First, overhead costs for grants and Transfer of Responsibility Agreements (TORAs) are now statutorily funded through the Department's Operating Budget and thereby are not charged to specific projects. In addition, through the Municipal Grant Laws Procedure, if a grant is designated as such under the Department of Transportation and Public Facilities heading within a funding bill, the Department has the responsibility to execute the grant within the same statutory and regulatory guidelines as the Department of Administration. Accordingly, we make the following commitments as already supported by statute and regulation:

> THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES WILL EXPEDITE THE DISBURSEMENT OF GRANT MONIES TO THE DESIGNATED RECIPIENT AS HAS BEEN HANDLED IN THE RECENT PAST BY THE DEPARTMENT OF ADMINISTRATION AND WILL NOT WITHHOLD ANY PORTION OF THOSE GRANT MONIES FOR ANY STATE COST.

The advantages of the above approach are similar to the allocation and overrun limit policy previously described. A combination of the expedited fund flows for grants as was sought through the Department of Administration intially and retaining a linkage to DOT&PF to work with the communities in reviewing grant proposals, validating estimated accuracies and supporting planning and engineering integration prior to budget submittal is desireable. In short, we propose to put the Department of Transportation and Public Facilities on a similar footing as the Department of Environmental Conservation and the Department of Education, to name a few, where we close the loop within the same department and still insure cooperative relations with communities.

As suggested by Senate Finance Subcommittee members, we fully support the addition of a grant notation opposite those projects so intended. With that designation you can be assured that the Department of Transportation and Public Facilities will proceed with all vigor as set forth above.

Sincerely,

Daniel A. Casey
Commissioner

cc: Governor Sheffield, State of Alaska
Members of the House Finance Committee
Members of the House Transportation Committee
Members of the Senate Finance Committee
Members of the Senate Transportation Committee
Larry Crawford, Chief of Staff, Office of the Governor
Pete McDowell, Director, OMB
Lisa Rudd, Commissioner, Department of Administration
Fred Seeger, Deputy Commissioner, Standards and Statewide Programs, DOT&PF

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

March 28, 1983

Daniel A. Casey, Commissioner
Department of Transportation and
Public Facilities
Pouch Z
Juneau, AK 99811

Re: Letter to Representative Al Adams dated March 18, 1983

Dear Commissioner Casey:

Thank you for the copy of your letter to Representative Adams regarding the FY '83 Capital Improvements Projects supplementary request (SB 162). I would like to make some general comments regarding the policies set forth in this letter.

It is refreshing to see commitments made by the Department on handling of funding allocations and on Municipal grants. As has been stated before, some of the frustration with DOT/PF has been the lack of written procedures and guidelines.

On your first Pledge, perhaps you could consider the following:

1) I have seen several instances where projects are halted because the engineer's estimate (apparently "in-house" estimates) were higher than the appropriation amount. Often, after bid proposals are submitted by prospective contractors, a figure lower than the engineer's estimate occurs. As stated in your letter, "inadequacies in the estimating process" often occur. The 20% "test" is probably a good one and I recognize that a line has to be drawn somewhere. 2) Please consider adding to this pledge, or at least in practice, provide for notification of legislators representing the districts in the event of a short-fall or possibly the legislative budget and audit committee. We in the legislature usually are not aware of projects being short-funded until a)several years after the appropriation and realization of a short-fall or b)we find that funds have

been transferred to another project; another very sore spot with many legislators.

Last year the entire Ports and Harbors contingency ($4 million) was placed into one project, namely, the La Touche Harbor Project. In my opinion, the monies for the original appropriation of $3 million, an additional $500,000 could have been better spent in Prince William Sound Harbor Projects. To have the Department place a contingency fund completely into one such controversial and in the view of many, "a capital project that serves mainly private landowners interest is inappropriate. (My information is that this project is currently still underfunded as estimates for completion are $8,700,000 for the harbor alone not including any inner harbor facilities, also who is responsible for police-fire and maintenance).

It is hard for me to consider any allocation when this type of activity occurs. I do not wish to belabor the point but this track record of project funds by DOT/PF with funds controlled by the planning Division must be curtailed if the reputation of DOT/PF is to be improved.

I hope you will consider these as constructive comments and again wish to say that I am encouraged by the developments in DOT/PF to date.

Sincerely,

Bette Cato

Bette Cato, Chairman
House Transportation Committee

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: The Honorable Bette Cato, Chairman
House Transportation Commission
Alaska State Legislature

DATE: April 11, 1983

FILE NO: 000H

APR 14 1983

TELEPHONE NO: 465-3900

FROM: Daniel A. Casey, Commissioner
Department of Transportation
and Public Facilities

SUBJECT: Your letter of March 28 concerning my approach to capital projects accountability

I appreciate your gracious and positively toned memo in response to my letter to Representative Adams dated March 18. I wholeheartedly endorse your perspective on the subject. It sounds like we are very much together. I concur with your concerns when an engineer's estimate may be somewhat high. In those instances, we should not prematurely back off from proceeding with the project if there is a reasonable chance that we may receive a bona fide bid at a sufficiently lower amount to enable us to complete the project within the funds available. As you point out, the 20% flexibility does allow us room to maneuver and we rarely find, where we consistently miss the mark, greater than that amount of error.

In addition, when engineer's estimates are close to funds available you can, in good faith, ask for contractors to submit bids, if there is a reasonable likelihood of proceeding with the work. We do not want to misuse good will capriciously due to frequent cancellation of bids for lack of funds. The quality of the contractor's bid work, otherwise, will begin to deteriorate. I think we can watch, in a better fashion, the gaps that occur between engineer's estimate and bids and develop trend lines. This tends to go in a cycle. Frequently, on the economic upswing, bids are found to be slightly high. By the time estimators adjust their assumptions, we are often in a downswing and find bids coming in at a lower amount than the engineer's estimate. In fact, as you might have intended between the lines of your comments, we are currently in the situation where frequently bids are under engineers' estimate. This is in sharp contrast to just a year ago.

With reference to your recommendation that I pledge to notify legislators representing the affected districts or the Legislative Budget and Audit Committee in the event of a shortfall, I apologize for not making that clear in my earlier letter. In the spirit of what we are trying to do, your request is a very reasonable one and one we fully intend to pursue. The hope is that we can develop some rapport with an interim committee and, in some instances at least, be able to get their endorsement to proceed in the absence of a full legislative body. I do think we can do a better job of status briefings, not only on exceptions, but on the bulk of ongoing projects. We have instituted a practice of having deputy commissioners from the various regions regularly assemble in Juneau and take an extra day to visit with legislators from their area. We are also developing status reports on projects and plan twice a year to sit down with legislators and discuss projects in their area. We are tentatively planning to do this at the beginning of the legislative session and in the

early summer. We hope this will better equip the legislators in answering questions from their constituents, as well as serve as a conduit in getting there early-on apprisals where we are running into difficulties. I think in this way you would agree, from the comments you have made earlier, that we can improve the team work between the executive branch and the legislature.

I've taken the liberty to copy this letter, as well as the relevant portion of your letter to me, to all the original recipients of my letter of March 18. I think your comments and my response are of general interest and seem to be complementary to what we set out to do.

Again I thank you for your interest and support. The encouraging words we have received from you make us attempt all that much harder to see if we can't continue to make good headway.

Sincerely,

Daniel A. Casey
Commissioner

cc: Bill Sheffield, Governor, State of Alaska
Emil Notti, Legislative Assistant to the Governor
Senate Transportation Committee
Senate Finance Committee
House Tranportation Committee
House Finance Committee
All Deputy Commissioners, DOT&PF

Attachment

State Senate

MEMORANDUM Date: March 3, 1983

Subject: Questions Concerning DOT/PF Policy/Operations

To: Dan Casey, Commissioner
Department of Transportation and Public Facilities

From: H. Pappy Moss, Chairman
Senate Transportation Committee

(1) DOT/PF has been controversial and was even an election issue.

a) What are your plans to restore public confidence in DOT/PF?

b) I seldom hear anything about cost effectiveness or productivity in DOT/PF. It seems that your answer has always been "more money". What do you plan to do to make the Department more efficient and cost conscious?

c) How do you know if your Department is more efficient this year than last? What are your measures for efficiency and productivity?

(2) How do you feel we can better facilitate a flow of information between our organizations?

(3) The voters of Alaska in the last election clearly indicated they demanded a change. Governor Sheffield assured us there would be. If I remember right, you, yourself, have indicated these major changes would occur:

a) Is your reorganization plan any more than just "inserting another layer of costly overhead without real fundamental changes in the Department?

b) Are you anticipating major personnel changes?

(4) Previous philosophies in the Department have been pretty well reputed. I am speaking of such things as lack of financial accountability, lack of personal accountability and rivalries within the Department.

a) What are your plans to correct these or similar problems?

(5) We have copies of many reports and audits that are not very complimentary of DOT/PF operations. Year after year the same on [illegible] surface (right of way). It seems that you are continually being cited by the Feds for the same things.

a) What's the problem? Can't you learn from past experience or is there some control problem within the Department?

b) Can you describe you control system? What does it cover?

(6) Legislative audits have pointed out an inherent inefficiency with your planning process. According to that report, your planning aspect flows through on a project from its inception to its final completion. This creates an additional layer and continued intervention by the planning division which results in additional project costs. In the legislative audit report there were recommendations made which have not been implemented. Why?

(7) DOT/PF is the largest department in the State. Your employees are not only State employees but are also citizens, some in my District. I understand that morale is extremely low.

a) What are your plans to restore morale to these employees of DOT/PF?

b) Has there been any employee involvement in your reorganization plans? Who? What level and how much?

(8) Since you have taken office have you attempted to analyze the level of technical qualifications of the staff you inherited from the previous administration? Do you have a program to train people within the Department?

(9) We hear that there is widespread dissatisfaction with the personnel system within DOT/PF.

a) What can you do or plan to do to restore employee confidence that the so-called merit system works in DOT?

(10) DOT/PF has completed or has currently in progress a number of regional transportation studies. How have the results of these studies been pulled together as one central planning tool? Have the timing of the regional studies and the statewide transportation plan been coordinated?

(11) The Legislature has given the Department practically every dollar you have asked for to implement a Management Information System. You've been at it for several years now.

a) Where is it?

b) Can you now get reports from this investment?

c) Can the legislative committees get access to this information?

(12) We used to get reports from the status system -- we can't ever get them now.

a) What happened?

(13) How does one reconcile the CIP project status report (a public document) with the CIP Project Authorization Balance (on internal documents)?

(14) Audit reports seem to indicate a major problem with you financial system. Employees I have talked to have very little confidence in it. Reports are late, inaccurate and full of errors. I am concerned how you can manage a multi-million dollar operation without good financial information.

a) What are you doing to correct this?

b) What is your time schedule for this?

(15) a) Could you describe the system you use to put together the CIP proposal? Some people have described it as a very disorganized process.

b) What are priorities established.

c) Who sets priorities?

d) Do you have a system which takes into account:

-- some recognition of the need to dispense CIP projects more evenly around the State?

-- the political reality of Alaska?

-- areas of high unemployment?

(16) How do you feel legislative add-ons could better fit into the DOT/PF's process?

(17) The present transportation system is rapidly deteriorating. Many states have established a maintenance first priority.

a) What are you thoughts on our deteriorating transportation system?

b) How can we eliminate the practice of deferred maintenance on our highway system?

c) what priority does maintenance have in your department?

d) What evidence can we expect to see of any changes in your maintenance policy?

e) When you develop your projected maintenance cost for the budget how do you arrive at the figure you eventually settle with?

(18) I am concerned that through the use of authority to shift funds from project to project to cover bad estimating, or even a lack of simple financial controls, that you do not have the resources to complete projects already underway. I have heard of projects that, although authorized for funding, when actual construction took place did not have funding available to pay the bills.

a) How wide spread is this?

b) how much additional funding has been committed this way without legislative knowledge or authorization?

c) Is the legislature going to have a continual request for supplementals to cover already funded projects?

d) would it be possible for this committee to get a complete listing of the Department's project responsibility as indicated by legislation, and the status of each?

e) Do you have a backlog of contracts ready to go? If so, why?

First Session

Alaska State Legislature

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4384

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4921

State Senate

MEMORANDUM

Date: March 16, 1983

Subject: Senate Transportation Committee Meeting, March 3, 1983

To: Daniel A. Casey, Commissioner
Department of Transportation and
Public Facilities

From: Senator H. Pappy Moss, Chairman
Senate Transportation Committee

Attached please find a copy of the minutes for the Senate Transportation Meeting held March 3, 1983. I am forwarding a copy of the minutes to you to assist you as you respond to the remaining questions we provided you. As you will note, we have requested a written response within a week or ten days of our meeting. I respectfully request you expedite your response.

RECEIVED
MAR 16 1983
DOT/PF
COMMISSIONER'S OFFICE

cc: J. Bates
R. Lind
D. Page
W. Merrill

SENATE TRANSPORTATION
STANDING COMMITTEE
March 3, 1983
1:30 p.m.

Members Present: Senator Moss, Chairman
Senator Fahrenkamp, Vice Chairman
Senator Gilman
Senator Faiks

Members Absent: Senator Kerttula.

COMMITTEE CALENDAR

Policy Discussion with Department of
Transportation and Public Facilities
Commissioner Daniel Casey

WITNESS REGISTER

Daniel A. Casey
Commissioner
Department of Transportation and Public Facilities
Pouch Z
Juneau, Alaska 99811
Phone 465-3900
Position Statement: Available for questions

John C. Bates
Deputy Commissioner for Planning and Programming
Department of Transportation and Public Facilities
Pouch Z
Juneau, Alaska 99811
Phone 465-3900
Position Statement: Available for questions

PREVIOUS ACTION

None

TAPE #2, Side A
Recording Number

ACTION NARRATIVE

800 Chairman Moss called the meeting to order at 1:35, noting that Senators Fahrenkamp, Faiks and Gilman were present. Moss indicated that the purpose of today's meeting was to meet and talk with people in the Department of Transportation and Public Facilities. The Chairman noted that Commissioner Casey was at the witness microphone, and had brought with him a copy of the January, 1983, edition of the Department's Six Year Transportation Improvement Program and the November, 1982, edition of the State Transportation Policy Plan. Moss also indicated that Transportation Committee staff had distributed to all Committee members and to Commissioner Casey a set of questions that would be asked during this meeting, and that Moss would ask for written answers to those questions. The purpose of the this and future meetings, Moss indicated, is to avoid a confrontation and to establish a common direction.

Indicating that the Department of Transportation and Public Facilities (DOT/PF) has been controversial to the point of being an an election issue, Moss asked Commissioner Casey about his plans to restore public confidence in DOT/PF and what plans the Commissioner has for making DOT/PF more efficient this year than last.

Commissioner Casey began his presentation by noting that that the reason the above-mentioned books had been distributed only today was that they had only just been published. Casey cautioned that there have been significant changes in everyone's financial outlook, and that the administration is desirous of shifting emphasis to private dollars rather than State dollars. The Six Year Plan, Casey indicated, allows an appreciation of the projects that have been identified on a needs basis, and, in consideration of permit and design lead times, how those projects might be spaced.

878 In answer to the questions concerning restoring public confidence in the Department, Casey said that the answer is two-fold. First, Casey indicated, the Department needs to do a better job of communicating to the public the good that has been, and continues to be, done very well within the Department. Next, Casey indicated, he will be putting more emphasis on the relative gap between revenues and the cost to run the system. Casey said he was concerned, especially on the maintenance side, that a much better job could be done of portraying what the cost pattern is from year to year and on what the State should be spending. Casey added that altough there has been a tremendous expansion in capital assets in the State over the last few years, maintenance operating funding has only increased at slightly less than the rate of inflation.

060 Chairman Moss asked whether Casey was, as had been rumored, on a two-year leave of absence with Atlantic Richfield. Casey responded that he was pleased to clear up a misconception that Moss and other people appear to have held. While Atlantic Richfield does have a leave of absence program for people who go into public service, Casey indicated, he left that company as though he were going to work for a competitor. He stated that he was not on leave of absence and while he expects a check from Atlantic Richfield in the next few weeks, that money represents a liquidation of stock and Casey's portion of the company's savings program.

122 Senator Fahrenkamp asked how recent changes in the law, which require limited operating budgets, will affect the transportation system, particularly in regard to improving or enlarging the transportation system.

150 Commissioner Casey indicated that he was not too concerned with the spending limit, because, while the spending limit could become an upper restraint on the capacity of the State to expand its capital budget, the revenue capacity of the State could not even reach the spending limit. Some 6.8 billion dollars would be required to meet the State's needs as identified in the Six Year Transportation Improvement Program, spread over a five-year period, while the State's

revenues have gone from 4.2 billion dollars in FY '80/'81 to a projected FY '85 income of 3.2 billion dollars, Casey noted. One of the biggest challenges that we all face as a team, Casey indicated, is the education of the public as to this tremendous gap between the needs assessments within the State, which amount to 20 billion dollars, and the State's projected income. Casey emphasized that while individual constituencies may favor one project or another, we all have to select and prioritize to get from the 20 billion in needs to what we are able to fund in one particular year.

230 Senator Gilman stated that many of the municipalities he represents have indicated they would take over the maintenance of what traditionally have been State roads, if they could get them upgraded through a capital process, so that the municipality would not where they did not have to spend their money to bring the road up to a reasonable standard. Gilman indicated that he supports such arrangements.

277 In response to a question from Senator Gilman, Casey said that DOT/PF does have contracts between the Department and the municipalities that transfers responsibility for signaling systems where the Department finds that, for example, ten years ago the signals that the State mounted, maintained, and coordinated were independent in conjunction with a regional or State crew, but now constitute a smaller portion of a whole grid, due to a municipality which has developed around those signals or roads, and it makes a lot more sense for one entity to handle.

317 Senator Moss asked what impact of the Surface Transportation Assistance Act of 1982 will have on Alaska, what total dollar amount is authorized for Alaska under STAA, what administrative structures have been designed to accept those funds, what Federal limitations exist on the use of this money as they relate to Alaska, how those funds would be dove-tailed into existing money receipts from both the State of Alaska and Federal funds, which Alaskan highways are designated as Interstate Highways, and how much money the State of Alaska receives for these highways from the Federal government.

366 Casey indicated that no organization or procedural changes would be needed in order to accept or administer STAA funds, stating that from DOT/PF's point of view, the major impact in the 5¢ tax increase is an increase in the Federal funds available over DOT/PF traditionally has received. Casey indicated that in 1982, the State received 104 million dollars from the Federal government, administered through the Federal Highway administration and Federal Aid standards, and there are design standards and contract and right of way acquisition standards developed nationally that the State must comply with in the application of those funds.

386 Commissioner Casey indicated that staff had prepared a set of handouts to portray visually for the Committee some of the questions raised, and introduced John Bates, Deputy Commissioner for Planning and Programming.

In response to a question from Senator Moss, Bates stated that the increase in Federal receipts is reflected in the FY '84 budget as a budget amendment, since that Bill did not pass until Christmas, and the budget documents had already been prepared and printed. The amendment has been sent to the Office of Budget and Management within the Governor's office.

405 Responding to a question from Senator Gilman, Bates indicated that the 5¢ increase in Federal gasoline taxes goes into effect on July 1st.

Senator Moss asked why, if the Federal tax on gasoline is increased from four to nine cents, or nearly doubled, the revenue received is not also doubling. In response Bates indicated, that prior to 1982, Bates indicated, the State of Alaska was receiving eight dollars for every one dollar it contributed to the trust fund through the Surface Transportation Act of 1978, as extended to '81 and '82. The other states were objecting very vehemently to this imbalance, and before the passage of the Surface Transportation Act of 1982 there were a lot of propositions around the house and Senate that gave Alaska almost nothing, Bates indicated. The Alaska delegation, in conjunction with the Governor's office in Washington, D. C. and DOT/PF staff, worked for the present six to one ratio. The Bill, Bates further explained, is a four-year bill which provides for the State of Alaska an increase from 140 million in FY 1983 to 169 million in FY 1986.

560 Senator Fahrenkamp indicated that many of the representatives of other States in the Congress of State Legislators were very unhappy with this five cent tax because of all the restrictions put upon the States, and that these representative felt that states were losing rights in the bill.

Bates responded that as far as those things in the bill which decreased states rights, the highway trust fund was already a very regimented pot of money. Traditionally, Bates indicated, if you deal with the Federal Highway Fund, you are used to dealing with rules and regulations and asking HWA what you can and can't do. He indicated that the new STAA had not changed much in that regard. Bates indicated that the new law made some truck size and weight limitations nationally so that the "blocker states" could no longer control the size of trucks going through their interstate system, but that these regulations did not affect Alaska significantly.

675 Commissioner Casey stated that Federal aid is a small portion of the total dollars in the transportation budget within the state. These Federal dollars are also not designated for any particular road systems, Casey indicated, so the Department expends Federal funds on those road systems that, because of the level of use and community needs, would need to be built to Federal design standards, to insure that there are a sufficient amount of road systems that are designed, and qualify for, continuing federal aid in any given year to fully utilize the funds available. Casey said that some states have not been able to fully utilize their funds because either they've not been in design-ready position to take advantage of the funds that have been set aside for that year, or made the error of moving too quickly to use State funds and expedited construction in a single year, resulting in disqualification of that road system because it didn't meet the design criteria.

757 In response to a question from Senator Gilman, Deputy Commissioner Bates indicated that the highways in Alaska's interstate system are the Alaska Highway to Fairbanks, the Parks Highway to Anchorage, from Anchorage back to Tok and Tok Cut-off, and from Anchorage down to Soldotna.

796 In response to a question from Senator Fahrenkamp, Deputy Commissioner Bates indicated that the State Transportation Plan book distributed to committee members represents the Department's needs assessment, from which was developed the Six Year Transportation Improvement Program for the four modes dealt with by DOT. Approximately 5.2 billion dollars worth of need is identified in that Six Year Program for the existing transportation system, without taking into consideration any new additions to the system, Bates indicated. He said that about 2.3 to 2.4 billion of that is for roads, the rest is for the other modes. Commissioner Casey indicated Department staff needs to compile a more complete inventory and complete the life-cycle analysis of current capital stock in order to fully understand and project exactly how much money ongoing maintenance of current systems and facilities will require. Casey noted that the Department submitted a capital budget of 85 million dollars from the general funds and some federal funds for FY '84 for the major renovation and refurbishment of existing road systems, in contrast to the 5 - 15 million that has been included in past budgets for major reconstruction of existing road systems. However, Casey indicated, he does not really know whether 85 million is sufficient. or will need to be adjusted. He hoped to have a better idea by next year.

934 Senator Fahrenkamp agreed that the public needed to be kept informed of the economic situation of the state, indicating that in the face of declining revenues, the general public is still calling for reduced or eliminated taxes.

969 Senator Moss asked Commissioner Casey what his reorganization plans were, and whether he was anticipating any major personnel changes.

Casey noted that some charts had been developed for the Finance Committee, and would be provided to the Transportation Committee, which illustrate that the Department has not increased greatly in number of personnel over the years. Casey indicated that he plans to move to a line management approach so that each deputy commissioner would be resposible for a single, regional, geographic area or business, such as marine transportation, and would have the full responsibilities and all the assets needed to accomplish their mission. He added that he is also considering eliminating some positions at the assistant commissioner level.

047 Senator Fahrenkamp asked whether contracts were being let to distribute some of the workload to the private sector, and whether such contracting has proved to be a cost-effective measure.

064 Commissioner Casey indicated that the Department has in fact been moving in that direction. Currently, approximately 20% of the design and construction, or design engineering work is contracted out according to Casey, adding that in some areas, such as building design, work is almost 100% contracted out to design firms.

(2) Senator Moss asked what Casey's plans were to restore the morale of DOT/PF employees, noting that state employees are also citizens, and some of those citizens in his district had indicated that morale is extremely low in DOT/PF. Senator Moss also asked whether there had been any employee involvement in the reorganization plans.

Casey said that he has begun by planning to do a better job of protraying to the public and to all the department employees the good things that this department does, noting that he has been impressed with the quality and the good-heartedness of the people in this Department. Casey indicated he though that morale can be affected if there is a sense that the top management in the organizational structure is aggressive in giving due where due is deserved. In addition, part of the morale problem has to do with the lack of delegation of authority, he added.

164 In response to Senator Moss's question, Casey indicated he had studied several grievances, and is working with Commissioner Rudd to revitalize the merit process. Senator Fahrenkamp suggested that Casey look at a way to reward an employee who comes with with a creative, cost-saving idea for the Department.

Senator Moss thanked Casey for his assistance at this meeting, and asked that Casey study the written questions provided, adding that he would like to see answers to them within the next week or ten days so that the Committee could schedule a follow-up meeting.

306 Chairman Moss adjourned the meeting at 3:00 p.m.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

March 29, 1983

26-2

The Honorable H. Pappy Moss
Chairman
Senate Transportation Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Chairman Moss:

Commissioner Casey requested that I provide you the answers to the questions contained in your memorandum of March 3, 1983, which were not answered by him at your committee meeting. Our records indicate that questions 1, 2, 3, 4, 5, 7, 8, and 9 were addressed by him. If there are still concerns in those areas, please let me know what additional information you require.

Question (6)

The reorganization of the Department, which has been announced, directly addresses one of the major recommendations in the area of planning coordination made by the Legislative Auditor. Through the creation of Regional Deputy Commissioners, with expanded authorities, there will be increased coordination at the local level and a reduction in the levels of approval required for projects.

The Legislative audit reports referred to in your question, examined operations approximately 3 1/2 years ago, and do not reflect current operations. The involvement of Planning and Programming in projects, even before the reorganization, had been reduced. After authorization to proceed on a project is given, Planning and Programming's involvement is limited to cases where additional funding is required.

Question (10)

Regional transportation studies provide a data base; identify regional social, economic, environmental factors and transportation related issues; identify and evaluate local and State needs in the region; and provide a multi-year Capital Improvement Program, CIP, listing of projects for the region. This continuing work all contributes to the statewide planning processes including the Statewide Needs Assessment, the State Transportation Policy Plan, Statewide Data Bank, the Annual CIP Request, and the Six-Year Transportation Improvement Program.

Yes, the timing of regional studies with the statewide transportation plan is coordinated and on-going. Each year emphasis is on regional studies and/or updates from January through April. From May September, consideration is given the Regional Needs Assessment; in October the Regional CIP is developed; in November the Statewide Transportation Improvement Program is drafted and the updated policy plan is published in January.

Question (11)

The funding was for Phase I of MIS which consists of the Program Development System, Scheduling and Resource Allocation and a Financial Information System.

We are getting production reports from both the Program Development System and the Scheduling and Resource Allocation System. See response to Question (14) for status on the Financial Information System.

The Legislative committees can have access through their CRT terminals in their own area or by using our terminals in DOT&PF. There are also a number of hard copy reports which might be of interest.

Question (12)

The Last Project Status report (PSS) was distributed to all members of the Legislature on January 28, 1983. We had planned to have the Program Development System (PDS) fully on-line in February, but technical difficulties have delayed that date. As soon as the system is operational and updated, copies will be provided to the legislature.

Question (13)

It is unclear as to which reports are being referenced in this question, but if the CIP project status report refers to the FMS 1615 and if the CIP Project Authorization Balance is the "State accounting authorization report", the following would describe our procedure.

When legislation appropriates funding, a journal voucher is used to record the authorization on the State accounting records and to restrict the funds from expenditure processing. Through data processing, we extract that information from the State system, and record it in FMS on a report entitled FY 74 to date CIP Authorization Control Report (A-139). When a Project Development Authorization (PDA) is issued we set in the level of funding authorized for the project and release the authorized funds in the State accounting system to allow expenditures to process.

At this time the A-139 report indicates the project funding and the amount of the original authorization not yet allocated to a project. The 1615 is also updated to identify the level of funding authorized for the project. The 1615 is then manually reconciled to the State accounting record monthly.

Question (14)

The most recent audit report issued by Legislative Audit reported that our FMS system is very complex and that those CIP authorizations established in prior years continue to be problems but that "...DOTPF's accounting controls and accountability over CIP's have substantially improved." As we have standardized and documented procedures and processing, confidence in the system has also improved. We intend to continue this documentation process and increase our internal training program. As stated earlier, our system is complex, but as individuals become more familiar with it, the accuracy and effectiveness of our reports increase. This has been reflected by a 56% reduction in the error register since June 1982.

Along with the effort of documenting our current system we are reviewing other project cost reporting systems with the objective of replacing our current system.

The timetable for this replacement will be impacted by the amount of modification required to allow us to use already developed systems. In fact, at this very time we have a group of employees meeting with users of two project accounting systems and the last system is scheduled for review April 14 and 15. Based upon the results of these reviews, a specific timetable can be agreed upon. Under favorable circumstances one of these systems could even begin to produce benefits this summer.

Question (15)

This past year the CIP process was as follows:

1) The Office of Management and Budget provided an estimate of the maximum funding we could expect for capital projects.

2) Each region developed requests for projects in their region and headquarters prepared the Statewide request based on the following priorities set by the previous Commissioner.

   a) Supplemental funding to complete on-going projects.
   b) Highest priority in the Statewide Needs Assessment.
   c) Rehabilitation projects.
   d) Life Safety.
   e) Bridge projects (limited designated funds).
   f) Projects were to be in the Six Year Plan.

In the past, there were not specific instructions requiring work to be prorated by election district, although guidelines were given by region. Neither "the political realilty of Alaska" nor areas of high unemployment were specific factors used.

Since taking office, we have developed a factoring system for the evaluation of projects which takes into account:

a) maintenance cost,
b) economic potential,
c) creation of employment,
d) need identified in a public plan, and
e) safety considerations

which reflect the emphasis of this administration.

Question (16)

One way to handle major legislative add-ons would be to utilize a two year cycle with the design work addressed the first year and the construction in year two. Perhaps a better way would be to combine the legislative projects into the planning process at the earliest possible time.

Question (17)

The Alaska Transportation System, mainly the highway portion, is in need of preventative maintenance as well as major rehabilitation projects, to bring the system back to the original condition. Transportation maintenance, like all other State expenditures, will need to undergo a careful review and in all likelihood, we will not be able to expend the amounts of money we would have had if more funding were available to the State.

The practice of deferring maintenance on our highway systems will likely continue, however, by improving our cost effectiveness through the identification of better practices, innovative approaches, and motivation of our employees, we feel that we will be able to expand our activities with our existing costs.

We anticipate that development of future maintenance budgets will be tied to unit costs of items of work that are required, and not just be a percentage adjustment on previous appropriations. Identification of unit costs, such as cost per lane mile of striping, cost per mile of brush cutting, cost per square foot of resurfacing, etc. will allow all concerned to agree upon a level of maintenance and the related cost.

Question (18)

Through our continuous review of project funding needs we attempt to identify projects which for one reason or another do not have sufficient funds to complete the phase or scope of work anticipated. When a project in this condition is identified it is necessary to decide to (a) reduce the scope of work, (b) identify a less costly way to produce the product, or (c) increase the funding. If a funding increase is decided upon, it may either come through a supplemental

appropriation or possibly a transfer from another project. Transfers from another project can occur only under certain conditions which are controlled by the format of the legislative appropriation and not exceed the original estimate by 20%. The Commissioner's new policy is that any project that is anticipated to exceed the amount listed in the budget by more than 20% will be terminated until legislative approval is obtained to proceed at the higher cost estimate.

If we can be of further assistance, or provide additional information, please let us know.

Sincerely,

Fred J. Seeger
Deputy Commissioner

cc: Vice-Chairman, Bettye Fahrenkamp
Senator Jan Faiks
Senator Don Gilman
Senator Jalmar Kerttula
Commissioner Daniel A. Casey

FJS:RBL:bwb

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NEWS RELEASE

FOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900

FOR IMMEDIATE RELEASE

DOT&PF Appointments
124

March 8, 1983

Commissioner Dan Casey today outlined his streamlining of deputy commissioner duties to make the Department of Transportation and Public Facilities more quickly responsive to regional and local needs.

At the same time, in a speech at Fairbanks, Casey announced the appointment of two deputy commissioners, two more in an acting capacity, and several directors to carry out his goals in a reorganized department.

Topping Casey's staff are H. "Glen" Glenzer, previously Executive Director of Alaska Construction Industry Advancement Program, as Deputy Commissioner for the Interior Region; Fred Seeger, a former private engineering consultant and construction manager, as Deputy Commissioner for Standards and Statewide Programs; Jon Scribner, formerly Deputy Commissioner for Design and Construction, as Acting Deputy Commissioner for Southeast Region; and William Snell, who has been Director of Planning and Programming, as Acting Deputy Commissioner for Central Region.

In addition, the Commissioner has appointed John Bates, a former Deputy Commissioner, as Director for Planning and Programming, and Ron Lind, who moved from Deputy Commissioner for Administration to Director of Administrative Policy and Fiscal Management. He also announced that Marty Nusbaum remains Acting Director of the

(More)

Marine Highway System, and Mark Hickey is Coordinator for the Alaska Railroad Transfer Team.

Commissioner Casey said making the new deputy commissioners directly responsible for all DOT&PF operations in their regions will greatly improve first hand attention to regional needs, and will strengthen close contact with local officials and residents.

He explained the reorganization is a change from statewide deputy commissioner authority based on departmental functions to "a line organization" structure of responsibility. The new system, he said, will enable deputy commissioners to respond decisively to the whole range of needs in their regions rather than, as in the past, having their powers to act fragmented along functional lines. The public, he said, now will have a designated person to turn to below the commissioner level who is conversant with all the needs and problems of their regions. This same approach will also apply to the Marine Highway System.

The only other exception, Casey said, is Standards and Statewide Programs which logically remains on a statewide basis since its area of responsibility involves not day-to-day operations but department-wide policies and positions.

The commissioner noted that the reorganization reaches only to the top management alignment, and he stressed that it impacts few employees as to where they are assigned and what they do.

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Summary

Fifteen years experience in engineering and engineering management. Has worked for private industry, military, and government in the fields of design and construction of all types of public facilities, environmental engineering and public health. Experience includes engineering investigations, teaching, planning, and management.

1982 - 1983: DOT&PF; Acting Deputy Commissioner, Design & Construction. Responsibility included those described for the Assistant Deputy Commissioner.

1979 - 1982: DOT&PF; Assistant Deputy Commissioner, Design & Construction. Supervised over 1500 positions. Program size of $400 million representing about 600 projects. Under general administrative direction of deputy commissioner. Responsible for administrative activities and programs of the unit, including budgeting, accounting, purchasing and supply, data processing, and personnel management.

1975 - 1979: Department of Environmental Conservation, Director, Division of Water Programs. Headed up division with major responsibility for statewide planning, water supply, water pollution control, monitoring, construction grants and village safe water programs. Overall manager of $20 million C.I.P. per year grant program for water and waste water systems and $3 million C.I.P. per year for sanitation facilities in rural villages. Responsible for preparing and managing construction of annual operating budget ($2 million/year).

1974 - 1975: Department of Environmental Conservation, Acting Director, Division of Water & Air Quality Control. Duties similar to above.

1971 - 1974: Department of Environmental Conservation, Chief of General Engineering. Responsible for water supply, radiation control, solid waste management, pesticide control, air faculty control on statewide level. Established and directed state's first village safe water program. Responsible for preparation and management of operating budget and management of $8 million C.I.P.

1969 - 1971: Department of Health and Welfare, Regional Sanitary Engineer. Responsible for all environmental health and engineering activities in the northern half of Alaska. Independently planned, directed and controlled all areas of responsiblity as Office Manager. Conducted pollution surveys, assisted government and industry to meet pollution requirements reviewed and approved water/sewer plans.

1967 - 1969: Employed by the U.S. Army as Captain, Sanitary Engineer. Instructor of graduate sanitary engineering officers in advanced sanitary engineering. Also gained practical experience in water supply, solid waste treatment, sanitation, industrial hygiene engineering and air pollution control.

1967 - 1967: Employed by Metcalf and Eddy Engineers as a Sanitary Engineer. Responsible for investigation, laboratory analysis, and reporting on ways to economically improve existing waste water treatment systems for a major west coast refinery to meet state standards for oil and suspended solids content.

EDUCATION

University of California. Earned Bachelor of Science in Civil Engineering.
Stanford University. Earned a Master of Science in Civil Engineering.
University of Alaska, Juneau and Fairbanks. Engineering and Management, Personnel Management, and Construction Management Systems.

Registered Professional Engineer, Alaska

Ronald Lind

BACKGROUND INFORMATION

Summary

1980-1983: Deputy Commissioner for Administration and Marine Operations. Responsible for supervision and operation of five major divisions of DOT&PF with an authorized staff of approximately 1200 and an operating budget of approximately $75 million. These divisions are responsible for the operation of the Alaska Marine Highway, State equipment fleet, data processing development and operation, financial services, personnel, supply, payroll and EEO.

1979-1980: Deputy Commissioner for Administration, DOT&PF. Responsible for direction and supervision of the State equipment fleet, financial management, data processin, personnel, supply and general administrative services of the Department of Transportation and Public Facilities. 400 employees and an operating budget of $25 million.

1976-1979: Director of the Division of Budget and Management, Office of the Governor, State of Alaska. Responsible for preparation of operating, capital and supplemental budgets submitted by the Governor to the Legislature. Provided recommendations to the Governor on fiscal impact of legislation and programs proposed to him for approval. Responsible for presentation of budget revisions to the Legislatvie Budget and Audit Committee (an interim committee of the Legislature) to obtain their approval. Reviewed proposed budgetary amendments of State agencies to assure that they were within legal and policy boundaries.

1973-1976: Deputy Director, Division of Budget and Management, Department of Administration. Responsible for providing recommendations to Budget Director for budgetary items from all State agencies. Responsible for coordination of technical aspects fo budget preparation, printing of budget documents and providing computer tapes to Legislative Finance staff. Provided testimony to legislative committees concerning specific programs and coordinated budgetary information with House and Senate finance committee chairmen. Responsible for analysis and review of the Transportation category.

1972-1973: Administrative Officer III, Department of Commerce. Responsible for the supervision and provision of administrative services of the Department of Commerce. Areas included Personnel, supply and financial activities.

1971-1972: Program Budget Analyst IV, Division of Budget and Management, Department of Administration. Responsible for supervision of budget analysts as well as personally responsible for the analysis of the Transportation and General Government categories. Among others, was specifically responsible for the analysis of the Department of Highways and Department of Public Works.

1969-1971: Budget and Management Analyst III, Division of Budget and Management, Department of Administration. Responsible for the review of State agency budget requests. At this time, the division of Budget and Management had only five professional staff memberts fo the evaluation and preparation of the entire State budget; therefore through rotation of assignments, gained knowledge of all State agencies' operations.

EDUCATION

University of Alaska, Fairbanks, Graduated 1966, Cum Laude, Bachelor of Business Administration degree.

John C. Bates

BACKGROUND INFORMATION

Summary

Thirteen years of experience in transportation in Alaska. Including design construction planning and administration.

1979 - 1983: Employed by the Department of Transportation & Public Facilities as Deputy Commissioner, Planning and Programming. Administered the development of the state transportation planning system leading to the development of the Department's Capital Improvements budget.

1979 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Interior Region Planning and Programming. Directed the Interior regional development of the State's transportation plans. This included management of consultant contracts in the areas of transportation planning.

1978 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Research. Handled the administration of the Department's research staff. Areas included advanced transportation systems, permafrost engineering related to transportation systems, building and engineering systems.

1977 - 1978: Employed by the Department of Transportation & Public Facilities as State Maintenance Engineer. Establised policy for the maintenance of the States roadways by the various regions. Compiled the Department's statewide M & O budget.

1974 - 1977: Employed by the Department of Transportation & Public Facilities as the Central District Maintenance Engineer.

1972 - 1974: Employed by the Department of Transportation & Public Facilities as the Central District LSR&T Engineer.

1970 - 1972: Employed by the Department of Transportation & Public Facilities as the Central Region Design Engineer.

1967 - 1970: Employed by the Pearl Harbor Naval Shipyard as a General Engineer, GS-11. Was head of the scientific computer section for the shipyard.

EDUCATION

Bradley University. School of Engineering, Peoria, Illinois. Earned a Bachelor of Science in Civil Engineering.

University of Hawaii. School of Engineering, Honolulu, Hawaii. Earned a Master of Science in Civil Engineering.

Registered Professional Engineer in the State of Alaska. Registered Land Surveyor in the State of Alaska

Fred Seeger

BACKGROUND INFORMATION

Summary

Fifteen years experience in engineering and construction of oil and gas industry related capital projects with emphasis in the State of Alaska.

1979-1983: Engineering and construction management consultant engaged in providing management service to major oil industry engineering and construction companies including North Slope producers such as ARCO Alaska, Inc. Specific service functions included construction planning and design during the engineering phase of the projects, estimating and scheduling, economic analyses, and contracting strategy. Represented clients as construction manager to deliver projects within budget, schedule and quality requirements during the construction phase of the projects.

1978-1979: Employed by Northwest Alaska Pipeline Company in Senior Project Planning position involved with the Alaska Natural Gas Transportation System. Performed conceptual engineering and construction planning for the gas pipeline project relating to capital cost estimates, schedules, manpower and equipment estimates, labor relations, procurement and logistics.

1975-1977: Employed by Alaska Pipeline Service Company, in Senior Project Management position during construction of the Trans Alaska Pipeline. Developed and implemented policy and procedure to improve quality of construction on a section of the oil pipeline. Directed various construction programs, particularly those associated with the special Arctic construction and engineering problems; provided direction to contractor's management in planning and engineering.

1974-1975: Employed by Bechtel Incorporated, as Assistant Deputy Manager on Trans Alaska Pipeline and Roads Project. Handled administration and coordination of personnel in Engineering, Procurement, Inspection, and Traffic Departments for the proper and timely supply of over $2 billion worth of materials and equipment for camp and pipeline construction; coordinated task force groups in the development of unique Arctic construction procedures for the installation of engineered pipeline components; generated estimates and budgets for management

1969-1973: Employed by Shell Oil Company, as Project Engineer and Project Manager. Through various assignments was responsible for producing project feasibility studies, capital budgets, project design, specifications, contracts, negotiations on right-of-way, and managing construction.

EDUCATION

Purdue University, School of Civil Engineering, Lafayette, Indiana. Earned Master of Science in Civil Engineering and Construction Management.

Clarkson College, School of Civil Engineering, Potsdam, New York. Earned Bachelor of Science in Civil Engineering.

Registered Professional Engineer in the States of Alaska, California, New York, and Washington.

H. "Glen" Glenzer

BACKGROUND INFORMATION

Summary

Over 30 years of active service as a U.S. Naval Aviator in positions of increasing responsibility, including command, exercising management control of national programs. Record of achievement in planning functions and policy development.

Experienced in the administration and management of a large air station and maritime terminals with all the problems and considerations of a civilian facility including management, operation, maintenance, development and FAA and maritime rules and regulations, as well as all other civil and governmental agencies.

Served as chief staff executive with Alaska Chapter of Associated General Contractors of America, Inc. involved with all problems and considerations commensurate with the construction industry. Directly involved with highway, building and utility construction as well as labor negotiations, personnel administration, education and training programs. Also active in safety, equal employment opportunity, ecology, budgeting, and all management functions pertaining to large construction contractor firms dealing extensively with gonvermental and civilian agencies and corporations. Most recently served as Executive Director of the Alaska Construction Industry Advancement Program involved with all the above activities including A.G.C. members plus others in the industry.

1981-1983: Executive Director - ACIAP. All duties encumbent upon previous position as they related to not only AGC members but entire industry at large. Also had various consulting jobs mainly pertaining to Aviation and Marine Transportation.

1973-1981: Chapter Manager, Alaska Chapter Association General Contractors of America, Inc. Responsible for Safety Public Relations, Equal Employment Opportunity & Ecology compliance as well as participated in and reviewed bargaining agreements and grievances of labor union contracts. Performed all duties attendant with personnel and engineering management functions, in relation to heavy construction industry. Also taught courses in financial management, economics and marketing at Alaska Pacific University.

1970-1973: Naval Safety Center, Norfolk, VA., Director of Aviation Safety Directorate. Supervised, established and administered safety programs within entire naval establishment and with other service and agencies including FAA, CAB and all airlines connected with them.

1968-1970: Commanding Officer, Naval Station, Adak, Alaska. Commanded large Naval Station which in addition to the administration of a community of 6000 people included a naval station and terminal as well as surface shipping harbor and terminal. Administrated a $4.5 million operating budget and $6 to $12 million annual construction project funds. Conducted contract negotiations and awarded and supervised contracts with airlines, contractors and industrial concerns.

1947-1968: U.S. Navy

EDUCATION

BA, University of Maryland. Earned Business Administration degree, Master of Science Degree from the George Washington University of business Administration. Graduate of University of Southern California Safety Management Course, the George Washington University Safety Course, the George Washington University Course in Multi-Variants and Naval Post Graduate School of Monterey, California.

Confirmation
Hearings
Commissioner
Knapp

QUESTIONS FOR KNAPP/CONFIRMATION HEARING

How do you intend to continue with your open policy? Will it be an open policy with all DOT employees? Can we expect to continue to receive reports, for example on the Capital Project Clean-up?

In reference to the Capital Projects Clean-up, do we know if the income of non-participating funds (federal aid, other) has been balanced with expenditures and has the revenue problem been solved?

While cleaning up problems of past practices, what steps are being taken to avoid same or similar problems in the present and for the future?

During the interim period, and after being briefed this session on the Capital Project Clear-up on the status of the Financial Information System, has it as yet become a people system? (We realize that the programs exist and operators have been trained to use the computer, but is it a "people system"?)

After having been briefed on the latest status of the Capital Project Clean-up, one of the things that surfaced was over-programming? Has over-programming been discontinued?

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 1, 1984

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Pursuant to applicable law, I submit the following name for legislative confirmation of appointment to the position noted:

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Richard J. Knapp, Commissioner

TRSP
FIN.

Sincerely,

Bill Sheffield
Governor

REAR ADMIRAL RICHARD J. KNAPP

Richard Joseph Knapp was born on February 14, 1929, in Passaic, New Jersey, where he was graduated from Passaic High School in 1947. Appointed a Cadet in July, 1947, he was graduated from the U.S. Coast Guard Academy, New London, Connecticut, with a Bachelor of Science Degree in Engineering and a commission of Ensign on June 1, 1951.

His service career as an officer began with three years of sea duty aboard the USCGC ESCANABA and USCGC GRESHAM. Both of these cutters were homeported in Alameda, California, and engaged in ocean station patrols and search and rescue missions. In May, 1954, he returned ashore for a three-year tour as Commanding Officer of Ship Training Detachment No. 5 in Alameda.

Returning to sea once again in May, 1957, he served for a year as Operations Officer on board the USCGC SPENCER, out of New York City. After completing studies at the Merchant Marine Indoctrination School at New London, Connecticut, in July, 1958, he returned to New York City for a year as Hull Inspector at the Coast Guard Merchant Marine Inspection Office. From June, 1959, to June, 1961, he commanded the USCGC YEATON out of New London, Connecticut.

He was next assigned as a graduate student at George Washington University in Washington, D.C., where he was awarded a Master's Degree in Business Administration (MBA) in June, 1962. This was followed by three years as Staff Assistant to the Comptroller at Coast Guard Headquarters.

From May, 1965, until March, 1966, he served in the Republic of South Vietnam. During that period, he was first assigned as Chief Staff Officer, to Coast Guard Squadron One. Its mission was to interdict and counter the infiltration of men, munitions and supplies from the sea to Viet Cong guerillas ashore. In this capacity, he planned, organized and coordinated the deployment of the Squadron's first two divisions (Division 11 and 12) comprised of seventeen 82-foot Coast Guard patrol boats. He then commanded Division 12 based at DaNang and served as Commander, Task Group 115.3. During this time, he directed the training and operations of both Coast Guard cutters and Navy PCFs and developed tactics which made full use of the capabilities of both types of vessels. For his service in Vietnam, the then Lieutenant Commander Knapp was awarded the Legion of Merit with Combat Distinguishing Device.

Upon his return from Southeast Asia, he commanded the USCGC ACUSHNET out of Portland, Maine. From there, he returned to Headquarters in September, 1968, to serve as Chief, Cost Analysis Branch, Budget Division. For meritorious achievement while in that post, he was awarded the Coast Guard Commendation Medal.

Returning to sea in July of 1972, he commanded in succession the polar icebreakers USCGC SOUTHWIND and USCGC EDISTO. Both vessels were based at Baltimore, Maryland. In July, 1974, he returned for a third tour of duty at Headquarters as Chief, Ocean Operations Division, Office of Operations. For outstanding achievement during that tour, he was awarded the Meritorious Service Medal. In June, 1977, he was reassigned to duty as Deputy Chief, Office of Personnel at Headquarters.

On January 27, 1978, he was among six other captains nominated by President Carter for the rank of Rear Admiral. Promoted to the rank of Rear Admiral on July 1, 1978, he assumed duties as Comptroller of the Coast Guard. He has served as District Commander in Alaska since June 28, 1980.

Rear Admiral Knapp is married to the former Pamela Hancock Pelham. He and Mrs. Knapp have four children: Joseph, Marc, Nancy and Richard.

Confirmation Hearings

Bd. of Marine Pilots

TO: COMMITTEES
FROM: CHIEF CLERK
DATE: March 5, 1984

The Governor has made appointments to the following boards and commissions, Commissioners and changes in military rank and they have been referred by the Speaker to these committees for confirmation:
(* indicates resumes have not yet been received & forwarded to committees)

HESS

Board of Education
- Kito, Sam
- Schaeffer, Mary

Board of Nursing Home Administrators
- Deater, Eloise

Board of Regents
- Hensley, Willie
- Shaver, Beatrice Lynn (Student)

Professional Teaching Practices Com.
- Adkison, Perry
- Jorgensen, Spike
- Nelson, James "Tom"
- Ryals, Karen
- Trent, Darleen
- Van Flein, Margaret

JUDICIARY

Alcoholic Beverage Control Board
- Perkins, Jane
- Smith, William

Judicial Conduct, Commission on
- Dale, Barbara
- Lincoln, Georgianna

Judicial Council
- Murray, Renee

LABOR & COMMERCE

Architects, Engineers & Land Surveyors
- Menzies, Malcolm
- Sampson, Sandra

Barbers & Hairdressers, Board
- Ashcraft, Letha
- Janzen, Carolyn
- Slaven, Roger

Dental Examiners, Board
- Buxton, Paul
- Zemlicka, Jerry

Nursing, Board of
Hartz, Lynn
Solomon, Alice

Pharmacy, Board of
Donelson, Joy
Nielson, Christy

Real Estate Commission
Anders, Ed
Benson, John
Collins, LaVerne
Serrano, Gilbert
Hill, Barbara

Worker's Compensation Board
Pruhs, Delia
Richards, David
Thomas (II), Joe
Thompson, Jack

Medical Board
Hughes, Dolores

RESOURCES/FISHERIES

Fisheries, Board of
Angasan, Val
Blake, Robert
Bonney, Bix
Foster, Jesse
Garner, John
Jolin, Ron
Muneth, Jerene

Commercial Fisheries Entry Commission
Smith, Phillip

RESOURCES

Game, Board of
Bennett, Joel
Huntington, Sidney
Jackson, Nicholas
Scanlan, Sarah

STATE AFFAIRS

Personnel Board
* Humphries, Ben
Johnson, Marlene

Human Rights Commission
Solomon, Morgan

TRANSPORTATION

Marine Pilots, Board of
Brady, Judith
Hodgman, James

COMMISSIONERS:

COMMUNITY & REGIONAL AFFAIRS

COMMUNITY & REGIONAL AFFAIRS
Notti, Emil
(Report received 1/20/84)

TRANSPORTATION & FINANCE

DOT/PF
Knapp, Richard

CHANGE IN ALASKA NATIONAL GUARD RANK

STATE AFFAIRS

MAJOR GENERAL
Pagano, Edward

BRIGADIER GENERAL
Hoyt, John
(Report received 2/22/84)

Senator Ray moved and asked unanimous consent that the Board of Dental Examiners be confirmed. Without objection, Dr. Paul Buxton and Dr. Jerry Zemlicka were confirmed.

Senator Ray moved and asked unanimous consent that the Board of Education be confirmed. Without objection, Sam Kito and Mary Schaeffer were confirmed.

Senator Ray moved and asked unanimous consent that the Board of Fisheries be confirmed. Senators Paul Fischer and Bennett objected.

Senator Ray moved that the Board of Fisheries be held until the end. Without objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the Board of Game be confirmed. Representative Adams objected.

Senator Ray moved that the Board of Game be held until the end. Without objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the Human Rights Commission be confirmed. Without objection, Morgan Solomon was confirmed.

Senator Ray moved and asked unanimous consent that the Commission on Judicial Conduct be confirmed. Without objection, Barbara Dale and Georgianna Lincoln were confirmed.

Senator Ray moved and asked unanimous consent that the Judicial Council be confirmed. Without objection, Renee Murray was confirmed.

Senator Ray moved and asked unanimous consent that the Board of Marine Pilots be confirmed. Without objection, Judith Brady and James Hodgman were confirmed.

Senator Ray moved and asked unanimous consent that the Medical Board be confirmed. Without objection, Dr. Dolores Hughes was confirmed.

Senator Ray moved and asked unanimous consent that the Board of Nursing be confirmed. Without objection, Lynn Hartz and Alice Solomon were confirmed.

Senator Ray moved and asked unanimous consent that the Board of Nursing Home Administrators be confirmed. Representative Tischer objected.

Senator Ray moved that the Board of Nursing Home Administrators be held until the end. Without objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the Occupational Safety and Health Review Board be confirmed. Without objection, Roger A. Anderson was confirmed.

Senator Ray moved and asked unanimous consent that the Board of Examiners in Optometry be confirmed. Without objection, Dr. John A. Demske and Dr. Robert D. O'Connell were confirmed.

Senator Ray moved and asked unanimous consent that the Personnel Board be confirmed. Without objection, Ben Humphries and Marlene Johnson were confirmed.

Senator Ray moved and asked unanimous consent that the Board of Pharmacy be confirmed. Without objection, Joy Donelson, Christy Nielson and William P. Larson were confirmed.

Senator Ray moved and asked unanimous consent that the Professional Teaching Practices Commission be confirmed. Without objection, Perry Adkison, Spike Jorgensen, James "Tom" Nelson, Karen Ryals, Darleen Trent and Margaret Van Flein were confirmed.

Senator Ray moved and asked unanimous consent that the Board of Public Accountancy be confirmed. Without objection, Marianne K. Burke, Michael T. Cook, Ida H. McMahon and Edward B. Mecham were confirmed.

Senator Ray moved and asked unanimous consent that the Real Estate Commission be confirmed. Without objection, Ed Anders, John Benson, LaVerne Collins, Gilbert Serrano and Barbara Hill were confirmed.

Senator Ray moved and asked unanimous consent that the following appointments be confirmed:

COMMISSION ON JUDICIAL CONDUCT

Barbara Dale, Juneau, term expiring December 31, 1986
Georgianna Lincoln, Fairbanks, term expiring December 31, 1985

There being no objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the following appointment be confirmed:

JUDICIAL COUNCIL

Renee Murray, Anchorage, term expiring May 18, 1989

There being no objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the following appointments be confirmed:

BOARD OF MARINE PILOTS

Judith Brady, Anchorage, term expiring June 1, 1987
James Hodgman, Ketchikan, term expiring June 1, 1987

There being no objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the following appointment be confirmed:

MEDICAL BOARD

Dr. Dolores Hughes, Juneau, term expiring January 12, 1988

There being no objection, it was so ordered.

BOARD OF FISHERIES

Val Angasan, Dillingham, term expiring January 31, 1986
Bix Bonney, Anchorage, term expiring January 31, 1986
Ernie Carter, Fairbanks, term expiring January 31, 1985
Jesse Foster, Quinhagak, term expiring January 31, 1986
John Garner, Juneau, term expiring January 31, 1987
Ron Jolin, Kodiak, term expiring January 31, 1987
Jerene Museth, Juneau, term expiring January 31, 1987

Senator P Fischer objected.

Senator Ray moved and asked unanimous consent that the Board of Fisheries appointments be moved to the bottom of the agenda. There being no objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the following appointments be confirmed:

BOARD OF GAME

* Joel Bennett, Juneau, term expiring January 31, 1986
* Sidney Huntington, Galena, term expiring January 31, 1987
Nicholas Jackson, Gakona, term expiring January 31, 1987
Sarah Scanlan, Fairbanks, term expiring January 31, 1987

Representative Adams objected.

Senator Ray moved and asked unanimous consent that the Board of Game appointments be moved to the bottom of the agenda. There being no objection, it was so ordered.

Senator Ray moved and asked unanimous consent that the following appointment be confirmed:

HUMAN RIGHTS COMMISSION

* Morgan Solomon, Barrow, term expiring January 31, 1989

There being no objection, it was so ordered.

BOARD: MARINE PILOTS, BOARD OF

TITLE: Board of Marine Pilots

DEPT: DCED

AUTHORITY: AS 08.62.010

STATUS: 83/06/30

REQUIREMENTS: LEGISLATIVE CONFIRMATION

PROHIBITIONS: Two consecutive terms

TERM: 4-year - staggered

DESCRIPTION: 7 members - 6 appointed by Governor: 2 licensed pilots actively engaged in piloting vessels (subject to statute), 2 agents or managers of vessels, and 2 public members, plus Commissioner/designee, DOT/PF; not more than one pilot and one agent shall be from any one judicial district; must be Alaska residents; pilots and managers are subject to legislative confirmation.

SPECIAL FACTS:

FUNCTION: Regulates and controls applications, licenses and permits

COMPENSATION:

MEETINGS: 2 times per year; 4 days maximum

*CONTACT: Commerce, Div. of Occupational Licensing Juneau - 465-2542

Marine Pilots

MEMBER	APPT	REAPPT	TERM
William H. Barrington P.O. Box 6224 Anchorage 99502 Agent	80/12/19		84/06/01
Judith M. Brady 3842 Wesleyan Anchorage 99504 Public	83/12/02		87/06/01
David V. George 217 Second St. Juneau 99801 Public	80/07/02		84/06/01
James A. Hodgman P.O. Box 6100 Ketchikan 99901 Pilot/SE	84/01/23		87/06/01
Richard Lyon Commerce Juneau 99811 Comm./Designee - Chair			
Donald J. Oldow P.O. Box 881 Seward 99664 Pilot/SW	81/11/06		85/06/01
Marvin P. Taylor P.O. Box 436 Skagway 99840 Agent	82/09/17	RT-83/02/28	86/06/01

Sec. 08.60.090. Penalty. A person who operates, establishes, or maintains a junk yard in any location without procuring a certificate of approval is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500, or by imprisonment for a term of not more than one year, or by both. (§ 5 ch 26 SLA 1962)

Sec. 08.60.100. Definitions. For the purpose of AS 08.60.050 — 08.60.100

(1) "person" means an individual and, where consistent with a collective capacity, a committee, firm, partnership, company, corporation, club, governmental agency, organization, association, or other combination of individuals;

(2) "junk yard" means a location where junk is gathered together and stored for a commercial or public purpose;

(3) "junk" means any secondhand and used machinery, scrap iron, copper, lead, zinc, aluminum, or other metals; it also includes wrecked automobiles, tools, implements, rags, used building materials, rubber, and paper. (§ 6 ch 26 SLA 1962)

Chapter 62. Marine Pilots.

Article
1. Board of Marine Pilots (§§ 08.62.010 — 08.62.040)
2. Licensing (§§ 08.62.080 — 08.62.150)
3. General Provisions (§§ 08.62.160 — 08.62.200)

Collateral references. — 79 Am. Jur. 2d, Shipping, §§ 54-67, 190-194.
70 C.J.S., Pilots, §§ 1-6.

Article 1. Board of Marine Pilots.

Section		Section	
10.	Creation and membership of board	30.	Meetings
20.	Appointment and term of office	40.	Powers and duties

Sec. 08.62.010. Creation and membership of board. There is created the Board of Marine Pilots. It consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members in accordance with AS 08.01.025, and the commissioner or the commissioner's designee. Not more than one pilot and one agent or manager shall be from any one judicial district. All members of the board shall be residents of the state. (§ 2 ch 106 SLA 1970; am § 8 ch 258 SLA 1976)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.020. Appointment and term of office. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session, for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. No person, with the exception of the commissioner or the commissioner's designee, may be appointed to the board for more than two consecutive terms. (§ 2 ch 106 SLA 1970; am § 1 ch 143 SLA 1980)

Effect of amendments. — The 1980 amendment added the present third sentence.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.030. Meetings. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (§ 2 ch 106 SLA 1970)

Sec. 08.62.040. Powers and duties. (a) The board shall

(1) provide for the maintenance of efficient and competent pilot service on all waters covered by this chapter to assure protection of shipping and the safety of human life and property;

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications of pilots and providing for the examination of pilots and the issuance of original or renewal pilot licenses to qualified persons;

(3) keep a register of licensed pilots, and agents;

(4) adopt regulations under the Administrative Procedure Act (AS 44.62) establishing standards by which pilotage fees may be established, and pay for audits whenever an audit is necessary to collect information needed to apply the standards in the regulations;

(5) make available, upon request, copies of this chapter and the regulations adopted under it.

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (§ 2 ch 106 SLA 1970; am §§ 2, 3 ch 143 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "and" for "vessels, operators," and deleted "and managers" following "agents," in paragraph (3) of subsection (a), and rewrote paragraph (4) of subsection (a).

Article 2. Licensing.

Section
80. License requirement
90. Application
100. Qualifications
110. Previous licensure
120. Duration, renewal
130. Lapsed license
140. Fees
150. Denial, revocation or suspension

Sec. 08.62.080. License requirement. A person may not pilot a vessel subject to this chapter unless the person is licensed under this chapter. (§ 2 ch 106 SLA 1970)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.090. Application. (a) A person who desires to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form prescribed by the board. (§ 2 ch 106 SLA 1970)

Sec. 08.62.100. Qualifications. A person is entitled to a license under this chapter if the person

(1) is of good moral character;

(2) is a citizen of the United States;

(3) passes the examination given by the board; and

(4) qualifies under the regulations adopted under AS 08.62.040(a)(2) and (b). (§ 2 ch 106 SLA 1970)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.110. Previous licensure. A license that was issued under former AS 30.10 is considered as having been issued under this chapter. (§ 2 ch 106 SLA 1970)

Editor's notes. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.120. Duration, renewal. A license issued under this chapter shall be renewed biennially on dates set by the department. A license issued under former AS 30.10 lapses at the end of calendar year 1970. A license issued between May 7, 1970 and the end of 1970 shall be issued for a fee of $100. A license shall be renewed without examination upon the payment of the biennial license fee. (§ 2 ch 106 SLA 1970)

Editor's notes. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.130. Lapsed license. A lapsed license may be reinstated without examination if it has not remained lapsed for more than two years. However, if the license is lapsed for less than two years and the board has reason to believe that the person applying for reinstatement of a license is incapable or incompetent to carry out the duties of a licensed marine pilot, the board may require the applicant to take and pass the examination given by the board. (§ 2 ch 106 SLA 1970; am § 1 ch 22 SLA 1973)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.140. Fees. The following fees shall be imposed under this chapter when applicable:

(1) application fee . . . . . $ 50
(2) biennial license fee $300
(3) biennial registration fee for agents $100

(§ 2 ch 106 SLA 1970; am § 4 ch 143 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "$50" for "$10" in paragraph (1) and "$300" for "$200" in paragraph (2), and added paragraph (3).

Sec. 08.62.150. Denial, revocation or suspension. (a) The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, revoke or suspend the license of a person who

(1) is incompetent in the performance of pilotage duties;
(2) is habitually intoxicated;
(3) illegally uses or sells narcotic or hallucinogenic drugs;
(4) makes a false statement to obtain a license;
(5) violates a provision of this chapter or a regulation adopted under it;
(6) is guilty of misconduct during the course of employment; or
(7) has suffered revocation of federal licensure as a pilot.

(b) A license denied, revoked or suspended under (a) of this section may not be granted or reinstated until

(1) the reason for the license denial, revocation or suspension has been remedied; and
(2) the period of suspension has been served and all fines imposed under this chapter have been paid. (§ 2 ch 106 SLA 1970; am § 5 ch 143 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraph (7) of subsection (a).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 3. General Provisions.

Section
160. Mandatory employment of licensed pilots
170. Pilot's lien for compensation
180. Exemptions
185. Certain licensed pilots required for oil tankers
187. Registration of agents required
190. Penalty
200. Definitions

Sec. 08.62.160. Mandatory employment of licensed pilots. A vessel subject to this chapter navigating the inside coastal waters of Alaska as determined by regulation shall employ a pilot holding a valid license under this chapter. (§ 2 ch 106 SLA 1970)

Sec. 08.62.170. Pilot's lien for compensation. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, the vessel's tackle, apparel and furniture for the pilot's compensation. (§ 2 ch 106 SLA 1970)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

08.62.180. Exemptions. This chapter does not apply to vessels under enrollment, except as provided in AS 08.62.185;

(2) fishing vessels registered in the United States or in British Columbia, Canada;

(3) motorboats as defined in sec. 1 of the federal Motor Boat Act of 1940 (54 Stat. 163; 46 U.S.C., sec. 526 et seq.);

(4) vessels of United States registry of less than 300 gross tons and tow boats of United States registry and vessels owned by the State of Alaska, engaged exclusively

(A) on the rivers of Alaska, or

(B) in the coastwise trade on the west coast of the United States including Alaska, Hawaii, and British Columbia, Canada;

(5) vessels of Canada, including Canadian cruise ships, engaged in frequent trade between British Columbia and Alaska, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; and

(6) pleasure craft. (§ 2 ch 106 SLA 1970; am § 1 ch 73 SLA 1972; am § 2 ch 78 SLA 1977)

Sec. 08.62.185. Certain licensed pilots required for oil tankers. (a) Any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater, shall, when navigating in state waters beyond Alaska pilot stations either

(1) employ a pilot licensed by the state under this chapter, or

(2) utilize a federally licensed pilot whose duty station has been on that tanker throughout that specific voyage.

(b) The pilot required in (a) of this section shall control the vessel during all docking operations. (§ 3 ch 78 SLA 1977)

Sec. 08.62.187. Registration of agents required. A person may not act as an agent of a vessel subject to this chapter unless the person's name appears on the register of agents kept under AS 08.62.040(a)(3). (§ 6 ch 143 SLA 1980)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.62.190. Penalty. A master or owner of a vessel required by this chapter to employ a licensed pilot who fails to do so when a licensed pilot is available, unless the perils or hazards of the sea prevent the employment of a pilot, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than $1,000 nor more than $5,000. A person who violates any other provision of this chapter or a regulation adopted under it is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than $500 nor more than $1,000. (§ 2 ch 106 SLA 1970; am § 1 ch 34 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "$1,000 nor more than $5,000" for "$500 nor more than $1,000" at the end of the first sentence.

Sec. 08.62.200. Definitions. In this chapter

(1) "board" means the Board of Marine Pilots;

(2) "commissioner" means the commissioner of the Department of Commerce and Economic Development;

(3) "department" means the Department of Commerce and Economic Development;

(4) "vessel" means all vessels not exempt under AS 08.62.180. (§ 2 ch 106 SLA 1970; am § 48 ch 218 SLA 1976)

Chapter 64. Medicine.

Article
1. State Medical Board (§§ 08.64.010 — 08.64.160)
2. Licensing (§§ 08.64.170 — 08.64.350)
3. Unlawful Acts (§ 08.64.360)
4. Miscellaneous Provisions (§§ 08.64.365 — 08.64.368)
5. General Provisions (§§ 08.64.370 — 08.64.380)

Cited in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 9-18, 41.

HOUSE TRANSPORTATION COMMITTEE MEETING

DAILY AGENDA

1) CALL MEETING TO ORDER

2) Wednesday, April 18, 1984
Note Time

3) Note members present and excused

4) Recognize VIP's

PROCESSION OF MEETING

5) Discuss proposed legislation:
Confirmation Hearings on the appointments by Governor William Sheffield to the Board of Marine Pilots:
James Hodgman-who is a Marine Pilot
Judith Brady-who is a public member
Their resumes are in each members folders.

6) Committee Schedule for this week:
Thursday CSSB 389(Fin) Spec Approp/DOTPF/Kenai and Tununak River Bridge
HB 660 Spec Approp/DOTPF/Kenai River Bridge

7) Announce time of adjournment

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Pouch A
Juneau, Alaska 99811

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:
Member, Board of Marine Pilots

Please list any other Board or Commission on which you serve:
None

Name	Previous Name applied under
James A. Hodgman	N/A
Mailing Address	**Residence Address**
415-A Front Street	415-A Front Street
City, State and Zip Code	
Ketchikan, Alaska 99901	Ketchikan, Alaska 99901
Home Telephone	**Business or Message Telephone**
225-2037	225-9696

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election.

Are you a registered voter? ☒ YES ☐ NO

Voter Registration Number (Optional)

543-03-6591
Social Security Number (Optional)

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? ☐ YES ☒ NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating in the required authorized meetings? ☐ YES ☒ NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating? No.

CONFLICTS OF INTEREST. Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? ☒ YES ☐ NO

Could you or any member of your family be affected financially by decisions to be made by the Board or Commission for which you have applied?
☒ YES ☐ NO If "YES", explain. I work as a Marine Pilot and the Board sets Marine Pilot tariffs.

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

01.012(2/81)

TRAINING & EXPERIENCE: (If résumé attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

Coast Guard license as Master of steam and motor vessels of any gross ton: upon oceans; also First Class pilot of steam or motor vessels of any gros: tons upon the waters of southeast Alaska from Dixon Entrance to Cape Spenc and upon the waters of Yakatat Bay including the Port of Yakacat; and Icy Radar Observer.

State of Alaska unlimited license as marine pilot in Southeast Alaska, Yakatat and Icy Bay
Captain, U.S.Coast Guard (Retired)

B. List both formal and informal education and training experiences: (Use additional paper if necessary)

Graduated Ketchikan High School 1941
B.S. in General Engineering, U.S. Coast Guard Academy, 1944
Naval War College 1963
M.A. in Foreign Affairs, George Washington University 1964
Shiphandling Simulator Course, MITAGS, 1983

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compens. and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

President, Ketchikan Families in Action
Chairman, American Youth Hostel, Ketchikan
Chairman, Finance Committee, Methodist Church, Ketchikan
Chairman, Social Concerns Committee, Ketchikan
Legion of Merit
Meritorious Service Medal

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

1941-1972--Officer in U.S. Coast Guard. Served as officer and Master on several cutters including two years in Alaska on the CGC Bittersweet. Commanded CG Squadron in Vietnam. Served ashore in various planning, liaison and training positions.
1972-1973--Supervisor of Marinas, Dade County, Florida.
1973-1984--Marine Pilot, Southeast Alaska.

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX
☒ Male
☐ Female

ETHNIC BACKGROUND
☐ White ☐ Black ☐ Hispanic ☐ Alaska Native ☐ Asian or Pacific Islander ☐ American Indian

Date of Birth: 06/19/23

Military Service (If applicable, give dates): 1941-1972 U.S.Coast Guard

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature in Ink: [signature]

Date: 1/31/84

01-012(1/81) Back

RESUME

JUDITH M. BRADY
3842 Wesleyan
Anchorage, Alaska

EDUCATION:

BA, Seattle University, 1963, Major: Journalism; Minor: History, Philosophy; Honors: Mike Donahue Journalism Scholarship, 1962, 1963; Best Writer of the Year, 1961, 1962, 1963; Who's Who, American Colleges and Universities, 1963.

Graduate Work: 21 hours toward interdisciplinary masters in Regional Economics, University of Alaska, 1968, 1969.

CURRENT EMPLOYMENT:

Executive Director, Commonwealth North. Commonwealth North is a private, non-partisan organization of business and political leaders involved with public policy issues affecting Alaska. Study teams explore questions of public policy and the conclusions are published as Action Papers. Prominent national and international speakers are invited to monthly breakfast forums to bring wider perspective to issues of interest to the membership.

The executive director reports to a 17-member Board of Directors co-chaired by former Governors William Egan and Walter Hickel. The executive director is responsible for the administration of the organization; the monthly forums; the study teams; and publication of the study team Action Papers. The executive director is expected to be knowledgeable in all current issues of major public policy.

PREVIOUS EXPERIENCE:

Chief Administrative Judge, Alaska Native Claims Appeals Board, U.S. Department of the Interior. January 1974 - July 1982. This was a quasi-judicial board appointed by the Secretary of the Interior in 1974 to hear and decide appeals on land selection decisions arising under the Alaska Native Claims Settlement Act. Board decisions could be appealed to the Federal Courts, but were final for the Department of the Interior. Since 1974 the Board decided an average of 75 land conveyance appeals a year, directly determining title to approximately 13 million acres of land

as between Native corporations, the State, federal agencies, private corporations, and individuals. None of the Board's land conveyance decisions have been overturned by the Courts. The Board's function was transferred to Washington on June 30, 1982, due to diminishing case load.

The Chief Administrative Judge was responsible for case assignments; for the administrative and policy-direction of the board members; and for the hiring and supervision of the Board's legal and administrative staff. The Chief Judge served as the authorized representative of the Secretary of the Interior and advised the Secretary on matters requiring broad policy determination, formulated policy for the Secretary in the area of appeals, and was responsible for the resolution of any conflicts which arose in the application of such policy.

July 72 - Jan. 74: Editor, Alaska Native Management Report, Alaska Native Foundation.

Recruited to evaluate the informationa requirements of the Native Regional Corporations established under the Alaska Native Claims Settlement Act, and to recommend the best method of providing that information. Developed and published the Alaska Native Management Report, a twice-monthly publication with an annual subscription rate of $245. Responsible for projecting and maintaining budget. The publication became self-sufficient within five months. Independently responsible for determining format and content of the Report and for developing a trust relationship with administrators of the regional corporations and government agencies responsible for implementing the Settlement Act.

Jan. 70 - Aug. 71: Research Associate, Community Enterprise Development Corporation.

CEDC is a non-profit private corporation funded by the Office of Economic Opportunity to assist in financing Native-owned cooperative businesses in rural Alaska.

Reviewed and made recommendations to the Director to accept/reject applications from groups requesting financial and/or training assistance; developed a training program for 23 staff members; developed training programs geared to the needs of the individual cooperatives. Coordinated with staff in co-authoring a budget request document that resulted in a $2.3 million funding allocation. Designed the grant proposal so that the information could be independently utilized by each cooperative each year for the purpose of budget review.

Feb. 67 - Jan. 70: Editor, Review of Business and Econimic Conditions, Institute of Social, Economic, and Government Research, University of Alaska, Fairbanks.

Initially under contract to edit economic and resource development studies. In 1968 was named Editor of the Review of Business and Economic Conditions, a 24-36 page published report scheduled every two months on subjects of special interest to the Alaska Legislature, such as annual economic forecasts and reports, resource development, etc. Responsible for coordinating with authors on revisions; establishing and maintaining author deadlines; editing, and publishing. Authored two of the Reports: The Reindeer Industry in Alaska, and Native Land Claims in Alaska.

Nov. 66 - July 67: Associate Editor, Tundra Times.

Employed under short-term contract to publish the Tundra Times, a weekly Native newspaper. Responsible for budgeting, staffing, payroll, selling enough ads to make the payroll, writing, editing, and printing the newspaper. During this period, won Best Editorial and Best Feature in the Alaska Press Club annual awards contest.

Sept. 63 - Aug. 66: Employed as a reporter, responsible for covering the court system, the Federal agencies, the Bureau of Land Management, the Bureau of Indian Affairs, and rural interior Alaska. As associate editor, was responsible for story assignment, deadlines, page layout, special editions, AP wire copy.

1961 - 1963: Night Editor, Associated Press, Spokane, Washington Bureau.

Summer and vacations during college.

COMMUNITY PROJECTS: Member, Fairbanks Native Association, 1964-1970; Board Member, Fairbanks Native Association, 1965-1967; Board member, Eskimo Olympics Committee, 1964-1967; alaska Press Club, 1964-1966; Alaska Native Boarding Home Program Parent, 1968-1969; Teacher, Junior High and High School CCD program, St. Anthony's Catholic Church, 1971-present; Toastmasters, 1977-present. Lt. Governor, Alaska-Yukon Council Toastmasters, 1979-1980; Gymnastics Coach, Special Olympics, 1980-present. Anchorage Port Commission - 1983 - present.

PERSONAL: 41 years old/married/3 children.

DOT

Overview

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NEWS RELEASE

FOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900

FOR IMMEDIATE RELEASE

DOT&PF Appointments
124

March 8, 1983

Commissioner Dan Casey today outlined his streamlining of deputy commissioner duties to make the Department of Transportation and Public Facilities more quickly responsive to regional and local needs.

At the same time, in a speech at Fairbanks, Casey announced the appointment of two deputy commissioners, two more in an acting capacity, and several directors to carry out his goals in a reorganized department.

Topping Casey's staff are H. "Glen" Glenzer, previously Executive Director of Alaska Construction Industry Advancement Program, as Deputy Commissioner for the Interior Region; Fred Seeger, a former private engineering consultant and construction manager, as Deputy Commissioner for Standards and Statewide Programs; Jon Scribner, formerly Deputy Commissioner for Design and Construction, as Acting Deputy Commissioner for Southeast Region; and William Snell, who has been Director of Planning and Programming, as Acting Deputy Commissioner for Central Region.

In addition, the Commissioner has appointed John Bates, a former Deputy Commissioner, as Director for Planning and Programming, and Ron Lind, who moved from Deputy Commissioner for Administration to Director of Administrative Policy and Fiscal Management. He also announced that Marty Nusbaum remains Acting Director of the

(More)

Marine Highway System, and Mark Hickey is Coordinator for the Alaska Railroad Transfer Team.

Commissioner Casey said making the new deputy commissioners directly responsible for all DOT&PF operations in their regions will greatly improve first hand attention to regional needs, and will strengthen close contact with local officials and residents.

He explained the reorganization is a change from statewide deputy commissioner authority based on departmental functions to "a line organization" structure of responsibility. The new system, he said, will enable deputy commissioners to respond decisively to the whole range of needs in their regions rather than, as in the past, having their powers to act fragmented along functional lines. The public, he said, now will have a designated person to turn to below the commissioner level who is conversant with all the needs and problems of their regions. This same approach will also apply to the Marine Highway System.

The only other exception, Casey said, is Standards and Statewide Programs which logically remains on a statewide basis since its area of responsibility involves not day-to-day operations but department-wide policies and positions.

The commissioner noted that the reorganization reaches only to the top management alignment, and he stressed that it impacts few employees as to where they are assigned and what they do.

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Summary

Fifteen years experience in engineering and engineering management. Has worked for private industry, military, and government in the fields of design and construction of all types of public facilities, environmental engineering and public health. Experience includes engineering investigations, teaching, planning, and management.

1982 - 1983: DOT&PF; Acting Deputy Commissioner, Design & Construction. Responsibility included those described for the Assistant Deputy Commissioner.

1979 - 1982: DOT&PF; Assistant Deputy Commissioner, Design & Construction. Supervised over 1500 positions. Program size of $400 million representing about 600 projects. Under general administrative direction of deputy commissioner. Responsible for administrative activities and programs of the unit, including budgeting, accounting, purchasing and supply, data processing, and personnel management.

1975 - 1979: Department of Environmental Conservation, Director, Division of Water Programs. Headed up division with major responsibility for statewide planning, water supply, water pollution control, monitoring, construction grants and village safe water programs. Overall manager of $20 million C.I.P. per year grant program for water and waste water systems and $3 million C.I.P. per year for sanitation facilities in rural villages. Responsible for preparing and managing construction of annual operating budget ($2 million/year).

1974 - 1975: Department of Environmental Conservation, Acting Director, Division of Water & Air Quality Control. Duties similar to above.

1971 - 1974: Department of Environmental Conservation, Chief of General Engineering. Responsible for water supply, radiation control, solid waste management, pesticide control, air faculty control on statewide level. Established and directed state's first village safe water program. Responsible for preparation and management of operating budget and management of $8 million C.I.P.

1969 - 1971: Department of Health and Welfare, Regional Sanitary Engineer. Responsible for all environmental health and engineering activities in the northern half of Alaska. Independently planned, directed and controlled all areas of responsiblity as Office Manager. Conducted pollution surveys, assisted government and industry to meet pollution requirements reviewed and approved water/sewer plans.

1967 - 1969: Employed by the U.S. Army as Captain, Sanitary Engineer. Instructor of graduate sanitary engineering officers in advanced sanitary engineering. Also gained practical experience in water supply, solid waste treatment, sanitation, industrial hygiene engineering and air pollution control.

1967 - 1967: Employed by Metcalf and Eddy Engineers as a Sanitary Engineer. Responsible for investigation, laboratory analysis, and reporting on ways to economically improve existing waste water treatment systems for a major west coast refinery to meet state standards for oil and suspended solids content.

EDUCATION

University of California. Earned Bachelor of Science in Civil Engineering.
Stanford University. Earned a Master of Science in Civil Engineering.
University of Alaska, Juneau and Fairbanks. Engineering and Management, Personnel Management, and Construction Management Systems.

Registered Professional Engineer, Alaska

Ronald Lind

BACKGROUND INFORMATION

Summary

1980-1983: Deputy Commissioner for Administration and Marine Operations. Responsible for supervision and operation of five major divisions of DOT&PF with an authorized staff of approximately 1200 and an operating budget of approximately $75 million. These divisions are responsible for the operation of the Alaska Marine Highway, State equipment fleet, data processing development and operation, financial services, personnel, supply, payroll and EEO.

1979-1980: Deputy Commissioner for Administration, DOT&PF. Responsible for direction and supervision of the State equipment fleet, financial management, data processin, personnel, supply and general administrative services of the Department of Transportation and Public Facilities. 400 employees and an operating budget of $25 million.

1976-1979: Director of the Division of Budget and Management, Office of the Governor, State of Alaska. Responsible for preparation of operating, capital and supplemental budgets submitted by the Governor to the Legislature. Provided recommendations to the Governor on fiscal impact of legislation and programs proposed to him for approval. Responsible for presentation of budget revisions to the Legislatvie Budget and Audit Committee (an interim committee of the Legislature) to obtain their approval. Reviewed proposed budgetary amendments of State agencies to assure that they were within legal and policy boundaries.

1973-1976: Deputy Director, Division of Budget and Management, Department of Administration. Responsible for providing recommendations to Budget Director for budgetary items from all State agencies. Responsible for coordination of technical aspects fo budget preparation, printing of budget documents and providing computer tapes to Legislative Finance staff. Provided testimony to legislative committees concerning specific programs and coordinated budgetary information with House and Senate finance committee chairmen. Responsible for analysis and review of the Transportation category.

1972-1973: Administrative Officer III, Department of Commerce. Responsible for the supervision and provision of administrative services of the Department of Commerce. Areas included Personnel, supply and financial activities.

1971-1972: Program Budget Analyst IV, Division of Budget and Management, Department of Administration. Responsible for supervision of budget analysts as well as personally responsible for the analysis of the Transportation and General Government categories. Among others, was specifically responsible for the analysis of the Department of Highways and Department of Public Works.

1969-1971: Budget and Management Analyst III, Division of Budget and Management, Department of Administration. Responsible for the review of State agency budget requests. At this time, the division of Budget and Management had only five professional staff members fo the evaluation and preparation of the entire State budget; therefore through rotation of assignments, gained knowledge of all State agencies' operations.

EDUCATION

University of Alaska, Fairbanks, Graduated 1966, Cum Laude, Bachelor of Business Administration degree.

John C. Bates

BACKGROUND INFORMATION

Summary

Thirteen years of experience in transportation in Alaska. Including design construction planning and administration.

1979 - 1983: Employed by the Department of Transportation & Public Facilities as Deputy Commissioner, Planning and Programming. Administered the development of the state transportation planning system leading to the development of the Department's Capital Improvements budget.

1979 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Interior Region Planning and Programming. Directed the Interior regional development of the State's transportation plans. This included management of consultant contracts in the areas of transportation planning.

1978 - 1979: Employed by the Department of Transportation & Public Facilities as Director of Research. Handled the administration of the Department's research staff. Areas included advanced transportation systems, permafrost engineering related to transportation systems, building and engineering systems.

1977 - 1978: Employed by the Department of Transportation & Public Facilities as State Maintenance Engineer. Established policy for the maintenance of the States roadways by the various regions. Compiled the Department's statewide M & O budget.

1974 - 1977: Employed by the Department of Transportation & Public Facilities as the Central District Maintenance Engineer.

1972 - 1974: Employed by the Department of Transportation & Public Facilities as the Central District LSR&T Engineer.

1970 - 1972: Employed by the Department of Transportation & Public Facilities as the Central Region Design Engineer.

1967 - 1970: Employed by the Pearl Harbor Naval Shipyard as a General Engineer, GS-11. Was head of the scientific computer section for the shipyard.

EDUCATION

Bradley University. School of Engineering, Peoria, Illinois. Earned a Bachelor of Science in Civil Engineering.

University of Hawaii. School of Engineering, Honolulu, Hawaii. Earned a Master of Science in Civil Engineering.

Registered Professional Engineer in the State of Alaska. Registered Land Surveyor in the State of Alaska

Fred Seeger

BACKGROUND INFORMATION

Summary

Fifteen years experience in engineering and construction of oil and gas industry related capital projects with emphasis in the State of Alaska.

1979-1983: Engineering and construction management consultant engaged in providing management service to major oil industry engineering and construction companies including North Slope producers such as ARCO Alaska, Inc. Specific service functions included construction planning and design during the engineering phase of the projects, estimating and scheduling, economic analyses, and contracting strategy. Represented clients as construction manager to deliver projects within budget, schedule and quality requirements during the construction phase of the projects.

1978-1979: Employed by Northwest Alaska Pipeline Company in Senior Project Planning position involved with the Alaska Natural Gas Transportation System. Performed conceptual engineering and construction planning for the gas pipeline project relating to capital cost estimates, schedules, manpower and equipment estimates, labor relations, procurement and logistics.

1975-1977: Employed by Alaska Pipeline Service Company, in Senior Project Management position during construction of the Trans Alaska Pipeline. Developed and implemented policy and procedure to improve quality of construction on a section of the oil pipeline. Directed various construction programs, particularly those associated with the special Arctic construction and engineering problems; provided direction to contractor's management in planning and engineering.

1974-1975: Employed by Bechtel Incorporated, as Assistant Deputy Manager on Trans Alaska Pipeline and Roads Project. Handled administration and coordination of personnel in Engineering, Procurement, Inspection, and Traffic Departments for the proper and timely supply of over $2 billion worth of materials and equipment for camp and pipeline construction; coordinated task force groups in the development of unique Arctic construction procedures for the installation of engineered pipeline components; generated estimates and budgets for management

1969-1973: Employed by Shell Oil Company, as Project Engineer and Project Manager. Through various assignments was responsible for producing project feasibility studies, capital budgets, project design, specifications, contracts, negotiations on right-of-way, and managing construction.

EDUCATION

Purdue University, School of Civil Engineering, Lafayette, Indiana. Earned Master of Science in Civil Engineering and Construction Management.

Clarkson College, School of Civil Engineering, Potsdam, New York. Earned Bachelor of Science in Civil Engineering.

Registered Professional Engineer in the States of Alaska, California, New York, and Washington.

H. "Glen" Glenzer

BACKGROUND INFORMATION

Summary

Over 30 years of active service as a U.S. Naval Aviator in positions of increasing responsibility, including command, exercising management control of national programs. Record of achievement in planning functions and policy development.

Experienced in the administration and management of a large air station and maritime terminals with all the problems and considerations of a civilian facility including management, operation, maintenance, development and FAA and maritime rules and regulations, as well as all other civil and governmental agencies.

Served as chief staff executive with Alaska Chapter of Associated General Contractors of America, Inc. involved with all problems and considerations commensurate with the construction industry. Directly involved with highway, building and utility construction as well as labor negotiations, personnel administration, education and training programs. Also active in safety, equal employment opportunity, ecology, budgeting, and all management functions pertaining to large construction contractor firms dealing extensively with gonvermental and civilian agencies and corporations. Most recently served as Executive Director of the Alaska Construction Industry Advancement Program involved with all the above activities including A.G.C. members plus others in the industry.

1981-1983: Executive Director - ACIAP. All duties encumbent upon previous position as they related to not only AGC members but entire industry at large. Also had various consulting jobs mainly pertaining to Aviation and Marine Transportation.

1973-1981: Chapter Manager, Alaska Chapter Association General Contractors of America, Inc. Responsible for Safety Public Relations, Equal Employment Opportunity & Ecology compliance as well as participated in and reviewed bargaining agreements and grievances of labor union contracts. Performed all duties attendant with personnel and engineering management functions, in relation to heavy construction industry. Also taught courses in financial management, economics and marketing at Alaska Pacific University.

1970-1973: Naval Safety Center, Norfolk, VA., Director of Aviation Safety Directorate. Supervised, established and adiministered safety programs within entire naval establishment and with other service and agencies including FAA, CAB and all airlines connected with them.

1968-1970: Commanding Officer, Naval Station, Adak, Alaska. Commanded large Naval Station which in addition to the administration of a community of 6000 people included a naval station and terminal as well as surface shipping harbor and terminal. Administrated a $4.5 million operating budget and $6 to $12 million annual construction project funds. Conducted contract negotiations and awarded and supervised contracts with airlines, contractors and industrial concerns.

1947-1968: U.S. Navy

EDUCATION

BA, University of Maryland. Earned Business Administration degree, Master of Science Degree from the George Washington University of business Administration. Graduate of University of Southern California Safety Management Course, the George Washington University Safety Course, the George Washington University Course in Multi-Variants and Naval Post Graduate School of Monterey, California.

appointments

functional to a line management
3 region - Hdq Ans Trks & Jun
M H S line agency.

Glen Glenzer - Interior

Contracting philosophy -
Riley Snell - acting Dept Comm
S. East John Schehan " " "

Marty Nowshaw Ferry System -
Fred Seiger -
John Bates - Plan program
Ron Reid -

Philosophy -
~~Org~~ organization - to line -
lower in the system
approval guidelines in the organization
bid openings in region -

more emphasis on project control &
cost accounting.
more visibility between bid
estimate
M + O — Continuation level -
F - 84 mil - State funds -
Maintaince liabilities

Federal Highway Admin.

Overview

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
REGION TEN
P.O. Box 1648
Juneau, Alaska 99802

FEB 4 1983

February 3, 1983
IN REPLY REFER TO

HDA-AK
061

State of Alaska
House Transportation Committee
Ms. Bette Cato, Chairman
Pouch V
Juneau, Alaska 99811

Dear Ms. Cato:

Federal-aid Highway funds in the amount of $1,285,335 have been obligated as a part of the preliminary engineering for a new ferry vessel to replace the Tustumena. Our records indicate we have obligated $69,520,547 in the Marine Highway system since 1961.

You also asked what categories of Federal-aid funds are available in Alaska. These categories are:

Interstate
Interstate 4-R (Rehabilitation, Restoration, Resurfacing, Reconstruction)
Consolidated Primary
Primary 4-R
Rural Secondary
Secondary 4-R
Urban
Bridge Off-System (not on a Federal-aid designated system)
Bridge On-System
Bridge On or Off-System
Economic Growth Center
Forest Highway
Hazard Elimination
Highway Planning and Research
Metropolitan Planning
Public Lands
Rail-Highway Protective Devices
Rail-Highway-Elimination of Hazards
Non-urban Public Transit

Sincerely yours,

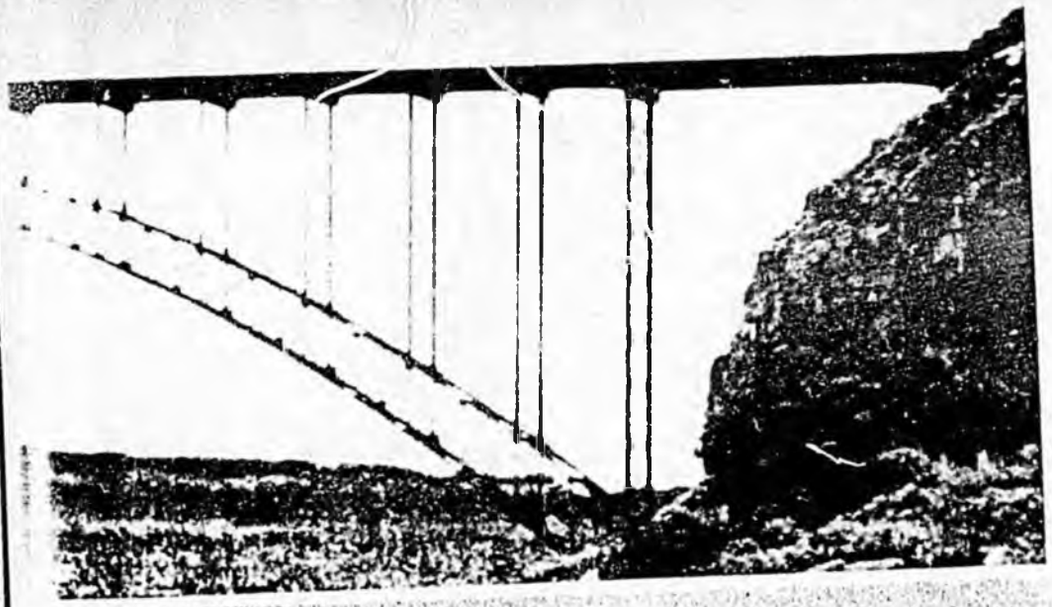
Barry F. Morehead

Barry F. Morehead
Division Administrator

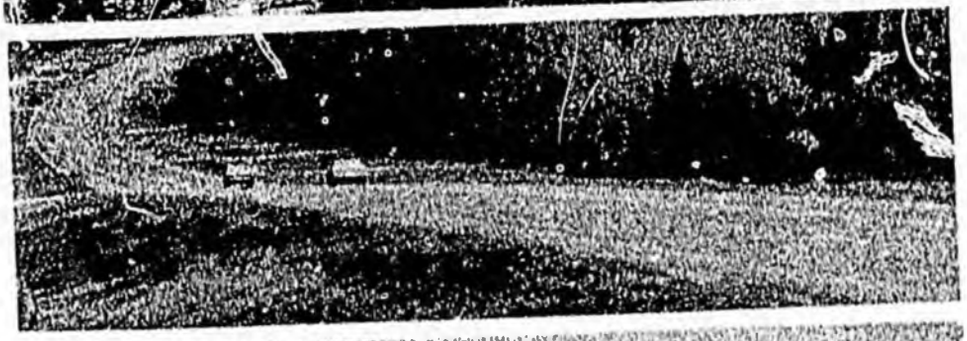
AVAILABLE AIRPORT AID

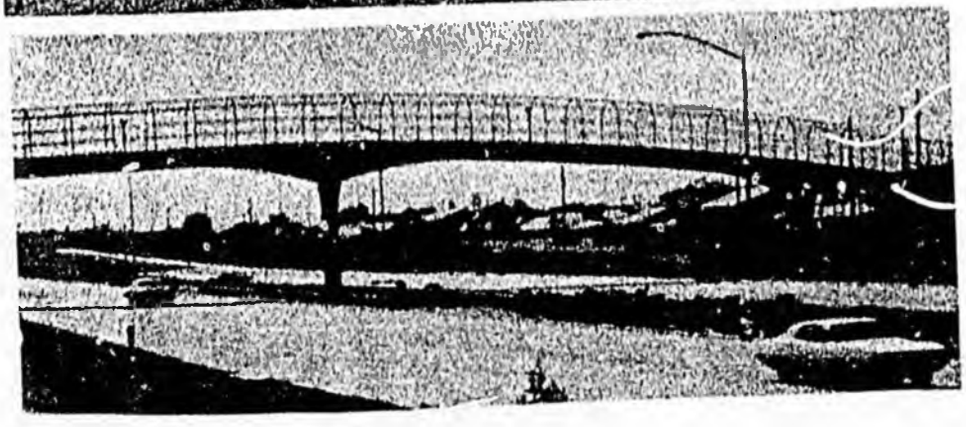
SOURCE Project	Primary Apport'nm't	 Adjustm't	Non-primary Comm. Serv.	Non-Comm'l Serv.-Lrg	Non-Comm'l Serv.-Small	Area/ Popul'n	TOTALS
FY82 Carryover	$ -0-	$1,063,411	$2,699,249	$3,158,694	$ 5,105,716	$ -0-	$12,027,070
FY83	3,046,727	1,153,577	3,015,117	3,158,694	5,934,516	6,040,800	22,349,431
Total Available as of 10/1/82	3,046,727	2,216,988	5,714,366	6,317,388	11,040,232	6,040,800	34,376,501
FY84	3,046,727	1,153,577	3,015,117	3,158,694	5,934,516	7,671,400	23,980,031
Total Available as of 10/1/83	6,093,454	3,370,565	8,729,483	9,476,082	16,974,748	13,712,200	58,356,532

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.









America on the Move!

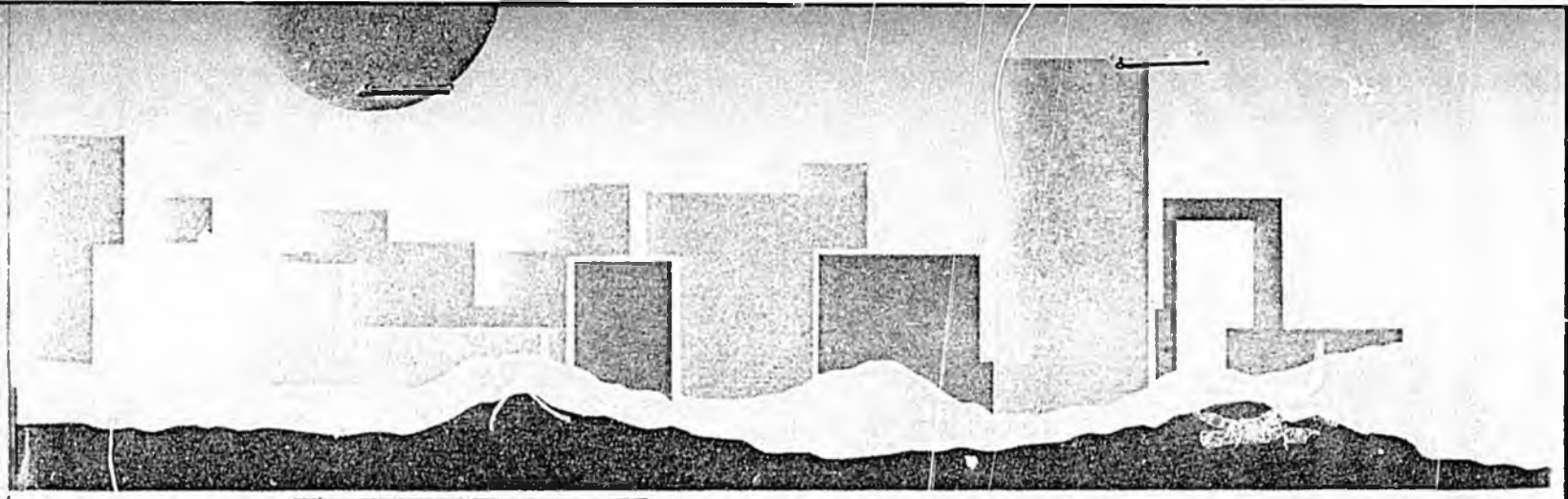
The Story of the Federal-Aid Highway Program

U.S. Department of Transportation

Federal Highway Administration

Office of Program and Policy Planning, Program Coordination Division

Office of Public Affairs



Your Guide to Programs of the Federal Highway Administration

Region 10

U. S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

FINANCING FEDERAL-AID HIGHWAYS

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
May 1979

U. S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

APPORTIONMENT OF FEDERAL-AID
HIGHWAY FUNDS PROVIDED BY
THE SURFACE TRANSPORTATION ACT OF 1982

STATE	TOTAL APPORTIONMENT	STATE	TOTAL APPORTIONMENT
Alabama	217,298,389	North Carolina	249,304,385
Alaska	141,043,134	North Dakota	73,439,396
Arizona	145,082,962	Ohio	411,881,938
Arkansas	113,009,082	Oklahoma	163,314,061
California	907,229,157	Oregon	132,475,138
Colorado	164,909,513	Pennsylvania	470,283,242
Connecticut	185,382,895	Rhode Island	96,970,021
Delaware	48,723,761	South Carolina	141,564,784
Florida	405,032,427	South Dakota	75,629,908
Georgia	329,630,559	Tennessee	213,273,622
Hawaii	98,860,647	Texas	755,703,552
Idaho	72,038,238	Utah	108,975,704
Illinois	389,834,272	Vermont	52,118,742
Indiana	237,871,569	Virginia	268,229,853
Iowa	142,687,046	Washington	280,354,773
Kansas	147,676,236	West Virginia	158,774,846
Kentucky	214,524,907	Wisconsin	176,703,524
Louisiana	290,598,587	Wyoming	75,452,101
Maine	57,958,470	Dist. of Col.	63,229,575
Maryland	335,146,441	Puerto Rico	42,782,233
Massachusetts	221,341,155	Total	11,047,607,736
Michigan	339,330,875		
Minnesota	197,623,522	Territories	7,456,843
Mis[illegible]i	128,245,651	Subtotal	11,055,064,579
Missouri	236,947,984		
Montana	99,948,511	American Samoa	910,191
Nebraska	100,781,934	Guam	910,191
Nevada	66,089,407	N. Mariana Islands	910,191
		Virgin Islands	91[illegible],191
New Hampshire	53,775,638		
New Jersey	267,003,353		
New Mexico	91,022,497	Grand Total	11,058,705,343
New York	590,797,519		

U.S. Department
of Transportation

Federal Highway Administration

400 Seventh St., S.W.
Washington, D.C. 20590

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What is the difference generally and in dollars between authorized amounts and actual funding levels?

- For what purposes can the funds be used? (List categories) Planning?

How often and by what criteria are accounts audited in the state?

How is the relationship between Federal Highways and the DOTPE?

Do you know if funds are obligated for the trustworthy replacement?

(Recall we found it in DOT's Print Out!)

REPS

reimbursable

Financing Federal Aid
State admin - Fed appropriated

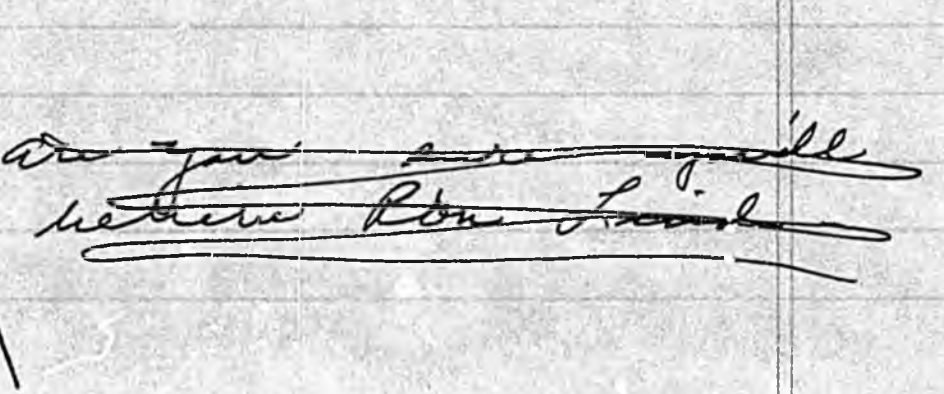
141 million in Fed increase ~~[illegible]~~
did 110 - " " Pass
Regional office in state -

Fed aid - Title 23 - U.S. Code.
broken up in Categories -
Surface Transportation act - primary.
1.8s bil - 60 mil.

- Shakwick project -

60 million carryover from previous year.
(talk to Casey on this as he asked for it)

As a good committee people are working



Why if the federal dollars are reimbursed and the obligations are given before bid, why doesn't take longer to get to bid with Fed Projects?

Why if the federal
dollars are reimbursed and
the obligations are given before
Did, why doesn't take longer
to get to bid with Fed Projects?

Orientation Municipal Grant Overview

Commissioner Mark Lewis
on Municipal Grant.

talk to committee about various

What if you have a community not
eligible for municipal grant - ? —

Maintainence —

TORA -

- 326 million -

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

January 13, 1983

Dear Official:

Governor Sheffield, as stated in his press release of January 4, 1983, supports capital improvement projects which stimulate economic development and create jobs in the private sector. An orderly budget process is also one of his key objectives. Based on these objectives, the Department of Community & Regional Affairs invites you to submit requests for state grant funding for capital improvement projects.

Generally, capital improvement refers to projects of a large size, fixed nature, or long life which provide new or additional public facilities or services. Major replacements, upgrading, or rehabilitation of existing facilities are included. Three other kinds of expenditures may also be termed capital improvements: 1) land acquisition; 2) major equipment, fixtures and furniture; and 3) project planning activities, including architectural, engineering, legal expenses and feasibility studies.

Please provide this department with your request in a narrative form which addresses the following:

Project description (including the circumstances relating to why this project is needed)

Time tables for project completion

Budgetary needs

Operation and maintenance costs once the project has been completed - (How will your community/ region continue to operate the facility once it is complete or maintain equipment once it is purchased?)

Impact on the economic development of the community or region

Effect on local employment - (How many short and long term jobs will be created through the implementation of this project?)

Impact on the maintenance of life, health and safety

Also, within the narrative please provide a statement on land status if requesting a construction project.

If these projects have been included in a comprehensive plan, an agency study, or previously requested of another agency, please provide that information. Engineering plans, architectural plans or feasibility studies would also be helpful, if available.

A final item which should be included in your letter is the name and telephone number of the contact person within your agency for each project requested. This will assist us if there are issues to be clarified or if additional information is needed.

Non-profit organizations should submit their requests through municipalities. This will allow for an integrated community plan.

Once submitted, your request will be reviewed by this agency or another appropriate state agency. All recommended requests will be presented to the Governor who, in turn, will present his priorities to the legislature in the FY84 capital budget request.

The Department realizes that there is little time to prepare these requests since Governor Sheffield has asked for them by February 1. We do hope you can provide as much information as possible to help us review, evaluate, and make recommendations on the funding for these capital projects. Hopefully, next year there will be a process which provides enough time to adequately plan your grant requests.

It is also important to note that with the state's declining revenues and the voter approved spending limitation, the Department requests that only real community needs be identified.

Requests should be submitted to the address identified above. If you have any questions, please contact this office.

Sincerely,

Mark Lewis
Commissioner

FEDO DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
5	5	D	000213	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	WILSON LANE IMPROVEMENTS	750,000	3
5	5	D	000214	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	WAREHOUSE RD AS PART OF WILSON	175,000	4
5	5	D	000215	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	RESERVOIR	1,500,000	5
5	5	D	000216	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	LIBRARY EXPANSION	550,000	6
99			000090	COMMUNITY & REG AFFAIRS	STATEWIDE	STATE	14(c) LAND RECONVEYANCE TA	382,737	
99			000091	DEPT OF LABOR	STATEWIDE	STATE	OCCUPATIONAL SKILLS EXCHANGE	235,643	
99			000092	COMMERCE & ECONOMIC DEV	STATEWIDE	STATE	RURAL ECONOMIC TRAINING & TA	361,476	
24	24	M	000391	TANANA CHIEFS CONFERENCE	STEVENS VILLAGE	NON-PROFIT	WASTE WATER FACILITY LAGOON	275,000	1
24	24	M	000392	TANANA CHIEFS CONFERENCE	STEVENS VILLAGE	NON-PROFIT	COLD STORAGE/WALK-IN FREEZER	132,000	2
24	24	M	000393	TANANA CHIEFS CONFERENCE	STEVENS VILLAGE	NON-PROFIT	RECREATION MULTI PURPOSE CENTR	84,000	3
			000020	SW REGION SCHOOLS	SW REGION REAA	REAA	ADMIN & WAREHOUSE FACILITY	4,900,000	
16			000022	SW REGION SCHOOLS	SW REGION REAA	REAA	LIFE/SAFETY CODE UPGRADE	2,800,000	
24	24	M	000438	TANANA CHIEFS CONFERENCE	TAKOTNA	NON-PROFIT	MULTI-PURPOSE BUILDING	758,000	1
24	24	M	000439	TANANA CHIEFS CONFERENCE	TAKOTNA	NON-PROFIT	WATER/SEWER FEASIBILITY STUDY	25,000	2
24	24	M	000440	TANANA CHIEFS CONFERENCE	TAKOTNA	NON-PROFIT	SMALL HYDRO STUDY (GOLD CREEK)	15,000	3
24	24	M	000441	TANANA CHIEFS CONFERENCE	TAKOTNA	NON-PROFIT	VILLAGE FREEZER	160,000	4
24	24	M	000442	TANANA CHIEFS CONFERENCE	TAKOTNA	NON-PROFIT	BOAT AND BARGE	44,000	5
17	17	J	000468	TANANA CHIEFS CONFERENCE	TANACROSS	NON-PROFIT	WATER & SEWER SYSTEM REPAIR	500,000	1
17	17	J	000469	TANANA CHIEFS CONFERENCE	TANACROSS	NON-PROFIT	PUBLIC SAFETY EQUIPMENT	20,000	2
17	17	J	000470	TANANA CHIEFS CONFERENCE	TANACROSS	NON-PROFIT	JD 450 CAT	80,000	3
17	17	J	000471	TANANA CHIEFS CONFERENCE	TANACROSS	NON-PROFIT	LAUNDROMAT REPAIRS & EXPANSION	25,000	4
24	24	M	000395	TANANA CHIEFS CONFERENCE	TANANA	NON-PROFIT	YOUTH CENTER BLDG IMPROVEMENT	46,635	1
24	24	M	000396	TANANA CHIEFS CONFERENCE	TANANA	NON-PROFIT	COMMUNITY PROGRAM PLANNING	42,000	2
24	24	M	000397	TANANA CHIEFS CONFERENCE	TANANA	NON-PROFIT	MUSEUM/CULTURAL HISTORY CENTER	93,750	3
24	24	M	000398	TANANA CHIEFS CONFERENCE	TANANA	NON-PROFIT	COMM PARK & COVERED KITCHEN	81,000	4
24	24	M	000443	TANANA CHIEFS CONFERENCE	TELIDA	NON-PROFIT	ELECTRIFICATION	170,000	1
24	24	M	000444	TANANA CHIEFS CONFERENCE	TELIDA	NON-PROFIT	FREEZER	125,000	2
24	24	M	000445	TANANA CHIEFS CONFERENCE	TELIDA	NON-PROFIT	MAINENANCE SHOP	80,000	3
24	24	M	000446	TANANA CHIEFS CONFERENCE	TELIDA	NON-PROFIT	WATER/SEWER FEASIBILITY STUDY	15,000	4
3	3	B	000341	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	COMBINED SCHOOL CONSTRUCTION	???	1
3	3	B	000342	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	RECON/ENLARGE SMALL BOAT HARB	???	2
3	3	B	000343	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	FERRY TERMINAL FACILITY ADDITI	???	3
3	3	B	000344	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	INVESTIGATE GRO-THERMAL RESOUR	???	4
3	3	B	000345	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	PRELIMINARY STUDY/COMMUN BLDG	10,000	5
3	3	B	000346	CITY OF TENAKEE SPRINGS	TENAKEE SPRINGS	MUNIC	DESIGN WORK/PUBLIC WORKS SHOP	15,000	6
17	17	J	000472	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	COMMUNITY HALL	480,000	1
17	17	J	000473	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	COIN BOX METERING	10,000	2
17	17	J	000474	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	EQUIPMENT	240,000	3
17	17	J	000475	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	STREET LIGHTING	3,000	4
17	17	J	000476	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	CLINIC	25,000	5
17	17	J	000477	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	ROAD STUDY	25,000	6
17	17	J	000478	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	VPSO EQUIPMENT	35,000	7
17	17	J	000479	TANANA CHIEFS CONFERENCE	TETLIN	NON-PROFIT	RECREATION FACILITIES	7,000	8
26	26	N	000051	TOGIAK CITY COUNCIL	TOGIAK	MUNIC	SEAWALL - EROSION	??	1
26	26	N	000052	TOGIAK CITY COUNCIL	TOGIAK	MUNIC	ANCSA 14(c) SURVEY	??	2
26	26	N	000053	TOGIAK CITY COUNCIL	TOGIAK	MUNIC	ROAD GRAVEL	??	3
26	26	N	000054	TOGIAK CITY COUNCIL	TOGIAK	MUNIC	NEW COMMUNITY HALL	??	4
26	26	N	000055	TOGIAK CITY COUNCIL	TOGIAK	MUNIC	SWIMMING POOL	??	5
17	17	J	000480	TANANA CHIEFS CONFERENCE	TOK	NON-PROFIT	CUTURAL CENTER	480,000	1
17	17	J	000481	TANANA CHIEFS CONFERENCE	TOK	NON-PROFIT	VAN	18,000	2
17	17	J	000482	TANANA CHIEFS CONFERENCE	TOK	NON-PROFIT	STORAGE BUILDING	50,000	3
17	17	J	000483	TANANA CHIEFS CONFERENCE	TOK	NON-PROFIT	COMMUNITY GREENHOUSE	8,000	4
17	17	J	000484	TANANA CHIEFS CONFERENCE	TOK	NON-PROFIT	TV TRANSMITTER SITE	35,000	5
25	25	M	000170	CITY OF TUNUNAK	TUNUNAK	MUNIC	ALTERNATIVE POWER & ENERGY	348,500	
25	25	M	000171	CITY OF TUNUNAK	TUNUNAK	MUNIC	CONSTRUCT A SEA WALL	904,891	
25	25	M	000172	CITY OF TUNUNAK	TUNUNAK	MUNIC	WATER/SEWER FEASIBILITY STUDY	???	
26			000005	UGASHIK VILLAGE COUNCIL	UGASHIK	UNINC	EXTEND RUNWAY	100,000	1

ELEC DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR
18	18	J	000208	CITY OF NORTH POLE	NORTH POLE	MUNIC	WATER,PAVING,SAFETY BUILDING	3,619,050	1
18	18	J	000209	CITY OF NORTH POLE	NORTH POLE	MUNIC	BOND INDEBT/SAFETY TRAIN. BLDG	1,571,100	2
18	18	J	000210	CITY OF NORTH POLE	NORTH POLE	MUNIC	CAPITAL EQUIPMENT PROGRAM	181,995	3
22	22	L	000093	MONTIE SLUSHER NSBSD	NORTH SLOPE BOR	INDIV.	SOCIAL SERVICES DEMO PROGRAM	400,000	
17	17	J	000464	TANANA CHIEFS CONFERENCE	NORTHWAY	NON-PROFIT	FIRE HALL	312,000	1
17	17	J	000465	TANANA CHIEFS CONFERENCE	NORTHWAY	NON-PROFIT	EQUIPMENT	384,000	2
17	17	J	000466	TANANA CHIEFS CONFERENCE	NORTHWAY	NON-PROFIT	COMMUNITY HALL	195,000	3
17	17	J	000467	TANANA CHIEFS CONFERENCE	NORTHWAY	NON-PROFIT	VPSO EQUIPMENT	25,000	4
24	24	M	000411	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	WATER & SEWER - NEW TOWNSITE	???	1
24	24	M	000412	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	DUMP TRUCK	???	2
24	24	M	000413	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	GRADER	???	3
24	24	M	000414	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	LOADER	???	4
24	24	M	000415	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	SURVEY OF CHURCH & LANDS PLAT	???	5
24	24	M	000416	TANANA CHIEFS CONFERENCE	NULATO	NON-PROFIT	ROAD - NEW TOWNSITE TO RIVER	???	6
16	16	I	000311	CITY OF PALMER	PALMER	MUNIC	SEWAGE TREATMENT PLANT EXPAN	2,369,850	1
16	16	I	000312	CITY OF PALMER	PALMER	MUNIC	INDUSTRIAL PARK DEVELOPMENT	2,500,000	2
16	16	I	000313	CITY OF PALMER	PALMER	MUNIC	PUBLIC SAFETY SERVICES BLDG	2,500,000	3
16	16	I	000314	CITY OF PALMER	PALMER	MUNIC	PAVING OF STREETS	1,437,500	4
16	16	I	000315	CITY OF PALMER	PALMER	MUNIC	STREET LIGHTING	275,000	5
16	16	I	000316	CITY OF PALMER	PALMER	MUNIC	TOURIST CENTER MUSEUM ADDITION	250,000	6
16	16	I	000317	CITY OF PALMER	PALMER	MUNIC	AIRPORT EXPANSION	5,345,200	7
16	16	I	000318	CITY OF PALMER	PALMER	MUNIC	PURCHASE/IMPROVE PARKING LOTS	300,000	8
3	3	B	000164	CITY OF PELICAN	PELICAN	MUNIC	CITY FIRE PROTECTION SYSTEM	500,000	01
3	3	B	000165	CITY OF PELICAN	PELICAN	MUNIC	REBUILD COMMUNITY HALL	500,000	02
3	3	B	000166	CITY OF PELICAN	PELICAN	MUNIC	EXPANSION OF HARBOR FACILITY	800,000	03
3	3	B	000167	CITY OF PELICAN	PELICAN	MUNIC	INCINERATOR & DISPOSAL SYSTEM	75,000	04
3	3	B	000168	CITY OF PELICAN	PELICAN	MUNIC	REBUILD MAIN BOARDWALK	100,000	05
3	3	B	000169	CITY OF PELICAN	PELICAN	MUNIC	FIRE ACCESS ROAD	100,000	06
26			000039	PORTAGE CRK VILLAGE CNCL	PORTAGE CREEK	UNINC	ROAD TO DUMP-GRAVEL TRAILS	??	1
26			000040	PORTAGE CRK VILLAGE CNCL	PORTAGE CREEK	UNINC	RESURFACE AIRSTRIP	??	2
25	25	M	000355	CITY OF QUINHAGAK	QUINHAGAK	MUNIC	OVERHAED ELECTRICAL SYSTEM	440,000	
24	24	M	000394	TANANA CHIEFS CONFERENCE	RAMPART	NON-PROFIT	SAFE WATER/LAUNDRY FACILITY	175,000	1
23	23	L	000218	CITY OF SAVOONGA	SAVOOGNA	MUNIC	AIRPORT BUILDING	75,000	
23	23	L	000217	CITY OF SAVOONGA	SAVOONGA	MUNIC	REINDEER HERDING	190,000	
23	23	L	000219	CITY OF SAVOONGA	SAVOONGA	MUNIC	MUSEUM	550,000	
23	23	L	000220	CITY OF SAVOONGA	SAVOONGA	MUNIC	OFFICE FURNITURE (MUNIC. BLDG)	???	
23	23	L	000221	CITY OF SAVOONGA	SAVOONGA	MUNIC	SAVOONGA TEEN CENTER	150,000	
1	1	A	000179	CITY OF SAXMAN	SAXMAN	MUNIC	RENOVATION SAXMAN SEAPORT	500,000	01
1	1	A	000180	CITY OF SAXMAN	SAXMAN	MUNIC	SEWER PLANT EXPANSION	500,000	02
1	1	A	000181	CITY OF SAXMAN	SAXMAN	MUNIC	SOUTH TONGASS ROAD IMPROVEMENT	120,000	03
1	1	A	000182	CITY OF SAXMAN	SAXMAN	MUNIC	EVERGREEN ROAD IMPROVEMENT	300,000	04
1	1	A	000183	CITY OF SAXMAN	SAXMAN	MUNIC	REVILLA ROAD IMPROVEMENT	377,000	05
1	1	A	000184	CITY OF SAXMAN	SAXMAN	MUNIC	A, B, & C STREET IMPROVEMENTS	237,000	06
1	1	A	000185	CITY OF SAXMAN	SAXMAN	MUNIC	TOTEM POLE RENOVATION PROJECT	???	07
1	1	A	000186	CITY OF SAXMAN	SAXMAN	MUNIC	INDUSTRIAL PARK WATER & SEWER	100,000	08
5	5	D	000371	CITY OF SELDOVIA	SELDOVIA	MUNIC	EROSION CONTROL PROJECT	4,800,000	1
5	5	D	000372	CITY OF SELDOVIA	SELDOVIA	MUNIC	WATER & SEWER SYSTEM EXTENTION	506,000	2
5	5	D	000373	CITY OF SELDOVIA	SELDOVIA	MUNIC	ROAD CONST. & IMPROVEMENTS	250,000	3
6	6	D	000337	CITY OF SEWARD	SEWARD	MUNIC	MARINE INDUSTRIAL CENTER	18,000,000	
6	6	D	000338	CITY OF SEWARD	SEWARD	MUNIC	RAIL SPUR	2,000,000	
24	24	M	000424	TANANA CHIEFS CONFERENCE	SHAGELUK	NON-PROFIT	ENGINE-BARGE	35,000	1
24	24	M	000425	TANANA CHIEFS CONFERENCE	SHAGELUK	NON-PROFIT	STREET LIGHTS	60,000	2
24	24	M	000426	TANANA CHIEFS CONFERENCE	SHAGELUK	NON-PROFIT	SMALL JOHN DEERE TRACTOR	35,000	3
2	2	B	000334	SKAGWAY MUNIC PORT FACILI	SKAGWAY	MUNIC	SKAGWAY DOCK FACILITIES	4,320,000	
2	2	B	000340	SKAGUA VILLAGE COUNCIL	SKAGWAY	NONPROFIT	S.T.V.C. CULTURAL CENTER	625,000	
5	5	D	000211	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	REDOUBT AVE. IMPROVEMENTS	2,500,000	1
5	5	D	000212	CITY OF SOLDOTNA	SOLDOTNA	MUNIC	BINKLEY STREET IMPROVEMENTS	1,400,000	2

DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR
2	2	B	000192	CITY OF KAKE	KAKE	MUNIC	HYDRO-ELEC INTERTIE -KAKE/PETE	9,000,000	
2	2	B	000193	CITY OF KAKE	KAKE	MUNIC	OUTER DR. & RELATED TRANS IMPR	2,500,000	
2	2	B	000194	CITY OF KAKE	KAKE	MUNIC	AIRPORT	???	
2	2	B	000195	CITY OF KAKE	KAKE	MUNIC	BREAKWATER & BOAT HARBOR	12,000,000	
2	2	B	000196	CITY OF KAKE	KAKE	MUNIC	WATER SUPPLY	430,330	
2	2	B	000197	CITY OF KAKE	KAKE	MUNIC	ROAD TO PETERSBURG PERMITS ETC	500,000	
2	2	B	000198	CITY OF KAKE	KAKE	MUNIC	PARK AND PLAYGROUND	145,200	
5	5	D	000222	SALAMATOF NATIVE ASSOC.	KENAI	NONPROFIT	DISTRIBUTE LAND TO SHAREHOLDER	140,000	
5	5	D	000268	CITY OF KENAI	KENAI	MUNIC	ROAD IMPROVEMENTS (14 VARIOUS)	6,675,000	
5	5	D	000269	CITY OF KENAI	KENAI	MUNIC	PARK & RECREATION IMPROVEMENTS	1,190,000	
5	5	D	000270	CITY OF KENAI	KENAI	MUNIC	LIBRARY ADDITION	600,000	
5	5	D	000271	CITY OF KENAI	KENAI	MUNIC	AIRPORT VEHICLE PARKING	472,000	
5	5	D	000272	CITY OF KENAI	KENAI	MUNIC	AIRPORT IMPROVEMENT/EXTENSIONS	9,000,000	
5	5	J	000273	CITY OF KENAI	KENAI	MUNIC	BEAVER CREEK FIRE STATION	253,000	
5	5	D	000274	CITY OF KENAI	KENAI	MUNIC	SKI/GRASS/DIRT STRIP AIRPORT	200,000	
5	5	D	000275	CITY OF KENAI	KENAI	MUNIC	FLOAT PLANE BASIN AIRPORT	1,000,000	
5	5	D	000276	CITY OF KENAI	KENAI	MUNIC	HARBOR/BULKHEAD/DREDGE/BOATRAM	1,750,000	
5-6	5-6	D	000335	KENAI PENINSULA BOROUGH	KENAI	BOROUGH	ROAD CONSTRUCTION	26,350,000	
5-6	5-6	D	000336	KENAI PENINSULA BOROUGH	KENAI	BOROUGH	FUTURE ROAD PROJECTS	1,020,000	
2	2	B	000250	CITY OF KLAWOCK	KLAWOCK	MUNIC	WATER AND SEWER - PHASE II	500,000	1
2	2	B	000251	CITY OF KLAWOCK	KLAWOCK	MUNIC	STREET/ROAD IMPROVE - PHASE II	500,000	2
27	27	N	000358	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	NEAR ISLAND BRIDGE SUPPLEMENT	13,000,000	1
27	27	N	000359	KODIAK ISLAND BOROUGH	KODIAK	MUNIC	ISLAND LAKE WATER & SEWER	4,776,000	2
27	27	N	000360	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	SANITARY LANDFILL	3,600,000	3
27	27	N	000361	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	JUNIOR HIGH REMODEL	7,300,000	4
27	27	N	000362	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	SELIEF LANE EXTENSION	2,016,000	5
27	27	N	000363	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	HOSPITAL EQUIPMENT	445,000	6
27	27	N	000364	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	MILL BAY IMPROVEMENTS	5,300,000	7
27	27	N	000365	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	SAWMILL/LAKEVIEW COMPLETION	122,000	8
27	27	N	000366	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	LILLY DRIVE COMPLETION	1,350,000	9
27	27	N	000367	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	AUDITORIUM/MAIN REMODEL	10,760,000	10
27	27	N	000368	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	TREATMENT PLANT MODIFICATIONS	450,000	11
27	27	N	000369	KODIAK ISLAND BOROUGH	KODIAK	BOROUGH	PEDESTRIAN TRAILS	500,000	12
16	26	N	000026	LAKE & PEN SCHOOL DIST	KOKHANOK	REAA	ELEM CLASSES & HEAT RECVRY SYS	2,300,000	
26	26	N	000028	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	VILLAGE ELECTRICITY	??	1
26	26	N	000029	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	ACCESS ROAD TO AIRPORT	??	2
26	26	N	000030	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	BREAKWATER FOR LANDING SITE	??	3
26	26	N	000031	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	FIRE SAFETY FACILITY	??	4
26	26	N	000032	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	SOLID WASTE DISPOSAL SITE	??	5
26	26	N	000033	KOKHANOK VILLAGE COUNCIL	KOKHANOK	UNINC	CITY HALL	??	6
26	26	N	000061	KOLIGANEK VILLAGE COUNCIL	KOLIGANEK	UNINC	AIRPORT RELOCATION	??	1
26	26	N	000062	KOLIGANEK VILLAGE COUNCIL	KOLIGANEK	UNINC	LOCAL SERVICE ROADS & TRAILS	??	2
26	26	N	000063	KOLIGANEK VILLAGE COUNCIL	KOLIGANEK	UNINC	UPGRADE WATER & SEWER	??	3
26	26	N	000064	KOLIGANEK VILLAGE COUNCIL	KOLIGANEK	UNINC	UPGRADE ELECTRIFICATION	??	4
16			000023	LAKE & PEN SCHOOL DIST	LAKE & PEN REAA	REAA	LIFE SAFETY & CODE UPGRADE	1,700,000	
26	26	N	000013	LEVELOCK VILLAGE COUNCIL	LEVELOCK	UNINC	ROAD CONSTR & LANDFILL	900,000	1
26	26	N	000014	LEVELOCK VILLAGE COUNCIL	LEVELOCK	UNINC	DOCK FACILITY EXPANSION	450,000	2
26	26	N	000015	LEVELOCK VILLAGE COUNCIL	LEVELOCK	UNINC	AIRPORT IMPROVEMENTS	400,000	3
26	26	N	000016	LEVELOCK VILLAGE COUNCIL	LEVELOCK	UNINC	FIRE TRUCK & FIRE EQUIP	220,000	4
26	26	N	000017	LEVELOCK VILLAGE COUNCIL	LEVELOCK	UNINC	NEW MEDICAL CLINIC	160,000	5
26	26	N	000018	SW REGION SCHOOLS	LEVELOCK	REAA	LEVELOCK SCHL VOC/ED & REMODEL	5,200,000	
26	26	N	000021	SW REGION SCHOOLS	MANOKOTAK	REAA	MANOKOTAK SCHOOL ADDITION	6,100,000	
26	26	N	000034	CITY OF MANOKOTAK	MANOKOTAK	MUNIC	AIRPORT IMPROVEMENTS	??	1
26	26	N	000035	CITY OF MANOKOTAK	MANOKOTAK	MUNIC	UPGRADE ROADS	??	2
26	26	N	000036	CITY OF MANOKOTAK	MANOKOTAK	MUNIC	CITY DUMP RELOCATION	??	3
26	26	N	000037	CITY OF MANOKOTAK	MANOKOTAK	MUNIC	CITY DOCK	??	4
26	26	N	000038	CITY OF MANOKOTAK	MANOKOTAK	MUNIC	WATER/SEWER EXPANSION	??	5

ELEC DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
16	16	I	000223	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	SCHOOL IMPROVEMENTS	1,380,000	1
16	16	I	000224	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	FIREHALLS & FIRE EQUIPMENT	1,275,000	2
16	16	I	000225	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	ROAD CONSTRUCTION & UPGRADES	1,500,000	3
16	16	I	000226	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	PARK & RECREATION FACILITIES	1,798,000	4
16	16	I	000227	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	BOROUGH BUILDING IMPROVEMENTS	300,000	5
16	16	I	000228	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	LIBRARIES	1,595,000	6
16	16	I	000229	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	HISTORIC PRESERVATION &MUSEUMS	236,000	7
16	16	I	000230	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	LOCAL SERVICE ROADS UPGRADES	2,511,000	8
16	16	I	000231	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	ICE/OTHER RECREATION FACILITYS	382,305	9
16	16	I	000232	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	CAMPER PARK DEVELOPMENT	700,000	10
16	16	I	000233	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	WILLOW COMMUNITY CENTER	700,000	11
16	16	I	000234	MATANUSKA-SUSITNA BOROUGH	MATANUSKA-SUSIT	BOROUGH	LUCILLE ST UPGRADE & PAVING	2,622,695	12
25	25	M	000041	CITY OF MEKORYUK	MEKORYUK	MUNIC	ROAD GRADER	??	1
24	24	M	000351	CITY OF McGRATH	McGRATH	MUNIC	COMMUNITY WATER SYSTEM	4,312,000	1
24	24	M	000352	CITY OF McGRATH	McGRATH	MUNIC	ROAD IMPROVEMENTS	375,000	2
24	24	M	000353	CITY OF McGRATH	McGRATH	MUNIC	OUTDOOR RECREATION AREA	175,000	3
24	24	M	000427	TANANA CHIEFS CONFERENCE	McGRATH	NON-PROFIT	McGRATH SCHOOL EXPANSION	2,400,000	1
24	24	M	000429	TANANA CHIEFS CONFERENCE	McGRATH	NON-PROFIT	SOCIOECONMIC IMPACT PROPOSAL	93,176	1
24	24	M	000430	TANANA CHIEFS CONFERENCE	McGRATH	NON-PROFIT	LEARNING/CUTURAL/LIBRARY CENTR	732,000	1
24	24	M	000431	TANANA CHIEFS CONFERENCE	McGRATH	NON-PROFIT	WATER & SEWER	???	2
17	17	J	000252	CITY OF NENANA	NENANA	MUNIC	TANANA RIVER DOCK REHABILATION	2,500,000	
17	17	J	000253	CITY OF NENANA	NENANA	MUNIC	NENANA RIVER BRIDGE	3,800,000	
17	17	J	000254	CITY OF NENANA	NENANA	MUNIC	LITTLE NENANA RIVER BRIDGE	1,900,000	
17	17	J	000255	CITY OF NENANA	NENANA	MUNIC	22.8 MILES OF ROADWAY	10,100,000	
17	17	J	000256	CITY OF NENANA	NENANA	MUNIC	THREE PHASE ELECTRICAL POWER	1,300,000	
17	17	J	000257	CITY OF NENANA	NENANA	MUNIC	INTERIOR STATE FIRE FIGHT CENT	1,400,000	
17	17	J	000258	CITY OF NENANA	NENANA	MUNIC	CONST OF ROADWAYS & DRAINAGE	615,000	
	17	J	000259	CITY OF NENANA	NENANA	MUNIC	RENOVATION NENANA CIVIC CENTER	750,000	
	17	J	000260	CITY OF NENANA	NENANA	MUNIC	REBUILD ROAD/PROPERTY ST MARKS	885,000	
17	17	J	000261	CITY OF NENANA	NENANA	MUNIC	WATER/SEWER EXPAN - PHASE II	45,000	
17	17	J	000262	CITY OF NENANA	NENANA	MUNIC	STREET & AIRPORT GRADER	185,000	
17	17	J	000263	CITY OF NENANA	NENANA	MUNIC	EMERGENCY WATER RESERVOIR/POOL	495,000	
17	17	J	000264	CITY OF NENANA	NENANA	MUNIC	SIDING TRACK OFF AK. RAOLROAD	495,000	
17	17	J	000265	CITY OF NENANA	NENANA	MUNIC	3,000 gal FIRE TANKER	195,000	
17	17	J	000266	CITY OF NENANA	NENANA	MUNIC	AIRPORT HAZARDOUS FIRE EQUIP	51,650	
17	17	J	000267	CITY OF NENANA	NENANA	MUNIC	PORT WATER SUPPLY FIRE EQUIP	54,500	
17	17	J	000390	TANANA CHIEFS CONFERENCE	NENANA	NON-PROFIT	OFFICE BUILDING	550,000	1
16			000025	LAKE & PEN SCHOOL DIST	NEWHALEN	REAA	ELEM CLASSES & HEAT RECVRY SYS	2,500,000	
26	26	N	000042	NEWHALEN CITY COUNCIL	NEWHALEN	MUNIC	WATER AND SEWER	??	1
26	26	N	000043	NEWHALEN CITY COUNCIL	NEWHALEN	MUNIC	OFFICE SPACE	??	2
26	26	N	000044	NEWHALEN CITY COUNCIL	NEWHALEN	MUNIC	DOCK	??	3
26	26	N	000045	NEWHALEN CITY COUNCIL	NEWHALEN	MUNIC	ROADS	??	4
26	26	N	000046	NEWHALEN CITY COUNCIL	NEWHALEN	MUNIC	SENIOR CITIZEN CENTER	??	5
24	24	M	000428	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	NIKOLAI ELEM SCHOOL REPLACE	1,200,000	1
24	24	M	000432	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	WATER & SEWER	400,000	1
24	24	M	000433	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	MAINTENANCE SHOP	200,000	2
24	24	M	000434	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	FIRE TRUCK	35,000	3
24	24	M	000435	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	RECREATIONAL FACILITY	???	4
24	24	M	000436	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	AGRICULTURAL PROJECT	???	5
24	24	M	000437	TANANA CHIEFS CONFERENCE	NIKOLAI	NON-PROFIT	NEW COMMUNITY HALL	???	6
23	23	L	000099	CITY OF NOME	NOME	MUNIC	PORT FACILITY	38,500,000	1
23	23	L	000100	CITY OF NOME	NOME	MUNIC	ELEMENTARY SCHOOL	18,000,000	2
23	23	L	000101	CITY OF NOME	NOME	MUNIC	WATER AND SEWER	4,000,000	3
23	23	L	000102	CITY OF NOME	NOME	MUNIC	COASTAL MANAGEMENT FUNDING	344,000	4
23	23	L	000380	NORTON SOUND HEALTH CORP	NOME	OTHER	HUMAN SERVICES COMPLEX	1,783,000	1
23	23	L	000381	NORTON SOUND HEALTH CORP	NOME	OTHER	TELEHEALTH PROGRAM	247,747	2
23	23	L	000382	NORTON SOUND HEALTH CORP	NOME	OTHER	RETIREMENT-BOARDING HOME	3,397,500	3

ELEC DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
24	24	?	000388	TANANA CHIEFS CONFERENCE	EVANSVILLE	NON-PROFIT	STREET LIGHTS	17,000	2
24	24	?	000389	TANANA CHIEFS CONFERENCE	EVANSVILLE	NON-PROFIT	4 x 4 TRUCK	???	3
20	19-21	K	000103	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	WATER SYSTEM-PHASE 4	3,000,000	
20	19-21	K	000104	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SLUDGE DISPOSAL FACILITY	1,500,000	
20	19-21	K	000105	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	WATER TREATMENT PLANT EXPAN	3,500,000	
20	19-21	K	000106	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SEWER MAIN INSTALL & REHAB	750,000	
20	19-21	K	000107	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SEWER PLANT ENERGY CONS IMPROV	400,000	
20	19-21	K	000108	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	COAL HANDLING ENVIRO/EFFIC IMP	$5,200,000	
20	19-21	K	000109	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SEWER LIFT STATIONS REHAB	$425,000	
20	19-21	K	000110	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	N.E. FAIRBANKS SEWER & WATER	$7,000,000	
20	19-21	K	000111	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	POWER PLT EXPAN FOR DIST HEAT	10,000,000	
20	19-21	K	000112	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	MUS TEL SYS EXPAN/STEESE AREA	550,078	
20	19-21	K	000113	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	MUS TEL SYS EXPAN/ESTER PH 3	418,846	
20	19-21	K	000114	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	GOLDSTREAM PH II TEL EXPANSION	142,997	
20	19-21	K	000115	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	CHENA RIDGE PH III TEL EXPAN	927,869	
	19-21	K	000116	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	COUNTRY CLUB PH III TEL EXPAN	1,754,519	
20	19-21	K	000117	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	CORE AREA PH III TEL EXPANSION	232,891	
20	19-21	K	000118	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	TOLL ROUTE MUS - ALASCOM	1,022,706	
20	19-21	K	000119	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	100KW STANDBY GEN. GLOBE EXCH	96,960	
20	19-21	K	000120	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	UNIV. SWITCH - STEESE MICROWAV	366,264	
20	19-21	K	000121	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	UTILITY/STREET UPGRADE DESIGN	500,000	
20	19-21	K	000122	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	PUBLIC PARKING STRUCTURE	4,000,000	
20	19-21	K	000123	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	ACQ/REHAB LACEY STREET THEATER	600,000	
20	19-21	K	000124	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	CORRECT SAFETY DEFIC.ALASKLAND	300,000	
20	19-21	K	000125	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	PHY/FIT X-CTRY SKI ALASKALAND	20,000	
20	19-21	K	000126	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	ALASKALAND LNADSCAPE/BEAUTIFIC	175,000	
20	19-21	K	000127	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	ALASKALAND TRAM TRAIN	75,000	
20	19-21	K	000128	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	UPDATE AK JUSTICE INFO EQUIP	30,000	
20	19-21	K	000129	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	HOSP AREA STREET IMPROVEMENTS	3,376,300	
20	19-21	K	000130	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	ARCTIC PK/COUNCIL ST. IMPROVES	1,818,000	
20	19-21	K	000131	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	FBKS TOWNSITE STREET RECONSTRU	1,947,440	
20	19-21	K	000132	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	PUBLIC WORKS EQUIPMENT	245,000	
20	19-21	K	000133	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	WOODSTAVE PIPE REPLACEMENT	950,000	
20	19-21	K	000134	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	COAL HANDLING ENVIRO/EFFIC IMP	5,200,000	
20	19-21	K	000135	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	N.E. FBKS SEWER/WATER	1,400,000	
20	19-21	K	000136	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	1-100' ELEVATING FIRE TRUCK	475,000	
20	19-21	K	000137	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	REPLACE AMBULANCE (MODULAR TYP	125,000	
20	19-21	K	000138	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	TAKU SUB. STREET IMPROVE DESIG	370,931	
20	19-21	K	000139	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	HILTON SUB. STREET IMPROVEMENT	140,697	
20	19-21	K	000140	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	HAMILTON ACRES SUB. ST. IMPROV	296,743	
20	19-21	K	000141	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	OLD STEESE HWY RECONSTRUCTION	4,464,000	
20	19-21	K	000142	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	AURORA SUB. ST. RECONSTRUCTION	1,735,000	
20	19-21	K	000143	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	CHENA RIVER BANKS BEAUTIFICA	250,000	
20	19-21	K	000144	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	FNA ALCOHOL TREATMENT FACILITY	3,350,430	
20	19-21	K	000145	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	HISTORIC STERNWHEELER NENANA	1,220,00	
20	19-21	K	000146	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	CITY-WIDE STREET DRAIN IMPROVE	1,150,000	
20	19-21	K	000147	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	PUBLIC WORKS EQUIPMENT	365,000	
20	19-21	K	000148	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	LEMETA SUB. STREET IMPROVEMENT	210,000	
20	19-21	K	000149	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	3RD ST/FAREWELL INTERSECT RECO	1,315,000	
20	19-21	K	000150	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	VAN FOR FOSTER GRANDPARENT PRO	40,000	
20	19-21	K	000151	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	HISTORIC CABINS & SITES FUND	350,000	
20	19-21	K	000152	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	PUBLIC WORKS EQUIPMENT	420,000	
20	19-21	K	000153	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	AURORA SUB. STREET IMPROVE PH2	525,000	
20	19-21	K	000154	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	WEEKS FIELD SUB. ST. IMPROVES	2,931,500	
20	19-21	K	000155	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	FNA DOWNTOWN COMMUNITY CENTER	3,500,000	
20	19-21	K	000156	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	NOYES SLOUGH CLEAN UP	600,000	
20	19-21	K	000157	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	REALIGN ANTOINETTE/MARGARET ST	982,775	

DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
20	19-21	K	000158	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	TURNER ST MALL BEAUTIFICATION	150,000	
20	19-21	K	000159	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SO. FBKS. COMMUNITY CENTER	1,000,000	
20	19-21	K	000160	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	DISASTER CONTROL RESCUE UNIT	215,000	
20	19-21	K	000161	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	AURORA ST. IMPROVEMENTS PH 3	438,000	
20	19-21	K	000162	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	SECTION 16 ROADWAY DEVELOPMENT	3,600,000	
20	19-21	K	000163	CITY OF FAIRBANKS	FAIRBANKS	MUNIC	RECONSTRUCT PART SECOND AVENUE	2,575,900	
20	19-21	K	000339	FAIRBANKS MEMORIAL HOSP	FAIRBANKS	OTHER	FBKS MEMORIAL HOSP EXPANSION	12,000,000	
24	24	M	000347	CITY OF FORT YUKON	FORT YUKON	MUNIC	WATER & SEWER PROJECT	4,000,000	1
24	24	M	000348	CITY OF FORT YUKON	FORT YUKON	MUNIC	PUBLIC SAFETY BUILDING	810,000	2
24	24	M	000349	CITY OF FORT YUKON	FORT YUKON	MUNIC	2 PUBLIC SAFETY VEHICLES	25,000	3
24	24	M	000350	CITY OF FORT YUKON	FORT YUKON	MUNIC	ROADS PROJECTS	???	4
24	24	M	000370	CITY OF GALENA	GALENA	MUNIC	EROSION CONTROL PLANNING	5,000,000	
23	23	L	000328	CITY OF GAMBELL	GAMBELL	MUNIC	ENERGY SOURCES	???	
23	23	L	000329	CITY OF GAMBELL	GAMBELL	MUNIC	SOCIAL SERVICES PROGRAMS	???	
23	23	L	000330	CITY OF GAMBELL	GAMBELL	MUNIC	TEEN CENTER	???	
23	23	L	000331	CITY OF GAMBELL	GAMBELL	MUNIC	FIRE FIGHTING NEEDS	???	
23	23	L	000332	CITY OF GAMBELL	GAMBELL	MUNIC	LOCAL ROADS	???	
23	23	L	000333	CITY OF GAMBELL	GAMBELL	MUNIC	IVORY CO-OP	???	
24	24	M	000423	TANANA CHIEFS CONFERENCE	GRAYLING	NON-PROFIT	NEW BRIDGE	800,000	1
17	17	J	000459	TANANA CHIEFS CONFERENCE	HEALY LAKE	NON-PROFIT	CENTRAL WATER/SEWER FACILITY	275,000	1
17	17	J	000460	TANANA CHIEFS CONFERENCE	HEALY LAKE	NON-PROFIT	COMMUNITY HALL COMPILATION	40,700	2
17	17	J	000461	TANANA CHIEFS CONFERENCE	HEALY LAKE	NON-PROFIT	EMERGENCY HOUSING	286,000	3
17	17	J	000462	TANANA CHIEFS CONFERENCE	HEALY LAKE	NON-PROFIT	HEALTH AIDE OFFICE	88,000	4
17	17	J	000463	TANANA CHIEFS CONFERENCE	HEALY LAKE	NON-PROFIT	TRUCK	18,000	5
24	24	M	000417	TANANA CHIEFS CONFERENCE	HOLY CROSS	NON-PROFIT	REGIONAL ELDERLY RESIDENCE	1,382,400	1
5	5	D	000187	CITY OF HOMER	HOMER	MUNIC	HOMER HARBOR DREDGING	16,800,000	
5	5	D	000188	CITY OF HOMER	HOMER	MUNIC	HARBOR INFRASTRUCTURE DEVELOP	16,500,000	
5	5	D	000189	CITY OF HOMER	HOMER	MUNIC	HOMER COMMUNITY CENTER	1,250,000	
5	5	D	000190	CITY OF HOMER	HOMER	MUNIC	HOMER MUSEUM IMPROVEMENTS	220,000	
5	5	D	000191	CITY OF HOMER	HOMER	MUNIC	STREET IMPROVEMENTS	3,800,000	
16	16	I	000174	CITY OF HOUSTON	HOUSTON	MUNIC	SCHOOL BUS ROUTE UPGRADE	830,000	01
16	16	I	000175	CITY OF HOUSTON	HOUSTON	MUNIC	ARMSTRONG LOOP ROAD	620,000	02
16	16	I	000176	CITY OF HOUSTON	HOUSTON	MUNIC	ROAD MAINT. UPGRADE PROJECTS	300,000	03
16	16	I	000177	CITY OF HOUSTON	HOUSTON	MUNIC	PICK-UP (4x4) FOR MAINTENENCE	17,000	05
24	24	M	000403	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	AIRPORT REPAIRS	???	1
24	24	M	000404	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	GRAVEL FOR STREETS	???	2
24	24	M	000405	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	CITY DUMP	???	3
24	24	M	000406	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	NEW COMMUNITY HALL	???	4
24	24	M	000407	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	EROSION PREVENTION	???	5
24	24	M	000408	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	PADS FOR NEW HOMES	???	6
24	24	M	000409	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	IMPROVE ROAD - RIVER TO TOWN	???	7
24	24	M	000410	TANANA CHIEFS CONFERENCE	HUGHES	NON-PROFIT	WATER & SEWER	???	8
24	24	M	000356	HUSLIA CITY COUNCIL	HUSLIA	MUNIC	RIVER BANK EROSION STUDY	150,000	1
24	24	M	000357	HUSLIA CITY COUNCIL	HUSLIA	MUNIC	RECREATION CENTER	125,000	2
26	26	N	000008	IGIUGIG VILLAGE COUNCIL	IGIUGIG	UNINC	ELECTRIFICATION	383,000	1
26	26	N	000009	IGIUGIG VILLAGE COUNCIL	IGIUGIG	UNINC	WATER/SEWER/LANDFILL	838,000	2
26	26	N	000010	IGIUGIG VILLAGE COUNCIL	IGIUGIG	UNINC	STORAGE BLDG-HEAVY EQUIP	110,000	3
26	26	N	000011	IGIUGIG VILLAGE COUNCIL	IGIUGIG	UNINC	DOCK FACILITY	450,000	4
26	26	N	000012	IGIUGIG VILLAGE COUNCIL	IGIUGIG	UNINC	TRANSP STUDY-BARGING ILIAMNA	75,000	5
26	26	N	000027	LAKE & PEN SCHOOL DIST	IGIUGIG	REAA	ELEM CLASSES & HEAT RECVRY SYS	1,200,000	
02	02	B	000066	CITY OF KAKE	KAKE	MUNIC	PUBLIC DOCK	1,500,000	1
02	02	B	000067	CITY OF KAKE	KAKE	MUNIC	WATER RESERV REPLACEMENT STUDY	300,000	2
02	02	B	000068	CITY OF KAKE	KAKE	MUNIC	HEALTH CLINIC	250,000	3
02	02	B	000069	CITY OF KAKE	KAKE	MUNIC	LOW INCOME HOUSING	180,000	4
02	02	B	000070	CITY OF KAKE	KAKE	MUNIC	MUSEUM & LIBRARY	600,000	05
02	02	B	000071	CITY OF KAKE	KAKE	MUNIC	CEMETERY FACILITIES	80,000	06
02	02	B	000072	CITY OF KAKE	KAKE	MUNIC	SANITARY LANDFILL EQUIPMENT	125,000	07

DIST ELEC	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR. COMM.
23	23	L	000235	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	AIRPORT RUNWAY LIGHTS /UPGRADE	???	1
23	23	L	000236	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	WATER TRTMT/WASHETERIA MODIFIC	840,500	2
23	23	L	000237	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	WARM STORAGE FIRE STATION	47,000	3
23	23	L	000238	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	SEWAGE TREATMENT LAGOON	72,000	4
23	23	L	000239	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	STREET LIGHTS	18,000	5
23	23	L	000240	ALAKANUK CITY COUNCIL	ALAKANUK	MUNIC	ALAKANUK ROAD SURFACING	188,000	6
24	24	?	000383	TANANA CHIEFS CONFERENCE	ALLAKAKET	NON-PROFIT	GARAGE FOR HEAVY EQUIPMENT	70,000	1
24	24	?	000384	TANANA CHIEFS CONFERENCE	ALLAKAKET	NON-PROFIT	SMALL DUMP TRUCK	70,000	2
24	24	?	000385	TANANA CHIEFS CONFERENCE	ALLAKAKET	NON-PROFIT	WALK-IN FREEZER	70,000	3
24	24	?	000386	TANANA CHIEFS CONFERENCE	ALLAKAKET	NON-PROFIT	BULK FUEL STORAGE	70,000	4
7-15	7-15	E-H	000065	BOYS CLUB OF ALASKA	ANCHORAGE	NONPROFIT	FACILITIES REPAIR & IMPROVEMNT	480,480	
7-15	7-15	D-G	000277	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNICI	SHIP CRK WATER TREATMENT EXPAN	12,000,000	1
7-15	7-15	D-G	000278	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	PT WORONZOF WASTEWATER PLANT	6,600,000	2
7-15	7-15	D-G	000279	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	EAGLE RIVER/CHUGIAK WATER	3,700,000	3
7-15	7-15	D-G	000280	MUNICAPILITY OF ANCHORAGE	ANCHORAGE	MUNIC	PORT EXPANSION	5,800,000	4
7-15	7-15	D-G	000281	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	SOLID WASTE RESOURCE RECOVERY	2,000,000	5
7-15	7-15	D-G	000282	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	DIAMOND & C FIRE STATION	1,703,000	1
7-15	7-15	D-G	000283	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	POLICE HEADQUARTERS FACILITY	10,000,000	2
7-15	7-15	D-G	000284	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	REPLACEMENT MEDIC UNITS	132,000	3
7-15	7-15	D-G	000285	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	REPLACEMENT PUMPER (ANCH AREA)	152,000	4
7-15	7-15	D-G	000286	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	REPLACEMENT PUMPER (CHUGIAK)	152,000	5
7-15	7-15	D-G	000287	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	TRAFFIC IMPROVEMENTS	1,538,000	1
7-15	7-15	D-G	000288	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	TRANSIT MAINTENANCE FACILITY	2,000,000	2
7-15	7-15	D-G	000289	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	ARDSA ROAD CONSTRUCTION	3,000,000	3
7-15	7-15	D-G	000290	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	ROAD & DRAINAGE IMPROVEMENTS	20,037,000	4
7-15	7-15	D-G	000291	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	PARK & TRAIL DEVELOPMENT	4,930,000	5
7-15	7-15	D-G	000292	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	ROAD SERVICE AREAS-OUT OFARDSA	4,250,000	6
7-15	7-15	D-G	000293	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	HEAVY EQUIPMENT PURCHASE	515,000	7
7-15	7-15	D-G	000294	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	PARK & TRAIN DEVELOPMENT	2,205,000	8
7-15	7-15	D-G	000295	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	PARKING GARAGE	7,000,000	9
7-15	7-15	D-G	000296	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	BOOK PURCHASES - HQ LIBRARY	1,000,000	10
7-15	7-15	D-G	000297	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	STREET LIGHTING	1,500,000	11
7-15	7-15	D-G	000298	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	PEDESTRIAN SAFETY	750,000	12
7-15	7-15	D-G	000299	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	STREET MAINTENANCE FACILITIES	3,510,000	13
7-15	7-15	D-G	000300	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	AREAWIDE COMMUNICATIONS	215,000	14
7-15	7-15	D-G	000301	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	ROADS & DRAINAGE IMPROVEMENT	4,162,000	15
7-15	7-15	D-G	000302	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	HEAVY EQUIPMENT PURCHASE	565,000	16
7-15	7-15	D-G	000303	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	DEBT RETIREMENT	15,000,000	1
7-15	7-15	D-G	000304	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	LAND TRUST FUND	5,000,000	2
7-15	7-15	D-G	000305	MUNICIPALITY OF ANCHORAGE	ANCHORAGE	MUNIC	CAPITAL RESERVE FUNDS	5,000,000	3
7-15	7-15	D-G	000306	ANCHORAGE SCHOOL DISTRICT	ANCHORAGE	REAA	SO.ANCHORAGE JR. HIGH SCHOOL	38,000,000	
24	24	M	000418	TANANA CHIEFS CONFERENCE	ANVIK	NON-PROFIT	CITY HALL	300,000	1
24	24	M	000419	TANANA CHIEFS CONFERENCE	ANVIK	NON-PROFIT	DAY-CARE CENTER/HEAD START BLD	250,000	2
24	24	M	000420	TANANA CHIEFS CONFERENCE	ANVIK	NON-PROFIT	ROAD IMPROVEMENT	400,000	3
24	24	M	000421	TANANA CHIEFS CONFERENCE	ANVIK	NON-PROFIT	MAINTENANCE SHOP	25,000	4
24	24	M	000422	TANANA CHIEFS CONFERENCE	ANVIK	NON-PROFIT	WATER/SEWER PROJECT	3,000,000	1
24	24	M	000399	TANANA CHIEFS CONFERENCE	BEAVER	NON-PROFIT	ELECTRIFICATION/BULK FUEL STOR	600,000	1
24	24	M	000400	TANANA CHIEFS CONFERENCE	BEAVER	NON-PROFIT	WALK-IN FREEZER	150,000	2
24	24	M	000401	TANANA CHIEFS CONFERENCE	BEAVER	NON-PROFIT	DUMP	40,000	3
24	24	M	000402	TANANA CHIEFS CONFERENCE	BEAVER	NON-PROFIT	GYM	40,000	4
25	25	M	000319	CITY OF BETHEL	BETHEL	MUNIC	RIVERBANK EROSION CONTROL	5,000,000	1
25	25	M	000320	CITY OF BETHEL	BETHEL	MUNIC	CIVIC/RECREATION CTR - PHASE I	7,000,000	2

DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
25	25	M	000321	CITY OF BETHEL	BETHEL	MUNIC	ROAD MAINTENANCE	500,000	3
25	25	M	000322	CITY OF BETHEL	BETHEL	MUNIC	FIRE TRUCK	100,000	4
25	25	M	000323	CITY OF BETHEL	BETHEL	MUNIC	PHILLIPS ALCOHOL TREAT CENTER	1,500,000	5
25	25	M	000324	CITY OF BETHEL	BETHEL	MUNIC	BOARDWALKS/BIKEPATHS/WALKWAYS	500,000	6
25	25	M	000325	CITY OF BETHEL	BETHEL	MUNIC	SEWER LINE EXTENSION	400,000	7
25	25	M	000326	CITY OF BETHEL	BETHEL	MUNIC	MINI PARKS DEVELOPMENT	50,000	8
25	25	M	000327	CITY OF BETHEL	BETHEL	MUNIC	CARGO DOCK IMPROVEMENTS	1,200,000	9
26	26	N	000004	CITY OF DILLINGHAM	BRISTOL BAY	MUNIC	HOSPITAL EQUIP-CLINIC ANALYZER	75,000	4
23	23	L	000094	CITY OF CHEVAK	CHEVAK	MUNIC	SEWER AND WATER	1,000,000	1
23	23	L	000095	CITY OF CHEVAK	CHEVAK	MUNIC	AREA CLINIC	600,000	2
23	23	L	000096	CITY OF CHEVAK	CHEVAK	MUNIC	FREEZER FOR POULTRY PROJECT	40,000	3
23	23	L	000097	CITY OF CHEVAK	CHEVAK	MUNIC	CITY LAND FILL-SOLID WASTE	100,000	4
23	23	L	000098	CITY OF CHEVAK	CHEVAK	MUNIC	LABOR FOR SEAWALL	30,000	5
27	27	N	000024	LAKE & PEN SCHOOL DIST	CHIGNIK LAKE	REAA	MARINE RESOURCES VOC ED	350,000	
26	26	N	000019	SW REGIONAL SCHOOLS	CLARKS POINT	REAA	CLARKS PT SCHOOL REPLACEMENT	5,475,000	
26	26	N	000056	CLARKS POINT VILLAGE CNCL	CLARKS POINT	UNINC	AIRPORT WITH CROSS STRIP	??	1
26	26	N	000057	CLARKS POINT VILLAGE CNCL	CLARKS POINT	UNINC	BREAKWATER BULKHEAD	??	2
26	26	N	000058	CLARKS POINT VILLAGE CNCL	CLARKS POINT	UNINC	DOCK/HARBOR FACILITY	??	3
26	26	N	000059	CLARKS POINT VILLAGE CNCL	CLARKS POINT	UNINC	ROAD TO HARBOR FACILITY	??	4
26	26	N	000060	CLARKS POINT VILLAGE CNCL	CLARKS POINT	UNINC	EQUIP-GRADER,BULLDOZER,TRUCKS	??	5
2	2	B	000199	CITY OF CRAIG	CRAIG	MUNIC	WATER & SEWER CONSTRUCTION	4,530,000	1
2	2	B	000200	CITY OF CRAIG	CRAIG	MUNIC	SOUTH COVE UPGRADE	300,000	2
2	2	B	000201	CITY OF CRAIG	CRAIG	MUNIC	CRAIG/KLAWOCK WATER SYSTEM	10,250,000	3
2	2	B	000202	CITY OF CRAIG	CRAIG	MUNIC	CRAIG MARINE INDUSTRIAL PARK	3,500,000	4
2	2	B	000203	CITY OF CRAIG	CRAIG	MUNIC	SCHOOL ATHLETIC FACILITY	300,000	5
2	2	B	000204	CITY OF CRAIG	CRAIG	MUNIC	REGIONAL HEALTH PLAN	200,000	6
2	2	B	000205	CITY OF CRAIG	CRAIG	MUNIC	CRAIG SCHOOL ADDITION	2,474,700	7
2	2	B	000206	CITY OF CRAIG	CRAIG	MUNIC	CRAIG PUBLIC SERVICE BUILDING	3,600,000	8
2	2	B	000207	CITY OF CRAIG	CRAIG	MUNIC	WATER SAFETY FACILITY - POOL	5,000,000	9
17	17	J	000242	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	CITY LANDFILL	500,000	
17	17	J	000243	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	VISITOR'S CENTER	250,000	
17	17	J	000244	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	CITY STREET IMPROVEMENTS	950,000	
17	17	J	000245	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	CITY HALL/LIBRARY COMPLEX	900,000	
17	17	J	000246	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	CITY PARK	950,000	
17	17	J	000247	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	CITY BIKE PATHS	450,000	
17	17	J	000248	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	STATE SUBDIVISION ROAD IMPROVE	500,000	
17	17	J	000249	CITY OF DELTA JUNCTION	DELTA JUNCTION	MUNIC	ALLEN ARMY AIRFIELD	???	
26	26	N	000001	CITY OF DILLINGHAM	DILLINGHAM	MUNIC	DES/ENG DILLINGHAM AIRPORT	200,000	01
26	26	N	000002	CITY OF DILLINGHAM	DILLINGHAM	MUNIC	DES/ENG STATE ROAD IMPROVEMENT	200,000	2
26	26	N	000003	CITY OF DILLINGHAM	DILLINGHAM	MUNIC	EQUIP-LOADER WITH BUCKET	134,700	3
17	17	J	000447	TANANA CHIEFS CONFERENCE	DOT LAKE	NON-PROFIT	IMPROVE CENTRAL HEAT/WATER SYS	165,000	1
17	17	J	000448	TANANA CHIEFS CONFERENCE	DOT LAKE	NON-PROFIT	FIRE PROTECTION	33,000	2
17	17	J	000449	TANANA CHIEFS CONFERENCE	DOT LAKE	NON-PROFIT	IMPROVE LOCAL GARBAGE FACILITY	25,000	3
17	17	J	000450	TANANA CHIEFS CONFERENCE	DOT LAKE	NON-PROFIT	RECREATION FACILITIES & EQUIP	100,000	4
17	17	J	000451	TANANA CHIEFS CONFERENCE	DOT LAKE	NON-PROFIT	2,000sq ft STORAGE BUILDING	100,000	5
17	17	J	000452	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	WALK-IN FREEZER	50,000	1
17	17	J	000453	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	RECREATION HALL/CLINIC/LIBRARY	162,800	2
17	17	J	000454	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	LOADER, DUMP TRUCK	191,000	3
17	17	J	000455	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	ROAD IMPROVEMENTS	44,000	4
17	17	J	000456	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	BASEBALL FIELD/BASKETBALL CRT	5,000	5
17	17	J	000457	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	WIND TESTING SYS (ANEMOMETER)	1,100	6
17	17	J	000458	TANANA CHIEFS CONFERENCE	EAGLE	NON-PROFIT	PUBLIC SAFETY EQUIPMENT	25,000	7
26	26	N	000047	EKWOK VILLAGE COUNCIL	EKWOK	UNINC	CROSS STRIP ON AIRPORT	??	1
26	26	N	000048	EKWOK VILLAGE COUNCIL	EKWOK	UNINC	DUMP TRUCK & CAT	??	2
26	26	N	000049	EKWOK VILLAGE COUNCIL	EKWOK	UNINC	WATER & SEWER	??	3
26	26	N	000050	EKWOK VILLAGE COUNCIL	EKWOK	UNINC	GRAVEL ROADS & TRAILS	??	4
24	24	?	000387	TANANA CHEIFS CONFERENCE	EVANSVILLE	NON-PROFIT	WELLS FOR CLINIC & REC CENTER	30,000	1

DIST	HOUSE	SEN	PROJ NO.	APPLICANT	COMM/REG	ORGN TYPE	PROJECT TITLE	BUDGET	PRIOR.
16			000006	UGASHIK VILLAGE COUNCIL	UGASHIK	UNINC	ENLARGE AIRPORT PARKING	100,000	2
26			000007	UGASHIK VILLAGE COUNCIL	UGASHIK	UNINC	CRUSHED ROCK-RUNWAY & PARKING	100,000	3
26	26	N	000374	CITY OF UNALASKA	UNALASKA	MUINIC	UNALASKA AIRPORT EXPANSION	12,950,000	1
26	26	N	000375	CITY OF UNALASKA	UNALASKA	MUNIC	WATER SYSTEM IMPROVE -PHASE II	4,220,000	2
26	26	N	000376	CITY OF UNALASKA	UNALASKA	MUNIC	VOCATIONAL EDUCATION FACILITY	6,000,000	3
26	26	N	000377	CITY OF UNALASKA	UNALASKA	MUNIC	BOAT HARBOR EXPANSION	2,000,000	4
26	26	N	000378	CITY OF UNALASKA	UNALASKA	MUNIC	MULTI-PURPOSE COMMUNITY CENTER	2,000,000	5
26	26	N	000379	CITY OF UNALASKA	UNALASKA	MUNIC	PUBLIC SAFETY FACILITY	1,750,000	6
06	06	D	000073	CITY OF VALDEZ	VALDEZ	MUNIC	CAMPUS FACILITIES	7,750,000	02
06	06	D	000074	CITY OF VALDEZ	VALDEZ	MUNIC	RICHARDSON HIGHWAY IMPROVEMENT	38,500,000	01
06	06	D	000075	CITY OF VALDEZ	VALDEZ	MUNIC	SMALL BOAT HARBOR EXPANSION	2,083,450	03
06	06	D	000076	CITY OF VALDEZ	VALDEZ	MUNIC	RECREATIONAL VEHICLE PARK	250,000	04
06	06	D	000077	CITY OF VALDEZ	VALDEZ	MUNIC	N HARBOR DR & KENNICOTT STREET	1,300,000	05
06	06	D	000078	CITY OF VALDEZ	VALDEZ	MUNIC	SMALL BOAT HARBOR EXPANSION	50,000	06
06	06	D	000079	CITY OF VALDEZ	VALDEZ	MUNIC	SUBDIVISION DESIGN MINERAL CRK	150,000	07
06	06	D	000080	CITY OF VALDEZ	VALDEZ	MUNIC	WATER DIST SYSTEM-LOOP ROAD	550,000	08
06	06	D	000081	CITY OF VALDEZ	VALDEZ	MUNIC	PACIFIC & LOWE STREETS	380,000	09
06	06	D	000082	CITY OF VALDEZ	VALDEZ	MUNIC	BASELINE SURVEY MONUMENTATION	50,000	10
06	06	D	000083	CITY OF VALDEZ	VALDEZ	MUNIC	MARSHALLING YARD WAREHOUSE	240,000	11
06	06	D	000084	CITY OF VALDEZ	VALDEZ	MUNIC	BLUEBERRY HILL ACCESS ROAD	700,000	12
06	06	D	000085	CITY OF VALDEZ	VALDEZ	MUNIC	LIBRARY DEVELOPMENT	400,000	13
06	06	D	000086	CITY OF VALDEZ	VALDEZ	MUNIC	FIRE STATIONS REPAIRS	65,000	14
06	06	D	000087	CITY OF VALDEZ	VALDEZ	MUNIC	MEDICAL CLINIC RELOCATION	100,000	15
06	06	D	000088	CITY OF VALDEZ	VALDEZ	MUNIC	HERITAGE CENTER BUILDING	1,500,000	16
06	06	D	000089	CITY OF VALDEZ	VALDEZ	MUNIC	COMMERCIAL BOAT HARBOR	4,500,000	17
16	16	I	000307	CITY OF WASILLA	WASILLA	MUNIC	SEWER	978,500	
16	16	I	000308	CITY OF WASILLA	WASILLA	MUNIC	SEPTIC TREATMENT	160,000	
16	16	I	000309	CITY OF WASILLA	WASILLA	MUNIC	STREET IMPROVEMENT	300,000	
16	16	I	000310	CITY OF WASILLA	WASILLA	MUNIC	CITY HALL	100,000	
16	16	I	000354	CITY OF WASILLA	WASILLA	MUNIC	ROAD MAINT. EQUIPMENT	150,000	5
1	1	A	000173	CITY OF WRANGELL	WRANGELL	MUNIC	PUBLIC SAFETY FACILITY	4,200,000	
2	2	B	000178	CITY OF YAKUTAT	YAKUTAT	MUNIC	OCEAN CAPE DOCK RECONSTRUCTION	4,800,000	01
								828,025,499.00	

The Department of Community and Regional Affairs

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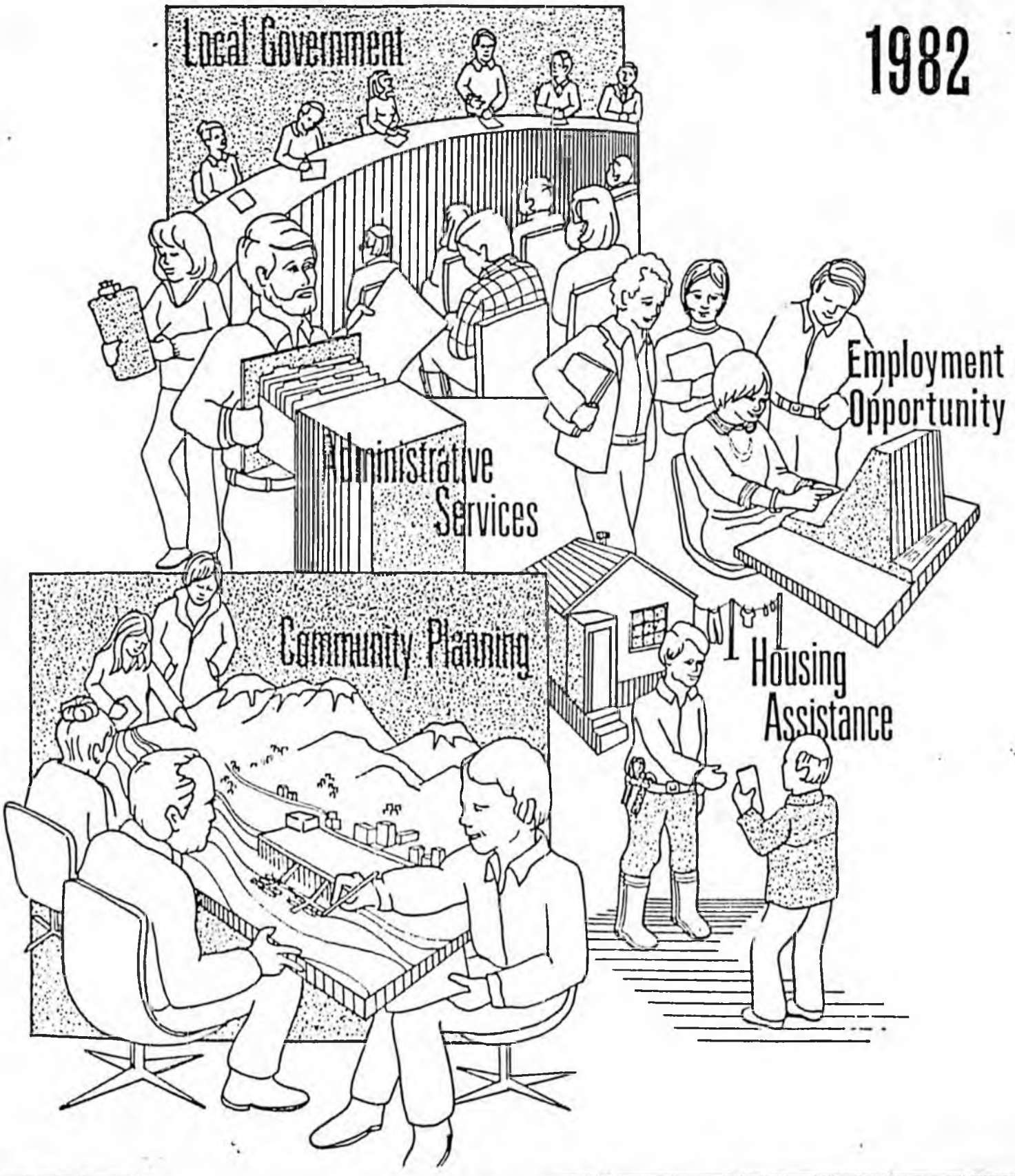


OFFICE OF THE COMMISSIONER

MARK LEWIS

Commissioner

Commissioner's Office:

Room 213, Community Building
Pouch B
Juneau, Alaska 99811
465-4700

The Office of the Commissioner provides overall program and policy direction for the Department. The Commissioner is responsible for formulating Department policy and coordinating the activities of the staff in a manner that will maximize the capabilities of the Department to assist local governments.

The Commissioner serves in an advisory capacity to the Governor and the State Legislature on matters affecting local governments. The Commissioner also works with other state agencies to coordinate efforts to resolve problems affecting a community or region.

As provided by Section 14(c)(3) of the 1971 Alaska Native Claims Settlement Act and subsequently by State law (AS 44.47.150), the Commissioner is the Municipal Land Trustee for "community expansion lands" for unincorporated villages. The Commissioner administers these lands on behalf of the current residents and any future municipality which may be established.

The Commissioner also serves on the following boards and commissions:

- Alaska Coastal Policy Council
- Alaska Housing Finance Corporation Board
- Alaska Industrial Development Authority
- Alaska Municipal Bond Bank Authority
- State Census Coordinating Committee
- Alaska State Geographic Names Board
- Medical Facilities Authority
- Older Alaskans Commission

ALASKA COASTAL POLICY COUNCIL

The Council, consisting of nine members of the public and seven officials of State government, oversees the Alaska Coastal Management Program. The program provides for the planning and management of the State's coastal land and water resources.

ALASKA HOUSING FINANCE CORPORATION BOARD

The seven member board governs the operation of the Alaska Housing Finance Corporation. The AHFC has the power to make or participate in construction and mortgage loans (or other financing mechanisms) for lower and moderate income individuals and for those living in remote, underdeveloped or blighted areas.

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

The Alaska Industrial Development Authority, a five member board, is responsible for providing a means of financing industrial and manufacturing plant construction, conversion or expansion within the State.

ALASKA MUNICIPAL BOND BANK AUTHORITY

The Bond Bank borrows money and issues bonds and notes to make funds available for borrowing by municipalities. The Commissioner is one of five directors.

STATE CENSUS COORDINATING COMMITTEE

The State Census Coordinating Committee, made up of State agency representatives, works with the U.S. Bureau of the Census to suggest techniques and methodologies to improve the U.S. Census count. Committee activities also focus on improving State population counts.

STATE GEOGRAPHIC BOARD

The eight member Board determines appropriate names for lakes, streams, places and other geographic features in the State. The Board also cooperates with the United States Geographic Board to coordinate State and federal designations of geographic features.

DIVISION OF ADMINISTRATIVE SERVICES

BOB REHFELD
Director

Director's Office:

Room 216, Community Building
Pouch B
Juneau, Alaska 99811
465-4709

Anchorage Office:

225 Cordova, Building B
Anchorage, Alaska 99501
264-2230

The Administrative Services Division provides general administrative support to the Department's program managers in the areas of fiscal planning, analysis, reporting and control, accounting, records management, and purchasing. Support is provided to offices in Juneau, Anchorage, Fairbanks, Bethel, and Nome. Support services will be extended to departmental loan information offices to be established in Kotzebue and Dillingham in 1981.

The Division is also responsible for the departmental personnel functions. Assistance is provided in the areas of recruitment and hiring. The Division, under the guidance of the Deputy Commissioner, advocates equal employment opportunities for Department staff, as well as for applicants.

The Division coordinates the preparation of the Department's operating budget (totalling in excess of $90 million for FY 1981).

Assistance is also provided in compiling applications for federal funding. The Division contracts with private CPA firms to satisfy the audit requirements of federal programs.

EMPLOYMENT OPPORTUNITY DIVISION

(formerly the)

DIVISION OF COMMUNITY EMPLOYMENT AND TRAINING ASSISTANCE (CETA)

KAREN PERDUE
Director

Director's Office:

Room 109, Community Building
Pouch BC
Juneau, Alaska 99811
465-4890

Field Offices:

225 Cordova, Building B
Anchorage, Alaska 99501
264-2220

Kuskokwim Office Building
P.O. Box 348
Bethel, Alaska 99559
543-2885

Nome City Hall
P.O. Box 1068
Nome, Alaska 99762
443-2274

Sportsman's Mall
1514 Cushman, Room 211
Fairbanks, Alaska 99701
456-1504

Goldstein Building, Room 404
Pouch BD
Juneau, Alaska 99811
465-4814

Council Office:

Alaska Private Industry Council
Coordinator
225 Cordova, Building B
Anchorage, Alaska 99501
279-3462

The CETA Division operates the federally-funded manpower programs of the Comprehensive Employment and Training Act. The Division provides unemployed and low-income Alaskans with the training and experience needed to find and keep permanent jobs. Employment counselors work directly with program participants, while private businesses, educational institutions, community organizations and public agencies, with whom the Division contracts, offer the needed job training.

The Division operates the CETA program in all of the State, except for Anchorage. The Municipality of Anchorage and 15 Native nonprofit organizations administer their own programs.

The major programs of the Division include:

- Classroom Training
- On-The-Job Training
- Adult Work Experience
- Youth Employment Programs
- Job Counseling and Support Services
- Day Care Assistance
- Matching Grants for Head Start Programs

The Division staff also work with a variety of advisory councils:

- Alaska Private Industry Council
- State Manpower Services Council
- Governor's Manpower Planning Council/Regional Advisory Boards

CLASSROOM TRAINING

Classroom training takes place in a college or vocational school where the participant learns the technical skills for a specific job. This activity also provides remedial studies in math and reading or help with the GED (General Educational Development) diploma. The cost of tuition, books and supplies is covered and participants are paid a living allowance.

ON-THE-JOB TRAINING, ADULT WORK EXPERIENCE

The CETA Division also provides training in which the participant gains experience under actual working conditions. These programs include on-the-job training and adult work experience. The participant is hired by the CETA contractor and becomes an employee of that firm or agency under its work and personnel rules. The CETA participant is hired for a beginning-level job at prevailing wages and benefits. The CETA Division reimburses the firm or agency for all or part of the employee's wages.

"On-the-Job Training" oversees the placement of CETA participants in private (profit-making only) businesses. During the four or five months it takes to train the participant, the program reimburses the employer for certain training costs.

"Adult Work Experience" places participants in public agencies and community organizations. Positions are part-time or short-term and are for individuals who have never worked, have a poor work history or who have been out of work for a long time.

YOUTH EMPLOYMENT PROGRAMS

Youth employment programs are aimed at helping young people make a successful transition between school and work. CETA activities such as classroom training, on-the-job training and work experience are often combined. Special emphasis is placed on encouraging youth to finish and/or continue their education. The program consists of "Transition Services" and "Career Employment Experience." Transition Services gives in-school youth career counseling, labor market information and job seeking skills. Career Employment Experience combines this assistance with actual work experience.

JOB COUNSELING AND SUPPORT SERVICES

Additional employment services are also available to CETA participants who need them in order to start or stay in training. These services include job counseling and temporary help with medical, child care, legal and housing problems.

ALASKA PRIVATE INDUSTRY COUNCIL

When CETA was reauthorized by Congress in 1978, special emphasis was placed on training participants for jobs in the private sector. The Council advocates the training and hiring of low-income Alaskans by private enterprise. The Council is sponsored jointly by the CETA Division and the Municipality of Anchorage.

STATE MANPOWER SERVICES COUNCIL

The State Manpower Services Council advises the State CETA Division and the Municipality of Anchorage on their manpower programs. The Council coordinates their efforts with those of 15 Native nonprofit organizations which operate CETA programs, the employment services of several State agencies, and the vocational training programs of numerous institutions.

GOVERNOR'S MANPOWER PLANNING COUNCIL/REGIONAL ADVISORY BOARDS

The Governor's Manpower Planning Council advises the State on its CETA programs. Regional advisory boards provide input on local employment needs to the five regional (field) offices.

DAY CARE ASSISTANCE

The Day Care Assistance program provides aid to low income parents needing day care for their children in order for them to work or receive training. Funds are awarded to municipalities through subcontracts. The program is administered at the local level and child care must be provided through licensed centers or homes.

MATCHING GRANTS FOR HEAD START PROGRAMS

The Division awards grants to various non-profit agencies participating in the Federal Head-Start program. The grants are used to satisfy the required 20% local match. Technical assistance is also provided.

DIVISION OF COMMUNITY PLANNING

LAWRENCE H. KIMBALL, JR.
Director

Director's Office:

225 Cordova, Building B
Anchorage, Alaska 99502
264-2206

Juneau Office:

Room 310, Community Building
Pouch B
Juneau, Alaska 99811
465-4750

The Division of Community Planning offers a broad range of planning related services in support of community and regional development. Services offered include direct staff technical assistance as well as matching grants under a variety of State and federal programs.

The Division's activities include:

- Planning Advisory Services
- Alaska Coastal Management Program/Coastal Energy Impact Program
- HUD '701' Comprehensive Planning Program
- Bottomfish Community Development Program
- Municipal Lands Trustee Program
- Alaska Native Claims Settlement Act 14(c) Technical Assistance Program
- Major Project Review
- National Flood Insurance Program
- Policy Research and Planning Studies
- Interagency Task Force Participation
- Publications

PLANNING ADVISORY SERVICES

Upon request, the Division will assist communities in their planning efforts. The Division offers training sessions for city councils, traditional councils, planning commissions, municipal land planners/ managers, regional non-profit corporations, etc. Assistance is also provided in developing community land use plans, implementing ordinances, performing housing site analyses and selection. Additionally, assistance is offered in matters pertaining to land reconveyances under the terms of Section 14(c) of the Alaska Native Claims Settlement Act (including the preparation of "Plans of Survey" for these reconveyances).

ALASKA COASTAL MANAGEMENT PROGRAM

Financial and technical assistance is provided to "coastal resource districts" (local units responsible for preparing coastal resource plans). Grants requiring a minimum 20% local contribution are offered. The grant funds can be used to prepare new or continuing district programs, carry-out or revise a program already approved by the State, or for special projects which further the objectives of an approved program. The Division also offers staff assistance and will assist a district in obtaining consultant services for developing a local program.

Division personnel also share responsibility for the Coastal Energy Impact Program with the Local Government Assistance Division. The Division assists municipalities in assessing planning and facility needs and in preparing related studies.

HUD '701' COMPREHENSIVE PLANNING PROGRAM

The U.S. Department of Housing and Urban Development offers Comprehensive Planning Assistance ('701') funds to the State. Local planning projects supported by the '701' program include comprehensive plans, housing studies, and the development of implementation ordinances. The '701' program also addresses statewide planning issues and supports a work-study program for graduate students. Staff assistance and planning grants (which require a minimum one-third local contribution) are available through the Division.

BOTTOMFISH COMMUNITY DEVELOPMENT PROGRAM

This program is a key strategy within the State's overall program to develop the Alaskan bottomfish industry. Through the Community Development Program, the Division assesses the needs and capabilities of targeted communities to support fisheries development, assists communities with physical, socio-economic, environmental, legal and financial planning for fisheries development, and offers a limited amount of grant funds to communities for studies related to the development of facilities and services. The Division also conducts special studies related to community development issues (such as the feasibility of port authorities, development of housing strategies and evaluations of facility site alternatives).

MUNICIPAL LANDS TRUSTEE PROGRAM

Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA) requires village corporations in approximately 94 unincorporated Native villages to convey "community expansion" lands to the State in trust. Pursuant to State law (AS 44.47.150), the Commissioner of the Department of Community and Regional Affairs, is designated to accept, administer and dispose of [illegible] trust lands on behalf of the current residents and any future municipalities which may be established. Under the Municipal Lands Trustee Program, these lands are made available for schools, airports, solid waste disposal sites, health clinics, community halls, housing, and other public uses desired by village residents. When a village incorporates, the Division transfers all remaining trust lands and associated revenues [illegible]t village to the new municipality.

ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) 14(c) TECHNICAL ASSISTANCE PROGRAM

This program provides training and technical assistance on community planning, realty, and land management principles for communities and village corporations involved with ANCSA 14(c) "Plans of Survey." Training materials and instruction by Division staff provide the knowledge necessary to complete a "Plan of Survey" for submission to the U.S. Bureau of Land Management. Clients of the program are local residents, local staff and officials, and village corporation representatives. Requests for assistance under this program may be generated from a local government or jointly from a local government and village corporation.

MAJOR PROJECT REVIEW

Major Project Review is a procedure established by the Governor which requires a detailed review of development projects proposed in the State. A complete analysis of the project's effects as well as benefits is done. Types of activities which are subject to Major Project Review include the Haul Road, major coal development projects in which the State would become involved, and State oil and gas lease sales. These analyses are used by the Governor to guide decisions on issues related to these projects. One of the criteria used in the review is "community well-being." Division personnel address this question.

NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP) is a federal program which identifies floodprone areas within communities and provides insurance for owners of structures or improvements located within the floodprone areas. The insurance is available only if the community enacts regulations for locating improvements in the floodprone areas. The Division provides communities with information about the program and aids local governments desiring to join the program (including assisting in the development of floodplain management regulations). The Division is developing educational materials that will explain the dynamics of flood hazards and suggest possible mitigation factors. Increased participation in the development of the State's floodplain management policy is also planned.

POLICY RESEARCH AND PLANNING STUDIES

The Division frequently conducts research into planning and development issues facing local communities or residents of a particular region. Examples of such research include a major study of planning mechanisms for the Unorganized Borough (initiated in 1980) and a study of community planning and development issues associated with the Alaskan bottomfish industry (completed in 1980).

INTERAGENCY TASK FORCE PARTICIPATION

The Division actively participates in several task forces. These committees address such issues as floodplain management, Beluga coal development, and the natural gas pipeline. In this role, the Division contributes to the development of State policy and evaluates the effect of policy options on local communities, regions and other programs. By participating in State, federal and local task forces, the Division offers a comprehensive approach to problem solving and issue identification.

PUBLICATIONS

The Division publishes a newsletter, *Planning Insert*, approximately eight times a year. The Division is also developing a series of handbooks on planning issues. The "Alaska Coastal Management Program Guidebook Series" was published in 1979. Additionally, the Division has developed Community Profiles for cities and villages throughout the State. To date, Community Profiles have been completed for the Northwest Alaska, Copper River Basin, Aleutian/Pribilof Islands, Lower Yukon, and Middle Kuskokwim regions of the State. Community Profiles for the Bering Straits Region and Prince of Wales Island in Southeast Alaska will be completed in 1981.

DIVISION OF HOUSING ASSISTANCE

BARBARA MORSE-QUINN
Director

Director's Office

2600 Denali St., Suite 400
Anchorage, Alaska 99503
272-4585

TOLL FREE NUMBER: ZENITH 4585

Field Offices (to be established in 1981):

Kuskokwim Office Bldg.
P.O. Box 348
Bethel, AK 99559
543-3475

P.O. Box 10041(New Chogguing Ofc. Bldg.)
Dillingham, AK 99576
842-2245

Drift Inn , 2nd floor
P.O. Box 280
Kotzebue, AK 99752
442-3675

State Office Bldg.
P.O. Box 41
Nome, AK 99762
443-5457

1514 Cushman St.
Fairbanks, AK 99701
452-4468

The Division of Housing Assistance, established during the 1980 Legislative Session, administers programs which provide financing for home mortgages, construction of senior citizen rental housing and supplemental funding for financing of HUD low income housing.

In an effort to serve the rural areas of Alaska, the Division has established five field offices located in Kotzebue, Bethel, Dillingham, Fairbanks, and Nome. These offices are staffed by loan information officers who are trained to assist individuals seeking a Rural Housing Loan and provide comprehensive loan information on all State loan programs.

The major programs of the Division include:

°Rural Housing Loans

°Urban Nonconforming Housing Loans

°Rural Non-Owner Occupied Housing Loans

°Senior Citizen Housing Development Grants

°Supplemental HUD Housing Development Grants

RURAL HOUSING LOAN PROGRAM

The Rural Housing Loan Program provides monies to be used for the origination or purchase of housing loans in rural areas of Alaska. A rural area is defined as any area under 4,500 population not directly connected by road or rail access to Anchorage and Fairbanks. Housing loans include mortgages, construction loans, rehabilitation loans and loans for non-conforming housing. Non-conforming housing is defined as housing that does not meet national or State building code requirements. The housing must, however, meet minimum standards of structural integrity and be devoid of any hazardous conditions. The interest rate for all rural housing loans has been set by the Legislature at 10 1/2/%.

URBAN NON-CONFORMING HOUSING LOAN PROGRAM

The Urban Non-Conforming Housing Loan Program provides for the origination or purchase of non-conforming housing loans in urban Alaska. The interest rate for this program has been set by the Legislature to equal the same interest rate charged by the Alaska Housing Finance Corporation for its single family owner-occupied housing loan program.

RURAL NON-OWNER OCCUPIED HOUSING LOAN PROGRAM

The Rural Non-Owner Occupied Housing Loan Program provides financing for rental housing from 1 to 8 units in rural areas of Alaska. This program is designed to serve rural communities with a significant housing shortage or abundance of inadequate housing. The interest rate on loans under this program has been set by the Legislature at 10 1/2%.

SUPPLEMENTAL HUD HOUSING DEVELOPMENT GRANT PROGRAM

The Supplemental HUD Housing Development Grant Program provides up to 20% of the cost of roads, electricity and water/sewer associated with construction of Federal HUD low-income housing in rural areas of the State. Funds are awarded to the 12 regional housing authorities that participate in the HUD program.

SENIOR CITIZEN HOUSING DEVELOPMENT PROGRAM

The Senior Citizen Housing Development program provides grants to municipalities and public non-profit corporations for the planning and construction of senior citizen housing.

The purpose of this program is to:

°assure that all senior citizens have safe and comfortable housing within their communities so that they may remain in a familiar and supportive environment among family and friends;

°assure that all new federal funds allocated for construction, management and operation of senior citizen housing in Alaska are used in Alaska and not lost through allocation to other states; and

°prevent premature institutionalizing of senior citizens in the Pioneer Home or other nursing homes by providing subsidized housing.

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JEFF SMITH
Director

Director's Office:

Room 209, Community Building
Pouch BH
Juneau, Alaska 99811
465-4707

Field Offices:

225 Cordova, Building B
Anchorage, Alaska 99501
264-2201

Kuskokwim Office Building
P.O. Box 348
Bethel, Alaska 99559
543-3475

Nome State Office Building
P.O. Box 41
Nome, Alaska 99762
443-2474

1514 Cushman St., 201
Fairbanks, Alaska 99701
452-7126

The Division of Local Government Assistance provides technical assistance for and information on a variety of government programs. Additionally, the Division is concerned with municipal government in Alaska and provides assistance to communities wishing to incorporate.

The Division's activities include:

- Bulk Fuel Storage Grants
- Circuit Rider Training Program
- Community Legal Assistance Grants
- Farm and Agricultural Land Deferred Tax Program
- Full Value Determinations
- Juneau Indemnification Act Reimbursements
- Municipal Officers Training Seminars
- Rural Development Assistance Grants
- Senior Citizen Tax Relief
- State Revenue Sharing
- Coastal Energy Impact Program
- Legislative Grant Program
- Publications

The Division also provides staff support for the

- Local Boundary Commission

BULK FUEL STORAGE GRANTS

Grants of up to $60,000 are available for communities to construct and equip bulk fuel storage facilities. The principal objective of the program is to lower the cost of home heating fuel by facilitating the purchase of fuel in bulk. Communities must assume responsibility for the operation and maintenance of the facility once construction is completed.

CIRCUIT RIDER TRAINING PROGRAM

The Circuit Rider Training Program provides regular municipal management training assistance to selected municipalities. Assistance is also provided to other communities when requested and as resources allow.

COMMUNITY LEGAL ASSISTANCE GRANTS

Community Legal Assistance is a program that provides grants to communities and regions enabling them to obtain legal assistance for a single legal problem. Grants are awarded when the community or region is unable to procure legal aid due to the high costs involved and/or the lack of local financial resources.

FARM AND AGRICULTURE LAND DEFERRED TAX PROGRAM

The Farm and Agriculture Land Deferred Tax Program provides reimbursement to municipalities for lost revenue resulting from assessments based on farm use rather than full value. The principal objective of the program is to provide a measure of tax relief as an incentive for farmers to retain their land for agriculture and/or the raising of livestock.

FULL VALUE DETERMINATIONS

The annual Full Value Determination provides comparative assessment-equalized taxable property values for organized boroughs and cities. The principal objective of the program is to provide municipalities with comprehensive Ad Valorum tax base information and insight into local revenue efforts. The full value figures are used for determining statewide average per capita values, municipal property tax limitations, municipal entitlements under the State Revenue Sharing Program, and equalized percentage formulas (used in determining the amount of state aid for which a school district may qualify under the Public School Foundation Program).

JUNEAU INDEMNIFICATION ACT REIMBURSEMENTS

The Division oversees implementation of the Juneau Indemnification Act. The Act allows Juneau property owners, upon the sale or transfer of ownership (or the inability to sell), to be reimbursed for loss of investment capital if and when property values in the Juneau area reflect a depressed economy due to the capital relocation initiative.

MUNICIPAL OFFICERS TRAINING SEMINARS

The Division offers annual training seminars for municipal managers, attorneys, accountants, assessors and clerks. The objective of the program is to increase the effectiveness of municipal officials in the performance of their duties.

RURAL DEVELOPMENT ASSISTANCE GRANTS

Rural Development Assistance Grants are offered to communities under 2,000 in population (including first class and home rule cities) for projects that will increase employment or promote economic development. The grants have been used to construct health clinics, city offices, harbormaster facilities, libraries, day care centers, electrical generating and distribution systems, etc. Communities must show the ability and the commitment to provide for the operation and maintenance of the facility once it is completed.

SENIOR CITIZEN TAX RELIEF PROGRAMS

The Division oversees several senior citizen tax relief programs. The "Senior Citizen Homeowner's Exemption" exempts the permanent dwelling of a resident, 65 years of age or older, from municipal property tax. The State reimburses the municipality for the lost revenue.

The "Senior Citizen Renter Property Tax Equivalency Payment" supplements the Homeowner's Exemption program by reimbursing eligible senior citizen renters for the portion of their rent that pays for property tax.

The "Senior Citizen Special Assessment Exemption" defers the special assessment fee, levied by municipalities, for water and/or sewer installations. The State reimburses municipalities for the lost revenues. The exemption requires that a lien, in favor of the State, be filed on the property.

The "Senior Citizen Motor Vehicle Registration Tax Payment" exempts the Annual Motor Vehicle registration fee and any local vehicle tax for senior citizens. The exempted local tax amount is reimbursed to municipalities by the State.

STATE REVENUE SHARING

Municipalities, native village governments outside cities, and volunteer fire departments outside cities and boroughs are eligible to apply annually for financial aid under the State Revenue Sharing Program. Entitlements for municipalities are computed according to an established equalization formula that considers the applicant's population, taxable wealth and tax effort. Additionally, payments are made for certain municipal services (roads, health facilities, hospitals, etc.) The equalization formula is intended to benefit those municipalities with the greatest need for revenue sharing funds (those with a relatively low tax base). All municipalities are entitled to a minimum of $25,000 + COLA. Payments to native village governments are $25,000 each. Volunteer fire departments are entitled to $10 for each person served.

COASTAL ENERGY IMPACT PROGRAM (CEIP)

The Coastal Energy Impact Program is a federal grant program designed to assist local and State governments plan for and minimize the adverse impacts from energy related activities in the coastal zone. The U.S. Congress authorized a $2 billion appropriation for the program in 1976. Allotments to Alaska during the initial years of the program have funded a variety of studies, including comprehensive plans, feasibility studies, engineering and architectural designs for capital improvements, as well as evaluations of possible effects on fisheries and other wildlife resources. Division personnel, with the assistance of the Community Planning Division, administer the Coastal Energy Impact Program. In addition to the grants made available by the program, the Division offers low interest loans for certain capital improvements.

LEGISLATIVE GRANT PROGRAM

The Division administers many of the grants given to unincorporated communities and non-profit corporations by the Legislature. For FY 1981, for example, the Division will administer 75 grants (totaling over $9.5 million) along with 22 active grants from FY 1980 (for $2.5 million). Grant projects include the purchase of heavy equipment, construction of community facilities, community electrification, the development of educational programs, etc.

PUBLICATIONS

Annually, the Division prepares and distributes the following general reference documents:

- Alaska Municipal Officials Directory (in cooperation with Alaska Municipal League)
- A map illustrating Alaska's municipalities
- Alaska Taxable, Municipal Property Assessment and Full Value Determinations Report
- City Financial Reporting Manual
- Total 29 (an updated version of Alaska Statutes Title 29--Municipal Government)

TASK FORCE ON FIRE PREVENTION AND CONTROL

The Task Force on Fire Prevention and Control (created by the 1980 Legislature) is responsible for identifying the major causes of fire and recommending organizational and/or operational modifications to the State's fire fighting system. The changes are intended to reduce the loss of life and property and to improve the effectiveness of the local, state and federal systems. The Task Force submitted their final report, Alaska on Fire, to the Governor and Legislature 8/82.

LOCAL BOUNDARY COMMISSION

The Local Boundary Commission, consisting of five members appointed by the Governor, is responsible for the review and disposition of local government boundary changes, petitions for incorporation, annexations and detachments. The Commission considers the ramifications of local boundary petitions on the State, as well as the affected local government. In addition to acting on these petitions, the Commission may independently recommend boundary changes to the Legislature.

Work Sessions

Goals 3

Issues

HOUSE TRANSPORTATION COMMITTEE MEETING

DAILY AGENDA

1) CALL MEETING TO ORDER

2) Wednesday, March 7, 1984
Note Time

3) Note members present and excused

4) Recognize VIP's

PROCESSION OF MEETING

5) Discuss proposed legislation:
LSR&T Legislation: Have in Folders a Committee Substitute Work Draft. Also have answers to questions asked in Committee concerning LSR&T Program. We have Charles Karella from DOTPF and the LSR&T Program here to address the Committee and any questions/concerns members have.

6) Committee Schedule for this week:
Thursday HB 512 Work Session-Subcommittee

7) Announce time of adjournment

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

HIGHWAYS DESIGN & CONSTRUCTION

CENTRAL REGION

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

Phone 266-1542

November 21, 1983

RE: 242C-2519
Atka
LSR&T Program



Ms. Julie Dirks
Administrator
Atka Village Council
Atka Rural Branch
Atka, Alaska 99502

Dear Ms. Dirks:

Thank you for your letter of November 7, 1983, expressing a need for aid in the funding of another LSR&T road construction project in the community of Atka.

I regret to inform you that presently we do not have the monies needed to fund the upgrading of your communities existing road system. Our Local Service Roads and Trails program now functions on a five year plan, with contingency monies being made available during the third year of the five year plan.

As you are probably aware, LSR&T projects are funded by a voter approved bond issue every two years. Recently our program for projects scheduled for the years 1984 and 1985 was submitted to Juneau for inclusion in the State budget. Funds approved for these projects will be conditional to voter approval of the next November bond issue (November, 1984).

At the earliest, it is improbable that any LSR&T funds will be available for your construction needs prior to the year 1986. The exceptions to this time frame would be if a previously scheduled LSR&T project was deleted for some valid reason or if a special appropriation was made available by the legislature for this purpose.

Your request will be placed on active file in our office and given consideration for funding at every opportunity. We will contact you when your project advances beyond the planning stage. Should you have any questions concerning the Local Service Roads and Trails program, feel free to contact this office at the above address or call me at 266-1542.

Sincerely,

Robert L. Haneline

Robert L. Haneline
Central Regional
LSR&T Engineer

QUESTIONS POSED IN COMMITTEE 2/7/84
FOR DOTPF

1. Need clarification from DOTPF on why the Governor reduced the funding from last year.

2. Are there any funds left over from the $7 million appropriated SL'83, Chapter 94?

3. What are the characteristics of the expenditures for those projects, and funding amounts?

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: John J. Simpson, Director
Standards and Technical Services

DATE: March 5, 1984

FILE NO:

TELEPHONE NO: 789-6247

FROM: Charles D. Karella
Standards LSR&T Engineer

SUBJECT: House Transportation Inquiry

In response to questions posed in committee 2/7/84:

Question 1. Need clarification from DOT&PF on why the Governor reduced the funding from last year.

Response: The Governor reduced the funding at the request of DOT&PF. Since the SLA 1983 Allocation was not considered as a "one-time-shot-in-the-arm", the DOT&PF recommended the reduced amount and inclusion of annual funding for LSR&T in all future Capital Improvement Program.

Question 2. Are there any funds left over from the $7 million appropriated SLA '83, Chapter 94?

Response: The attached funding status reflects $4.8 million remaining to be obligated.

During the period of time the program was in phase-out status (1/2/82 to 7/25/83) no planning for future LSR&T projects was accomplished. As a result, it has taken some time to accelerate the program. A Statewide five-year program has now been prepared, and by the end of calendar year 1984, the program should be up to its former capability once again with the remaining funds used.

Question 3. What are the characteristics of the expenditures for these projects, and funding amounts?

Response: The following reflects the character and funding amounts for these projects:

Collocation Code	Project	Name	Funding
24811560	G00001	Local Govt I	70,000.00
	G17005	RR Lease Area Paving-Whittier	100,000.00
		Collocation Totals:	170,000.00
24811561	G10114	DOT-Equipment	250,000.00
	G10154	Newhalen Subdivision Rds	50,000.00
	G10155	New Stuyahok City Streets	100,000.00
	G10156	Shageluk Road Reconstruction	70,000.00
	G10157	Manokotak City Streets	100,000.00
	G10160	Old Kasigluk Boardwalks	40,000.00

Collocation Code	Project	Name	Funding
	G10161	Kongiganak Boardwalks	65,000.00
	G10162	Kwigillingok Boardwalsk & Footbridges	70,000.00
	G10163	Mekoryuk Boardwalks	45,000.00
	G10164	Nunapitchuk Boardwalks	27,000.00
		Collocation Totals:	817,000.00
24812632	G22106	City of Fairbanks"D"St. Shannon Park	153,235.00
	G27020	Tofty Rd	8,184.00
	G27023	Interior-Healy-Otto Lk Area	12,000.00
	G27026	River Road - Eagle	25,000.00
	G27034	Birch Creek Street Improvement	125,000.00
	G27035	Tok Area Access Road	100,000.00
		Collocation Totals:	423,419.00
24812633	G00041	Western Div-Reconnaissance	10,000.00
	G20207	Mukluk Creek Bridge	50,000.00
	G47058	Winter Trail Staking	100,000.00
	G47059	Western LSR&T Equipment	115,000.00
		Collocation Totals:	275,000.00
24813430	G00031	Reconnaissance	10,000.00
	G31106	Riverside Drive - Juneau	155,946.00
	G31205	Katlian Lincoln J Davis Pave - Sitka	76,934.00
	G31307	Chilkat Lake Road - Haines Borough	24,022.00
	G31308	Six-Year Program - Haines Borough	10,105.00
	G32201	Petersburg-8th Gauffin & Unon	18,991.00
	G37048	Tenakee J Street Stairway	6,000.00
	G37050	Kupreanof Trail	6,500.00
	G37051	Kake Cemetery Access Road	3,665.00
	G37055	Elfin Cove Trails	35,000.00
	G37056	South Bay Access Road - Thorne Bay	25,000.00
	G37057	Angoon Housing Access	30,000.00
		Collocation Totals:	402,163.00

CDK/lta

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Loren Rasmussen
Chief, D C & M Standards

DATE: March 5, 1984

FILE NO: 2519

TELEPHONE NO: 789-6237

FROM: Charles Karella
State LSR&T Engineer
Standards and Technical Services

SUBJECT: Chapter 94 SLA 1983
LSR&T Funding Status

	Collocation	Amount	Authorized for Projects	2/29/84 Balance
Region I Central				
Allocation District 1	24-81-1-560	$2,287,418	170,000	2,117,418
Allocation District 4 (South)	24-81-1-561	1,145,543	860,000	285,543
Allocation District 5 (South)	24-81-1-562	60,914	-0-	60,914
	Region Total	$3,493,875	1,030,000	2,463,875
Region II Northern				
Allocation District 2	24-81-2-632	$1,652,336	414,246	1,238,090
Allocation District 4 (North)	24-81-2-633	887,593	275,000	612,593
Allocation District 5 (North)	24-81-2-634	256,032	56,520	199,512
	Region Total	$2,795,961	745,766	2,050,195
Region III Southeastern	24-81-3-430	$ 710,164	427,163	283,001
	Region Total	$ 710,164	427,163	283,001
	Statewide Total	$7,000,000	2,202,929	4,797,071

Attachment

CK/lta

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
STANDARDS AND TECHNICAL SERVICES DIVISION

P.O. Box 3-1000
Juneau, Alaska 99802

PHONE: (907) 789-0841

FEB 28 1984

February 27, 1984

Re: Local Service Roads
and Trails Program

File No: 2519

House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Sir:

The attached document gives a brief summary of the Local Service Roads and Trails (LSR&T) Program.

Sincerely,

John J. Simpson, Director
Standards and Technical
Services Division

JJS:CDK:ct

Attachment

cc: Dan Malick, Acting Deputy Commissioner, Statewide Programs

25A-T2LH

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO John J. Simpson, Director
Standards and Technical
Services Division

DATE: February 10, 1984

FILE NO: 2519

TELEPHONE NO: 789-0841

FROM Charles D. Karella
LSR&T Engineer
DC&M Standards

SUBJECT: LSR&T Program

This program is designed to accomplish the most with the least amount of State dollars under the rules and regulations of the Alaska State Statutes, 19.30.111 - 19.30.251.

FUNDING

First Allocation	1971	$ 6 Million
	1972	4 Million
	1974	8 Million
	1976	7 Million
	1978	15.8 Million
	1980	10 Million
Last Allocation	1983	7 Million
Total Allocation		$60.8 Million

Reimbursements remaining — ~~where?~~ ~~Don't~~ what's that mean?

Projects (Dollars)

Completed or under agreement	$54.5 Million
Reimbursements remaining	6 Million

Under the present allocation, Local Governments throughout the state share 57% of each LSR&T Bond issue. The unorganized boroughs share in the remaining 43%. Annual expenditures average to this percentage.

ANNUAL PROGRAM (Typical)

1. 150 Active Projects
   50 Road Projects Completed
   50 Miles of Road Completed
   2000 Miles of Winter Trail Staking
   Several Miles of Boardwalk
   Foot Trails and Bike Paths

2. Expenditures For Typical $6.0 Million Annual Program

Roads	$4.5 Million	(75%)

Includes $1.1 million (25%) for subdivision streets and roads.

Trail Staking	$100,000	(2%)
Boardwalks	600,000	(10%)
Foot Trails	200,000	(3%)
Bike Paths	100,000	(2%)
Shelter Cabins	50,000	(1%)
State Maintenance Routes	250,000	(4%)
Engineering and Administration	200,000	(3%)

3. Administrative support is $200,000 or 3%

PROGRAM PHASE OUT

During the period of time the program was in a phase-out status (1/2/82 to 7/25/83) no planning for future LSR&T projects was accomplished. As a result, it has taken some time to accelerate the program. A Statewide five-year program has now been prepared, and by the end of calendar year 1984, the program should be up to its former capability once again.

MANAGEMENT

LSR&T Managers and Project Engineers are tailored after the early Alaska bush pilots. Quite often, they have to operate by the seat of their pants, which is why this program is successful.

LSR&T PROGRAM 1977-1981

1. 250 road projects completed.
   Average Length one mile.
   Average cost $100,000.00

2. Expenditures $25 Million.

3.* $19.0 million for road projects, includes five million for subdivision roads.

4. $750,000 for project administration charged to projects.

*It is difficult to define subdivision roads or streets, i.e. access roads to new subdivisions can be considered an intergal part of the subdivision network or in some communities, it may be the only transportation corridor available. For this report, subdivision roads are those roads or streets within subdivisions, designated as such, by the local entity.

5. One million dollars for program support ($200,000 per year).

6. Administered several special legislative appropriated projects; totalling in excess of a million annually.

COST COMPARISON

The cost of a project constructed under contract ranges between 25% and 200% more than a comparable project constructed with local equipment rental when available or LSR&T equipment and local hire, depending on size and location. Much of this is due to our policy of paying the prevailing community wage.

PRESENT PROGRAM

See Attached.

SUMMARY

Over 95% of all Alaskan communities have had at least one LSR&T project since the program set out to "Get the people out of the mud" in 1971.

There are many reasons why the program is successful, least of which is the maximization of State dollars. The LSR&T Program offers more to a rural community than just a finished product; it offers a learning experience. Traditionally, LSR&T has been able to offer additional benefits to the community as the program is tailored to their needs.

The LSR&T program spends a considerable amount of time administering projects funded through special Legislative appropriations and grants. In administering these projects for the Department, the program guarantees the credibility of the State in its commitment to meet the transportation needs of the bush communities.

Attachment

cc: Loren Rasmussen, Chief, DC&M Standards

CDK:ct

PROJECTS FUNDED

CENTRAL REGION June 30, 1982 to January 31, 1984

Unorganized Boroughs[1]	33 Projects	$2,483,730
Bristol Bay Borough	1 Project	54,753
Municipality of Anchorage	7 Projects	1,006,596
Matanuska-Susitna Borough	1 Project	211,600
Kenai Peninsula Borough	4 Projects	337,636
Kodiak Island Borough	1 Project	18,262
City of Kenai	3 Projects	84,288
Unalaska[2]	1 Project	25,443
TOTAL REGION	18 Projects	$1,738,578

(1) Includes 12 projects funded with $810,000 from 1983 allocation.

(2) Funded from 1983 allocation.

PROJECTS FUNDED

NORTHERN REGION June 30, 1982 to January 31, 1984

Unorganized Borough II	6 Projects	$678,425
Unorganized Borough IV (N)	7 Projects	510,850
Unorganized Borough V (N)	2 Projects	56,520
Total Unorganized Boroughs	15 Projects	$1,245,795 (1)
CITY OF FAIRBANKS	(2) Projects	$178,305
CITY OF NORTH POLE	(1) Project	11,243
Total Local Governments	3 Projects	$189,548 (2)
TOTAL REGION	18 Projects	$1,435,343

(1) Includes 13 projects funded with $1,175,000 from 1982 allocation.

(2) Includes 2 projects funded with $164,500 from 1983 allocation.

93% of these projects were funded with 1983 allocation.

PROJECTS FUNDED

SOUTHEAST REGION June 30, 1982 to January 31, 1984

Unorganized Borough III	13 Projects	$465,000(1)
CITY OF HAINES	1 Project	$ 34,000
CITY AND BOROUGH OF SITKA	3 Projects	251,000
CITY OF WRANGELL	1 Project	80,000
CITY OF PETERSBURG	1 Project	20,000
CITY AND BOROUGH OF JUNEAU	2 Projects	361,000
CITY OF KETCHIKAN	3 Projects	80,000
Total Local Government	11 Projects	$826,000(2)
TOTAL REGION	24 Projects	$1,291,000

(1) Includes 8 projects funded with $144,000 from 1983 allocation.

(2) Includes 6 projects funded with $291,000 from 1983 allocation.

LOCAL SERVICE ROADS AND TRAILS PROGRAM

Primary Functions:

The Local Service Roads and Trails (LSR&T) program was established by the State Legislature in 1971 to provide for special needs to "bush" communities, rural communities and communities both within and outside of organized boroughs.

Local Service Roads and Trails was designed to aid communities in accomplishing projects that do not have the financial means nor the technical expertise to achieve alone. These projects were to be in the nature of roads, trails, bridges and boardwalks specifically. Special exceptions are considered and granted if justification is sufficient.

The LSR&T Program is wholly State funded. Wherever costs are not prohibitive, generally within organized boroughs, projects are awarded by bid contract. In the remote areas where, because of location and size of the project bid contracts cost are prohibitive, LSR&T maintains its own small fleets of equipment or rents equipment, if available, and directs the operation of the projects.

The scope of LSR&T is basically three-fold. This is particularly true for "bush" projects. It provides:

1. Needed projects to communities that have not the capabilities of accomplishing alone.

2. A source of training for construction work by employing local residents as laborers and equipment operators.

3. Provides supplemental income to communities that are single-income or subsistence oriented.

Project Limitation:

Local Service projects are confined to roads which are not part of the primary federal-aid system and are not the responsibility of corporate units or private individuals but are dedicated to public use. These projects cover wide ranging road needs. They include State recreation routes, connections between outlying villages and airports, villages and canneries, villages and port facilities, short routes needed to better integrate subdivision roads and State highways, and improvements to existing roads.

PLANNING

Five Year Program

The allocation districts are the boundaries of the Highway Department established in 1970. The larger of the five districts being the Western District, engulfing nearly half of the land mass of Alaska, is administered by the Central and Northern Regions. This split jurisdiction is strictly an economic measure.

Whenever organized boroughs whose boundaries partially overlap allocation districts, the administrative responsibility lies with the primary region.

A construction program utilizing LSR&T construction equipment, State employees, village labor, and equipment rental when available, is the primary mode of operation in the unorganized boroughs of the Central, and Northern Regions. Programming the projects in the unorganized boroughs depends on requests from local governing bodies (both submitted and solicited), available road building materials, right-of-way access, and coordination of other projects in the area.

The State equipment fleet and maintenance personnel are utilized when local equipment is not available or when a contract for the work is not feasible.

The Local Service Roads and Trails Program is a vital link in the State road network. It is the only State program established for solving local transportation needs. During a typical construction season, several miles of new road, new and reconstructed boardwalk, year around foot trails, winter trail staking, foot bridges, paved bike paths and vehicle bridges are constructed with LSR&T funds.

These and other special projects are completed each year in answer to what the LSR&T is all about, "Get the people out of the mud". This program does a lot for all the people of Alaska and is presently performing a service the people of Alaska could not do without.

Summary

I. Definition

A. Purpose

a. To get people out of the mud
b. Flexibility of Program
c. To aid communities with no revenue
d. Economy of operation

B. Type of Projects

a. Local Service Roads
b. Year around foot trails
c. Winter trail staking
d. Bicycle paths
e. Erosion control
f. Foot bridges
g. Boardwalks

II. Allocation

A. F.Y. Year Legislation (6 million proposed)
B. Five Year Duration
C. 50-50 Factor, Area - Population
D. Operating Budget - Program Support

a. Bridge Design - Headquarters
b. Road Design and Advertising - Region
c. R/W Certification - Region
d. Construction Review - Region
e. Administration Headquarters and Region

III. Administration

A. Allocation District - Regional Control
B. Organized Boroughs and Home Rule Cities

a. Construction contract by Local Government
b. Local Government Labor and Equipment

C. Unorganized Boroughs

a. Construction Contract by Local Government or State
b. Village or City Labor and Equipment
c. State Equipment and Village Labor
d. State Equipment and State Employees
e. State Equipment and Village State Employees

IV. Five Year Program

A. Project Selection

a. Organized Boroughs, First Class Cities and Home Rule Cities

1. Select their own projects
2. Able to change program at will

b. Unorganized Boroughs

1. Cities and Villages select their own projects.
2. Region sets priorities within funds available.
3. Regions may subfill projects with funds available on non-federal routes.

APPLICANT GUIDELINES

Nature and Purpose of Program:

To provide State assistance in the development of roads and trails on routes that are not eligible for federal-aid matching funds.

Who May Apply:

Each organized borough, first class city and home rule city is eligible for a direct allocation, based on their population and area. All other areas are considered unorganized boroughs and are eligible for projects administered by the Department, subject to priority scheduling within the respective allocation districts.

Authorizing Legislation:

AS 19.30.111-251

Administrative Agency:

Department of Transportation and Public Facilities, State of Alaska.

Type of Assistance:

Financial and Engineering.

How Program is Financed:

100% State. Organized boroughs and home rule cities may supplement their allocation with local funding in any amount. Unorganized borough areas will be encouraged to provide local participation whenever possible. Federal and State grants can be used in conjunction with LSR&T funds.

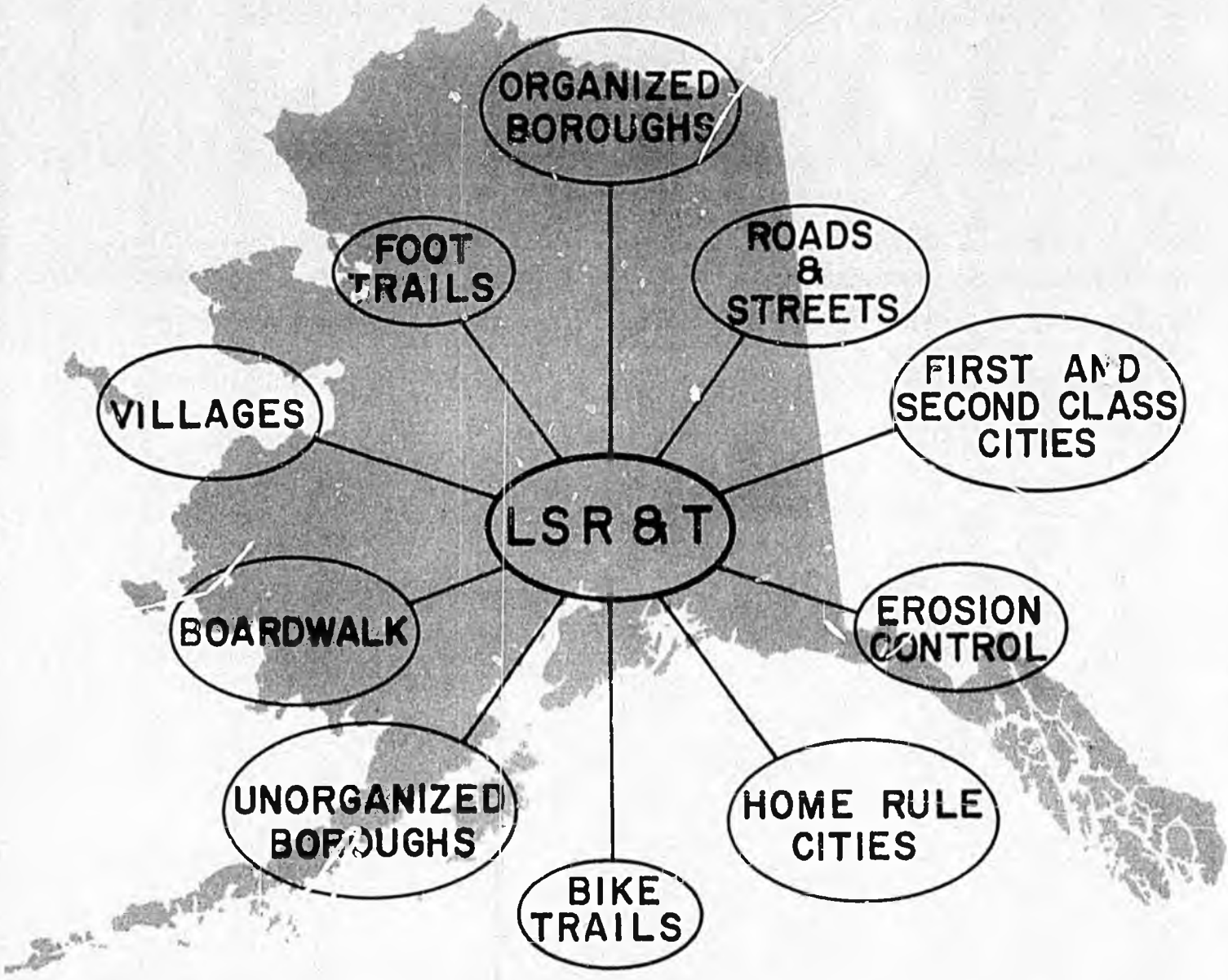
How to Apply:

Each organized borough, first class city and home rule city may receive their allocation by submitting a five-year project program for the construction of such roads to their Regional DOT&PF Deputy Commissioner by October 1 of each year, indicating the priorities for construction on the program. When a project is approved, a project agreement will be drafted, and development of the project may proceed. No payment can be made for work done prior to execution of the project agreement.

Unorganized borough communities should provide input data for road needs in their areas to their Regional DOT&PF Deputy Commissioner, who will compile a five-year program and establish priorities for the unorganized borough projects within his jurisdiction. When a project is approved, the Department will proceed with development of the project.

FIVE YEAR LOCAL SERVICE ROADS AND TRAILS PROGRAM

1984 - 1988



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 1, 1984

Fellow Alaskans:

This document outlines the Local Service Roads and Trails Program for the next five years. Included are project locations, descriptions, and estimated costs.

It should be noted that this is a long-range planning document of the Department of Transportation and Public Facilities, and, as with all plans, changing conditions may require modification of the plans in later years.

All of these projects are in conformance with the local governments' requests.

Your extraordinary support of local service roads and trails gives me great pleasure as I submit this, your Five Year Local Service Roads and Trails Program.

Sincerely,

Bill Sheffield
Governor

NARRATIVE

LOCAL SERVICE ROADS & TRAILS PROGRAM

The Local Service Roads and Trails Program provides for construction of local roads and trails which are not included in the federal-aid primary highway system.

Under the Local Service Roads & Trails Act, funds for home rule and first class cities, municipalities and organized boroughs are allocated by strict formula. These local governments then establish their own project scheduling; therefore, this publication is merely a listing of their individual programs as submitted. Project priorities and scheduling in the unorganized boroughs are based primarily on requests and recommendations of village councils and residents. Personal contact with the communities is established by LSR&T representatives from the Department's regional offices. Community needs are thus determined first-hand, along with approximate costs. Since the cost of requested projects usually exceeds the funds available, priorities must be established based on need. Local communities often participate in project costs their own funds.

Local labor and equipment are utilized wherever practical in the construction of these projects. Not only is this beneficial to the economy of the communities, but it normally reduces the overall cost of the project. A side benefit is the training of local residents who will, in many cases, be maintaining the completed project.

This five year LSR&T Program is based on funds from a recent allocation of $7,000,000 for calendar year 1984 and with proposed allocations of $5,000,000 for calendar year 1985 and $6,000,000 per year for calendar years 1986 through 1988.

Funding shown in this program anticipates using all of these funds by the end of calendar year 1984. Therefore, projects shown for calendar years beyond 1984 can only proceed if additional funds are made available.

TABLE OF CONTENTS

Governor's Greeting.....i
Narrative.....ii
Table of Contents.....iii
Allocation District I Program.....1
District I Project Location Map.....6
Municipality of Anchorage Location Map.....7
Allocation District II Program.....8
District II Project Location Map.....13
Allocation District III Program.....14
District III Project Location Map.....19
Allocation District IV Program.....20
District IV Project Locations Maps.....30
Allocation District V Program.....32
District V Project Location Map.....37

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1984		
MUNICIPALITY OF ANCHORAGE	Pine Street--6th Avenue to Glenn	1.	386,500
	Northwood Street--83rd to Strawberry	2.	479,400
	36th Avenue--Arctic to Spenard	3.	142,500
	Hillside--Girdwood Improvements	4.	194,000
	Eagle River--Chugiak Improvements	5.	158,400
	Trails (Anchorage P & R Serv. Area)	6.	98,400
	Trails (Girdwood P & R Serv. Area)	7.	10,000
	Trails (Eagle River--Chugiak Serv. Area)	8.	17,600
KENAI-PENINSULA BOROUGH	No Program Submitted		343,400
MATANUSKA-SUSITNA BOROUGH	SA #28 Gold Trails - Construction	9.	129,000
	SA #25 Bogard - Construction	10.	129,000
	SA #19 Lazy Mountain - Construction	11.	129,000
	SA #31 Alpine - Construction	12.	129,000
	SA #9 Midway - Construction	13.	129,000
KODIAK-ISLAND BOROUGH	Selief Lane Extension - Construction	14.	35,000
	Antone Way, Balika Lane, Eider Street and Malnitsa Lane - Construction	15.	36,000
	Zelnick Cove Road - Design	16.	50,000
	Three Sisters Way - Design	17.	10,000
CITY OF KENAI	Thompson Park Road	18.	39,500
CITY OF SEWARD	Accumulation of funds for 1986		50,100
CITY OF HOMER	Bishop's Beach Access	19.	20,100
CITY OF SOLDOTNA	City Streets - Drainage	20.	21,000
CITY OF SELDOVIA	Extension of "A" Street	21.	
CITY OF KODIAK	Utilized funds in 1983 for Larch Street		
CITY OF PALMER	West Fireweed	22.	33,100
UNORGANIZED BOROOUGH I	Accumulation of funds		99,700

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
MUNICIPALITY OF ANCHORAGE	Strawberry--Jewel Lake to Northwood	23.	314,300
	Hillside--Girdwood Improvements	24.	138,600
	Eagle River--Chugiak Improvements	25.	113,100
	Trails (Anchorage P & R Serv. Area)	26.	63,800
	Trails (Girdwood P & R Serv. Area)	27.	7,100
	Trails (Eagle River--Chugiak Serv. Area)	28.	12,600
KENAI-PENINSULA BOROUGH	No Program Submitted		253,300
MATANUSKA-SUSITNA BOROUGH	SA #27 Meadow Lakes - Construction	29.	92,400
	SA #23 North Colony - Construction	30.	92,400
	SA #29 Greater Talkeetna - Construction	31.	92,400
	SA #20 Midway - Construction	32.	92,400
KODIAK-ISLAND BOROUGH	Zelnick Cove Road - Design	33.	93,400
CITY OF KENAI	Accumulation of funds for 1987		28,200
CITY OF SEWARD	Accumulation of funds for 1986		17,000
CITY OF HOMER	Glacier View Subdivision St. Reconstruction	34.	14,300
CITY OF SOLDOTNA	City Streets - Drainage	35.	15,000
CITY OF SELDOVIA	Construct "B" Street	36.	3,100
CITY OF KODIAK	Marine Way Extension - Construction	37.	9,800
	Simenoff Street Reconstruction	38.	9,800
	Madsen Avenue Street Improvements	39.	9,800
CITY OF PALMER	West Elmwood	40.	23,600
UNORGANIZED BOROUGH I	New Chenega Boardwalks	41.	40,000
	Whittier Subdivision Roads (Located between Salmon River and Echo Bay) PHASE I	42.	195,300

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
MUNICIPALITY OF ANCHORAGE	East 6th--Patterson to Cherry	43.	377,100
	Hillside--Girdwood Improvements	44.	166,200
	Eagle River--Chugiak Improvements	45.	135,700
	Trails (Anchorage P & R Serv. Area)	46.	84,300
	Trails (Girdwood P & R Serv. Area)	47.	8,600
	Trails (Eagle River--Chugiak Serv. Area)	48.	15,000
KENAI-PENINSULA BOROUGH	No Program Submitted		304,000
MATANUSKA-SUSITNA BOROUGH	SA #15 Caswell - Construction	49.	110,800
	SA #14 Fairview - Construction	50.	110,800
	SA #17 Knik - Construction	51.	110,800
	SA #21 Big Lake - Construction	52.	110,800
KODIAK-ISLAND BOROUGH	Three Sisters Way - Construction	53.	82,100
	Marmot Drive - Design	54.	10,000
	Woodland Drive - Design	55.	20,000
CITY OF KENAI	Accumulation of funds for 1987		33,900
CITY OF SEWARD	Jefferson Street Paving (1/4 mi.)	56.	50,100
	Ferry Dock Paving	57.	12,100
	Forest Acres Subdivision Paving	58.	14,500
CITY OF HOMER	East Homer Bicycle/Pedestrian Trail	59.	17,200
CITY OF SOLDOTNA	City Streets - Drainage	60.	18,000
CITY OF SELDOVIA	Spellum Street Extension	61.	3,700
CITY OF KODIAK	Thorsheim Avenue Improvements	62.	35,300
CITY OF PALMER	West Dogwood	63.	28,400
UNORGANIZED BOROUGH I	Whittier Subdivision Roads (Located between Salmon River and Echo Bay) PHASE II	64.	162,600

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
MUNICIPALITY OF ANCHORAGE	Patterson - Northern Lights to Tudor	65.	377,100
	Hillside--Girdwood Improvements	66.	166,200
	Eagle River--Chugiak Improvements	67.	135,700
	Trails (Anchorage P & R Serv. Area)	68.	84,300
	Trails (Girdwood P & R Serv. Area)	69.	8,600
	Trails (Eagle River--Chugiak Serv. Area)	70.	15,000
KENAI-PENINSULA BOROUGH	No Program Submitted		304,000
MATANUSKA-SUSITNA BOROUGH	SA #26 Greater Butte - Construction	71.	110,800
	SA #16 South Colony - Construction	72.	110,800
	SA #30 Trapper Creek - Construction	73.	110,800
	SA #28 Gold Trails - Construction	74.	110,800
KODIAK-ISLAND BOROUGH	Monashka/Bayview - Construction	75.	112,100
CITY OF KENAI	Standard, Richfield, Thompson Place Road Improvements	76.	62,100
CITY OF SEWARD	Accumulation of funds for 1988		14,500
CITY OF HOMER	Benson Subdivision St. reconstruction	77.	17,200
CITY OF SOLDOTNA	City Streets - Drainage	78.	18,000
CITY OF SELDOVIA	Accumulation of funds for 1988		3,700
CITY OF KODIAK	No Program Submitted		35,300
CITY OF PALMER	West Ceder Street	79.	28,400
UNORGANIZED BOROUGH I	Accumulation of funds for 1988		162,600

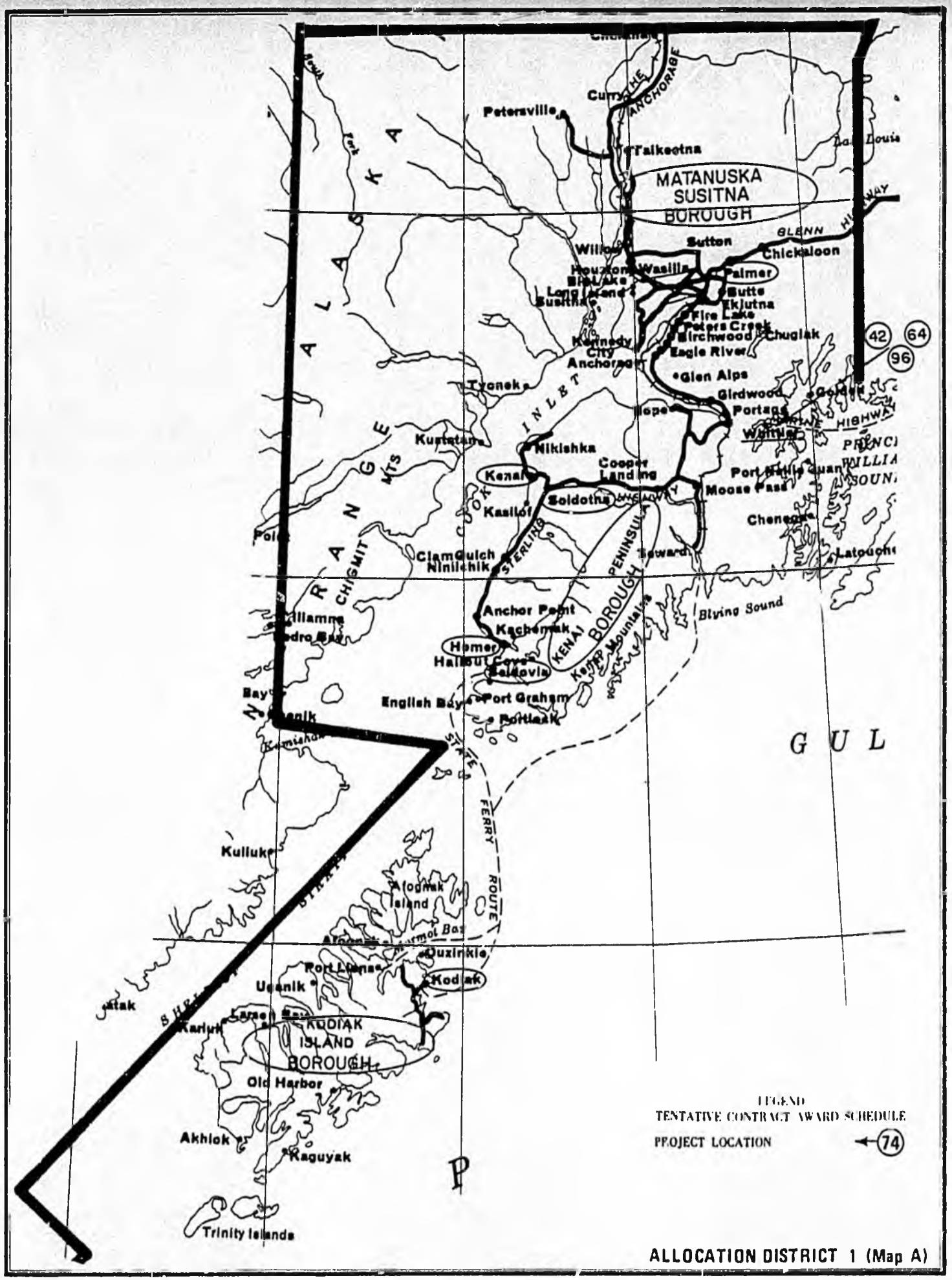
* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

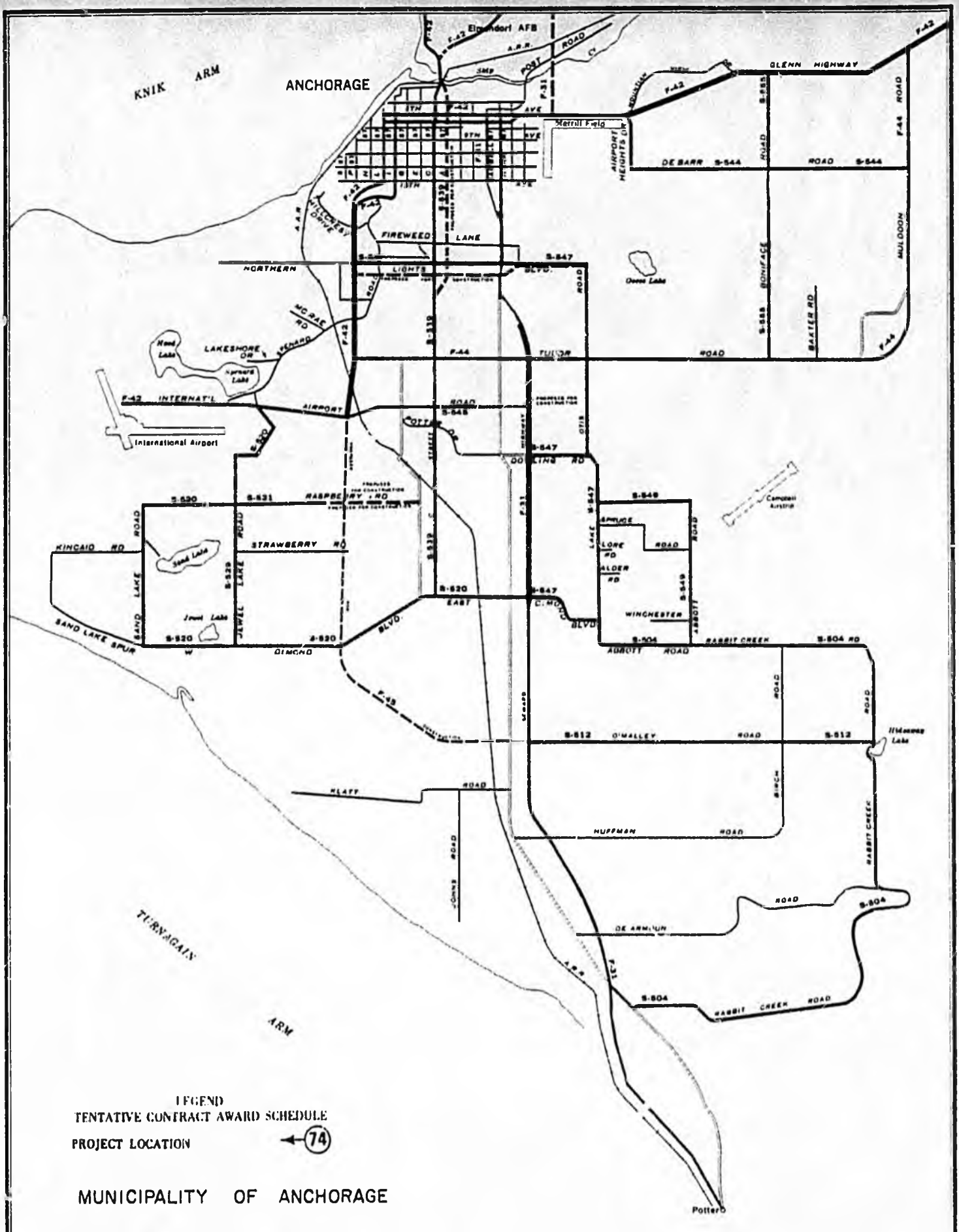
Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
MUNICIPALITY OF ANCHORAGE	40th--Old Seward to "C" Street	80.	377,100
	Hillside--Girdwood Improvements	81.	166,200
	Eagle River--Chugiak Improvements	82.	135,700
	Trails (Anchorage P & R Serv. Area)	83.	84,600
	Trails (Girdwood P & R Serv. Area)	84.	8,600
	Trails (Eagle River--Chugiak Serv. Area)	85.	15,000
KENAI-PENINSULA BOROUGH	No Program Submitted		304,000
MATANUSKA-SUSITNA BOROUGH	SA #25 Bogard - Construction	86.	110,800
	SA #19 Lazy Mountain - Construction	87.	110,800
	SA #31 Alpine - Construction	88.	110,800
	SA #9 Midway - Construction	89.	110,800
KODIAK-ISLAND BOROUGH	Peotter Drive - Construction	90.	112,100
CITY OF KENAI	Accumulation of funds for 1989		33,900
CITY OF SEWARD	7th Avenue Paving (3mi.)	91.	29,100
CITY OF HOMER	West Homer Bicycle/Pedestrian Trail	92.	17,200
CITY OF SOLDOTNA	City Streets - Drainage	93.	18,000
CITY OF SELDOVIA	Cedar & Kachemak Streets - Signing & Survey	94.	17,400
CITY OF KODIAK	No Program Submitted		35,300
CITY OF PALMER	City Streets	95.	28,400
UNORGANIZED BOROUGH I	Whittier - Recreation Access Road	96.	325,300

* Unfunded with present allocations



ALLOCATION DISTRICT 1 (Map A)



LEGEND

TENTATIVE CONTRACT AWARD SCHEDULE

PROJECT LOCATION ← (74)

MUNICIPALITY OF ANCHORAGE

ALLOCATION DISTRICT 1 (Map B)

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1984		
FAIRBANKS NORTH STAR BOROUGH	Street Signing	1.	139,600
	Van Horn Road	2.	210,000
	Peede Road Extension	3.	200,000
NORTH SLOPE BOROUGH	No Program Submitted		375,100
CITY OF FAIRBANKS	"D" Street Shannon Park Subdivision	4.	15,200
CITY OF NORTH POLE	Lighting City Street	5.	5,000
CITY OF NENANA	Nenana - Totchaket Access Roads	6.	6,000
CITY OF TANANA	Streets	7.	5,000
UNORGANIZED BOROUGH II			
EAGLE	River Road Construction	8.	400,000
ANDERSON/HEALY AREA	Road Construction	9.	100,000
TOK	Road Construction	10.	100,000
NORTHWAY	Street Reconstruction	11.	150,000
BIRCH CREEK	Street Reconstruction	12.	150,000

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
FAIRBANKS NORTH STAR BOROUGH	Replacement of Street Signs	13.	100,000
	Peede Road Extension	14.	142,800
	Borough roads & trails impr.	15.	161,100
NORTH SLOPE BOROUGH			
POINT HOPE	Community Roads	**16.	267,900
CITY OF FAIRBANKS	"D" Street Shannon Park	17.	109,400
CITY OF NORTH POLE	Santa Claus Lane Lighting	18.	3,500
CITY OF NENANA	Streets	19.	4,300
CITY OF TANANA	Local Roads	20.	3,500
UNORGANIZED BOROUGH II			
MILLER HOUSE	Bridge	21.	214,200
BIRCH CREEK	Road	22.	193,800
TOK	Roads	23.	107,200

* Unfunded with present allocations

** Ref to Map A Allocation District 4

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
FAIRBANKS NORTH STAR BOROUGH	Borough roads & trails improvements	24.	484,600
NORTH SLOPE BOROUGH			
POINT LAY	Local Roads	**25.	321,500
CITY OF FAIRBANKS	Aspen/Hanson Road Improvement Dist.	26.	131,300
CITY OF NORTH POLE	Street Reconstruction & Paving	27.	4,200
CITY OF NENANA	Streets	28.	5,200
CITY OF TANANA	Local Roads	29.	4,200
UNORGANIZED BOROUGH II			
TOK	Community Roads	30.	100,000
HEALY AREA	Roads	31.	100,000
NORTHWAY	Village Roads	32.	200,000
BEAVER	Village Roads	33.	218,200

* Unfunded with present allocations

** Ref to Map A Allocation District 4

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
FAIRBANKS NORTH STAR BOROUGH	Borough Roads & Trails Improvements	34.	484,600
NORTH SLOPE BOROUGH			
ANAKTUVUK PASS	Community Roads	35.	321,500
CITY OF FAIRBANKS	"B" Street, Hamilton Acres	36.	131,300
CITY OF NORTH POLE	Street Reconstruction & Paving	37.	4,300
CITY OF NENANA	Streets	38.	5,200
CITY OF TANANA	Local Roads	39.	4,300
UNORGANIZED BOROUGH II			
RAMPART	Village Roads	40.	218,200
MINTO	Village Roads	41.	200,000
WISEMAN	Vehicle Bridge	42.	200,000

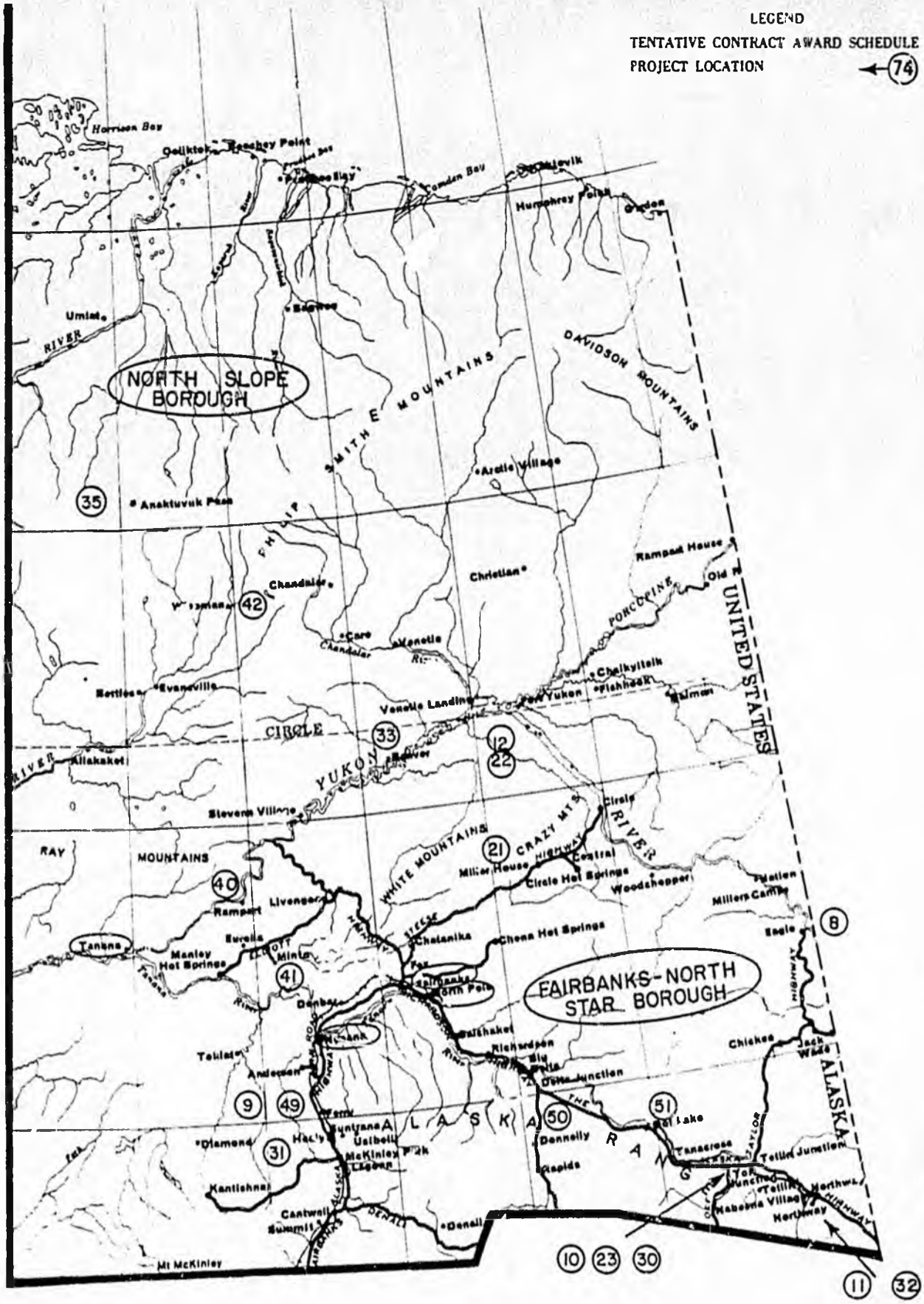
* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
FAIRBANKS NORTH STAR BOROUGH	Borough Roads & Trails Improvements	43.	484,600
NORTH SLOPE BOROUGH			
WAINWRIGHT	Airport Road	44.	321,500
CITY OF FAIRBANKS	9th Avenue, Lathrop-Smyth	45.	131,000
CITY OF NORTH POLE	Street Reconstruction & Paving	46.	4,200
CITY OF NENANA	Streets	47.	5,200
CITY OF TANANA	Local Roads	48.	4,200
UNORGANIZED BOROUGH II			
ANDERSON-NENANA AREA	Local Roads	49.	200,000
DELTA JUNCTION AREA	Local Roads	50.	208,000
DOT LAKE	Village Roads	51.	210,200

* Unfunded with present allocations



ALLOCATION DISTRICT 2 (Map A)

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1984		
CITY & BOROUGH OF JUNEAU	South Riverside Drive Connection to Egan Drive	1.	156,000
CITY & BOROUGH OF SITKA	Lincoln Street Paving	2.	77,000
KETCHIKAN GATEWAY BOROUGH	Development Road	3.	33,000
CITY OF KETCHIKAN	Schoenbar Trail Lighting	4.	15,000
	Fort Tongass Trail	5.	12,000
HAINES BOROUGH	Chilkat Lake Road	6.	24,000
CITY OF HAINES	Street Improvement Program	7.	10,000
CITY OF WRANGELL	Church St. & Episcopal St.	8.	14,700
CITY OF PETERSBURG	Union Street	9.	19,000
CITY OF PELICAN	Boardwalks	10.	1,200
CITY OF CRAIG	Watertank Road	11.	3,600
CITY OF SKAGWAY	Street Surfacing	12.	9,000
CITY OF YAKUTAT	Second Street Reconstruction	13.	3,000
CITY OF KAKE	2nd St. Drainage	14.	3,700
CITY OF HOONAH	Accumulating funds for 1988		4,500
CITY OF HYDABURG	No Program Submitted		2,000
CITY OF KLAWOCK	No Program Submitted		2,100
UNORGANIZED VARIOUS LOCATIONS	Roads & Trails	15.	250,000

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
CITY & BOROUGH OF JUNEAU	7th St. Retaining Wall	16.	111,400
CITY & BOROUGH OF SITKA	Charteris Street Extension	17.	54,900
KETCHIKAN GATEWAY BOROUGH	Boat Haul-out	18.	66,600
CITY OF KETCHIKAN	Pave Rotary Beach Parking	19.	19,500
HAINES BOROUGH	Clear Beach Road Right of Way	20.	17,100
CITY OF HAINES	No Program Submitted		7,200
CITY OF WRANGELL	Peninsula Street	21.	10,500
CITY OF PETERSBURG	Accumulating funds for 1989		13,500
CITY OF PELICAN	Boardwalks	22.	800
CITY OF CRAIG	Spruce Street	23.	2,500
CITY OF SKAGWAY	Creek Crossing & Alley Construction	24.	4,500
CITY OF YAKUTAT	Roadway Topping	25.	2,100
CITY OF KAKE	Upgrade Cemetery Road	26.	2,600
CITY OF HOONAH	Accumulating funds for 1988		3,200
CITY OF HYDABURG	No Program Submitted		1,400
CITY OF KLAWOCK	No Program Submitted		1,500
UNORGANIZED VARIOUS LOCATIONS	Roads & Trails	27.	210,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
CITY & BOROUGH OF JUNEAU	Overlay Paved Streets	28.	133,600
CITY & BOROUGH OF SITKA	Kramer Avenue - Halibut Point to Jacobs Street	29.	58,900
	Jacobs Circle	30.	7,000
KETCHIKAN GATEWAY BOROUGH	Access Road	31.	50,000
CITY OF KETCHIKAN	Construct Trails	32.	23,400
HAINES BOROUGH	Upgrade Roads	33.	20,600
CITY OF HAINES	No Program Submitted		8,600
CITY OF WRANGELL	McKinnon & Reid St.	34.	12,700
CITY OF PETERSBURG	Accumulating funds for 1989		16,300
CITY OF PELICAN	Boardwalks	35.	1,000
CITY OF CRAIG	Port Bayail Blvd.	36.	3,100
CITY OF SKAGWAY	Boardwalk Construction	37.	9,400
CITY OF YAKUTAT	Roadway Topping	38.	2,600
CITY OF KAKE	Stairways to Park Area	39.	3,100
CITY OF HOONAH	Accumulating funds for 1988		3,800
CITY OF HYDABURG	No Program Submitted		1,700
CITY OF KLAWOCK	No Program Submitted		1,800
UNORGANIZED VARIOUS LOCATIONS	Roads & Trails	40.	250,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
CITY & BOROUGH OF JUNEAU	Distin Avenue Bin Wall	41.	133,700
CITY & BOROUGH OF SITKA	Kramer Avenue - Jacobs St. to Emmons Street	42.	48,000
KETCHIKAN GATEWAY BOROUGH	Point Higgins Road Connection	43.	49,900
CITY OF KETCHIKAN	Construct Trails	44.	23,300
HAINES BOROUGH	Upgrade Roads	45.	20,500
CITY OF HAINES	No Program Submitted		8,700
CITY OF WRANGELL	Reid Street	46.	12,600
CITY OF PETERSBURG	Accumulating funds for 1989		16,200
CITY OF PELICAN	Boardwalks	47.	1,000
CITY OF CRAIG	Cold Storage Road	48.	3,000
CITY OF SKAGWAY	Boardwalk Construction	49.	7,600
CITY OF YAKUTAT	Reconstruct Monti Bay Heights	50.	2,500
CITY OF KAKE	Guard Rails	51.	3,200
CITY OF HOONAH	Accumulating funds for 1988		3,900
CITY OF HYDABURG	No Program Submitted		1,600
CITY OF KLAWOCK	No Program Submitted		1,800
UNORGANIZED VARIOUS LOCATIONS	Roads & Trails	52.	250,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
CITY & BOROUGH OF JUNEAU	Gastenue Avenue - Retaining Wall	53.	120,000
CITY & BOROUGH OF SITKA	Kramer Avenue - Emmons St. to Cushing Street	54.	24,000
	Emmons Street	55.	53,000
KETCHIKAN GATEWAY BOROUGH	No Program Submitted		50,000
CITY OF KETCHIKAN	Construct Trails	56.	23,400
HAINES BOROUGH	Construct Trails	57.	20,600
CITY OF HAINES	No Program Submitted		8,600
CITY OF WRANGELL	Mission Street	58.	12,700
CITY OF PETERSBURG	Accumulating funds for 1989		16,300
CITY OF PELICAN	Boardwalks	59.	1,000
CITY OF CRAIG	Beach Road	60.	3,100
CITY OF SKAGWAY	No Program Submitted		7,700
CITY OF YAKUTAT	Acquisition/Construction Hemlock/Spruce	61.	2,600
CITY OF KAKE	Trail & Roadway Surfacing	62.	3,100
CITY OF HOONAH	Lumbago Road Upgrade	63.	19,200
CITY OF HYDABURG	No Program Submitted		1,700
CITY OF KLAWOCK	No Program Submitted		1,800
UNORGANIZED VARIOUS LOCATIONS	Roads & Trails	64.	250,000

* Unfunded with present allocations



ALLOCATION DISTRICT 3

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1984		
	CENTRAL REGION		
BRISTOL BAY BOROUGH	No Program Submitted		25,600
CITY OF DILLINGHAM	No Program Submitted		30,000
CITY OF KING COVE	No Program Submitted		8,800
CITY OF ST. MARY'S	City Streets & Area Roads Resurfacing	1.	7,500
CITY OF SAND POINT	Accumulation of funds for 1988		12,000
CITY OF UNALASKA	City Streets - Surfacing	2.	25,400
UNORGANIZED BOROUGH IV (SOUTH)			
BETHEL	Kuskokwin Trail Markers	3.	50,000
CHIGNIK BAY	Streets & Foot Bridges	4.	150,000
KONGIGANOK	Boardwalks	5.	35,000
KWIGILLINGOK	Boardwalk & Foot Bridges	6.	80,000
MANOKOTAK	Dump Road	7.	250,000
MEKORYUK	Boardwalks	8.	45,000
NEW STUYAHOK	City Streets	9.	100,000
NONDALTON	City Streets	10.	100,000
NUNAPITCHUK	Boardwalks	11.	22,000
NUNAVAUGALUK	Access Road	12.	50,000
PEDRO BAY	Trail & Road Reconstruction	13.	70,000
SCAMMON BAY	Kun River Access Road	14.	50,000
SHAGALUK	Road Reconstruction	15.	70,000

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	ISR&T FUNDS (DOLLARS)
	Calendar Year 1984		
	NORTHERN REGION		
CITY OF BARROW	Foot Paths & Bike Trails	16.	79,800
CITY OF NOME	No Program Submitted		58,200
CITY OF GALENA	Bike - Snowmachine Trail	17.	19,400
UNORGANIZED BOROUGH IV (NORTH)			
AREA WIDE	Winter Trail Stalking	18.	100,000
UNALAKLEET	Road Construction	19.	20,000
KOYUK	Road Construction	20.	120,000

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
	CENTRAL REGION		
BRISTOL BAY BOROUGH	No Program Submitted		18,300
CITY OF DILLINGHAM	No Program Submitted		21,400
CITY OF KING COVE	No Program Submitted		6,300
CITY OF ST. MARY'S	Reconstruct & Surface City Streets	21.	5,300
CITY OF SAND POINT	Accumulation of funds for 1988		8,500
CITY OF UNALASKA	Accumulation of funds for 1988		18,100
UNORGANIZED BOROUGH IV (SOUTH)			
CHIGNIK LAKE	Streets	22.	400,000
NIKOLSKI	Roads	23.	200,000
TAKOTNA	Streets	24.	140,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
	NORTHERN REGION		
CITY OF BARROW	Foot Paths & Bike Trails	25.	57,000
CITY OF NOME	First Street	26.	41,600
CITY OF GALENA	First Avenue	27.	13,900
UNORGANIZED BOROUGH IV (NORTH)			
AREA WIDE	Winter Trail Stalking	28.	110,000
AREA WIDE	Reconnaissance & Administration	29.	20,000
GOLOVIN	Roads	30.	130,000
KOYUK	Roads	31.	130,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
	CENTRAL REGION		
BRISTOL BAY BOROUGH	No Program Submitted		21,900
CITY OF DILLINGHAM	No Program Submitted		25,800
CITY OF KING COVE	No Program Submitted		7,500
CITY OF ST. MARY'S	Construction Road & Bridge to Cemetery	32.	6,400
CITY OF SAND POINT	Accumulation of funds for 1988		10,300
CITY OF UNALASKA	Accumulation of funds for 1988		21,800
UNORGANIZED BOROUGH IV (SOUTH)			
LEVELOCK	Streets	33.	680,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
	NORTHERN REGION		
CITY OF BARROW	Foot Paths & Bike Trails	34.	68,400
CITY OF NOME	Second Street	35.	49,900
CITY OF GALENA	Alexander Avenue	36.	16,600
UNORGANIZED BOROUGH IV (NORTH)			
AREA WIDE	Winter Trail Stalking	37.	110,000
AREA WIDE	Reconnaissance Administration & Construction Equipment	38.	50,000
WHITE MOUNTAIN	Roads	39.	90,000
GOLOVIN	Roads	40.	220,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
	CENTRAL REGION		
BRISTOL BAY BOROUGH	No Program Submitted		21,900
CITY OF DILLINGHAM	No Program Submitted		25,800
CITY OF KING COVE	No Program Submitted		7,500
CITY OF ST. MARY'S	City Streets Construction	41.	6,400
CITY OF SAND POINT	Accumulation of funds for 1988		10,300
CITY OF UNALASKA	Accumulation of funds for 1988		21,800
UNORGANIZED BOROUGH IV (SOUTH)			
CLARK'S POINT	Dump Site Access Road	42.	100,000
EEK	Boardwalks & Shelter Cabins	43.	150,000
EKWOK	Streets	44.	300,000
MARSHALL	Streets	45.	340,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
	NORTHERN REGION		
CITY OF BARROW	Foot Paths & Bike Trails	46.	68,400
CITY OF NOME	East Third Street	47.	49,900
CITY OF GALENA	Antoski Drive	48.	16,600
UNORGANIZED BOROUGH IV (NORTH)			
AREA WIDE	Winter Trail Stalking	49.	110,000
AREA WIDE	Reconnaissance & Administration	50.	20,000
ST. MICHAEL	Roads	51.	80,000
WHITE MOUNTAIN	Roads	52.	260,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
	CENTRAL REGION		
BRISTOL BAY BOROUGH	No Program Submitted		21,900
CITY OF DILLINGHAM	No Program Submitted		25,800
CITY OF KING COVE	No Program Submitted		7,500
CITY OF ST. MARY'S	City Streets Construction	53.	6,400
CITY OF SAND POINT	Boardwalk	54.	51,400
CITY OF UNALASKA	Construction Road Agnes Beach to Town Creek Borough	55.	65,800
	Bike Trails & Foot Paths	56.	17,600
UNORGANIZED BOROUGH IV (SOUTH)			
BETHEL	Streets	57.	200,000
TOKSOOK BAY	Road Construction	58.	250,000

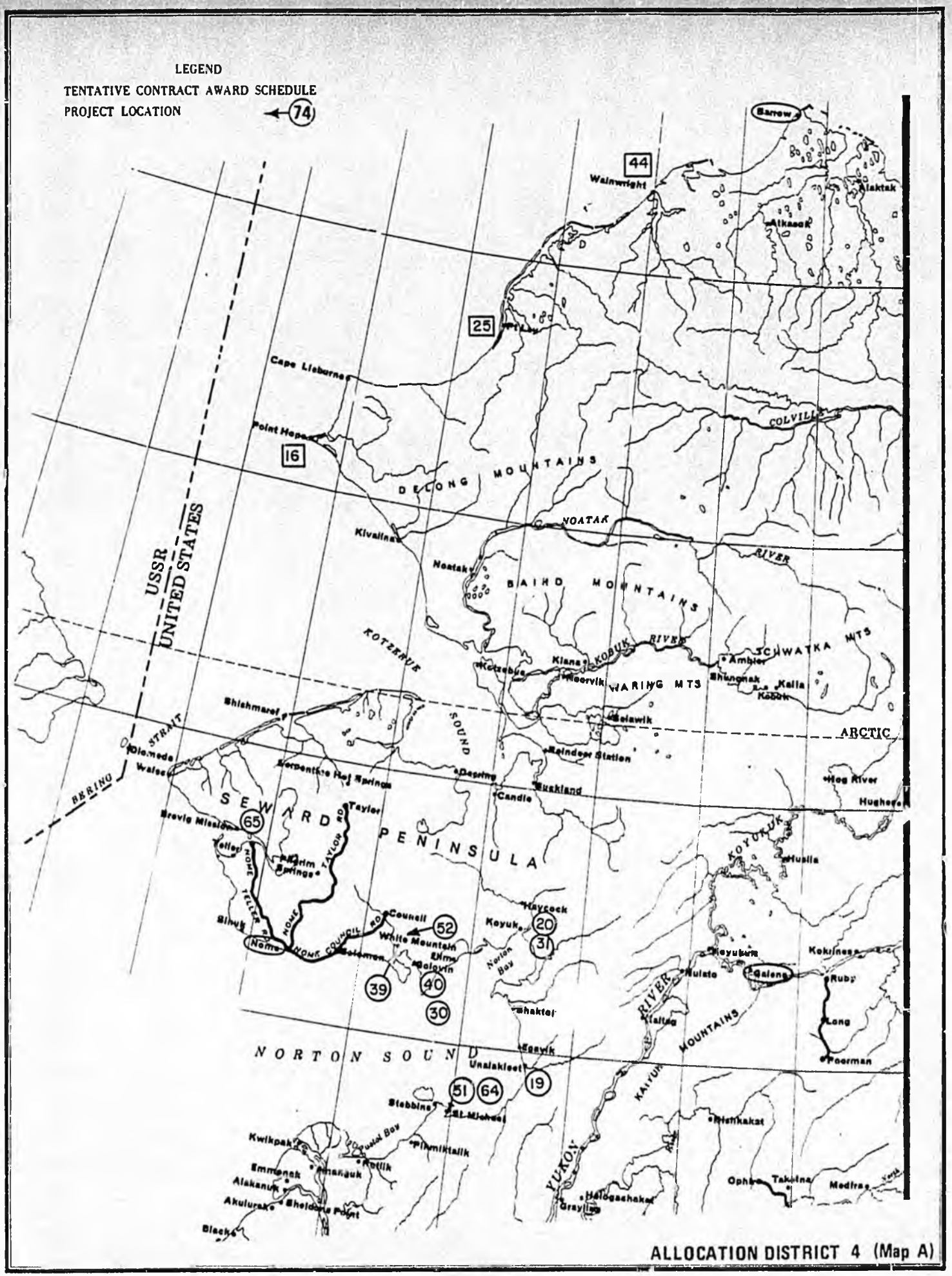
* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

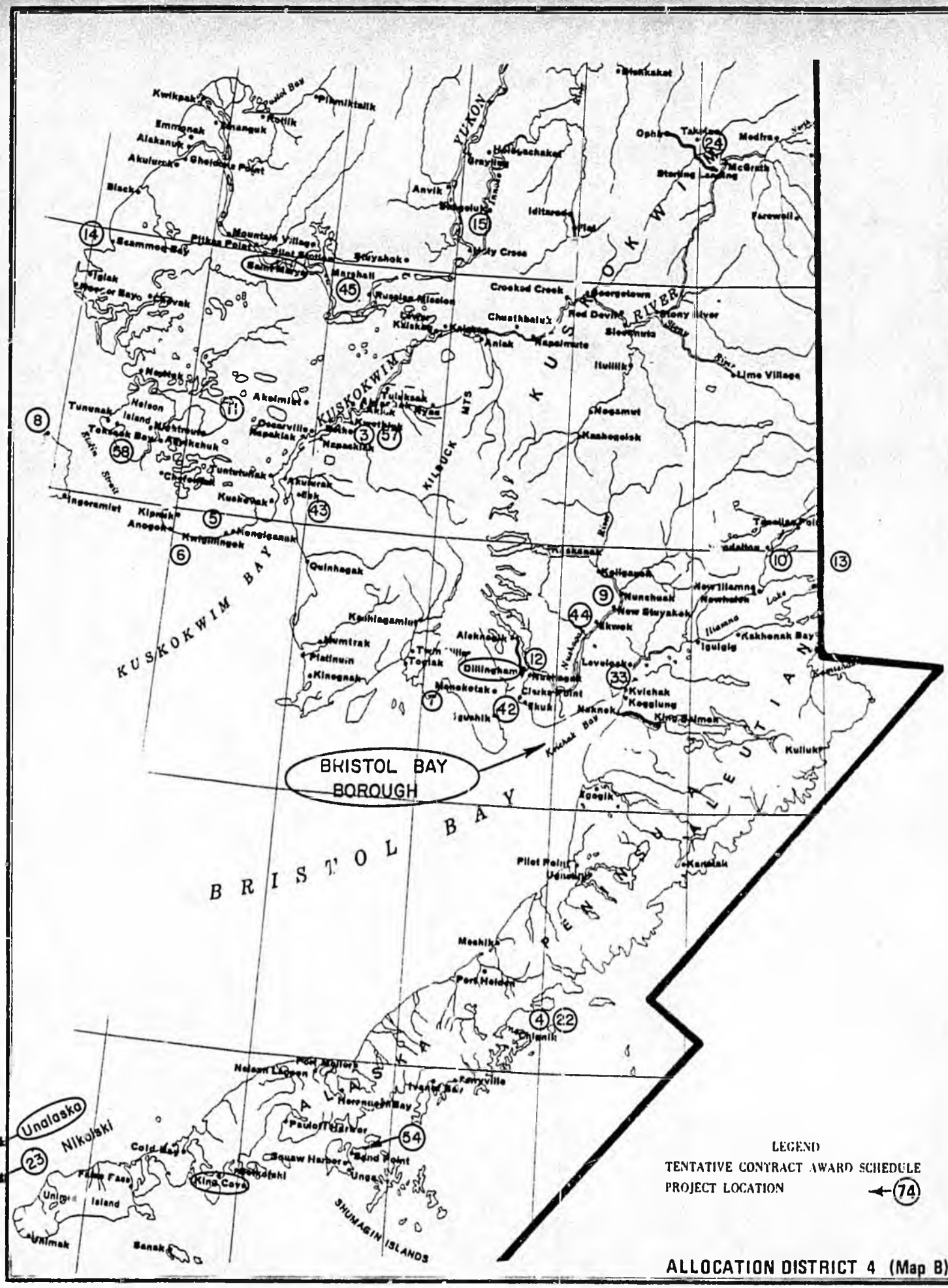
Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
	NORTHERN REGION		
CITY OF BARROW	Foot Paths & Bike Trails	59.	68,400
CITY OF NOME	Fourth Street	60.	49,900
CITY OF GALENA	Tabe's Drive	61.	16,600
UNORGANIZED BOROUGH IV (NORTH)			
AREA WIDE	Winter Trail Staking	62.	110,000
AREA WIDE	Reconnaissance & Administration	63.	20,000
ST. MICHAEL	Roads	64.	270,000
BREVIG MISSION	Roads	65.	70,000

* Unfunded with present allocations



ALLOCATION DISTRICT 4 (Map A)


BRISTOL BAY BOROUGH
BRISTOL BAY
KUSKOKWIM BAY
KUSKOKWIM MTS
KILBUCK MTS
YUKON
KUSKOKWIM RIVER
ALEUTIAN RANGE
ALASKA PENINSULA
SHUMAGIN ISLANDS
Dillingham
Unalaska
Nikolski
King Cove
Sand Point
Cold Bay
Port Heiden
Chignik
Kodiak
Kwikpak
Emmonak
Alakanuk
Akulurak
Black
Pitkas Point
Mountain Village
Pilot Station
Marshall
Russian Mission
Crooked Creek
Georgetown
Red Devil
Stony River
Sleetmute
Aniak
Napaimute
Lime Village
Nunapitchuk
Akiachak
Akiak
Tuluksak
Bethel
Napaskiak
Oscarville
Tuntutuliak
Kasigluk
Nunapitchuk
Tununak
Nelson Island
Toksook Bay
Nightmute
Chefornak
Kipnuk
Kwigillingok
Kongiganak
Quinhagak
Kwethluk
Akiachak
Atmautluak
Napakiak
Eek
Tuntutuliak
Kuskokwim
Ingeramiut
Anogok
Tuluksak
Kalskag
Lower Kalskag
Aniak
Chuathbaluk
Red Devil
Sleetmute
Stony River
Lime Village
Georgetown
Crooked Creek
Russian Mission
Marshall
Pilot Station
Mountain Village
Pitkas Point
Scammon Bay
Hooper Bay
Chevak
Tuluksak
Akiak
Bethel
Napaskiak
Oscarville
Napakiak
Akiachak
Atmautluak
Eek
Tuntutuliak
Kasigluk
Nunapitchuk
Kwethluk
Akiak
Tuluksak
Kalskag
Lower Kalskag
Aniak
Chuathbaluk
Red Devil
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Stony River
Lime Village
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Crooked Creek
Russian Mission
Marshall
Pilot Station
Mountain Village
Pitkas Point
Scammon Bay
Hooper Bay
Chevak
Nightmute
Toksook Bay
Nelson Island
Tununak
Newtok
Akeiminik
Kwethluk
Akiachak
Atmautluak
Napakiak
Oscarville
Bethel
Napaski

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1984		
	CENTRAL REGION		
CITY OF CORDOVA	Industrial Park Road Paving	1.	96,300
UNORGANIZED BOROUGH V (SOUTH)	Accumulation of funds for 1988		59,400
	NORTHERN REGION		
CITY OF VALDEZ	[illegible]oe River Bike Path	2.	68,300
UNORGANIZED BOROUGH V (NORTH)			
GLENALLEN	H.S. Access Road - Guardrail	3.	50,000
VARIOUS LOCATIONS	Access Roads & Trails	4.	137,000

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1985*		
	CENTRAL REGION		
CITY OF CORDOVA	Accumulation of funds for 1988		17,600
UNORGANIZED BOROUGH V (SOUTH)	Accumulation of funds for 1988		25,800
	NORTHERN REGION		
CITY OF VALDEZ	Glacier Stream Bridge	5.	45,200
UNORGANIZED BOROUGH V (NORTH)			
GULKANA	Community Roads	6.	134,000

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1986*		
	CENTRAL REGION		
CITY OF CORDOVA	Accumulation of funds for 1988		21,200
UNORGANIZED BOROUGH V (SOUTH)	Accumulation of funds for 1988		31,000
	NORTHERN REGION		
CITY OF VALDEZ	Black Gold Park Bike Path	7.	58,500
UNORGANIZED BOROUGH V (NORTH)			
COPPERVILLE	Streets	8.	100,000
WORTHINGTON GLACIER	Access Road	9.	60,900

* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1987*		
	CENTRAL REGION		
CITY OF CORDOVA	Accumulation of funds for 1988		21,100
UNORGANIZED BOROUGH V (SOUTH)	Accumulation of funds for 1988		31,000
	NORTHERN REGION		
CITY OF VALDEZ	Valdez Glacier Trail	10.	58,500
UNORGANIZED BOROUGH V (NORTH)			
TSINA LAKE	Access Road	11.	100,000
COOPER CENTER	Local Roads	12.	60,900

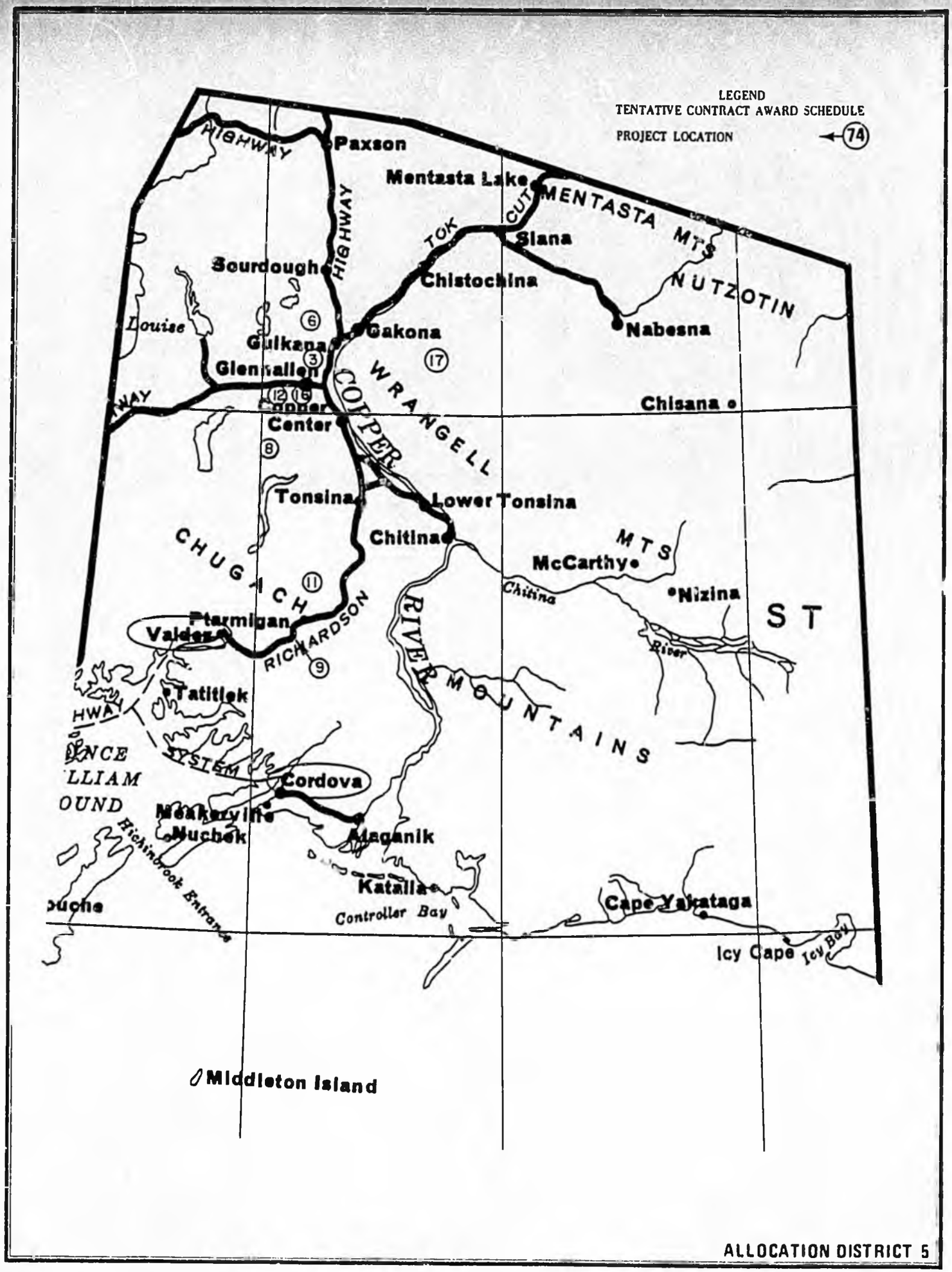
* Unfunded with present allocations

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1988*		
	CENTRAL REGION		
CITY OF CORDOVA	Railroad Avenue Realignment & Paving	13.	21,200
UNORGANIZED BOROUGH V (SOUTH)			
EYAK LAKE	Access Road	14.	178,400
	NORTHERN REGION		
CITY OF VALDEZ	Alpine Woods Bike Path	15.	58,500
UNORGANIZED BOROUGH V (NORTH)			
COPPER CENTER	Local Roads	16.	60,900
LANDMARK GAP LAKE	Access Road	17.	100,000

* Unfunded with present allocations


LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
74
Paxson
Mentasta Lake
Slana
Chistochina
Sourdough
Gakona
Gulkana
Glennallen
Copper Center
Chisana
Tonsina
Lower Tonsina
Chitina
McCarthy
Nizina
Ptarmigan
Valdez
Tatitlek
Cordova
Meakanyine
Nuchek
Alaganik
Katalla
Cape Yakataga
Icy Cape
Middleton Island
MENTASTA MTS
NUTZOTIN
WRANGELL
MOUNTAINS
RIVER
CHUGACH
RICHARDSON
HIGHWAY
TOK
CUT
Louise
Chitina
Controller Bay
Icy Bay
Hinchinbrook Entrance
ALLOCATION DISTRICT 5

QUESTIONS POSED IN COMMITTEE 2/7/84
FOR DOTPF

1. Need clarification from DOTPF on why the Governor reduced the funding from last year.

2. Are there any funds left over from the $7 million appropriated SL'83, Chapter 94?

3. What are the characteristics of the expenditures for those projects, and funding amounts?

STATE OF ALASKA

JAN 20 1984
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

CENTRAL REGION

January 18, 1984

Re: Local Service Roads & Trails Program

The Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Herrman:

Enclosed is the information you requested on the Local Service Roads and Trails (LSR&T) program.

1. The five year plan.
2. The latest LSR&T Status Report.
3. An example of how LSR&T funds are distributed with a clarification of the allocations.

After a review of SB 332, we would suggest deleting the lapse date of one year after enactment. The LSR&T projects are subject to the same project approval requirements, permits, design, and right of way certification as are other construction projects. A year to commit the funds is too short a time frame.

I hope you will find this information helpful.

Sincerely,

R. S. Armstrong

Richard S. Armstrong, P.E.
Director, Design & Construction
Central Region

MH/bgc

Enclosures a/s

cc: Ed Cronick, Special Assistant, Statewide Programs
Ray Gillispie, Legislative Assistant, Office of the Governor
Robert Haneline, LSR&T Engineer, Central Region
David Haugen, Deputy Commissioner, Central Region

25A-T16LH

LOCAL GOVERNMENTS WITH ROAD POWERS

SECTION I

CHAPTER I - DEFINITION

Local governments with road powers are those local governments which are either an organized borough, a home rule city, or a home rule municipality, and which have assumed road powers by a vote of the people, or by virtue of their charter. However, road construction and maintenance authority is granted to local governments which do not otherwise have that authority for the construction and maintenance of local service roads, as specified in A.S. 19.30.251.

SECTION I - 2

A. ALLOCATION OF FUNDS

The allocation formula is clearly defined in the Article 3. Local Service Roads and Trails, Section 19.30.111 to 19.30.251 of the Alaska Statutes, but a brief description is included herein for explanatory purposes.

The distribution follows a sequential breakdown and is based on area and population factors. Half the funds are allocated on the basis of area and half on the basis of population. Salt water areas are excluded from allocation areas and the latest Federal Census is used for population figures.

The first stage distribution is made to allocation districts, which correspond to the highway districts existing on June 30, 1971.

Each allocation district's distribution is then broken down and allocated to the boroughs within that allocation district, each organized borough figuring for a share and all areas outside organized boroughs combining together for a share. The important distinction here is that the "borough" is considered an area within an allocation district.

The third and final breakdown allocates to the local government. If a home rule city exists within an organized borough, the borough government and the city government share the "borough" (second stage) allocation in proportion to their area-population factors. If no home rule city exists within the organized borough, the entire allocation is to that borough's government. If a home rule city exists in an unorganized borough, the home rule city's allocation is their area-population proportion of the unorganized borough's allocation.

Using the highway district boundaries existing on June 30, 1971, the allowation is as follows:

Allocation District	Corresponding Highway District	Allocation Factor
I	Central Region	.306486
II	Interior Region	.249049
III	Southeastern Region	.104827
IV	Western Region	.296550
V	Southcentral Region	.043088
		1.000000

DEPARTMENT OF PUBLIC SAFETY (CONT.)					
		APPROPRIATION	APPROPRIATION FUND SOURCES		
	ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	
RICHARDSON HIGHWAY COMMUNICATIONS LINK		600,700	600,700		
FIRING RANGE RECONSTRUCTION		33,800	33,800		
TELEVISED ARRAIGNMENTS		260,000	260,000		
JUDICIAL SERVICES RENOVATION - FAIRBANKS		86,100	86,100		
PUBLIC SAFETY TELEPHONE SYSTEM		100,000	100,000		
ACADEMY EXPANSION PLANNING		35,000	35,000		
* * * * * *		* * * * * *			
* * * * * DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES		* * * * *			
* * * * * *		* * * * * *			
STATEWIDE		17,059,000	14,181,800	2,877,200	
TECHNICAL COMPUTER HARDWARE	2,500,000				
FINANCIAL INFORMATION SYSTEM	1,800,000				
STATEWIDE TRANSPORTATION PLANNING	2,960,000				
STATEWIDE FACILITIES PLANNING	100,000				
STATEWIDE HANDICAPPED CODE SURVEY	1,040,000				
STATEWIDE EROSION CONTROL PROGRAM	1,750,000				
STATEWIDE HARBOR SURVEY STANDARDS	100,000				
SMALL STREAMS FLOOD INVESTIGATION PROGRAM	150,000				
ALASKA COASTAL DATA COLLECTION	250,000				
STATEWIDE BRIDGE PROGRAM	1,409,000				
LOCAL SERVICE ROADS, TRAILS AND BIKEWAYS	5,000,000				
STATEWIDE STATE EQUIPMENT FLEET		4,777,800		4,777,800	

LAWS OF ALASKA

1983

Source

HCSSB 7(Trsp)

Chapter No.

94

AN ACT

Making an appropriation to the Department of Transportation and Public Facilities for local service roads and trails; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1 LINE 11

Approved as Reduced by the Governor
Actual Effective Date: July 26, 1983

Chapter 94

AN ACT

Making an appropriation to the Department of Transportation and Public Facilities for local service roads and trails; and providing for an effective date.

$ 7,000,000 UA

* Section 1. The sum of ~~$10,000,000~~ is appropriated from the general fund to the Department of Transportation and Public Facilities for allocations for local service roads and trails authorized under AS 19.30.111 - 19.30.251.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

QUESTIONS POSED IN COMMITTEE 2/7/84
FOR DOTPF

1. Need clarification from DOTPF on why the Governor reduced the funding from last year.

2. Are there any funds left over from the $7 million appropriated SL'83, Chapter 94?

3. What are the characteristics of the expenditures for those projects, and funding amounts?

LOCAL SERVICE ROADS AND TRAILS LEGISLATION:

To date two pieces of legislation have been introduced relating to the local service roads and trails program

SB 332 by Senator Ferguson which appropriates $10 million from the general fund which the unexpended and unobligated portion of the appropriation made lapses into the general fund June 30, 1985.

DOTPF has suggested that Section 2 (regarding lapse date) be deleted from SB 332 as a year to commit the funds is too short a time frame.

HB 558 by The Rules Committee by the Request of the Governor, which is a housekeeping measure to make allocation district boundaries coincide with DOTPF's regional boundaries; and to require LSR&T projects constructed on a Federal-aid secondary route to be approved by the Commissioner of DOTPF to assure that Federal requirements for roadway width, design standards and right-of-way are met.

Would the House Transportation Committee like to introduce legislation similar to Session Law 1983 Chapter 94 (House Committee Substitute for Senate Bill 7 (Transportation)) which appropriates $10 million from the general fund for local service roads and trails and would take effect immediately in accordance with AS 01.10.070 (c).

According to HB 511 ...operating and capital expenses of state government - the Governor has put in a request for $5 million for the Local Service Roads, Trails and Bikeways, thus, does the committee want to a bill to appropriate $10 million or $5 million?

LAWS OF ALASKA

1983

Source

HCSSB 7(Trsp)

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JAN 20 1984

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

CENTRAL REGION

January 18, 1984

Re: Local Service Roads & Trails Program

The Honorable Adelheid Herrmann
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Herrman:

Enclosed is the information you requested on the Local Service Roads and Trails (LSR&T) program.

1. The five year plan.
2. The latest LSR&T Status Report.
3. An example of how LSR&T funds are distributed with a clarification of the allocations.

After a review of SB 332, we would suggest deleting the lapse date of one year after enactment. The LSR&T projects are subject to the same project approval requirements, permits, design, and right of way certification as are other construction projects. A year to commit the funds is too short a time frame.

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Sincerely,

R. S. Armstrong

Richard S. Armstrong, P.E.
Director, Design & Construction
Central Region

MH/bgc

Enclosures a/s

cc: Ed Cronick, Special Assistant, Statewide Programs
Ray Gillispie, Legislative Assistant, Office of the Governor
Robert Haneline, LSR&T Engineer, Central Region
David Haugen, Deputy Commissioner, Central Region

25A-T16LH

LOCAL GOVERNMENTS WITH ROAD POWERS

SECTION I

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DEPARTMENT OF PUBLIC SAFETY (CONT.)

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* * * * * *		* * * * * *		
* * * * * * DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES		* * * * * *		
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STATEWIDE		17,059,000	14,181,800	2,877,200
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STATEWIDE EROSION CONTROL PROGRAM	1,750,000			
STATEWIDE HARBOR SURVEY STANDARDS	100,000			
SMALL STREAMS FLOOD INVESTIGATION PROGRAM	150,000			
ALASKA COASTAL DATA COLLECTION	250,000			
STATEWIDE BRIDGE PROGRAM	1,409,000			
LOCAL SERVICE ROADS, TRAILS AND BIKEWAYS	5,000,000			
STATEWIDE STATE EQUIPMENT FLEET		4,777,800		4,777,800

HOUSE TRANSPORTATION COMMITTEE MEETING

DAILY AGENDA

1) CALL MEETING TO ORDER

2) Tuesday, January 24, 1984
Note Time

3) Note members present and excused

4) Recognize VIP's

5) Discuss proposed legislation:

An Act relating to transfers between allocations and items of expenditures. Copy of proposed legislation and statute it is amending provided to members.

Does the committee want to sponsor legislation addressing the Local Service Roads and Trails? Copy of SB 332 by Senator Ferguson, HB 169 by Rep. Herrmann introduced last session, Article 3 of statutes and committee minutes regarding HB 169 provided to members. (I didn't provide additional materials to SB 7 which Senator Ferguson introduced last session as it was similar to HB 169).

Package that Panch put together on the Overview of DOT's operating and capital budgets provided to members.

Maps of DOT regions provided by DOT.

PROCESSION OF MEETING

6) Announce tomorrow's committee hearing HB 493: special appropriation to DOTPF for auto/moose/collisions and it will be a teleconference with DOT/Anchorage and Eagle River concerned individual to testify.

7) Announce time of adjournment

Alaska State Legislature

House of Representatives

BETTE ONLY

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

PROPOSED LEGISLATION BY HOUSE TRANSPORTATION COMMITTEE

"An Act relating to transfers between allocations and items of expenditures."

The purpose of this proposed legislation is to inform the Legislature, by means of the Legislative Budget and Audit Committee, of any transfer of funds between an allocation of appropriation, within an agency. (This proposed legislation will also provide an opportunity to review any inappropriate transfer of funds in the future.)

Copy of AS 37.07.080(e) attached to copy of proposed legislation

finance committees only through the 60th legislative day. (§ 1 ch 188 SLA 1970; am § 1 ch 66 SLA 1977; am § 9 ch 168 SLA 1978; am § 6 ch 2 SLA 1982; am §§ 7, 8 ch 63 SLA 1983)

Effect of amendments. — The 1982 amendment rewrote this section.

The 1983 amendment inserted "and capital" in paragraph (1) and substituted "30th" for "45th" in that paragraph and in paragraph (2) substituted "60th" for "75th."

Sec. 37.07.080. Program execution. (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several state agencies have full authority for administering their program service assignments and are responsible for their proper management.

(b) Each state agency shall prepare an annual plan for the operation of each of its assigned programs except for programs that are exempted from this requirement by the office. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the office.

(c) The office shall

(1) review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year,

(2) approve the operations plan if satisfied that it meets the requirements under (1) of this subsection; otherwise, the office shall require revision of the operations plan in whole or in part.

(d) No state agency may increase the salaries of its employees, employ additional employees, or expend money or incur obligations except in accordance with law and properly approved operations plan.

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the office. No transfers may be made between appropriations except as provided in an act making the transfers between appropriations.

(f) The office shall report quarterly to the governor and the legislature on the operations of each state agency, relating actual accomplishments to those planned and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

(g) The governor may direct the withholding or reduction of appropriations to a state agency at any time during the fiscal year only if the governor determines that

(1) the planned expenditures can no longer be made due to factors outside the control of the state which make the expenditure factually impossible; or

(2) estimated receipts and surpluses will be insufficient to provide for appropriations.

(b) The increase of an appropriation item based on additional federal or other program receipts not specifically appropriated by the full legislature may be expended in accordance with the following procedures:

(1) the governor shall submit a revised program to the Legislative Budget and Audit Committee for review;

(2) 45 days shall elapse before commencement of expenditures under the revised program unless the Legislative Budget and Audit Committee earlier recommends that the state take part in the federally or otherwise funded activity;

(3) should the Legislative Budget and Audit Committee recommend within the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if the governor determines to authorize the expenditure, the governor shall provide the Legislative Budget and Audit Committee with a statement of the governor's reasons before commencement of expenditures under the revised program. (§ 1 ch 188 SLA 1970; am §§ 1—3 ch 26 SLA 1976; am §§ 2, 3 ch 74 SLA 1977; am §§ 4, 5 ch 60 SLA 1979; am §§ 9-12 ch 63 SLA 1983)

Effect of amendments. — The 1979 amendment substituted "an act making the transfers between appropriations" for "(b) of this section" at the end of the second sentence of subsection (e) and rewrote subsection (b).

The 1983 amendment substituted "office" for "division" in subsections (b), (c), (e), and (f).

Legislative history reports. — For report on ch. 26, SLA 1976 (HB 760 am S), see 1976 House Journal, p. 388.

Opinions of Attorney General. — Vesting authority in the Legislative Budget and Audit Committee to approve transfers between appropriation items violates the separation of powers doctrine and is an improper delegation of a legislative function to an interim committee. July 22, 1976, Op. Att'y Gen.

Section 1303 of the 1976 budget bill, which authorized the Budget and Audit Committee to supervise the governor's execution of the budget act, specifically over that portion of it which permitted him to transfer appropriation items, constituted an encroachment on executive power and offended the Alaska Constitution. July 22, 1976, Op. Att'y Gen.

NOTES TO DECISIONS

Budgetary system established by statutes implementing Constitution. — Statutory language implementing Alaska Const., art. IX, § 13, establishes a budgetary system in which all appropriations are made by legislative act. Municipality of Anchorage v. Frohne, Sup. Ct. Op. No. 1477 (File Nos. 3050, 3104), 568 P.2d 3 (1977).

Sec. 37.07.090. Performance reporting. (a) Each state agency shall submit a performance report to the office no later than September 1 for the preceding fiscal year. These reports shall be in the form prescribed by the office after consultation with the legislative finance division, and shall include

(1) an identification of the objectives intended for the program and the problem or need which the activities and operations of the board, commission or program is intended to address;

finance committees only through the 60th legislative day. (§ 1 ch 188 SLA 1970; am § 1 ch 66 SLA 1977; am § 9 ch 168 SLA 1978; am § 6 ch 2 SLA 1982; am §§ 7, 8 ch 63 SLA 1983)

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(1) review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

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Alaska State Legislature

House of Representatives

Bette Only

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

PROPOSED LEGISLATION BY HOUSE TRANSPORTATION COMMITTEE

LOCAL SERVICE ROADS AND TRAILS

Does the House Transportation Committee desire to duplicate Senate Bill 332 sponsored by Senator Ferguson:

"An Act making special appropriation to the Department of Transportation and Public Facilities for local service roads and trails and providing for an effective date."

Appropriation of $10,000,000; unspent portions lapses June 30, 1985 (prompts communities to get everything obligated in one year)

Last session we heard HB 169 and SB 7 both dealing with the LSR&T programs:

House Bill 169 by Rep. Herrmann and House CS Senate Bill 7(TRSP) by Senator Ferguson were identical.

House CS for SB 7 (TRSP) was signed by the Governor July 27 with the attached message:

> ...reducing the appropriation made for local service roads and trails in House CS for SB 7 (TRSP) from $10 million to $7 million.....

The difference found in SB 332 is Section 2 which states that the unexpended and unobligated funds lapses.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

LETTER OF INTENT
TO ACCOMPANY
HOUSE BILL 169

It is the intent of the House Transportation Committee that the Local Service Roads and Trails (LSR&T), program not be discontinued as recommended by the previous Commissioner of the Department of Transportation and Public Facilities, (DOT/PF).

The LSR&T program is vital to local governments and provides very important benefits to communities in the rural and urban areas of Alaska.

The House Transportation Committee intends the DOT/PF support continued operation of this vital program and request continued funding for it's operations in subsequent fiscal years.

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

OPERATING & CAPITAL BUDGET

FY-85

OVERVIEW

a presentation of house transportation

committee staff

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

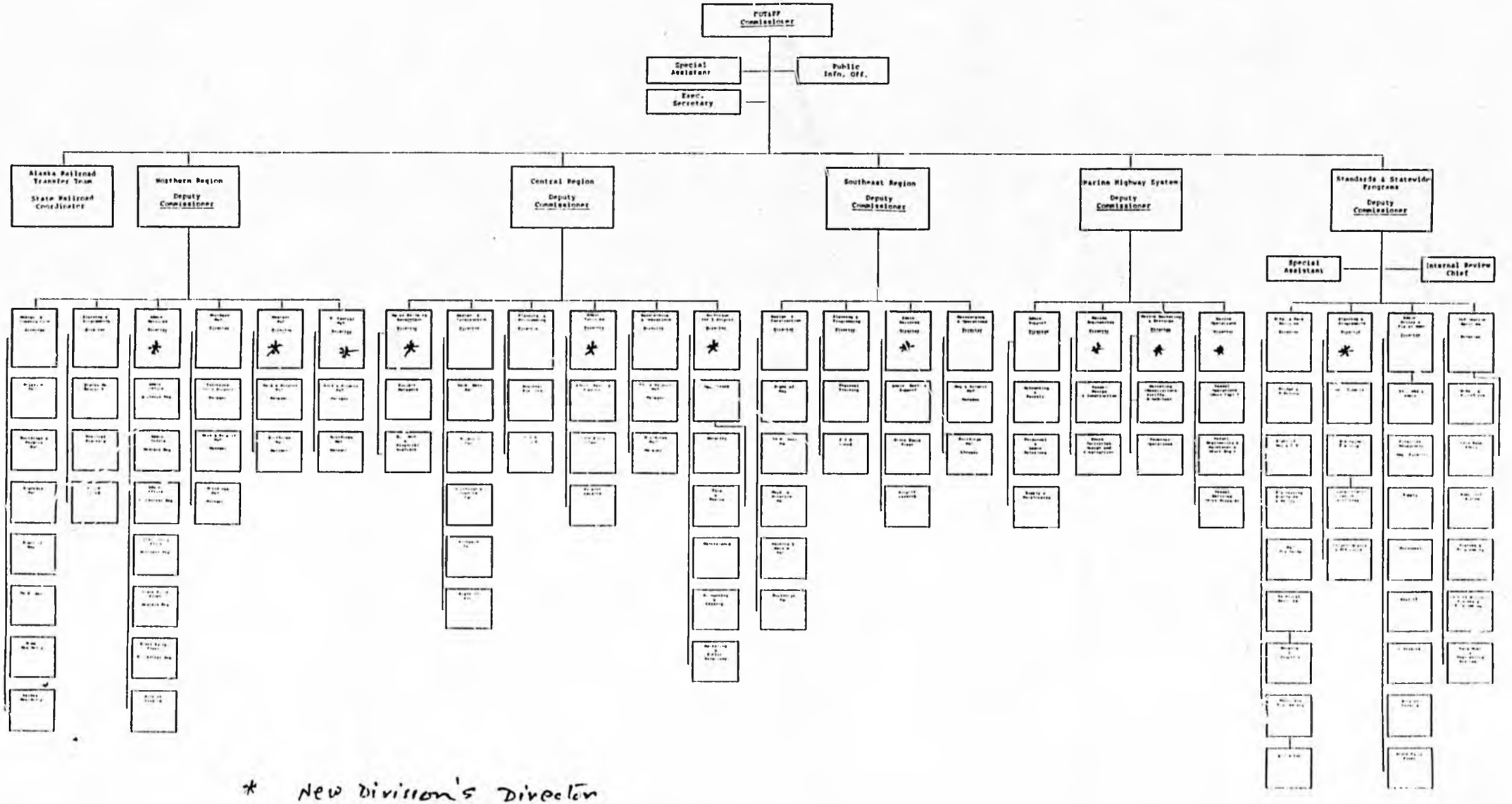
The Department of Transportation and Public Facilities (DOTPF) is responsible for the planning, construction, and maintenance of state airports, highways (including the marine highway), buildings, and ports and harbors for Alaskan residents and the general public. The goal of the Department is to ensure the rapid movement of people and freight throughout Alaska in a manner that is safe, reliable, economic, and convenient to all Alaskans.

Functions within DOTPF include planning, design and construction, maintenance and operations, marine transportation, and administration. All of these functions, except marine transportation, are organized geographically into three major regions with a Deputy Commissioner for each. Marine transportation and statewide support offices are also each headed by a Deputy Commissioner. Regional headquarters are located in Anchorage, Fairbanks, and Juneau, with Valdez and Nome serving as district headquarters for maintenance and operations, and administration. Regionalization of DOTPF functions was initiated during FY 83 and FY 84, and will be reflected in the budget for the first time in FY 85.

Outside of the headquarters, regional, and district offices, the Department's employees are scattered widely throughout the State to maintain the highway and aviation systems. Direct services are provided to the public through operation of the international airports in Anchorage and Fairbanks, and the State Ferry System in Southeast and Southwest Alaska.

State of Alaska
Department of Transportation
& Public Facilities

ORGANIZATION CHART 9/1/83



* New Division's Director

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OPERATING BUDGET $ (Millions)

	AUTH FY 84	ADJUSTED FY 84	GOV. FY85	% CHANGE
General Fund	$ 170.2	$ 184.5 *	$ 181.1	- 1.9
Total	$ 287.5	$ 292.7	$ 286.8	- 2.0
Positions:				
Perm. Full Time	3047	3047	2949	- 3.3
Perm. Part Time	1101	1101	1004	- 9.7

* The major adjustments are result of Legislative transfer of $11,306,000 from Highway Working Capital Fund to General Fund and appropriated salary increase of $4,183,000.

ORGANIZATIONAL COMPARISON

	FY 84 Adjusted		FY 85		% Change		
	General Fund	Total	GF	Total	GF	Total	
Headquarters	$ 12.1	$ 17.4	$ 10.8	$ 15.9	-12.0	-9.4	
Alaska Railroad Team				0.3			(1)
Central Region	40.6	88.1	39.5	87.5	- 2.7	-0.6	
Northern Region	50.2	92.9	48.3	88.3	- 3.9	-5.2	
Southeast Region	17.7	28.7	17.0	27.4	- 4.1	-4.7	
Marine Highways	63.8	65.5	64.3	66.1	+ 0.7	+0.9	(2)
Snow and Ice Fund			1.0	1.0			(3)
Headquarters Move			0.4	0.4			(4)
	$184.5	$292.7	$181.1	$286.8	- 1.9	-2.0	

MAJOR CHANGES:

(1) The Alaska Railroad Transfer Team budget was established to plan an orderly transaction should the transfer occur.

(2) Marine Highway System is much more self sufficient. Engineering and administrative support positions were transferred in from other units.

(3) A snow and ice contingency fund is provided to facilitate service continuity in case of snow and ice conditions in excess of those budgeted in any one Region's budget.

(4) Funding is provided to enable rental of additional space in Juneau to consolidate headquarters units.

OPERATING BUDGET NOTES

The operating budget has been structured to support the regional organization of the Department of Transportation and Public Facilities to provide responsive, local management of services. Substantial reductions were made in many components to provide for continuation of vital services within the spending limits imposed.

- Staffing within the headquarters administrative component is at a minimum. Further reductions would be detrimental to departmental operations.

- The Information Systems BRU is funded at 90% of FY 84. While operations may continue at this level, flexibility is severely restricted. No additional reduction is possible.

- The Alaska Railroad Transfer Team is a planning unit, funded by interagency receipts, which will insure an orderly transition should the federal agency function be transferred to the State.

- The Marine Highways System has been restructured to provide internal engineering and administrative staff. It is now essentially self sufficient.

- The "Headquarters Move" funding reflected separately on the data sheet is actually contained within the contractual services (300) line of the Office of the Commissioner's budget. These monies will enable the rental of sufficient additional office space to consolidate all headquarters units.

DEPARTMENT OF PUBLIC SAFETY (CONT.)					
		APPROPRIATION	APPROPRIATION FUND SOURCES		
	ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	
[illegible] CRIMES COMPENSATION BOARD	732,900				
DOMESTIC [illegible] SEXUAL ASSAULT		[illegible]	4,547,400		
DOMESTIC VIOLENCE [illegible] ASSAULT	[illegible]				
ADMINISTRATION		9,061,000	8,962,000	99,000	
CONTRACT JAILS	3,376,000				
COMMISSIONER'S OFFICE	[illegible]				
TRAINING ACADEMY	1,573,100				
[illegible] ADMINISTRATIVE SERVICES	2,132,500				
DATA AND WORD PROCESSING	1,374,000				
* * * * * *		* * * * * *			
* * * * * DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES * * * * *					
* * * * * *		* * * * * *			
TRANSPORTATION					
OFFICE OF THE COMMISSIONER		986,600	920,900	65,700	
COMMISSIONER'S OFFICE	979,700				
DATA AND WORD PROCESSING	6,900				
SNOW AND ICE REMOVAL CONTINGENCY FUND					
SNOW AND ICE REMOVAL CONTINGENCY FUND		1,000,000	1,000,000		
THIS APPROPRIATION FOR OPERATING COSTS FOR SNOW AND ICE					
REMOVAL MAY BE REALLOCATED AMONG THE REGIONS AS REQUIRED.					
ALASKA RAILROAD					
ALASKA RAILROAD		304,100		304,100	
STATEWIDE SUPPORT SERVICES		15,263,700	10,260,500	5,003,200	

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	APPROPRIATION FUND SOURCES OTHER FUNDS
INTERNAL REVIEW	631,300			
INTERNAL REVIEW DATA AND WORD PROCESSING	6,400			
ADMINISTRATIVE SERVICES	3,265,500			
ADMIN SERVICES DATA & WORD PROCESSING	82,800			
STATE EQUIPMENT FLEET	308,300			
INFORMATION SYSTEMS	2,482,300			
PLANNING	1,937,000			
PLANNING DATA AND WORD PROCESSING	155,000			
STANDARDS AND TECHNICAL SERVICES	2,374,000			
TECHNICAL SERVICES DATA AND WORD PROCESSING	35,000			
CIP PROGRAM	3,385,600			
CENTRAL REGION		71,745,000	39,465,200	32,279,800
MAJOR PROJECTS DEVELOPMENT	210,600			
MAJOR PROJECTS DATA AND WORD PROCESSING	24,000			
ADMINISTRATIVE SERVICES	2,343,900			
STATE EQUIPMENT FLEET	6,156,500			
ADMIN SERVICES DATA AND WORD PROCESSING	24,900			
AIRPORT LEASING	648,100			
PLANNING	2,452,000			
PLANNING DATA AND WORD PROCESSING	44,900			
D & C ENGINEERING MANAGEMENT	5,138,900			
D & C DATA AND WORD PROCESSING	108,800			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)					
			APPROPRIATION	APPROPRIATION FUND SOURCES	
		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
	D & C CIP PROGRAM	22,005,700			
	M & O HIGHWAYS AND AVIATION	27,238,300			
	M & O TRAFFIC SIGNAL MANAGEMENT	741,000			
	M & O FACILITIES	3,228,700			
	M & O ADMINISTRATION	1,325,600			
	M & O DATA AND WORD PROCESSING	3,100			
	ANCHORAGE INTERNATIONAL AIRPORT		15,719,700		15,719,700
	FIELD MAINTENANCE	2,707,700			
	BUILDING MAINTENANCE	3,267,500			
	SECURITY	3,513,600			
	CUSTODIAL	2,822,400			
	EQUIPMENT	1,112,100			
	ADMINISTRATION	2,278,600			
	DATA AND WORD PROCESSING	17,800			
	NORTHERN REGION		81,571,900	48,251,600	33,320,300
	INTERIOR DISTRICT ADMINISTRATIVE SERVICE	2,006,700			
	INTERIOR DISTRICT STATE EQUIPMENT FLEET	6,851,100			
	WESTERN DISTRICT ADMINISTRATIVE SERVICES	334,500			
	WESTERN DISTRICT STATE EQUIPMENT FLEET	925,800			
	SOUTHCENTRAL DISTRICT ADMINISTRATIVE SERVICES	449,300			
	SOUTHCENTRAL DISTRICT STATE EQUIPMENT FLEET	2,312,200			
	ADMIN SERVICES DATA AND WORD PROCESSING	185,600			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)					
			APPROPRIATION	APPROPRIATION FUND SOURCES	
		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
	PLANNING	1,230,200			
	PLANNING DATA AND WORD PROCESSING	500			
	PLANNING RESEARCH	1,119,500			
	D & C ENGINEERING MANAGEMENT	3,168,500			
	D & C DATA AND WORD PROCESSING	205,000			
	D & C CIP PROGRAM	20,504,100			
	INTERIOR DISTRICT M & O HIGHWAYS AND AVIATION	21,708,800			
	INTERIOR DISTRICT M & O FACILITIES	4,471,000			
	INTERIOR DISTRICT M & O ADMINISTRATION	1,026,700			
	WESTERN DISTRICT M & O AIRPORTS	2,094,200			
	WESTERN DISTRICT M & O HIGHWAYS	1,873,000			
	WESTERN DISTRICT M & O FACILITIES	692,500			
	WESTERN DISTRICT M & O ADMINISTRATION	330,200			
	WESTERN DISTRICT M & O DATA & WORD PROCESSING	5,000			
	SOUTHCENTRAL DISTRICT M & O AIRPORTS	537,300			
	SOUTHCENTRAL DISTRICT M & O HIGHWAYS	6,518,800			
	SOUTHCENTRAL DISTRICT M & O FACILITIES	2,538,800			
	SOUTHCENTRAL DISTRICT M & O ADMINISTRATION	432,600			
FAIRBANKS INTERNATIONAL AIRPORT			6,778,800		6,778,800
	FIELD MAINTENANCE	1,475,200			
	BUILDING MAINTENANCE	1,207,000			
	SECURITY	3,021,100			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)				
	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
CUSTODIAL	506,100			
ADMINISTRATION	569,400			
SOUTHEAST REGION		27,401,800	16,912,300	10,489,500
ADMINISTRATIVE SERVICES	1,341,400			
ADMIN SERVICES DATA AND WORD PROCESSING	9,800			
STATE EQUIPMENT FLEET	1,937,700			
PLANNING	741,[illegible]00			
PLANNING DATA AND WORD PROCESSING	22,100			
D & C ENGINEERING MANAGEMENT	2,295,600			
D & C DATA AND WORD PROCESSING	100,500			
D & C CIP PROGRAM	3,301,700			
M & O HIGHWAYS AND AVIATION	7,769,500			
M & O FACILITIES	4,544,900			
M & O ADMINISTRATION	337,300			
MARINE TRANSPORTATION		66,059,600	64,261,100	1,798,500
ADMINISTRATION	2,369,400			
MARINE ENGINEERING MANAGEMENT	425,600			
MARINE ENGINEERING CIP	1,128,400			
SALES & SERVICES SOUTHEAST SHORE FACILITIES	2,271,300			
SALES & SERVICES SOUTHWEST SHORE FACILITIES	666,600			
SALES AND SERVICE MANAGEMENT	916,700			
SALES & SERVICES DATA AND WORD PROCESSING	178,200			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)				
		APPROPRIATION	APPROPRIATION FUND SOURCES	
	ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
SOUTHEAST VESSEL OPERATIONS AND OVERHAUL	48,073,400			
SOUTHWEST VESSEL OPERATIONS AND OVERHAUL	9,428,700			
OPERATIONS MANAGEMENT	601,300			
* * * * * *		* * * * * *		
* * * * * DEPARTMENT OF ENVIRONMENTAL CONSERVATION		* * * * *		
* * * * * *		* * * * * *		
NATURAL RESOURCE MANAGEMENT				
DEPARTMENT OF ENVIRONMENTAL CONSERVATION		15,437,600	12,107,700	3,329,900
OFFICE OF THE COMMISSIONER	760,300			
ADMINISTRATIVE SERVICES	671,500			
OPERATIONS	1,281,900			
CIP OVERHEAD POSITIONS	391,500			
ENVIRONMENTAL QUALITY OPERATIONS DIRECTOR	338,000			
MONITORING & LABORATORY SUPPORT	2,300			
SOUTHEAST REGION	1,096,700			
SOUTHCENTRAL REGION	939,900			
NORTHERN REGION	2,086,400			
ENVIRONMENTAL QUALITY MANAGEMENT DIRECTOR	438,600			
AIR AND SOLID WASTE	1,499,200			
WATER QUALITY MANAGEMENT	1,214,800			
DATA AND WORD PROCESSING	329,900			
SEAFOOD & ANIMAL ADMINISTRATION	140,400			

CAPITAL BUDGET NOTES

This analysis details changes made by the Governor in his review of the Department's capital budget. Basically the Governor funded all requests at the $75.0 million general fund request level and added projects as follows:

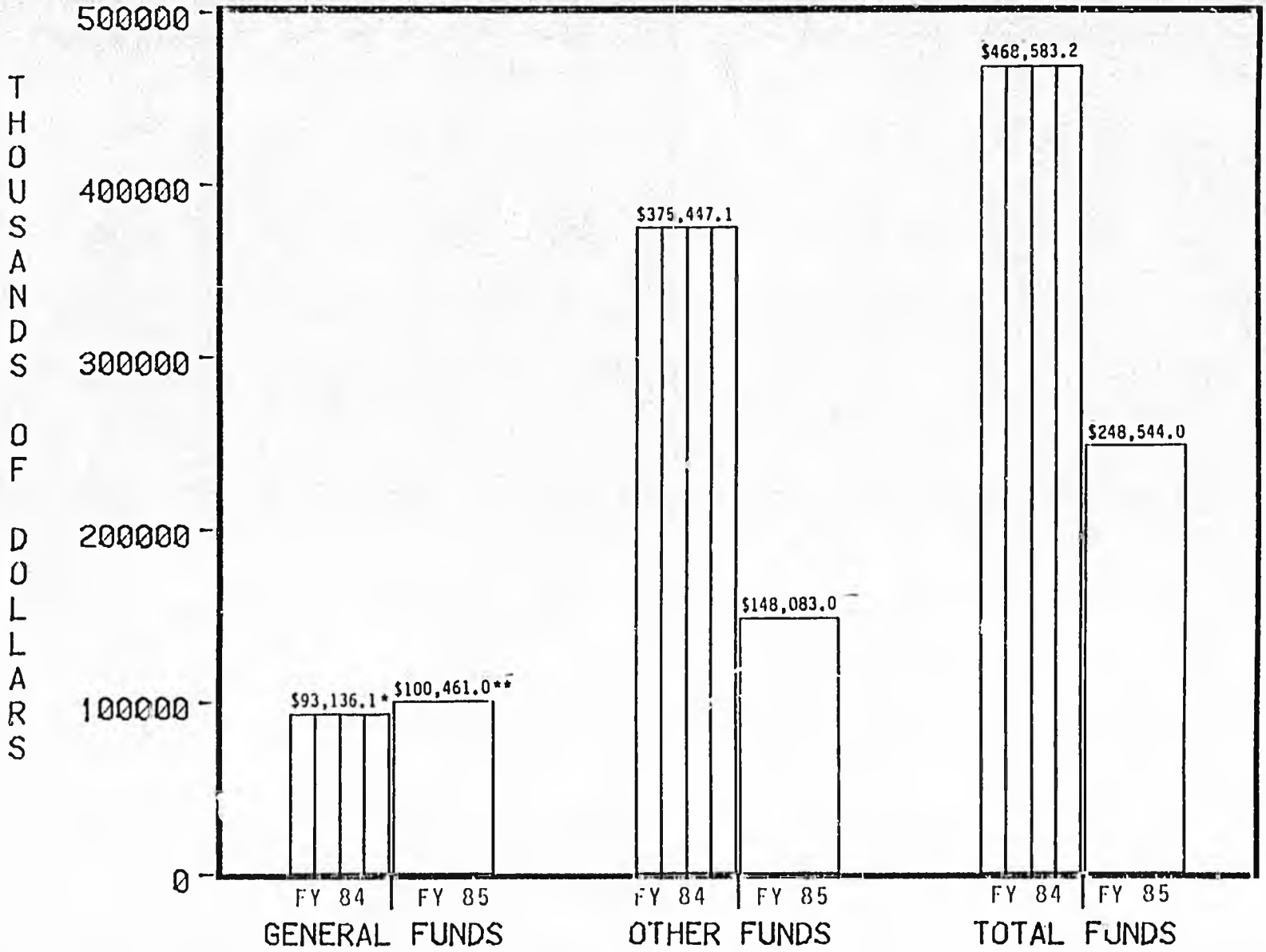
- Regional requests for Local Service Roads and Trails were consolidated. The project name was changed to Local Service Roads, Trails and Bikeways, and the funding was increased from $2499.9 to $5,000.0.

- Dutch Harbor/Unalaska Airport was not requested by the agency, however, Governor Sheffield proposed $3,500.0 for this project.

- The regional erosion control programs were not included in the $100.0 million agency level but Statewide did include a request at the $75.0 million base. Only Northern Region's erosion control program was chosen from among the regions.

- Kotzebue City Streets project in Northern Region was budgeted outside the $100.0 million level but was included in the Governor's budget.

ALASKA DOT/PF CAPITAL BUDGET COMPARISON
FY 84 AND FY 85

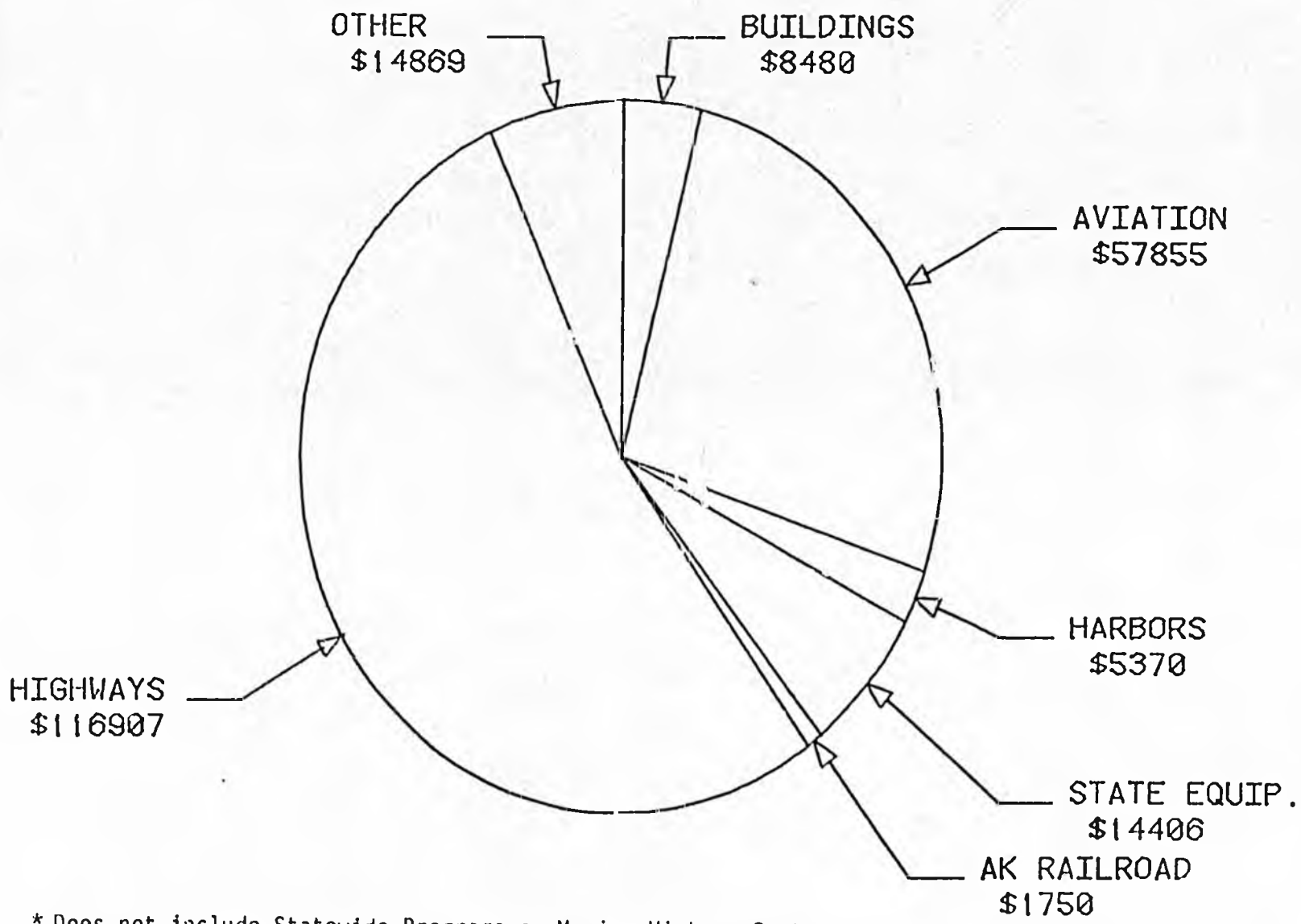


* Includes $35,800.0 in Local Projects
** Does not include Local Projects

TYPE OF FUNDS

ALASKA DOT/PF PROJECT FUNDING BY MODES*

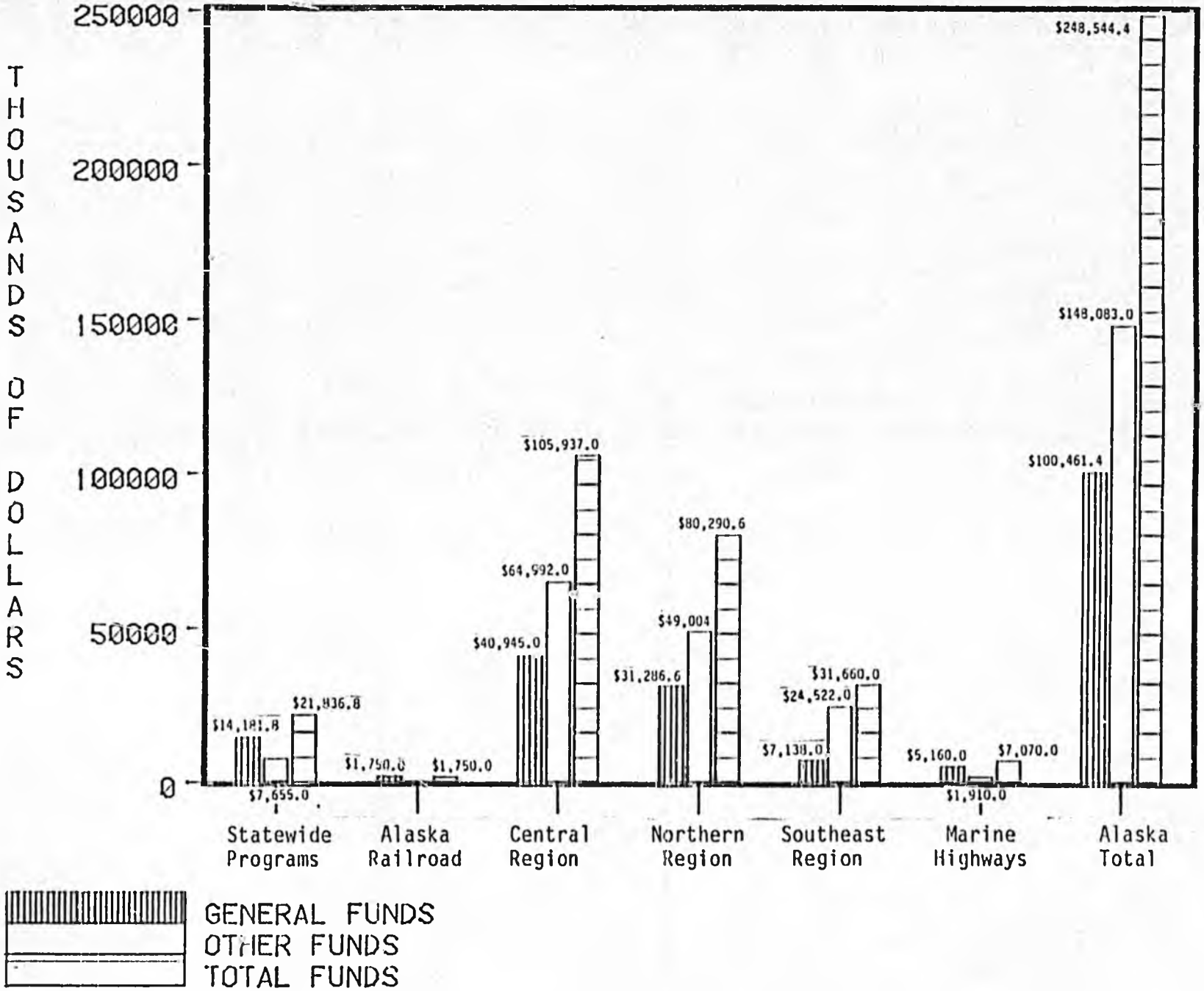
FY 85 REQUEST ($ THOUSANDS)



* Does not include Statewide Programs or Marine Highway System.

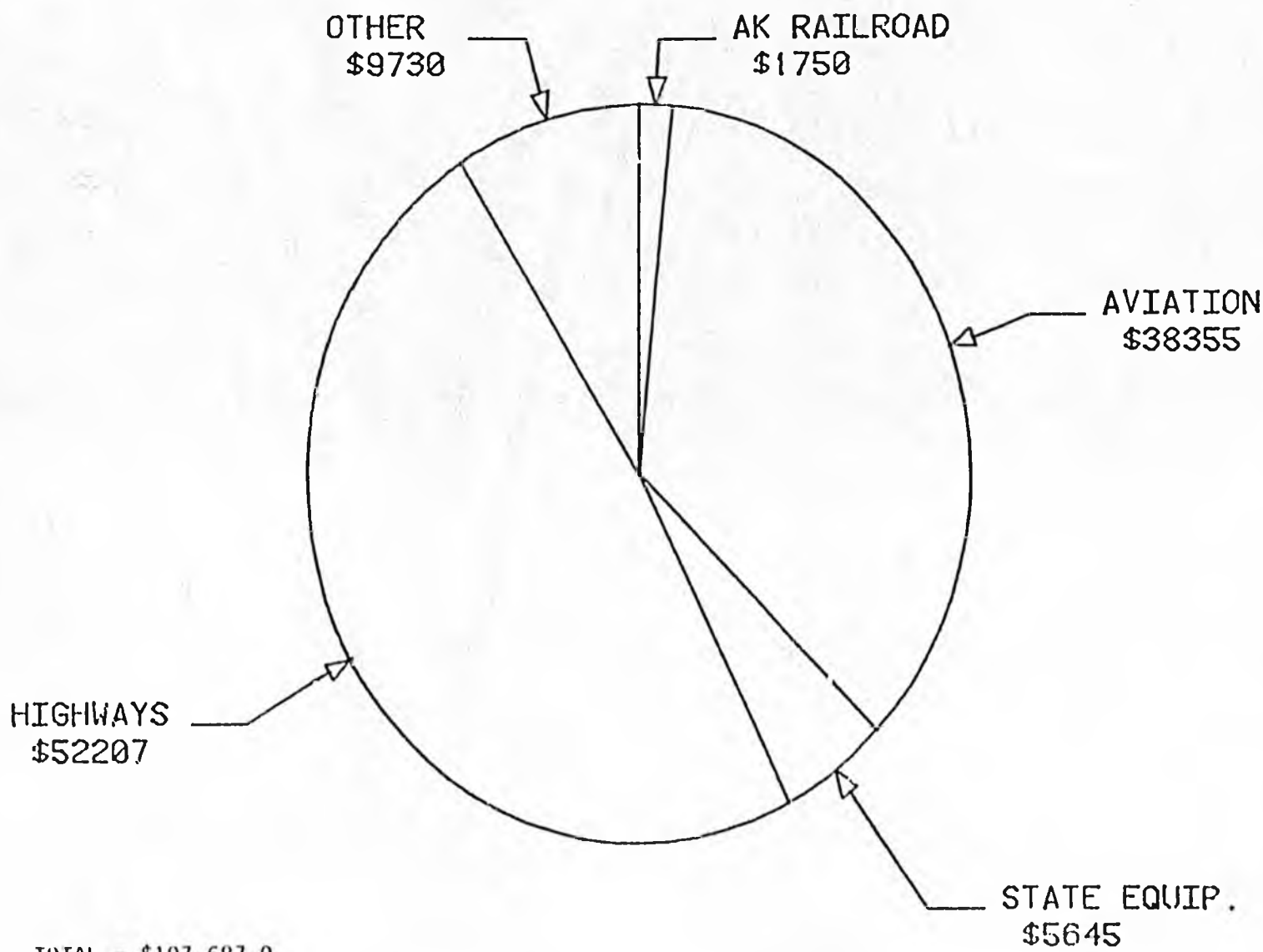
prepared by House Research Agency

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
FY 85 CAPITAL BUDGET DISTRIBUTION



DOT/PF CENTRAL REGION PROJECT FUNDING BY MODES

FY 85 REQUEST ($ THOUSANDS)

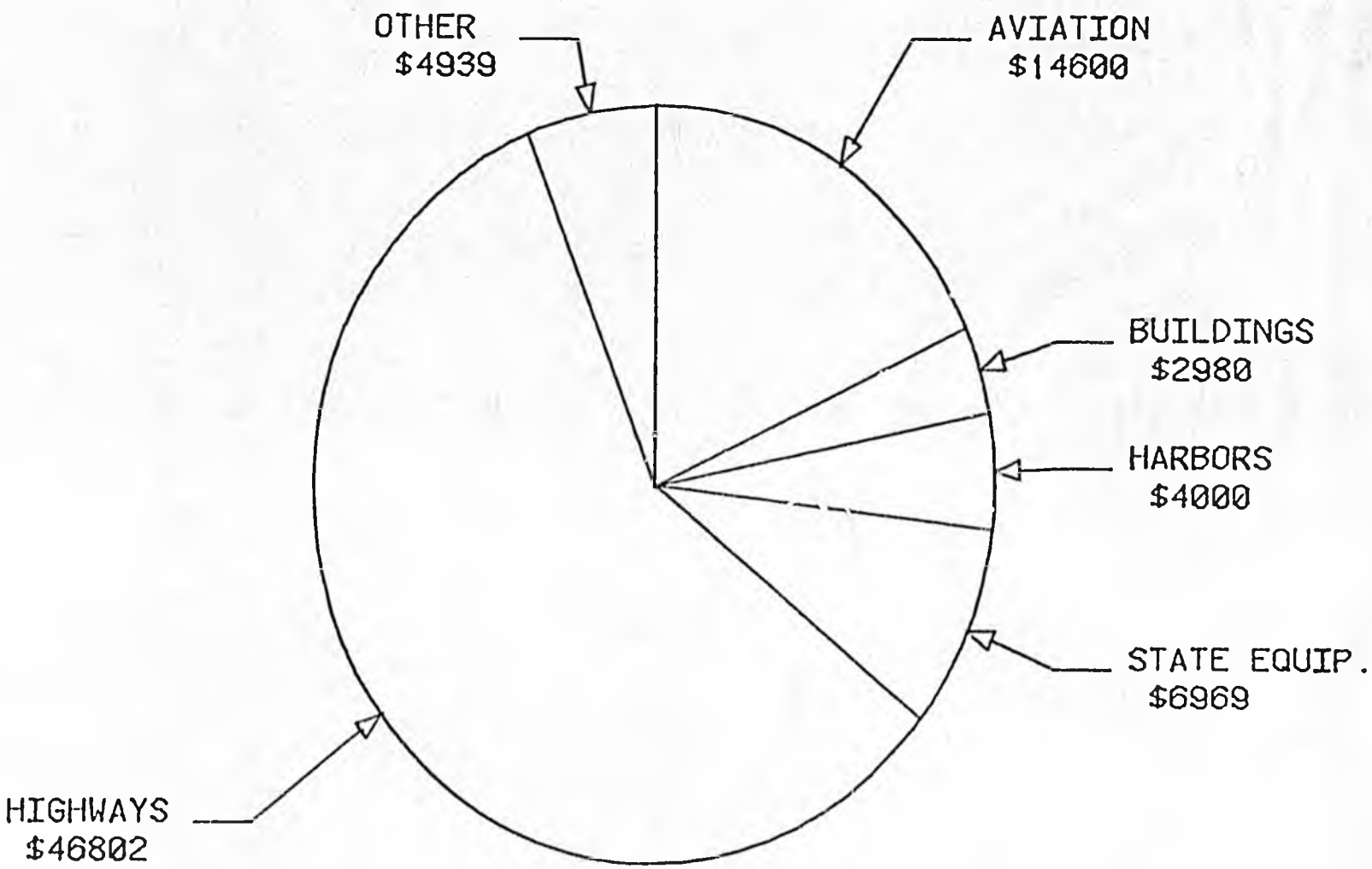


TOTAL = $107,687.0

prepared by House Research Agency

DOT/PF NORTHERN REGION PROJECT FUNDING BY MODES

FY 85 REQUEST ($ THOUSANDS)

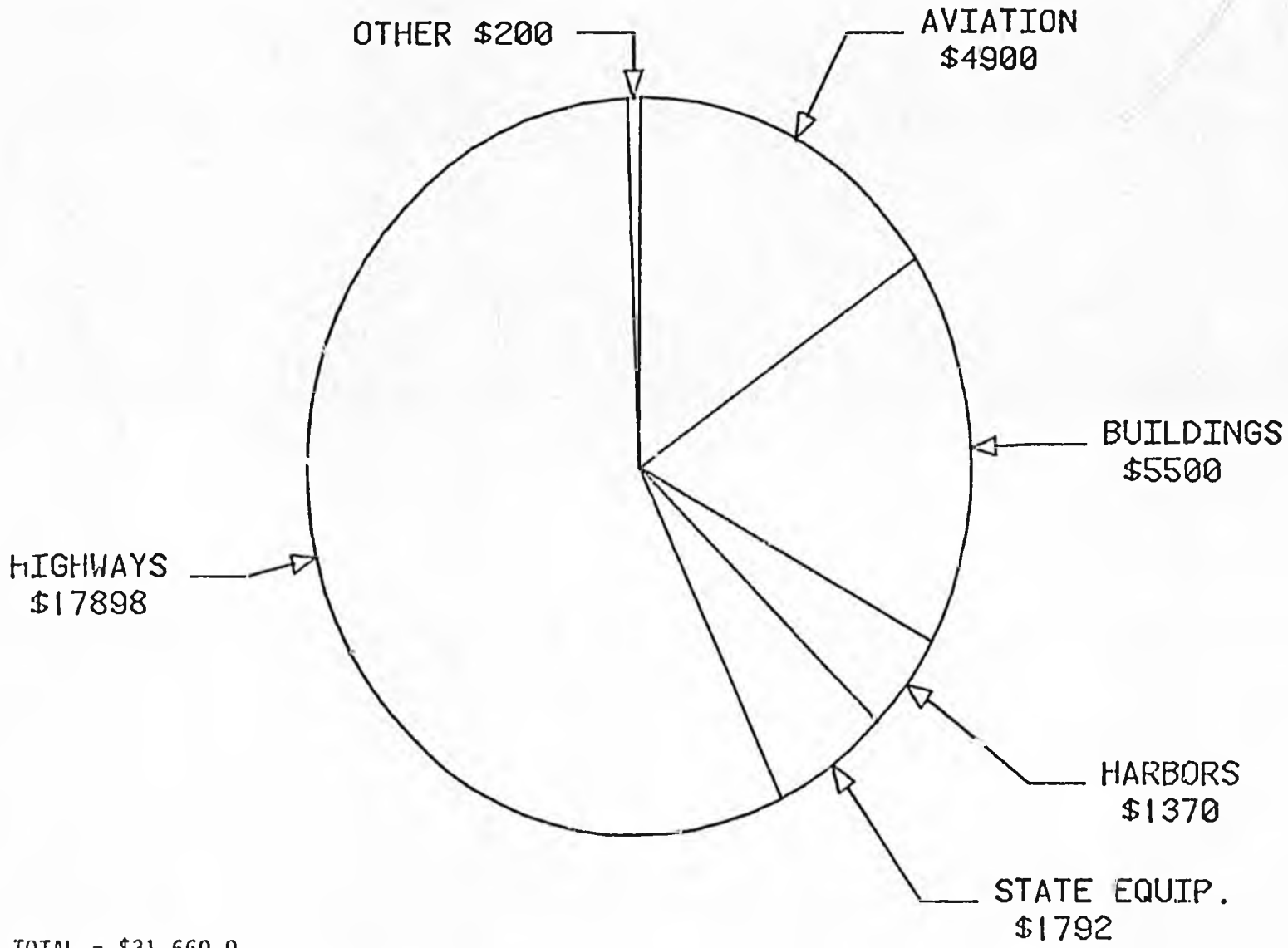


TOTAL = $80,290.0

prepared by House Research Agency

DOT/PF SOUTHEAST REGION PROJECT FUNDING BY MODES

FY 85 REQUEST ($ THOUSANDS)



TOTAL = $31,660.0

prepared by House Research Agency

DEPARTMENT OF PUBLIC SAFETY (CONT.)

	ALLOCATIONS	APPROPRIATION	APPROPRIATION SOURCES: GENERAL FUND	APPROPRIATION SOURCES: OTHER FUNDS
RICHARDSON HIGHWAY COMMUNICATIONS LINK		600,700	600,700	
FIRING RANGE [illegible]		33,800	33,800	
REVISED ARRAIGNMENTS		260,000	260,000	
JUDICIAL SERVICES RELOCATION - FAIRBANKS		[illegible]	[illegible]	
PUBLIC [illegible] TELEPHONE SYSTEM		100,000	100,000	
[illegible] EXPANSION PLANNING		35,000	35,000	
* * * * * *		* * * * * *		
* * * * * DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES * * * * *				
* * * * * *		* * * * * *		
STATEWIDE		17,059,000	14,181,800	2,877,200
TECHNICAL COMPUTER HARDWARE	2,500,000			
FINANCIAL INFORMATION SYSTEM	1,800,000			
STATEWIDE TRANSPORTATION PLANNING	2,960,000			
STATEWIDE FACILITIES PLANNING	100,000			
STATEWIDE HANDICAPPED CODE SURVEY	1,040,000			
STATEWIDE EROSION CONTROL PROGRAM	1,750,000			
STATEWIDE HARBOR SURVEY STANDARDS	100,000			
SMALL STREAMS FLOOD INVESTIGATION PROGRAM	150,000			
ALASKA COASTAL DATA COLLECTION	250,000			
STATEWIDE BRIDGE PROGRAM	1,409,000			
LOCAL SERVICE ROADS, TRAILS AND BIKEWAYS	5,000,000			
STATEWIDE STATE EQUIPMENT FLEET		4,777,800		4,777,800

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	APPROPRIATION FUND SOURCES OTHER FUNDS
STATEWIDE STATE EQUIPMENT FLEET	4,777,800			
ALASKA RAILROAD		1,750,000	1,750,000	
ALASKA RAILROAD TRANSFER TEAM	1,750,000			
CENTRAL REGION		9,730,000	5,429,000	4,301,000
CENTRAL ADVANCE PROJECT DEFINITION	1,190,000			
CENTRAL DESIGN ENGINEERING	6,660,000			
CENTRAL FACILITY INVENTORY/CONDITION SURVEY	880,000			
WHITTIER RAIL ACCESS IMPROVEMENTS	1,000,000			
CENTRAL REGION HIGHWAYS		52,207,000	26,811,000	25,396,000
CENTRAL BRIDGE PROGRAM	1,220,000			
NEW SEWARD HIGHWAY UPGRADE	8,200,000			
GLENN HWY-PALMER/WASILLA INTERSECTION	400,000			
ANCHORAGE RIDESHARING PROGRAM	115,000			
BONIFACE PARKWAY UPGRADE	8,700,000			
STERLING HWY RESURFACE MP 42-50	3,300,000			
ANCHORAGE BUS TURNOUTS	800,000			
KNIK ARM CROSSING NORTH & SOUTH APPROACHES	5,022,000			
NAKNEK/KING SALMON ROAD REHAB	6,340,000			
SEWARD HWY REHAB 36TH SOUTH	3,610,000			
KODIAK NEAR ISLAND BRIDGE PHASE II	14,500,000			
CENTRAL REGION AVIATION		38,355,000	8,705,000	29,650,000
FEDERAL AVIATION PROJECT & SYSTEM PLAN	2,800,000			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
[illegible]RAL AID FY'85	15,045,000			
KUNAPITCHUK AIRPORT CONSTRUCTION	3,300,000			
ANCH INT'L AIRPORT CFR FACILITY	5,500,000			
ANCH INT'L AIRPORT REMOTE FUELING APRON	3,500,000			
ANCH INT'L AIRPORT RUNWAY 14/32 SEAL COAT	690,000			
ANCH INT'L AIRPORT BLAST PROTECTION	2,000,000			
ANCH INT'L AIRPORT ANNUAL IMPROVEMENTS	500,000			
ANCH INT'L AIRPORT MAINTENANCE EQUIPMENT	1,000,000			
ANCH INT'L AIRPORT MASTER PLAN UPDATE	200,000			
ANCH INT'L AIRPORT NOISE ABATEMENT STUDY	320,000			
DUTCH HARBOR/UNALASKA AIRPORT	3,500,000			
CENTRAL REGION STATE EQUIPMENT FLEET		5,645,000		5,645,000
CENTRAL STATE EQUIPMENT FLEET	5,645,000			
NORTHERN REGION		4,93 400	4,139,400	800,000
NORTHERN ADVANCE P[illegible] DEFINITION	2,339,400			
STATEWIDE RESEARCH PR[illegible]M	1,600,000			
NORTHERN EROSION CONTROL	1,000,000			
NORTHERN REGION HIGHWAYS		46,802,200	15,948,000	30,854,200
NORTHERN DESIGN ENGINEERING	2,800,000			
NORTHERN HPR PLANNING	425,000			
NORTHERN BRIDGE PROGRAM	2,810,000			
RICH HWY-GAKONA JCT. NORTH	200,000			

1	DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)				1
2			APPROPRIATION	APPROPRIATION FUND SOURCES	2
3		ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS 3
4	DALTON HWY RESURFACE AND CULVERTS	5,545,500			4
5	ELLIOTT HWY-FOX NORTH	1,410,000			5
6	PARKS HWY REHAB - NENANA SOUTH	8,800,000			6
7	FARMERS LOOP ROAD ROW/UTILITIES	1,028,000			7
8	BADGER ROAD	933,700			8
9	ALASKA HWY-ROBERTSON RIVER TO DOT LAKE	14,100,000			9
10	FAIRBANKS F.A.U. SYSTEM	2,500,000			10
11	AIRPORT WAY RESURFACING PHASE II	1,100,000			11
12	EAST COLLEGE ROAD UPGRADE PHASE II	1,900,000			12
13	NORTHERN SMS ROADS	1,750,000			13
14	KOTZEBUE CITY STREETS	1,200,000			14
15	NORTHERN RIGHT-OF-WAY INVENTORY	300,000			15
16	NORTHERN REGION AVIATION		14,600,000	4,219,200	10,380,800 16
17	FAIRBANKS INT'L AIRPORT IMPROVEMENTS	200,000			17
18	KOTZEBUE AIRPORT IMPROVEMENTS	900,000			18
19	NORTHERN AIP PROJECTS	11,400,000			19
20	NOME RUNWAY REHABILITATION PHASE II	2,100,000			20
21	NORTHERN REGION PORTS AND HARBORS		4,000,000	4,000,000	21
22	NOME PORT FACILITY	4,000,000			22
23	NORTHERN REGION STATE EQUIPMENT FLEET		6,969,000		6,969,000 23
24	NORTHERN REGION EQUIPMENT REPLACEMENT	6,969,000			24
25	NORTHERN REGION FACILITIES		2,980,000	2,980,000	25

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
FACILITIES INVENTORY/CONDITION SURVEY	300,000			
JIM RIVER MAINTENANCE BUILDING RENOVATION	2,680,000			
SOUTHEAST REGION		200,000	200,000	
SOUTHEAST ADVANCE PROJECT DEFINITION	200,000			
SOUTHEAST REGION HIGHWAYS		17,898,000	2,318,000	15,580,000
GLACIER HWY: INDIAN PT TO SHRINE OVERLAY	2,000,000			
SOUTHEAST HPR/PL PLANNING	176,000			
SOUTHEAST BRIDGE PROGRAM	300,000			
KLAWOCK TO HOLLIS PHASE I	3,000,000			
NORTH TONGASS HWY PHASE I	4,000,000			
PETERSBURG MAIN STREET	900,000			
WRANGELL AIRPORT ROAD	450,000			
KLONDIKE HIGHWAY SURFACING	1,900,000			
ZIMOVIA HIGHWAY	2,500,000			
FISH CREEK BRIDGE REPLACEMENT	1,100,000			
TONGASS AVENUE TRAFFIC MANAGEMENT SYSTEM	150,000			
TONGASS AVENUE CURB, GUTTER AND SIDEWALK	200,000			
TONGASS AVENUE DRAINAGE IMPROVEMENTS	100,000			
SOUTHEAST DESIGN ENGINEERING	1,122,000			
SOUTHEAST REGION AVIATION		4,900,000	750,000	4,150,000
KETCHIKAN AIRPORT OVERLAY	2,500,000			
YAKUTAT AIRPORT DRAINAGE AND FLOATPLANE	1,500,000			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
SE REGIONAL FLOATPLANE FACILITY REPAIR/REHAB	200,000			
PETERSBURG SEAPLANE FLOAT RECONSTRUCTION	500,000			
CHILKAT LAKE AIRSTRIP AND DIKE REPAIR	200,000			
SOUTHEAST REGION PORTS AND HARBORS		1,370,000	1,370,000	
SOUTHEAST HARBOR CONDITION SURVEY	50,000			
HARBORS EMERGENCY REPAIRS	200,000			
MEYERS CHUCK DOCK	320,000			
AUKE BAY BREAKWATER AND HARBOR FACILITY	600,000			
ANGOON BOAT HARBOR EXPANSION	200,000			
SOUTHEAST STATE EQUIPMENT FLEET		1,792,000		1,792,000
SOUTHEAST STATE EQUIPMENT FLEET	1,792,000			
SOUTHEAST REGION FACILITIES		5,500,000	2,500,000	3,000,000
SOUTHEAST FACILITY INVENTORY/CONDITION SURVEY	100,000			
SE HANDICAPPED CODE ENFORCEMENT/UPGRADE	100,000			
CRAIG/KLAWOCK SHOP	1,000,000			
SOUTHEAST FACILITIES MAINTENANCE	600,000			
STATE OFFICE BUILDING ELEVATOR	450,000			
SOUTHEAST REGIONAL COMPLEX EXPANSION	3,100,000			
SOUTHEAST ROOF REHABILITATION	150,000			
MARINE TRANSPORTATION		7,070,000	5,160,000	1,910,000
MARINE HWY ADVANCE PROJECT DEFINITION	50,000			
MARINE HWY PRELIMINARY ENGINEERING	400,000			

DEPARTMENT OF TRANSPORTATION/PUBLIC FACILITIES (CONT.)

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
MARINE HWY SYSTEM IMPROVEMENTS	2,100,000			
VESSEL REPOWER SUPPLEMENTAL	1,500,000			
MARINE HWY RESERVATION SYSTEM UPGRADE	1,245,000			
M/V BARTLETT IMPROVEMENTS	700,000			
WRANGELL DOCK AND TOWER SUPPLEMENTAL	500,000			
KETCHIKAN/SKAGWAY DOCK MODIFICATIONS	575,000			
* * * * * *		* * * * * *		
* * * * * DEPARTMENT OF ENVIRONMENTAL CONSERVATION		* * * * *		
* * * * * *		* * * * * *		
DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
WATER, SEWER & SOLID WASTE FACILITIES CONST		16,750,000	16,750,000	
DATA MANAGEMENT		600,000	600,000	
WASTEWATER DISPOSAL FACILITIES CONSTRUCTION		3,400,000	3,400,000	
VILLAGE SAFE WATER CONSTRUCTION		4,250,000	4,250,000	
* * * * *		* * * * * *		
* * * * DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS		* * * *		
* * * *		* * * * * *		
MUNICIPAL & REGIONAL ASSISTANCE		1,120,000	400,000	
REGIONAL SERVICES	720,000			
COMMUNITY PROFILES	400,000			
LOW INCOME & SENIOR CITIZEN ASSISTANCE		30,798,000	12,280,000	18,518,000
WEATHERIZATION AND ENERGY ASSISTANCE	5,700,000			

portation and Public Facilities if constructed outside local government units which have zoning ordinances. If these roads are constructed within the boundaries of local government units which have zoning ordinances, the width shall conform to subdivision control ordinances of the local government units. Contracts for the work shall be awarded to the lowest responsible bidder qualified to contract with the state. (§ 1 ch 122 SLA 1961; am § 3 ch 7 SLA 1964; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted the reference to the Department of Transportation and Public Facilities in the third sentence for a reference to the Department of Highways.

Article 3. Local Service Roads and Trails.

Section
111. Purpose
131. Allocation of funds
141. Acquisition and construction programs
151. Local government participation
161. Design standards, rights-of-way and widths
171. Acquisition and conveyance of rights-of-way
181. Project agreements
191. Letting of contracts
201. Construction
211. Maintenance
221. Availability of allocated sums
231. [Repealed]
233. Reports
241. Definitions

Sec. 19.30.111. Purpose. It is the purpose of AS 19.30.111 — 19.30.251 to provide for the acquisition and construction of local service roads and trails which are not included in the approved federal-aid primary highway systems eligible for federal-state matching funds. (§ 2 ch 84 SLA 1971; am § 1 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction of local service roads" and deleted "or secondary" preceding "highway systems."

Sec. 19.30.131. Allocation of funds. (a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for that fiscal year among the five allocation districts in the following manner: one-half in the ratio which the area of each allocation district bears to the total area of the state and one-half in the ratio which the population of each allocation district bears to the total population of the state as shown by the latest available federal census.

(b) The commissioner shall also further allocate the sums in each allocation district to the boroughs within each allocation district in the following manner: one-half in the ratio which the area of each organized borough (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio

trict bears to the total population of the allocation district as shown by the latest available federal census.

(c) The commissioner shall also further allocate portions of the sum allocated to any borough, either organized or unorganized, and to any home rule or first class city within the borough in the following manner:

(1) one-half in the ratio which the area of each home rule or first class city bears to the total area of the borough excluding salt water areas; and

(2) one-half in the ratio which the population of each home rule or first class city bears to the total population of the borough as shown by the latest available federal census.

(d) The sums not allocated within each district to a local government under (b) and (c) of this section shall be allocated to the unorganized borough and administered by the department. (§ 2 ch 84 SLA 1971; am § 2 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, added "or first class" following "home rule" in three places in subsection (c). Also in subsection (c), the amendment added the paragraph designations (1) and (2).

Sec. 19.30.141. Acquisition and construction programs. Before October 1 of each fiscal year each local government eligible for allocation of funds under AS 19.30.131 shall submit to the commissioner for approval a five-year plan for the acquisition and construction of local service roads and trails. Before December 1 of each fiscal year the commissioner shall submit to the governor a five-year plan for the acquisition and construction of local service roads and trails, including the approved local government programs. An organized borough shall include in its five-year plan local service road acquisition and construction programs for all cities other than home rule and first class cities within the boundaries of the borough. The commissioner shall include in his five-year plan local service road and trail acquisition and construction within the unorganized borough. (§ 2 ch 84 SLA 1971; am § 3 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, substituted "five-year plan" for "long-range program" in four places, added "acquisition and" preceding "construction" in four places and added "and first class" preceding "cities within the boundaries" in the next to the last sentence.

Sec. 19.30.151. Local government participation. (a) Upon application by a local government, local service roads and trails constructed under the provisions of AS 19.30.111 — 19.30.241 and located within the jurisdictional boundaries of a local government, as defined in AS 19.30.241(3), may be transferred to that local

(b) The commissioner shall, upon request of a local government, transfer funds allocated under AS 19.30.131 to any local government which has assumed local road powers for project cost amounts and contract award amounts submitted to the commissioner.

(c) Nothing in AS 19.30.111 — 19.30.241 prohibits a local government from participating financially in the acquisition and construction of a local service road or trail. (§ 2 ch 84 SLA 1971; am Executive Order No. 39, § 11 (1977); am §§ 2, 3 ch 158 SLA 1980; am § 4 ch 38 SLA 1981)

Effect of amendments. — The 1977 amendment substituted a reference to the Department of Transportation and Public Facilities for a reference to the Department of Highways in the first sentence of subsection (a).

The 1980 amendment deleted the former second sentence in subsection (a), which read: "A local government which has assumed road powers before May 20, 1971, may not be required to hold an election as provided by this section", and rewrote subsection (b).

The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction" in subsection (c).

Sec. 19.30.161. Design standards, rights-of-way and widths. Design standards, rights-of-way and widths for each local service road and trail project shall have the prior approval of the commissioner, unless the project is under the supervision of a local government that has assumed local road powers. If the project is under the supervision of a local government that has assumed road powers, design standards, rights-of-way and widths shall be established by the local government. (§ 2 ch 84 SLA 1971; am § 4 ch 158 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "rights-of-way and widths" at the beginning of the section, and added the material at the end of the section following, "approval of the commissioner" and beginning, "unless the project is."

Sec. 19.30.171. Acquisition and conveyance of rights-of-way. (a) The local government shall acquire all rights-of-way required for local service road and trail construction. However, if the local government is unable to acquire the necessary right-of-way, the commissioner is authorized to acquire it in accordance with AS 19.05.080 — 19.05.120. The commissioner may convey to the local government, by appropriate instrument executed in the name of the state, any land or interest in land which has been acquired by the state for the construction of local service roads or trails.

(b) The costs incurred by the commissioner in acquiring this land or interest in land includes all costs and any fees incidental to acquisition. All costs incurred in connection with the acquisition of the land or interest in land for local governments that have assumed local road powers shall be charged to the project allocation for which the land or interest in land is acquired. Right-of-way acquisition costs incurred by

under AS 19.30.151(a) shall be charged to the project allocation for the local government for which the land or interest in land is acquired.

(c) When rights-of-way for local service roads are acquired over land or interest in land owned by the state, the commissioner may make such arrangements with the department having jurisdiction over the land as may be necessary to give the local government adequate rights-of-way, and any such department is directed to transfer the jurisdiction of the land to the commissioner. (§ 2 ch 84 SLA 1971; am § 17 ch 71 SLA 1972; am § 5 ch 158 SLA 1980; am § 5 ch 38 SLA 1981)

Effect of amendments. — The 1980 amendment deleted "including relocation assistance and payments in accordance with AS 34.60" following "to acquisition" at the end of the first sentence of subsection (b), deleted "by the commissioner" following "All costs incurred" near the beginning of the second sentence of subsection (b), inserted "for local governments that have assumed local road powers" near the middle of the second sentence of subsection (b), and added the present third sentence of subsection (b).

The 1981 amendment, effective July 1, 1981, substituted "charged to the project allocation" for "paid by the local government" in the second sentence of subsection (b).

Sec. 19.30.181. Project agreements. A local government which has assumed local road powers may enter into a formal project agreement with the commissioner for the acquisition and construction of a specific project. (§ 2 ch 84 SLA 1971; am § 6 ch 158 SLA 1980; am § 6 ch 38 SLA 1981)

Effect of amendments. — The 1980 amendment rewrote the section.

The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction of."

Sec. 19.30.191. Letting of contracts. (a) Repealed by § 15 ch 158 SLA 1980.

(b) Contracts entered into by a local government that has assumed local road powers for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility.

(c) All contracts by a local government that has not assumed local road powers must have the prior concurrence of the commissioner. The commissioner may delegate the power to approve contracts to a local government that has assumed local road powers for the acquisition and construction of local service roads and trails.

(d) Except as provided in (b) and (c) of this section and in AS 44.33.300, construction of each project shall be administered by the department in accordance with guidelines established by the commissioner by regulation. (§ 2 ch 84 SLA 1971; am § 4 ch 277 SLA 1976; am §§ 7 — 9, 15 ch 158 SLA 1980, §§ 7, 8 ch 38 SLA 1981)

HB

40

(9)

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/11/33

Date: 3/21/83

Mr. Speaker:

The Committee on TRANSPORTATION has had SSHB 40

An Act repealing the motor fuel tax (AS 43.40); and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M.W. Miller Do Rec.

Mike Davis No Rec

CHAIRMAN

H 60

AMENDMENT

OFFERED IN THE HOUSE: Transportation Committee BY: _____

TO: _____ HOUSE BILL No. SS. House Bill 40

SENATE BILL No. _____

PAGE: 1 LINE: 10-13

Delete Section 2

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SS HB 40 Date on Bill: 2/11/83
Title: An act repealing motor fuel tax.
Sponsor: Hayes
Requestor: House Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			-0-	(65)	(65)			
Total			-0-	(65)	(65)			

b. Revenues:

Revenue			-0-	(48,000)	(33,000)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:
Since the bill would eliminate the Motor Fuel Tax, positions currently allocated to those sources could eventually be eliminated. The elimination of those positions could not occur until sometime in FY 84 because there would be substantial clean up work between now and the several months succeeding the effective date of the bill. The task of refunding the numerous fuel users could be monumental.

The loss in revenues to the state are as a result of repealing highway, marine, and aviation taxes.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Rehfeld Phone: 465-2300
Division: Comm. Office Date: 2/28/83

Approved by Commissioner: Robert O'Keefe Date: 2/28/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Sec. 43.31.171. Civil penalties.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220.

Editor's notes. — The repealed section derived from § 2, ch. 24, SLA 1970; § 3, ch. 166, SLA 1976.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Secs. 43.31.360 — 43.31.390.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed sections derived from § 2, ch. 24, SLA 1970.

Chapter 35. Coin-Operated Devices and Punchboards.

Article 1. Coin-Operated Amusement and Gaming Devices.

Section

80. [Repealed]

Sec. 43.35.080. Penalties.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220. For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-3-3 ACLA 1949; § 3, ch. 142, SLA 1960; § 2, ch. 58, SLA 1971.

Chapter 40. Motor Fuel Tax.

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section

10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. [Repealed]
30. Refund for nonhighway use
35. Other refunds and credits
40. [Repealed]
50. Refund claim by affidavit
80. Examination of books and records
90. [Repealed]
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10 — 100 of this chapter shall perform, when feasible, all construction or reconstruction projects by

contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10 — 100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(*l*) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 215 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970;

am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 4, 1982, added subsection (*l*).

Editor's notes. — Section 15, ch. 82, SLA 1982, provides: "The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor fuel that occurs before the effective date of this Act [June 4, 1982] if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was not to be used as motor fuel, as that term is defined in AS 43.40.100(2), or if the dealer relied upon the purchaser's representation that the fuel would not be used as motor fuel. This section is intended to clarify ambiguities in the existing language of AS 43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, this section serves the general public interest in the fair and equitable administration of AS 43.40."

Sec. 43.40.020. Penalty for violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-5-3, ACLA 1949; § 4, ch. 153, SLA 1972; § 3, ch. 116, SLA 1977.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment, effective June 4, 1982, substituted "the tax has been" for "duty is" in subsection (b).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and a certificate of use is acquired under AS 43.40.010(1); or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982)

Effective dates. — Section 19, ch. 82, SLA 1982, makes this section effective June 4, 1982, in accordance with AS 01.10.070(c).

Sec. 43.40.040. Applications and permits for refund.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning contents of applications for refunds, see AS 43.40.050(a).

Editor's notes. — The repealed section derived from § 3, ch. 47, SLA 1955; § 4, ch. 131, SLA 1962.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used.

The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7—9 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment, effective June 4, 1982, substituted "under AS 43.40.030" for "as provided in AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) Repealed by § 46 ch 113 SLA 1980. (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.090. Criminal violation.

Repealed by § 46 ch 113 SLA 1980.

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AS 43.05.290.

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Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 11, ch 47, SLA 1955; § 4, ch. 27, SLA 1957.

Sec. 43.40.100. Definitions. In AS 43.40.010 — 43.40.100

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by AS 43.40.010 — 43.40.100 have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel assigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities, or;

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(3) "user" means a person consuming or using motor fuel, who either

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

(4) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10—12 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment added subparagraph (F) in paragraph (2).

The 1982 amendment, effective June 4, 1982, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the subparagraphs (A) and (B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

Chapter 45. School Tax.

Section

10—60. [Repealed]

Secs. 43.45.010 — 43.45.060. Tax imposed; persons exempt; record of withholding; overpayment, credit and refund; failure to file return; penalties.

Repealed by § 3 ch 166 SLA 1976; § 2 ch 64 SLA 1980; § 46 ch 113 SLA 1980.

Editor's notes. — The repealed chapter derived from §§ 37-4-3 — 37-4-6, ACLA 1949; § 1, ch. 41, SLA 1957; § 1, ch. 175, SLA 1957; § 1, ch. 149, SLA 1959; §§ 1—5, ch. 179, SLA 1960; § 111, ch. 127, SLA 1974.

Section 3, ch. 64, SLA 1980 makes the repeal of this chapter applicable to tax years beginning after December 31, 1979.

Section 4, ch. 64, SLA 1980 provides: "The Department of Revenue shall establish procedures for refunding to a taxpayer amounts received in payment of the school tax levied under AS 43.45 for the 1980 tax year and shall refund to the taxpayer the tax which was withheld for the 1980 tax year by an employer and paid to the department under AS 43.45.010(c). Other tax money paid to the Department of Revenue under AS 43.45 for the 1980 tax year shall be refunded to the taxpayer who made the payment."

Chapter 50. Tobacco Tax.

Article 1. Cigarette Tax Act.

Section

10. License
100. Civil penalties
150. Administration
160. [Repealed]

Sec. 43.50.010. License. (a) No person may sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested of him to determine his eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

Alaska State Legislature

MAR 4 1983

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

March 2, 1983

To: Members of House Transportation Committee

From: Jeff Day
Assistant to the Speaker

Re: HB 40/ Repeal of Motor Fuel Tax

As I stated, I have attached a copy of the general testimony I presented on behalf of Representative Hayes to the Committee on March 1. I would also like to take this opportunity to summarize a few of the remarks I made to the Committee which were not contained in those prepared remarks.

The question of Alaska's image has been discussed a great deal in connection with these bills. While the repeal of the income tax and the distribution of $1000 checks certainly made headlines nationwide, it is not believed repeal of these 8¢,5¢ and 4¢ taxes would exactly get front page coverage in the Wall Street Journal.

As a related matter, there have been questions raised regarding what the federal government might do as a result of our repealing the taxes and our lessened image. First, it must be noted that in FY 82, Alaska committed $230 million in state funds to transportation projects. These taxes we are talking about repealing amount to $30 million or roughly 9% of the total state committment to transportation. It is believed that repeal of these taxes will not necessarily mean any lessening of that committment to transportation or in paying the states share of projects which are financially shared with the federal government. Those decisions, though, will be made by the Legislature and not as any direct result of a repeal of reduction of fuel taxes. It is not believed our image will be lessened nor federal dollars jeopardized since it is assumed legislators will vote for a major financial committment to transportation and that is still the image this state will present to the nation.

I refer to the figure of 30 million dollars. However, the fiscal note you received on the bill shows a fiscal impact of $48 million. The fiscal note and the Departments own revenue projections from these taxes do not match, unless possibly they are including, in that 48 million, taxes collected before refunding.

If that is the case, then the fiscal note is quite misleading. I would suggest the Committee ask for further clarification of how the $48 million figure was arrived at. In my discussions with the Department, they said my assumption of a $30 million dollar loss of revenue as a result of the repeal was accurate.

Finally, I wish to emphasize the whole philisophical point of this bill. If we repeal the taxes, we are not directly lessening the amount of money that will go towards transportation releated projects. Though there are separate accounts established in the GENERAL FUND for the proceeds of these taxes, the monies cannot be dedicated to transportation projects. The funds are simply a part of the whole general fund which is the source of everything in the state budget. By eliminating the tax we are eliminating 30 million dollars in revenue available to be spent in any way as part of state Government.

Many representatives ran campaigns advocating less government and a lowered government budget. Though you are not the Finance Committee, positive action on HB 40 will result in an indirect budget cut since you will be eliminating 30 million dollars in revenue which would otherwise be available for general government to spend. A positive vote on HB 40 indicates your belief the state does not need this money, that the budget is too large and that there are better indirect effects this 30 million dollars will have for Alaskans rather than increased government. If you vote against repeal of the taxes, you are in effect saying government needs this money, the budget is at a proper level or needs to be increased.

Please contact me in Room 208 of the Capitol if I can be of further assistance.

Thanks.

HAYES' REMARKS RE: HB 40: REPEAL OF MOTOR FUEL TAX

THIS COMMITTEE HAS BEFORE IT SEVERAL PIECES OF LEGISLATION RANGING FROM ELIMINATION OF THE WATERCRAFT MOTOR FUEL TAX, TO A REDUCTION OF THE HIGHWAY MOTOR FUEL TAX, TO AN INCREASE IN THE MOTOR FUEL TAX. AND THEN THERE IS THE LEGISLATION WHICH I HAVE INTRODUCED WHICH ELIMINATES THE MOTOR FUEL TAX TOTALLY IN ALL AREAS.

YOU HAVE HEARD THE ARGUMENTS FOR ELIMINATION OF THE TAX FOR FUEL USED IN AND ON WATERCRAFT. I CONCUR IN THE REASONS STATED IN SUPPORT OF THAT LEGISLATION LAST WEEK BY REPRESENTATIVES GRUSSENDORF AND ZHAROFF. THOSE SAME REASONS CAN APPLY TO ELIMINATION OF THE TAX IMPOSED ON THE SALE OF AVIATION FUEL.

THE AVIATION FUEL TAX IS ESTIMATED TO BRING THE STATE ABOUT 5.4 MILLION DOLLARS IN FY 84...CLEARLY A VERY SMALL AMOUNT COMPARED TO THE ENTIRE REVENUE PICTURE. THE DEPARTMENT OF REVENUE HAS ALSO ESTIMATED THAT THE INCOME PRODUCED FROM THE TAX ON WATERCRAFT FUEL WILL BE ABOUT 4 MILLION DOLLARS.

THE MAJOR TAX THAT WOULD BE ELIMINATED UNDER THIS BILL IS THE 8 CENT PER GALLON TAX ON HIGHWAY FUEL SUCH AS GASOLINE. IT'S ESTIMATED THAT THIS TAX WOULD BRING THE STATE ABOUT 21 MILLION DOLLARS THIS YEAR.

THE TOTAL IMPACT OF REPEALING THE MOTOR FUEL TAX ENTIRELY WOULD BE A LOSS OF REVENUE TO THE STATE OF ABOUT 30 MILLION DOLLARS...ROUGHLY ONE PERCENT ON THIS STATES TOTAL REVENUES.

HOWEVER, THAT LOSS OF REVENUE TO THE STATE MEANS 30 MILLION DOLLARS IN THE POCKETS OF ALASKANS WHO DRIVE CARS OR OWN BOATS AND AIRPLANES. IT MEANS THE COST OF AIR TRAVEL SHOULD BE LESS IN A STATE THAT IS VERY DEPENDENT ON THE AIRPLANE AS A MODE OF TRANSPORTATION. IT MEANS THE OPERATION OF MASS TRANSIT SYSTEMS WHICH ARE USUALLY HEAVILY SUBSIDIZED BY LOCAL GOVERNMENTS WILL COST LESS TO OPERATE. IT MEANS THE AVERAGE CONSUMER OF MOTOR FUELS WILL RECEIVE ADDITIONAL MONEY DIRECTLY AND INDIRECTLY THAT WILL IN TURN BE PUT INTO THE ECONOMY IN OTHER WAYS.

THE REPEAL OF THE TAX DOES NOT MEAN THERE WILL BE 30 MILLION DOLLARS LESS FOR PORTS, AIRPORTS AND HIGHWAYS. WHILE THE STATUTES DO ESTABLISH SEPARATE ACCOUNTS WITHIN THE GENERAL FUND FROM THE PROCEEDS OF WATERCRAFT, AVIATION AND HIGHWAY FUEL TAXES...THE MONEY IS SIMPLY <u>PART OF</u> THE OVERALL GENERAL FUND. THE STATUTES SAY THE LEGISLATURE <u>MAY</u> APPROPRIATE FROM THESE FUNDS FOR BUILDING DOCKS, ROADS OR AIRPORT IMPROVEMENTS.

THE FACT IS THAT APPROPRIATIONS FOR SUCH PROJECTS ARE NOT TIED TO THESE FUNDS SPECIFICALLY. THE LEGISLATURE APPROPRIATES FAR MORE THAN 30 MILLION ANNUALLY FOR SUCH PROJECTS..AND THOSE APPROPRIATIONS COME FROM THE GENERAL FUND OF WHICH THESE THREE ACCOUNTS ARE SIMPLY A PART.

REPEAL OF THE TAX DOES NOT NECESSARILY MEAN WE WILL NOT BE ABLE TO DEVOTE AS MUCH MONEY TO TRANSPORTATION RELATED DEVELOPMENT. IT DOES MEAN 30 MILLION DOLLARS LESS FOR STATE BEAURACRACY TO PROVIDE GOVERNMENT SERVICES. CERTAINLY I WOULD EXPECT THE PUBLIC TO ANTICIPATE 30 MILLION DOLLARS LESS IN GOVERNMENT SERVICE AS A RESULT OF HAVING 30 MILLION DOLLARS INDIRECTLY ADDED TO THEIR SPENDING POWER.

YOU ALSO HAVE BEFORE YOU TODAY HB 55 BY REPRESENTATIVE MARTIN WHICH WOULD REDUCE THE HIGHWAY MOTOR FUEL TAX FROM 8 TO THREE CENTS IN AN EFFORT TO OFFSET THE 5¢ PER GALLON TAX WHICH WILL SOON TAKE EFFECT AS A RESULT OF FEDERAL LEGISLATION. HOWEVER, HB 55 MAKES NO CHANGE TO THE AVIATION OR WATERCARFT FUEL TAX. WHILE A 5¢ REDUCTION IN THE HIGHWAY FUEL TAX MIGHT BE A POTENTIAL COMPROMISE IN ONE AREA, I FEEL IT WOULD BE UNFAIR TO REDUCE ONE TAX AND NOT REDUCE TAXES FOR WATERCRAFT AND AVIATION.

AS A MINIMUM I WOULD HOPE THIS COMMITTEE WOULD ENDORSE THE CONCEPT OF REDUCING ALL THESE TAXES AND ELIMINATE THE CUMBERSOME REFUND PROCEDURES WHICH ARE IN EFFECT FOR THE HIGHWAY MOTOR FUEL TAX.

AT BEST I WOULD HOPE YOU WOULD ADOPT HB 40 WHICH WOULD ELIMINATE THIS SO CALLED NUISANCE TAX ALLTOGETHER.
THE BASIC QUESTION IS SIMPLY WHO GETS THE 30 MILLION DOLLARS THIS TAX GENERATES. WILL THE STATE GET IT TO PROVIDE MORE GOVERNMENT OR WILL ALASKANS RETAIN IT AND IN TURN PROVIDE BENEFITS TO THE ALASKAN ECONOMY THROUGH THE MARKET PLACE.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON THIS BILL TODAY.
I LOOK FORWARD TO THIS COMMITTEES ACTION.

# # # # #

Imitation Controlled Substances

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 10, (see pages 28 and 134). The major change in the bill is elimination of lengthy section on forfeitures. Instead provides that property used during or in aid of a violation of laws regulating imitation controlled substances may be forfeited to the state to the extent permitted under laws regulating controlled substances (AS 17.30--see AS 17.30.110, Forfeitures).

The Sponsor Substitute would add "Imitation Controlled Substances Act" to Title 11 (Criminal Law) rather than to Title 17 (Food and Drugs).

Replaces the term "distribute" with "deliver" throughout the bill (e.g. "Delivery of an Imitation Controlled Substance to a Minor"). Definition reads "the actual, constructive, or attempted transfer from one person to another of an imitation controlled substance, whether or not there is an agency relationship."

Adds the following to the list of illegal imitation drugs contained in original bill: lidocaine; procaine; tetracaine; dyclonine; acetaminophen; salicylamide; doxylamine; diphenhydramine; pheniramine; chlorpheniramine; pyrilamine. Would also make possession or delivery of a salt of an imitation controlled substance illegal.

Introduced February 11 and referred to Judiciary and Finance.

Motor Fuel Tax (repeal of)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 40, (see page 40), by Hayes, Martin, Lindauer, Tischer and Barnes. Would only repeal the state motor fuel tax (AS 43.40), retroactive to January 1, 1983, and applying to tax years beginning after December 31, 1982. Directs the Dept. of Revenue to adopt regulations providing for refunds of motor fuel taxes collected after December 31, 1982. Effective immediately. Original HB 40 also repealed the Permanent Fund Dividend Program and the $100 tax credit for campaign contributions--see p. 40.

Introduced February 11 and referred to Transportation and Finance.

Permanent Fund Dividend Prog. (repeal of)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 85, (see page 55), by Szymanski. Adds new section to original version of bill amending the law relating to the disposition of income of the Alaska Permanent Fund. Provides that annually an amount sufficient to offset inflation on the principal of the Permanent Fund shall be transferred from net income to the principal of the Fund for reinvestment (deletes language that now excludes income on the Undistributed Income Account). Provides the balance of the net income shall be transferred to the Undistributed Income Account "and then shall be returned to the principal of the Alaska permanent fund to be treated as principal of the permanent fund in all respects." (The law currently provides: "The balance of the net income. . .shall be transferred to the undistributed income account in the Alaska permanent fund. Money in the undistributed income account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the undistributed income account shall be treated as an addition to that account."

HB 39, (cont'd)

counseling, adoption assistance, maternity home and foster home care, postnatal care and parenting skills. Would require persons providing services to be licensed if required by the Department. Provides Act takes effect immediately.

Introduced January 17 and referred to Health, Education and Social Services, then to Finance.

Revenue & Tax Laws (repeal of certain)

HOUSE BILL NO. 40, by Hayes, Martin, Lindauer and Tischer. Would repeal certain state revenue and taxation laws: AS 43.20.013(a) (Alaska Net Income Tax Act. Individual Tax Credits.--allows a $100 tax credit for campaign contributions); AS 43.23 (Permanent Fund Dividends.--would repeal the Permanent Fund Dividend program); AS 43.31 (Alaska Estate Tax); AS 43.40 (Motor Fuel Tax). Amends certain statutory references to the Permanent Fund Dividend program and the estate tax. Amends section of law relating to the choosing of a jury that allows use of the list of person who filed for a Permanent Fund dividend, deleting reference to the Permanent Fund. Provides Act is retroactive to January 1, 1983 and applies to tax years beginning after December 31, 1982. Provides Act takes effect immediately.

Introduced January 17 and referred to State Affairs, then to Finance.

Municipal Roads (state aid)

HOUSE BILL NO. 41, by Lacher, Larson, Phillips, Szymanski and Tischer. Would increase the amount of state aid to municipalities for road maintenance from $2,500 a mile to $3,500 a mile for each mile of road, street or highway maintained by the municipality (amends AS 29.89.020(a) to so reflect). Also would amend a new Municipal Code when enacted by the Thirteenth Legislature (see SB 1, page 1). Provides Act takes effect July 1, 1983, and provides payments of state aid shall start during the fiscal year beginning July 1, 1983.

Introduced January 17 and referred to Community & Regional Affairs, Transportation, then to Finance.

Population Determination (state aid)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 42, by Lacher and Larson. Relates to the determination of population for purposes of calculating amounts of state aid. Adds new language to AS 29.88.015 (Municipal Tax Resource Equalization. Determination of Population) and AS 29.89.060 (State Aid for Miscellaneous Municipal Purposes. Population Determination) to provide that the population does not include an individual who is employed in the taxing unit or area for which the determination is made but whose primary place of residence is outside the area, regardless of the amount of time that individual spends in the taxing unit. The bill would amend the exisiting Municipal Code (AS 29), as well as a new Municipal Code (see SB 1, page 1) when enacted by the Thirteenth Legislature. Provides Act takes effect July 1, 1983.

Big State Equipment Company

P.O. Box 1540 • Fairbanks, Alaska 99707
Phone (907) 456-6367

FEB 22 1983

February 10, 1983

To All Legislators
Pouch V
Juneau, Alaska 99803

Representative Cato

Dear Legislator:

We are a Tesoro distributor in Fairbanks and we are quite concerned about the present statues, regulations, and various forms that are involved with motor fuel tax.

We simply feel that present laws and regulations are out of line. What has been created here is a mountain of paper work that is quite simply "uncalled for".

We understand that there is a house bill (40) that would eliminate this tax all together. We would like to see this passed and that the present law not be implemeted until the 1985 legistators review it.

Thank you for your consideration in this matter.

Yours truly,

Joe Gilbertson 1/85

H.L. (Joe) Gilbertson

General Fund Unrestricted Revenues

In Thousands of Current Dollars

	FY 1982 Actual January	FY 1983 Estimate January	FY 1984 Estimate January	FY 1985 Estimate January
Taxes				
Income				
Corporate-General	34,800	-0-	-0-	-0-
Corporate-Petroleum	668,900	-0-	-0-	-0-
Corporate (1)	-0-	235,000	272,000	295,000
Gross Receipts				
Alaska Business License	5,500	5,800	6,000	6,300
Fish-Canned Salmon	8,600	5,000	5,000	5,000
Fish-Shorebased	8,700	9,000	9,000	9,000
Fish-Floating	5,500	5,500	5,500	5,500
Seafood Marketing (2)	-0-	1,000	1,000	1,000
Salmon Enhancement	2,400	2,400	2,400	2,400
Insurance Companies	12,500	14,500	17,000	20,000
Electric and Telephone Co-ops	1,200	1,300	1,300	1,300
Mining License Tax	200	200	200	300
Severance				
Oil & Gas Production(3)(4)	1,581,100	1,528,800	1,197,300	1,219,700
Oil & Gas Conservation	600	800	700	700
Property				
Oil & Gas(5)(6)	142,700	148,600	153,200	158,000
Sale/Use				
Alcoholic Beverages	9,000	12,000	12,500	13,000
Fuel Taxes-Aviation	6,300	5,100	5,400	5,500
Fuel Taxes-Highway	20,300	21,000	22,000	23,000
Fuel Taxes-Marine	3,700	3,800	4,000	4,200
Tobacco Products	1,900	2,000	2,000	2,000
Other				
Estate	300	500	500	500
Total Taxes	2,514,200	2,002,300	1,717,000	1,772,400
Licenses & Permits				
Business	10,800	11,000	12,000	12,500
Non-Business	13,000	13,000	13,500	14,000
Total Licenses & Permits	23,800	24,000	25,500	26,500
Intergovernmental Receipts				
Federal Shared Revenues(7)(8)(9)	21,700	26,600	10,000	10,000
State Resource Revenue				
Sale/Use				
Bonus Sales(7)(10)(11)	5,000	26,100	-0-	-0-
Investment Earnings(12)	324,700	300,000	100,000	100,000
Rents(7)(10)(11)	3,500	4,000	4,000	4,000
Royalties(4)(7)(13)	1,157,300	1,119,400	883,500	912,000
Sale of State Property	5,200	5,500	5,500	5,500
Gravel, Timber, etc.(14)	1,200	5,500	2,000	2,000

Sales/Use Taxes

FUEL

Tax is levied on aviation fuel, highway fuel, and marine fuel at the following rates. (AS 43.40)

Aviation fuel: 4¢ per gallon on aviation gas and 2 1/2¢ per gallon on aviation jet fuel.

Highway fuel: Gasoline and diesel fuel is taxed at the rate of 8¢ per gallon. "Off-highway" users may claim a refund of 6¢ per gallon on motor fuel within one year of purchase if the 8¢ tax was paid.

Marine fuel: Rate is 5¢ per gallon for fuel used in engines for the propulsion of boats and watercraft.

Due Date	Allocation
By last day of month for prior month	General Fund

(Administered by the Department of Revenue.)

ALCOHOLIC BEVERAGE

Tax rates are based on alcoholic content: Malt beverages (1% or more alcohol) $0.25 per gallon; wine (21% or less alcohol) $0.60 per gallon; hard liquor (more than 21% alcohol) $4.00 per gallon. (AS 43.60)

Due Date	Allocation
By last day of month for prior month	General Fund

(Administered by the Department of Revenue.)

CIGARETTE

A tax of 4 mills is levied on each cigarette imported or acquired in the state. Additional license fees follow. (AS 43.50)

Manufacturers	$5
Vending Machine Operator	$25
Direct-Buying Retailer	$25
Buyer	$25
Distributor	$50

HB

41

HB 41

STATUS/SCOPE OF LEGISLATION

ISSUE: Relating to State aid to municipalities for roads

SPONSORS: Lacher, Larson, Phillips, Szymanski, and Tischer

CURRENT STATUS: Transportation (C & RA); Finance

FISCAL IMPACT: $3,185.8

REPRESENTATIVE	A. Comm. Vote	B. Statutory/Tech.	C. Supp.-Memo	D. Opp.-Memo	E. Vote
ABOOD					
ADAMS					
BARNES					
BETTISWORTH					
BUSSEL					
CATO					
CLOCKSIN	no recom.				
COWDERY					
DAVIS					
DUNCAN					
FLOOD					
FRITZ	no recom.				
FULLER					
FURNACE					
GOLL					
GROSSENDORF					
HAYES					
HERRMAN					
HURLBERT					
KOPONEN					
LACHER	do pass		X		
LARSON					
LINDAUER					
LISKA					
MALONE					
MARTIN					
MCBRIDE					
MILLER					
MILLER(NP)					
PESTINGER					
PHILLIPS	do pass				
RINGSTAD					
SHULTZ					
SZYMANSKI	do pass				
TISCHER	do pass				
UEHLING					
VASKA					
WARD					
WENDTE					
ZHAROFF					

Assume Rep. Locke will be testifying on HB 41

– from Staff didn't have me contact anyone else

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Tuesday, March 22, 1983

HB 41: Relating to state aid to municipalities for roads; and providing for an effective date.

BY- Lacher, Larson, Phillips, Szymanski and Tischer

Would increase the amount of state aid to municipalities for road maintenance from $2,500 a mile to $3,500 a mile for each mile of road, street or highway maintained by the municipality (amends AS 29.89.020 (a) to so reflect). Also would amend a new Municipal Code when enacted by the Thirteenth Legislature. Provides Act takes effect July 1, 1983, and provides payments of state aid shall start during the fiscal year beginning July 1, 1983.

Referred back to the House on February 8, 1983 by Community & Regional Affairs with the majority of the committee recommending it do pass. Not concurring: Fritz and Clocksin signed "no recommendation".
(Do Pass: Lacher, Fischer, Szymanski, Phillips)

Material in Folder
HB 41
Memo to C&RA Committee
Memo from Rep. Lacher - Position Paper
Memo re: Road Maintenance Costs from House Research
Memo from
re AK Municipal League
Statutes
Fiscal Note

(9)

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/8/83

Date: 3/22/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 41

Relating to state aid to municipalities for roads; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Peter Cate
CHAIRMAN

H 60

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: House C & RA Committee Members

FROM: Staff

SUBJECT: House Bill 41

AS 29.89.020 provides $2,500 per road mile to municipalities that maintain roads excluding the official state highway system (state maintained) and roads maintained under the local service roads and trails program.

The amount of $2,500 per road mile of maintainance was established by the Legislature in 1980. There has been no increase in the amount authorized in recognition of inflation in the cost of maintaining roads.

According to figures provided by the Department of Transportation and Public Facilities, they requested an average of $9,300 per mile for maintenance of state roads in FY 83.

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Position Paper

Re: HB 41

Sponsor: Representative Lacher

Programs Effects

This Bill would increase the per mile amount distributed for road maintenance under the Municipal Revenue Sharing program. It would raise it from $2500 per mile to $3500 per mile.

Comments

The Department supports the intent of this bill to increase aid to communities. The Department would suggest an increase to the appropriation to the Municipal Revenue Sharing Fund if this bill were passed. For the current year Chapter 89 Revenue Sharing funds are prorated at 81% of the total each community is eligible for; if this bill were in place that proration factor would be approximately 75%. That would mean that Municipal Revenue sharing for other areas (Health Care, Volunteer Fire Departments, and Unincorporated Communities.) would be reduced to pay for increased assistance for roads if the appropriation were not increased.

Additionally, increasing the amount per mile of road could weight the formula disproportionately in favor of Municipalities located on the road system.

The bill should also be reviewed in light of other proposed changes in the Municipal Revenue Sharing program and projected funding over the next few years.

:1-P1LH

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 31, 1983

MEMORANDUM

TO: Representative Barbara Lacher
Attention: Bob Harris

FROM: Christine Johnson and Jonathan Sherwood
Research Staff

RE: Road Maintenance Costs
Research Requests 83-33

Bob Harris of your staff has requested the following information for hearings scheduled on HB 41. This bill would increase the amount municipalities receive from the State for road maintenance from $2,500 to $3,500 per road mile.

(1) How would HB 41 affect the amount of money received for road maintenance in each election district?

(2) How much did the State Department of Transportation and Public Facilities receive for road maintenance in FY 83?

(3) What is the average cost of maintenance per road mile on roads maintained by the State?

Increase in Revenues by Election District

Table 1 on the following page shows the amount of money which would be received in each House district in FY 84 at $2,500 per mile and at $3,500 per mile. As the table indicates, municipalities would receive approximately $11.1 million for road maintenance in FY 84 under HB 41. This compares to $7.9 million which they could receive under the current program in FY 84, given full funding. The amounts shown on the table include a cost-of-living adjustment computed by the Department of Administration. State law (AS 29.89.070) currently requires that payments to municipalities under this program reflect area cost-of-living differentials.

Please note that where a municipality encompasses more than one House district we have combined those districts.

State Expenditures for Road Maintenance

According to Paul Harris, with the Department of Transportation and Public Facilities Maintenance and Operation Division in Anchorage,

the approximate cost of State road maintenance can be obtained by adding the FY 83 appropriation for each region in the Maintenance and Operation Budget Request Unit of DOT/PF's budget (see FY 84 Executive Budget, page 481). The total for all regions, including the Dalton Highway is about $56 million. According to Mr. Harris, the State is responsible for maintaining approximately 6,000 road miles. Based on this estimate, the average cost per road mile of maintaining State roads is $9,300.

If you would like any additional information on this topic, please don't hesitate to contact us.

CJ:JS

TABLE I
Amount Which Would Be Received in Each Election District
for Road Maintenance in FY 84
at $2,500 Per Mile and $3,500 Per Mile
(Cost-of-Living Adjustment Included)

Election District		Miles of Road	$2,500 Per Mile	$3,500 Per Mile	Difference in Revenues
1	Ketchikan-Wrangell-Petersburg	39.28	$ 99,795	$ 139,712	$ 39,917
2	Inside Passage-Cordova	53.85	143,671	201,134	57,463
3	Baranof-Chichagof	23.46	61,346	85,884	24,538
4	Juneau	59.44	148,600	208,040	59,440
5 & 6	Kenai Peninsula	590.35	1,596,029	2,234,436	638,407
7-15	Anchorage	590.91	1,477,275	2,068,185	590,910
16	Matanuska-Susitna	766.99	1,989,382	2,785,133	795,751
17	Interior Highways	32.81	104,637	146,488	41,851
18-21	Fairbanks Area	223.75	648,150	907,406	259,256
22	North Slope-Kotzebue	87.75	305,549	427,765	122,216
23	Norton Sound	52.47	180,806	253,125	72,319
24	Interior Rivers	152.24	526,712	737,396	210,684
25	Lower Kuskokwim	17.97	60,315	84,438	24,123
26	Bristol Bay-Aleutian Islands	147.46	477,002	667,798	190,796
27	Kodiak-East Alaska Peninsula	44.62	120,074	168,102	48,028
	TOTAL ALL HOUSE DISTRICTS	2883.35	$7,939,343	$11,115,042	$3,175,699

Source: House Research Agency, 1/83.

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

February 1, 1983

to: House CRA Committee

from: Ginny Chitwood

re: HB 41 - State Aid to Municipalities for Roads

The Alaska Municipal League supports the adoption of HB 41, increasing state aid to municipalities for roads from $2,500 a mile to $3,500 a mile if the revenue sharing appropriation is increased to cover the increased entitlement. If the total appropriation is not increased, then municipalities will receive decreased funding in the other revenue sharing categories to make up for the road increases.

It has been three years since the allocation per mile has been increased. Needless to say, the cost of road maintenance has gone up considerably since then. At that time, it was estimated that the actual costs of maintaining a mile of road were between $4,000 and $8,000.

(2) to a Native village government under AS 29.89.050. (§ 3 ch 155 SLA 1980)

Sec. 29.89.020. State aid to municipalities for roads. (a) The department shall pay to a municipality which has power to provide for road maintenance and exercises that power, $2,500 a mile for each mile of road, street or highway maintained by the local government, excluding (1) the official state highway system, (2) roads, streets or highways not dedicated to public use, (3) roads, streets or highways maintained under the local service road program (AS 19.30.111 — 19.30.251), and (4) alleyways, in accordance with regulations adopted by the Department of Transportation and Public Facilities. A payment may not be made under this subsection for maintenance of a road which is not used by automotive equipment.

(b) A frozen waterway and a connection from an inhabited area to a waterway which may be safely used for public transportation by automotive equipment and is so used during a portion of a year is eligible for a payment of $1,500 per mile if the waterway and connection are maintained during the period of use by a municipality or combination of municipalities. The department, after consultation with the Department of Transportation and Public Facilities, shall determine which waterways and connections qualify and, where the waterways or connections lie outside the corporate limits of a municipality, which municipalities shall receive the payments under this subsection, unless the municipalities involved have agreed in writing to a particular distribution. (§ 3 ch 155 SLA 1980)

Sec. 29.89.030. State aid to municipalities and other eligible recipients for health facilities and hospitals. (a) The department shall pay

(1) to a municipality which has the power to provide hospital facilities and services and which exercises that power, $1,000 per bed for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the hospital, or $250,000 a hospital for those hospitals with 10 or more beds, or $50,000 a hospital for those hospitals with less than 10 beds, as the municipality may elect; money received under this paragraph may be used only for hospitals and shall be apportioned among qualifying hospitals as the municipality determines;

(2) on the basis set out in (1) of this subsection to a municipality for a nonprofit hospital not operated by a municipality if the municipality first certifies to the department that the nonprofit hospital is in compliance with all standards for hospitals which have been adopted by the municipality; money may not be paid on behalf of a nonprofit hospital without this certification; payments to the municipality shall be transferred to the nonprofit hospital in accordance with the basis by which the payment was generated by the hospital, and shall be applied to the

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 41
Title " State aid to municipalities for roads..."
Requested by Representative Lacher Date 1/31/83

II. FISCAL DETAIL
Agency Affected Community & Regional Affairs
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Local Government Assistance-Grants
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		$3,185.8	3,345.1	3,512.4		

FUNDING (Thousands of Dollars)

GENERAL FUND		3,185.8	3,345.1	3,512.4		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill would increase the amount Municipalities receive from State Aid (AS 29.89) for road maintainence.

The above projections are based on the currently approved 2883.35 road miles and incorporates the COLA for all the areas. They reflect the difference between the current $2500 per mile and the proposed $3500 per mile.

IV. DATE 1/31/83 PREPARED BY T. Farley
AGENCY Community & Regional Affairs
PHONE 465-4730

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Sana Efird

HB

55

Introduced: 2/4/83
Referred: Transportation and Finance

IN THE HOUSE BY MARTIN AND GRUSSENDORF

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.030, 43.40.035, ~~43.40.040~~, 43.40.050, 43.40.060, 43.40.070 and 43.40.080 are repealed.

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: Ap. 16

2/4/83

Mr. Speaker:

The Committee on GTRANSPORTATION has had SSHB 55

An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] ~~do pass~~ Moved to Finance with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

AMENDMENT

OFFERED IN THE HOUSE: BY: TRANSPORTATION

TO: CHIEF CLERK'S OFFICE HOUSE BILL No. SSHB 55

SENATE BILL No. _____

PAGE: 1 LINE: 28 & 29

Leave in AS 43.40.030(a)
Delete all other AS numbers

AMENDMENT

OFFERED IN THE HOUSE: BY: Transportation

To: Chief Clerk HOUSE BILL No. SSSB 55

SENATE BILL No. _____

PAGE: 1 LINE: 28 & 29

Delete lines 28 and 29

Insert: "Sec. 3. AS 43.40.030(a) is repealed.

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heating a private residence.

2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.

3. Require only an annual certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (K) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to $100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

Tax To Be Remitted	Commission
$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to $100)

dealers extra work and yet would not be costly to the state. There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1, would provide for the above recommendations; the changes could very well be incorporated into Senate Bill 117 (By the Rules Committee by Request of the Governor) which is "An Act making technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

AS 43.40.100 IS AMENDED TO INCLUDE:

(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises;

STATE HIGHWAY FUNDING METHODS

An Analysis and Update

Prepared by:

THE ROAD INFORMATION PROGRAM (TRIP)
1899 L Street N.W.
Washington, D.C. 20036
202/466-6706

SEPTEMBER 1982

The Road Information Program (TRIP) of Washington, D.C., researches, evaluates and distributes economic and technical data on transportation issues. TRIP is a non-profit agency sponsored by insurance companies, motor vehicle manufacturers, energy companies, highway contractors, construction equipment manufacturers and suppliers, and businesses involved in highway engineering, construction and financing.

STATE MOTOR-FUEL TAX RATES
(as of August 1, 1982)

NOTE: States with percentage or variable tax rates have been computed on a cents-per-gallon basis for this chart. The total gas tax paid column shows the actual cost to the user -- without attempt to indicate how much of the revenue raised by these taxes goes for highway uses.

STATE	CURRENT GAS TAX	SALES OR FRANCHISE TAX ON GAS	TOTAL GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
Alabama	11¢	--	11¢	1980 - from 7¢	12¢
Alaska	8¢	--	8¢	1961 - from 7¢	8¢
Arizona	10¢	--	10¢	7/1/82 from 8¢	10¢
Arkansas	9.5¢	--	9.5¢	1979 - from 8.5¢	10.5¢
California	7¢	6.2¢	13.2¢	1963 - from 6¢	7¢
Colorado	9¢	--	9¢	1981 - from 7¢	9¢
Connecticut	11¢	--	11¢	1976 - from 10¢	11¢
Delaware	11¢	--	11¢	1981 - from 9¢	11¢
District of Columbia	14¢	--	14¢	6/1/82 from 11¢	14¢
Florida	8¢	--	8¢	1971 - from 7¢	8¢
Georgia	7.5¢	3.6¢	11.1¢	1971 - from 6.5¢	7.5¢
Hawaii	8.5¢	5.2¢	13.7¢	1975 - from 5¢	8.5¢
Idaho	12.5¢	--	12.5¢	7/1/82 from 11.5¢	12.5¢
Illinois	7.5¢	6.1¢	13.6¢	1969 - from 6¢	7.5¢

STATE	CURRENT GAS TAX	SALES OR FRANCHISE TAX ON GAS	TOTAL GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
Indiana	11.1¢	5¢	16.1¢	1981 - from 8% + 4%	11.1¢
Iowa	13¢	--	13¢	1981 - from 10¢	13.5¢
Kansas	8¢	--	8¢	1976 - from 7¢	10¢
Kentucky	10¢	--	10¢	1980 - from 9¢	10¢
Louisiana	8¢	--	8¢	1969 - from 7¢	8¢
Maine	9¢	--	9¢	1971 - from 8¢	9¢
Maryland	11¢	--	11¢	6/1/82 from 9¢	11¢
Massachusetts	10.8¢	--	10.8¢	1980 - from 8.5¢	10.8¢
Michigan	11¢	4.8¢	15.8¢	1978 - from 9¢	11¢
Minnesota	13¢	--	13¢	1981 - from 11¢	13¢
Mississippi	9¢	6.2¢	15.2¢	1973 - from 8¢	10¢
Missouri	7¢	--	7¢	1972 - from 5¢	7¢
Montana	9¢	--	9¢	1979 - from 8¢	11¢
Nebraska	13.7¢	--	13.7¢	1980 - from 10.5¢	13.7¢
Nevada	9¢	--	9¢	1981 - from 6.5¢	9¢
New Hampshire	14¢	--	14¢	1981 - from 11¢	14¢
New Jersey	8¢	--	8¢	1972 - from 7¢	8¢
New Mexico	10¢	--	10¢	1981 - from 8¢	10¢

STATE	CURRENT GAS TAX	FRANCHISE TAX ON GAS	GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
New York	8¢	4.8¢	12.8¢	1972 - from 7¢	10¢
North Carolina	12.25¢	--	12.25¢	1981 - from 9.25¢	12.25¢
North Dakota	8¢		8¢	1977 - from 7¢	8¢
Ohio	11.7¢	--	11.7¢	1981 - from 7¢	11.7¢
Oklahoma	6.58¢	--	6.58¢	1949 - from 5.5¢	6.5¢
Oregon	8¢	--	8¢	1/1/82 from 7¢	8¢
Pennsylvania	11¢	3.7¢	14.7¢	1979 - from 9¢	11¢
Rhode Island	12¢	1.2¢	13.2¢	1981 - from 10¢	12¢
South Carolina	13¢	--	13¢	1981 - from 11¢	13¢
South Dakota	13¢	--	13¢	1981 - from 12¢	13¢
Tennessee	9¢	--	9¢	1981 - from 7¢	12¢
Texas	5¢	--	5¢	1955 - from 4¢	6.5¢
Utah	11¢	--	11¢	1981 - from 9¢	11¢
Vermont	11¢	--	11¢	1981 - from 9¢	14¢
Virginia	11¢	3.6¢	14.6¢	1980 - from 9¢	13¢
Washington	12¢	--	12¢	1981 - from 12¢	12¢
West Virginia	10.5¢	--	10.5¢	1978 - from 8.5¢	10.5¢
Wisconsin	13¢	--	13¢	1981 - from 9¢	13¢
Wyoming	8¢	--	8¢	1976 - from 7¢	0

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 998[illegible]
PHONE: (907) 465-2300

March 4, 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: Motor Fuel Special Tax Accounts -
Your Request of Mr. Robert Kessel

Dear Representative Cato:

You requested certain information from Mr. Kessel during the March 2, 1983 hearing relating to various motor fuel bills. The information has been somewhat difficult to compile but I hope what I present herein is adequate. If not, please feel free to call me and we will make additional efforts.

Our qualified conclusion is that even though specific accounts are provided for in the motor fuel statutes (AS 43.40.010), the legislature does not, in fact, correlate appropriations to the amount in the accounts. In other words, appropriations for water and harbor facilities, maintenance of highways, etc. are not limited to the amounts accumulated in the special accounts. As will be demonstrated, monies appropriated come partly from the special accounts and partly from other General Fund monies.

Our contacts during this mini-project have been the Finance Section of the Department of Administration and the Finance Section of the Department of Transportation.

REVENUES - FUEL TAX ACCOUNTS

Gross receipts deposited as unrestricted revenues in the General Fund, and designated as unreserved special accounts in the General Fund (thousands of dollars) are as follows:

	Actual FY 81	Actual FY 82	Estimated FY 83	Three Year Total
Fuel Taxes - Aviation	$ 4,100	$ 6,300	$ 5,100	$15,500
Fuel Taxes - Highway	15,600	20,300	21,000	56.900
Fuel Taxes - Marine	3,600	3,700	3,800	11,100

04-D2LH

APPROPRIATIONS - FUEL TAX ACCOUNTS

Included within the General Fund appropriations for the operating and capital expenses of the state government were the following amounts from the above unreserved special accounts (thousands of dollars):

	Actual FY 81	Actual FY 82	Actual FY 83	Three Yr Total
Aviation Fuel Tax Acct.	$ 3,700	$ 4,300	$ 4,500	$13,500
Highway Fuel Tax Acct.	19,000	20,200	18,500	57,700
Watercraft Fuel Tax Acct.	3,200	3,300	3,800	10,300

The amounts shown for the highway fuel tax and the aviation fuel tax accounts were included in the appropriations from the General Fund for the Operating Budget. The amounts shown for the watercraft fuel tax account were included in the appropriations from the General Fund for the capital budget for water and harbor facilities. The original capital budget for FY 1983 for ports and harbors appropriated from the General Fund was $4,707,000. Included in this is the $3,300,000 from the watercraft fuel tax account.

EXPENDITURES FROM FUEL TAX ACCOUNTS

The General Fund summary of expenditures and encumbrances compared with appropriations for the operating programs of the Department of Tranportation and Public Facilities supports the previous statement made in this memo regarding lack of correlation. Example: The line item amount for Highway Design & Construction expenditures and encumbrances for FY 1982 was $39,577,000. Included in this would be the $20,200,000 appropriated from the highway fuel tax account in the General Fund. The balance of this line item expenditure apparently came from other General Fund monies.

The General Fund summary of expenditures and encumbrances compared with appropriations for the capital outlay projects of the Department of Transportation & Public Facilities further supports our statement. Example: The total expenditures for capital outlay projects for the Department of Transportation & Public Facilities for FY 1982 was $46,742,000. Included in this was the $3,300,000 appropriated from the watercraft fuel tax account. The balance of the expenditure came from other General Fund monies.

CONCLUSION

It would require many hours of work to match the actual expenditures for highway, airport, and port & harbor facilities against the appropriations from the unreserved highway, aviation and watercraft fuel tax accounts in the General Fund. Since these funds are not restricted in the General Fund or

set aside in a Special Revenue Fund, they are always included in the general appropriations made from the General Fund for airports, highways, and port & harbors operating and capital budgets.

QUALIFICATION

Please bear in mind that the above is from the limited perspective of this Department. If the Committee has more specific questions pertaining to federal matching funds, the Department of Revenue would defer to the Department of Transportation, or the Office of Management and Budget for a more comprehensive explanation of the funding formulas.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH/RRK/gb

AS 43.40.100 IS AMENDED TO INCLUDE:

(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises;

Rec HB 55

HOUSE BILL NO. 55 by Martin and Grussendorf, entitled:

"An Act decreasing the motor fuel tax to offset tax increase by federal government; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

HB 55 – Revenue

Who would Revenue like to send over to testify for hearings, testimony?

Need names of people to contact if bill should be pulled at last minute for hearing

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SS HB 55 Date on Bill: 2/4/83
Title: "An Act decreasing the motor fuel tax."
Sponsor: Martin, Grussendorf
Requestor: Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue			(2.0 mil.)	(7.0 mil.)	(10.0 mil.)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues. Only AS 43.40.030(a) needs to be repealed.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Pelifeld, Spec. Asst. Phone: 465-2300
Division: Com. Office Date: 2/22/83

Approved by Commissioner: Patt O'Keefe Date: 2/22/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

BILL COMPARISON

SSHB 40 Hayes, Martin, Kubley, Fischer, Barnes	SSHB 55 Martin/Grussendorf	HB 150 Zharoff + Grussendorf
An Act repealing the motor fuel tax (AS 43.40); and providing for an effective date.	An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date	An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date.
Would only repeal the state motor fuel tax (AS 43.40), retroactive to January 1, 1983, and applying to tax years beginning after December 31, 1982 Directs the Dept. of Revenue to adopt regulations providing for refunds of motor fuel taxes collected after December 31, 1982. Effective immediately.	Lowers motor fuel tax to 3¢ per gallon, and repeals motor fuel tax refund provisions contained in the following statutes: --AS 43.40.030 "Refund for Nonhighway Use," allows six-cent-per-gallon refund on any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country. --AS 43.40.035 "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax. --AS 43.40.050 "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue. --AS 43.40.060 "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim -continued-	Would repeal the 5¢ per gallon tax on motor fuel tax used in or on watercraft.

SSHB 40	SSHB 55	HB 150
	--AS43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim. --AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine validity of a claim for refund. Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.) Fiscal Note Info.: The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues - FY 83 - 2.0 mill. FY 84 - 17.0 mill. FY 85 - 10.0 mill. Only AS 43.40.030(a) needs to be repealed	Fiscal Note Info.: Shows a loss of revenues in the General Fund as follows: FY 83 - 0 FY 84 - 3.2 mill. FY 85 - 4.2 mill.

INSTRUCTIONS FOR THE CLAIM FOR REFUND OF MOTOR FUEL TAX BY A RESELLER

GENERAL INFORMATION

The Claim for Refund of Motor Fuel Tax must be filed with the Department of Revenue or with your supplier (if an election has been properly made in accordance with AS 43.40.035 (b)) within one year from the date you sold or transferred the fuel as indicated on the invoice you issued. The claim must be supported by copies of the orignial invoices you issued to the purchaser of the fuel along with copies of the certificate of use you obtained from the purchaser.

1. Complete Form 04-536, Supporting Schedule for all exempt sales except sales of fuel for heating purposes. A list of all heating fuel accounts, except residential accounts, must be submitted with this claim for refund.

2. Complete Form 04-535, Claim for Refund of Motor Fuel Tax by a Reseller.

   a. Line 1 thru 11 - Enter the gallonage sold by fuel type and distribution item from the Supporting Schedule(s).

   b. Line 12 - Add lines 1 thru 11.

   c. Line 13 - Enter the total number of gasoline gallons upon which you paid tax at 8¢ per gallon and sold for use in or on watercraft.

   d. Line 14 - Enter the total number of diesel gallons upon which you paid tax at 8¢ per gallon and sold for use in or on watercraft.

   e. Summary of Amount Claimed:

      Line A. - Enter the gallonage from Line 12, column (a) and enter the refund claimed at 4¢ per gallon.

      Line B. - Enter the gallonage from Line 12, column (b) and enter the refund claimed at 2 1/2¢ per gallon.

      Line C. - Enter the gallonage from Line 12, column (c) and enter the refund claimed at 8¢ per gallon.

      Line D. - Enter the gallonage from Line 12, column (d) and enter the refund claimed at 8¢ per gallon.

      Line E. - Enter the gallonage from Line 12, column (e) and enter the refund claimed at 5¢ per gallon.

      Line F. - Enter the gallonage from Line 12, column (f) and enter the refund claimed at 7¢ per gallon.

      Line G. - Enter the gallonage from Line 13 and enter the refund claimed at 3¢ per gallon.

      Line H. - Enter the gallonage from Line 14 and enter the refund claimed at 3¢ per gallon.

      Line I. - Enter the total number of gallons on Lines A thru H.

      Line J. - Enter the total of refund amounts on Lines A thru H.

   f. Signature - The claim must be signed by an officer or agent of the company. Failure to sign the claim will result in a denial of the refund.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Alaska Department of Revenue
Audit Division Excise Tax
Pouch SA
Juneau, Alaska 99811

CERTIFICATE OF USE FOR EACH SALE

No.:_____

Covering Purchases of Fuel Not Intended to be Used as Motor Fuel
AS 43.40.010

NAME OF SELLER	DATE OF SALE	NAME OF PURCHASER
MAILING ADDRESS	INVOICE NO	MAILING ADDRESS
CITY, STATE, ZIP CODE	NO. OF GALLONS	CITY, STATE, ZIP CODE

TYPE OF FUEL: ☐ Aviation Gasoline ☐ Highway Gasoline ☐ Marine Gasoline
☐ Aviation Jet Fuel ☐ Highway Diesel ☐ Marine Diesel

My purchase of fuel is not subject to the Alaska Motor Fuel Tax because it is a: (check appropriate box)

☐ 1. Sale to a public utility plant or a non-profit power association.
☐ 2. Sale of jet fuel for use in a direct flight to a foreign country.
☐ 3. Sale of jet fuel to a common storage tank for use in a direct flight to a foreign country.
☐ 4. Sale of blended jet fuel.
☐ 5. Sale of fuel to a charitable institution.
☐ 6. Sale of fuel consigned to a foreign country.
☐ 7. Sale of fuel which is at least 10% alcohol by volume.
☐ 8. Sale of fuel for other exempt purpose as approved by the department.

The undersigned understands that the fraudulent use of this certificate will subject the undersigned and all guilty parties, upon conviction, to a fine not to exceed $25,000 or by imprisonment for not more than three years, or by both. The undersigned also understands that he must be prepared, upon request, to supply satisfactory evidence establishing the purpose for which the fuel was used.

I declare under penalty of perjury that I have examined this certificate and to the best of my knowledge and belief it is a true, correct and complete statement showing the manner in which the fuel will be used. I also certify that this fuel has not been delivered to a common storage tank servicing both taxable and non-taxable uses except bulk purchases of jet fuel by a person who exclusively flies directly from Alaska to a foreign country.

SIGNATURE OF PURCHASER OR REPRESENTATIVE

DO NOT SEND THIS FORM TO THE DEPARTMENT OF REVENUE UNLESS YOU ARE A RESELLER CLAIMING A REFUND.

04-5308 (1/03)

ALASKA DEPARTMENT OF REVENUE

INSTRUCTIONS FOR THE MONTHLY MOTOR FUEL TAX RETURN

1. Complete Form 04-541, Motor Fuel Tax Return, lines 1-4

   a. Enter the total gallons of all taxable and non-taxable fuel sold or transferred during the month.

   b. Line 2 - Enter the total gallons of fuel you used during the month.

   c. Line 3 - Enter the total gallons of fuel exported out of Alaska, actual losses and use-conversion sales made during the month and any other distributions of fuel not entered on Line 1 or Line 2. NOTE: Use-conversion sales should be shown as a reduction in total highway gasoline or diesel and an increase in total marine gasoline or diesel sales. Example: The ABC Company purchased 1,000 gallons of highway gasoline and paid 8¢ per gallon tax in January and sold the fuel for use in or on watercraft. On its return for the month of February, the ABC Company will reduce its total highway gasoline sold by 1,000 gallons and increase its total sales of marine gasoline by 1,000 gallons. This will give the ABC Company the three cent per gallon difference in the tax rate paid. The Supporting Schedule, Form 04-543, must be attached to substantiate all use-conversion sales.

   d. Line 4 - Add Lines 1 thru 3.

2. Complete Form 04-543, Motor Fuel Tax Return, lines 5 - 24.

   a. Line 5-18 - Enter all exempt distributions and losses from the Supporting Schedule, Form 04-543. NOTE: Do not enter any use-conversion sales here.

   b. Line 19 - Add lines 5 thru 18.

   c. Line 20 - Subtract line 19 from line 4.

   d. Line 21 - Multiply line 20, column (a) by 4¢.

   e. Line 22 - Multiply line 20, column (b) by 2 1/2¢.

   f. Line 23 - Multiply line 20, column (c) and (d) by 8¢.

   g. Line 24 - Multiply line 20, column (e) and (f) by 5¢.

   h. Total Tax - Add lines 21 thru 24.

   i. Penalty - If you do not file your return or pay the tax by the last day of the month following the month the fuel was sold or transferred, penalty is imposed at the rate of 5% per month or fraction of month.

   j. Interest - Any delinquent payment is subject to interest at 12% per Annum.

   k. Total Amount - Add the total tax, penalty and interest. This is the amount due with the return.

1764

STATE OF ALASKA
DEPARTMENT OF REVENUE
STATE OFFICE BUILDING
Pouch SA
JUNEAU, ALASKA 99811

SEND ORIGINAL AND DUPLICATE TO DEPT. OF REVENUE

CLAIM FOR REFUND OF MOTOR FUEL TAX

Name of Applicant _____ Date _____ 19____

Address _____ (STREET NO. OR P.O. BOX) (CITY) (STATE) (ZIP CODE)

Business or Occupation _____ Permit No. _____

Business Location _____ (CITY) (STATE)

	APPLICANT'S	DEPARTMENT'S
A. SUMMARY OF GALLONS PURCHASED AND USED		
1. **Total gallons purchased from** _____ 19 _____ to _____ 19 _____ per schedule B attached.		
2. Deduct gallons used in licensed vehicles on which no refund may be claimed		
3. Net gallons used upon which refund is claimed, per schedule A on back		
B. SUMMARY OF AMOUNTS CLAIMED FOR REFUND		
1. _____ Gas gallons claimed @ _____ ¢ per gallon	$	$
2. _____ Gas gallons claimed @ _____ ¢ per gallon	$	$
3. _____ Gas gallons claimed @ _____ ¢ per gallon	$	$
4. _____ Diesel gallons claimed @ _____ ¢ per gallon	$	$
5. _____ Diesel gallons claimed @ _____ ¢ per gallon	$	$
6. _____ Diesel gallons claimed @ _____ ¢ per gallon	$	$
7. _____ Total gallons (must agree with line A3 above)		$
8. Total amount claimed	$	
Adjustments		$
Net amount of refund		$

Claim Paid ____/____/____ Voucher Number _____ Amount _____

NOTE: SCHEDULE A ON REVERSE SIDE MUST BE COMPLETED.

I affirm, under penalties of perjury, that I have full knowledge of the claim hereby presented, that the fuel was purchased on the dates and in the amounts shown on each invoice, that the fuel was used in the manner set forth and that none of the fuel on which a tax refund is claimed was used for operating or propelling an internal combustion engine in, or in conjunction with, a motor vehicle licensed to be operated on public ways and that no part of the tax refund herein claimed has heretofore been paid.

SIGNATURE _____ DATE _____, 19___
(DO NOT PRINT)

TITLE _____

FOR DEPARTMENT USE ONLY

	AUDITED BY
	APPROVED
	REJECTED
PMD:	

Form 08-544 (Rev. 11/79)

SCHEDULE A. STATEMENT OF MOTOR FUEL USE UPON WHICH REFUND IS CLAIMED

STATEMENT OF USE (Use additional sheets if necessary)

Total Gallons Used (To line A3 on front)				

GENERAL INSTRUCTIONS

1. First complete Form 04-545, Schedule B - Invoice Listing Sheet.

   a. Original invoices only will be accepted.

   b. Invoices must show: (1) Name and address of distributor, (2) Name and address of the purchaser, (3) Type of motor fuel purchased, (4) Quantity of motor fuel purchased, (5) Unit price, (6) Total price, & (7) Signatures of both seller and purchaser or their agents.

   c. Invoices that have been changed, erased or altered in any manner will not be accepted.

   d. Invoices that have been made out to cash will not be accepted.

2. A person who used motor fuel to operate an internal combustion engine is entitled to a return of six cents a gallon if:

   a. The tax on the motor fuel has been paid,

   b. The motor fuel is not aviation fuel or motor fuel used in or on watercraft, and

   c. The internal combustion engine is not used in, or in connection with, a motor vehicle licensed to be operated on public ways.

   If the incorrect tax rate has been paid on fuel used in or on watercraft or in aircraft, a refund may be applied for.

   Motor fuel tax paid on fuel used in a manner not specified as being taxable by Alaska Statute is refundable, i.e., heating fuel.

   Use of fuel must be summarized in Schedule A above.

3. In accordance with law, claims must be filed within one year of the date of purchase.

4. A permit to file claim for refund of motor fuel tax must be obtained before or at the time of filing such claim. All permits expire June 30th following the date of issuance.

   REMEMBER A fraudulent claim is a misdemeanor punishable by a fine not to exceed $500.00. The Commissioner may also cancel the refund permit of the offender for a period of one year.

ALASKA DEPARTMENT OF REVENUE

INSTRUCTIONS FOR THE MONTHLY MOTOR FUEL TAX RETURN

SUPPORTING SCHEDULE

1. Check the applicable type of exemption or use. Do not combine two or more types of exempt sales on the same schedule. A separate schedule must be completed for each type of exempt sale.

2. Name of Purchaser - Enter the name of the agency, company, organization or person who purchased the fuel.

3. Type of Fuel - Indicate the type of fuel sold, e.g., highway gasoline, marine diesel.

4. Number of Gallons - Enter the number of gallons sold.

Supporting Schedule
Claim for Refund of Motor Fuel Tax

DEPARTMENT OF REVENUE-JUNEAU, ALASKA

NAME _____ DATE _____ 19

CHECK ONE:

_____ Federal Gov't sales
_____ State/local Gov't sales
_____ Bonded Jet Fuel sales
_____ Sales to Qualified Dealers
_____ Use Conversion sales
_____ Actual Losses
_____ Gasohol
_____ Heating Fuel sales
_____ Charitable Institution sales
_____ Residential Power Plant sales
_____ Public Utilities/Power Association sales
_____ Jet Fuel-foreign Flight(s)
_____ Fuel Consigned to Foreign Countries
_____ Refined Fuel Exported

DATE OF SALE	PURCHASER'S NAME	TYPE OF FUEL	INVOICE NUMBER	CERT. OF USE	NUMBER OF GALLONS

INSTRUCTIONS FOR THE CLAIM FOR REFUND OF MOTOR FUEL TAX
BY A RESELLER SUPPORTING SCHEDULE

1. Check the applicable type of sale. Note: A separate schedule must be completed for each of the sales type, e.g., Federal sales, heating fuel sales, etc.

2. Date of Sale - Enter the date of sale as indicated on the invoice.

3. Purchaser's Name - Enter the name of the agency, company or person to whom the fuel was sold.

4. Type of Fuel - Indicate the type of fuel sold, e.g., highway gasoline, marine diesel, etc.

5. Invoice Number - Enter the invoice number of the invoice issued to the purchaser.

6. Certificate of Use Number - Enter the number of the certificate of use obtained as verification as to the type of sale.

7. Number of Gallons - Enter the number of gallons sold.

NAME OF APPLICANT _____ DATE _____ 19____

GASOLINE AND DIESEL GALLONS NEED TO BE LISTED SEPARATELY FOR THE VARIOUS RATES CLAIMED

TO ACCOMPANY CLAIM FORM 04-544

DATE	D	NAME OF DISTRIBUTOR	INVOICE NUMBER	GALLONAGE			
				@ ¢	@ ¢	@ ¢	@ ¢

STATE OF ALASKA
DEPARTMENT OF REVEN[illegible]
POUCH SA
JUNEAU, ALASKA 99811

MOTOR FUEL EXPORTATION CERTIFICATE
A.S. 43.40.010-100

DESCRIPTION OF MOTOR FUEL EXPORTED

FUEL TYPE	GALLONS EXPORTED	DATE EXPORTED	DESTINATION
HIGHWAY DIESEL			
HIGHWAY GASOLINE			
MARINE DIESEL			
MARINE GASOLINE			
JET FUEL			
AVIATION GASOLINE			

FUEL SUPPLIER'S NAME & ADDRESS _____

_____

_____

PURCHASER'S NAME & ADDRESS _____

_____

_____

Location from where the export occurred _____

Transportation equipment-vessel registration number _____

The undersigned understands that the fraudulent use of this certificate to secure exemption from the Alaska Motor Fuel Tax will subject the unde[illegible]gned, upon conviction, to a fine not to exceed $25,000 or to imprisonment for [illegible] more than three years or both.

SELLER'S SIGNATURE _____ DATE _____

PURCHASER'S SIGNATURE _____ DATE _____

This certificate shall be filed with the Department of Revenue by the last day of the month following the month the motor fuel was exported from this state.

Form 04-539 (8/82 TEMP)

State of Alaska
Department of Revenue
Pouch SA
Juneau, Alaska 99811

Motor Fuel Excise Tax

QUALIFIED DEALER BOND

AS 43.40, 15 AAC 40.

KNOW ALL MEN BY THESE PRESENTS: BOND NO.

That we, _____
(Principal)

_____ as principal, and
(Type of business entity)

_____ as surety, (a surety complying with the laws of surety obligations in the State of Alaska) and authorized to do business in the State of Alaska and to execute this bond, are held and firmly bound unto the Commissioner of Revenue for the State of Alaska and his or her successors in office in the sum of $_____, the payment of which we bind ourselves, our executors, administrators, heirs, assigns, and successors, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is that the above bound principal shall pay when due all motor fuel excise fees and/or taxes due and to become due and owing to the State of Alaska by said principal during the effective period of the bond, under the provisions of the motor fuel excise tax and licensing laws of the State of Alaska.

LIABILITY UNDER THIS BOND: COMMENCES _____
(Date)

for the period beginning _____ and ending _____, and shall be continuous for a period thereafter until the statute of limitations has expired on all motor fuel excise taxes due to the State of Alaska. The bond shall apply to all liens and liabilities which arise during the effective period of the bond and to which the bond is applicable under law even if the liens are foreclosed or valid liens settled after the period of the bond or the liabilities are enforced after the effective period of the bond.

IN WITNESS WHEREOF, the above bound parties have executed this instrument this _____ day of _____, the name of each party being hereto affixed and these presents duly signed by its undersigned representative, if any, pursuant to authority of its governing body.

(seal) _____
(Principal)

ATTEST:

_____ By: _____
(Secretary of Principal) (Authorized Agent)

(seal) _____
(Surety)

ATTEST:

_____ By: _____
(Secretary or Surety) (Authorized Agent)

Alaska Department of Revenue
Public Services Division
Pouch SA
Juneau, Alaska 99811

MOTOR FUEL EXCISE TAX QUALIFIED DEALER LICENSE APPLICATION AS 43.40.010-100.

Send Parts 1 and 2 To Revenue.
Keep Part 3 for Your Files.

The person(s) named below hereby applies for a Qualified Dealer License and certifies that in the regular course of business at least 20 percent of his or her fuel is sold to another party for resale or for residential heating purposes or for a combination of those purposes. Upon being licensed, the Qualified Dealer agrees to pay all motor fuel excise taxes imposed by AS 43.40 to the Alaska Department of Revenue.

This application is for a business that has been selling fuel for: (check appropriate box)	License to be effective beginning: (Month, day, year)	OFFICE USE ONLY Excise Tax Audit Division (Signature) ☐ Approved ☐ Disapproved
☐ More Than One Year ☐ Less Than One Year		License Number Issued:

The license will be issued in the name of the applicant(s) as shown below and shall remain in effect until cessation of the business, or the quota of the sales made to another party for resale or sales of fuel for residential heating purposes as provided in 15 AAC 40.040 is no longer met or if the license is revoked by the Alaska Department of Revenue.

Name(s) of Applicant(s)	Surety Bond Number
Business Name	Business Telephone Number
Mailing Address	Business Location
City, State, Zip Code	

Please list below your actual fuel sales for the preceding fiscal year. If these sales are not representative of your normal sales activity, list sales made during each of the three preceding fiscal years. NOTE: For businesses that have been in existence for less than one year, please estimate your anticipated sales for a twelve month period.

	(A) Total Gallons Sold to Another Party for Resale	(B) Total Gallons Sold for Residential Heating Purposes	(C) Total Gallons Sold for all Other Purposes	(D) Total Gallons Sold (Add columns A, B and C)
Preceding Fiscal Year 1:				
Preceding Fiscal Year 2: (optional)				
Preceding Fiscal Year 3: (optional)				

I certify that an accurate record will be kept of all purchases, sales and uses of fuel, that the required returns will be filed on or before the last day of each calendar month, and that the tax shown to be due will be paid. Under penalty of perjury I declare that this application and any attachments have been examined by me and to the best of my knowledge and belief are true, correct and complete.

Signature of Applicant	Title	Date
Signature of Applicant	Title	Date

04 407 (10/82)

NOTE: THIS APPLICATION MUST BE ACCOMPANIED BY AFFIDAVIT FORM 04-408.

Alaska Department of Revenue
Public Services Division
Pouch SA
Juneau, Alaska 99811

AFFIDAVIT OF MOTOR FUEL EXCISE TAXES DUE

Send Parts 1 and 2 to Revenue
Keep Part 3 for Your Files.

This affidavit must be completed and notarized for new license applications. If you wish your license to remain in effect, you must submit this affidavit on or before September 1 of each following year.

Name(s) as shown on the Qualified Dealer License Application	Business Name
	Business Location

INSTRUCTIONS: In column A below, please estimate the number of gallons that would be subject to tax during an average month.

	A. Gallons	B. Motor Fuel Excise Tax Rates	C. Motor Fuel Excise Tax (Multiply column A by column B)
Aviation Jet		$ .025	$
Aviation Gas		$ .04	$
Marine Fuel		$ .05	$
Highway Fuel		$ .08	$
TOTAL AVERAGE MONTHLY MOTOR FUEL TAX REMITTANCE			$

Real Property in Alaska on Which Motor Fuel Excise Taxes May Become a First Lien (Attach appraisal showing fair market value)

Real Property Address or Location	Fair Market Value $	% of Ownership
Legal Description		

If the fair market value of the applicant's interest in the property described above is not equal to at least twice the average monthly motor fuel tax remittance, then:

a. A Qualified Dealer Bond (form 04-409) must be secured and filed with the Department of Revenue in an amount equal to twice the average monthly motor fuel tax remittance and in no case less than $5,000; or

b. A letter of credit or certificate of deposit from a bank must be filed with the Department of Revenue in an amount equal to at least twice the average monthly motor fuel tax remittance and in no case less than $5,000; or

c. Cash must be deposited with the Department of Revenue in an amount equal to at least twice the average monthly motor fuel tax remittance and in no case less than $5,000, submitted with this affidavit: $ _____

Before me this day personally appeared the applicant to be known, and known by me to be the person described in and who executed the foregoing affidavit. WITNESS my hand

and official seal at _____

in the State of _____

this _____ day of _____, 19____

Signature: _____

Notary Public For: _____

My Commission Expires: _____

I declare under penalty of perjury that this affidavit, including any accompanying statements, has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Signature of Applicant	Title	Date
Signature of Applicant	Title	Date

04-408 (10/82)

STATE OF ALASKA
DEPARTMENT OF REVENUE
POUCH SA
JUNEAU, ALASKA 99811

ELECTION TO RECEIVE CREDIT OR REFUND FROM THE FUEL SUPPLIER FOR CERTAIN SALES OF FUEL BY A RESELLER
AS 43.40.035

SUPPLIER'S NAME AND ADDRESS _____

_____

_____

RESELLER'S NAME AND ADDRESS _____

_____

_____

The undersigned reseller of fuel, hereby elects to receive all tax refunds or credits for certain sales of fuel as provided by AS 43.40.035, directly from the supplier.

It is understood that by making this election, we hereby waive the right to obtain a tax refund directly from the Alaska Department of Revenue.

This election is subject to the requirements imposed by AS 43.40 for obtaining any refund or credit and shall remain in effect until such time as the supplier notifies both the undersigned reseller and the Department of Revenue in writing that this election has been revoked.

RESELLER'S SIGNATURE _____ DATE _____

SUPPLIER'S SIGNED CONSENT _____ DATE _____

This election must be signed in quadruplicate and distributed as follows:

One copy with original signatures to be filed with the Alaska Department of Revenue by the reseller.

One copy with original signatures to be filed with the Alaska Department of Revenue by the supplier.

One copy with original signatures for the reseller's file.

One copy with original signatures for the supplier's file.

Alaska Department of Revenue
Audit Division Excise Tax
Pouch SA
Juneau, Alaska 99811

ANNUAL OR ONE-TIME ONLY CERTIFICATE OF USE

Covering Purchases of Fuel Not Intended to be Used as Motor Fuel
AS 43.40.010

No.:_____

NAME OF SELLER	NAME OF PURCHASER
MAILING ADDRESS	MAILING ADDRESS
CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE

TYPE OF FUEL:

☐ Aviation Gasoline ☐ Highway Gasoline ☐ Marine Gasoline ☐ Gasoline Used for Heating

☐ Aviation Jet Fuel ☐ Highway Diesel ☐ Marine Diesel ☐ Diesel Used for Heating

My purchases of fuel will not be subject to the Alaska Motor Fuel Tax because they will be sales to: (check appropriate box)

ANNUAL CERTIFICATE OF USE REQUIRED

☐ 1. The federal government for official use.

☐ 2. A state or local government agency for official use.

☐ 3. An auxiliary military unit for official use.

☐ 4. A consumer for use to heat a commercial building or facility including apartment units, but not including fuel used in or on watercraft.

☐ 5. A consumer for use in a private residential power plant.

☐ 6. A licensed Qualified Dealer ←

ONE-TIME ONLY CERTIFICATE OF USE REQUIRED

☐ 7. A consumer for use to heat a private residential building. (A rubber stamp may be used in lieu of this form for this exemption only. See reverse for required wording.)

The undersigned understands that the fraudulent use of this certificate will subject the undersigned and all guilty parties, upon conviction, to a fine not to exceed $25,000 or by imprisonment for not more than three years, or by both. The undersigned also understands that he must be prepared, upon request, to supply satisfactory evidence establishing the purpose for which the fuel was or will be used.

I declare under penalty of perjury that I have examined this certificate and to the best of my knowledge and belief it is a true, correct and complete statement showing the manner in which the fuel will be used. I also certify that this fuel will not be delivered to a common storage tank servicing both taxable and non-taxable uses of fuel.

SIGNATURE OF PURCHASER OR REPRESENTATIVE

DO NOT SEND THIS FORM TO THE DEPARTMENT OF REVENUE UNLESS YOU ARE A RESELLER CLAIMING A REFUND.

04-538A (TIES)

EXEMPTION (7). In lieu of a One-Time Only Certificate of Use for fuel sold for private residential heating purposes, a stamp or other method of incorporating the following statement onto the sales invoice may be used as long as the statement is signed by the purchaser. The statement must read as follows:

I declare under penalty of perjury as required by AS 43.40.010, that this fuel is to be used exclusively to heat a private residential building.

_____ _____

Signature of Purchaser Date

STATE OF ALASKA
DEPARTMENT OF REVENUE
POUCH SA
JUNEAU, ALASKA 99811

Original to the Dept. of Revenue

Claim for Refund of Motor Fuel Tax
By a Reseller

Name of Applicant _____ Date _____ 19____
Mailing Address _____
Business location _____

SUMMARY OF GALLONS SOLD
UPON WHICH A REFUND IS CLAIMED

Exempt Distribution Items (attach schedule)	(a) AVIATION GASOLINE GALLONS	(b) AVIATION JET FUEL GALLONS	(c) HIGHWAY GASOLINE GALLONS	(d) HIGHWAY DIESEL GALLONS	(e) MARINE GASOLINE GALLONS	(f) MARINE DIESEL GALLONS
1. Federal Government distributions						
2. State/Local Gov't distributions						
3. Public Utility/ Non-Profit Power Assoc. distributions						
4. Heating Fuel distributions						
5. Residential Power Plant distributions						
6. Jet fuel sold for use in flights to foreign countries						
7. Bonded jet fuel distributions						
8. Charitable Institution distributions						
9. Fuel Consigned to foreign countries						
10. Refined fuel exported out of Alaska						
11. Aerial Losses						
12. Total Exempt Distributions						

Use-Conversion Items:
13. Gasoline gallons sold for use in or on watercraft on which the tax of 8 ¢ per gallon was initially paid _____
14. Diesel gallons sold for use in or on watercraft on which the tax of 8 ¢ per gallon was initially paid _____

SUMMARY OF AMOUNTS CLAIMED FOR REFUND

A. _____ aviation gasoline gallons claimed @ 4 ¢ per gallon $_____
B. _____ jet fuel gallons claimed @ 2 1/2 ¢ per gallon $_____
C. _____ highway gasoline gallons claimed @ 8 ¢ per gallon $_____
D. _____ highway diesel gallons claimed @ 8 ¢ per gallon $_____
E. _____ marine gasoline gallons claimed @ 5 ¢ per gallon $_____
F. _____ marine diesel gallons claimed @ 5 ¢ per gallon $_____
G. _____ gasoline use-conversion gallons claimed @ 3 ¢ per gallon $_____
H. _____ diesel use-conversion gallons claimed @ 3 ¢ per gallon $_____
I. _____ TOTAL GALLONS CLAIMED FOR REFUND
J. TOTAL AMOUNT CLAIMED _____ $_____

DEPARTMENT USE ONLY

Adjustments _____ $_____
Net amount of refund _____ $_____

Claim paid ____/____/____ Voucher Number _____ Amount _____ $_____

I affirm, under the penalty of perjury, that I have full knowledge of the claim hereby presented, that the fuel was sold on the dates and in the amounts shown on each invoice, that the _____ previously paid and that no part of the tax refund herein claimed has heretofore been

STATE OF ALASKA
DEPARTMENT OF REVENUE
POUCH SA
JUNEAU, ALASKA 99811

No. _____

CERTIFICATE OF USE

COVERING PURCHASES OF FUEL NOT INTENDED TO
BE USED AS MOTOR FUEL
AS 43.40.010

NAME AND ADDRESS OF SELLER _____ DATE OF SALE _____
_____ INVOICE NUMBER _____
_____ NUMBER OF GALLONS _____

TYPE OF FUEL: ___AVIATION GASOLINE ___HIGHWAY GASOLINE ___MARINE GASOLINE
(check one) ___AVIATION JET FUEL ___HIGHWAY DIESEL ___MARINE DIESEL

My purchase of fuel is not subject to the Alaska Motor Fuel Tax because it is a:

(1) ___Sale to the Federal Government for official use.

(2) ___Sale to a State or Local Government agency for official use.

(3) ___Sale to a public utility plant for a non-profit power association.

(4) ___Sale for use to heat a commercial building or facility.

(5) ___Sale for use to heat a residential building. (The certificate shall be obtained only once a year.)

(6) ___Sale for use in a private residential power plant. (The certificate shall be obtained only once a year.)

(7) ___Sale of jet fuel for use in a direct flight to a foreign country.

(8) ___Sale of bonded jet fuel.

(9) ___Sale of fuel to a charitable institution.

(10) ___Sale of fuel consigned to a foreign country.

(11) ___Sale of fuel which is at least 10% alcohol by volume.

(12) ___Sale of fuel which will be used in or on watercraft upon which the seller previously paid the tax of 8¢ per gallon.

The undersigned understands that the fraudulent use of this certificate will subject the undersigned and all guilty parties, upon conviction, to a fine not to exceed $25,000 or by imprisonment for not more than three years, or by both. The undersigned also understands that he must be prepared, upon request, to supply satisfactory evidence establishing the purpose for which the fuel was used.

I declare under the penalty of perjury that I have examined this certificate and to the best of my knowledge and belief is a true, correct and complete statement showing the manner in which the fuel will be used.

NAME AND ADDRESS OF PURCHASER _____
_____
_____

SIGNATURE OF PURCHASER _____

(NOTE: This is a temporary form.)

Form 04-538 (8/82 TEMP)

Department of Revenue — State of Alaska

Motor Fuel Tax Return

AS 43.40.010

Company Name and Address

Month Reported .....

Alaska Business License .....

Federal ID # .....

IMPORTANT: This return is due on or before the last day of the month following the month during which the motor fuel was sold or delivered.

DISTRIBUTION ITEMS	(a) AVIATION GASOLINE GALLONS	(b) AVIATION JET FUEL GALLONS	(c) HIGHWAY GASOLINE GALLONS	(d) HIGHWAY DIESEL GALLONS	(e) MARINE GASOLINE GALLONS	(f) MARINE DIESEL GALLONS
GROSS DISTRIBUTIONS						
1. Total fuel sold within Alaska						
2. Total fuel used by distributor						
3. Other distributions (attach explanation)						
4. Total gross distributions (add lines 1-3)						
EXEMPT DISTRIBUTIONS (Attach Schedules)						
5. Federal Government distributions						
6. State/Local Gov't distributions						
7. Public utility/ non profit power assoc. distributions						
8. Heating fuel distributions						
9. Residential power plant distributions						
10. Jet fuel sold for use in flights to foreign countries						
11. Bonded jet fuel distributions						
12. Charitable institution distributions						
13. Fuel consigned to foreign countries						
14. Distributions to qualified dealers						
15. Refined fuel exported out of Alaska						
16. Gasohol						
17. Actual losses						
18. Other (attach explanation)						
19. Total exempt distributions (add lines 5 to 18)						
TAXABLE DISTRIBUTIONS						
20. Total taxable distributions (line 4 minus line 19)						
21. Aviation gasoline tax @ 4 ¢ per gallon	$					
22. Aviation jet fuel tax @ 2 1/2 ¢ per gallon		$				
23. Highway fuel tax @ 8 ¢ per gallon			$	$		
24. Marine fuel tax @ 5 ¢ per gallon					$	$

I declare under penalty of perjury that I have examined this return and to the best of my knowledge and belief it is a true and correct return of all the motor fuel sold or delivered during the month specified.

Total Tax $

Penalty

Interest

Total Amount $

Signed ..... Title .....

Form 04-541 (8/82 TEMP)

Delete completely

Supporting Schedule
Motor Fuel Tax Return

DEPARTMENT OF REVENUE-JUNEAU, ALASKA

NAME _____ MONTH _____ 19__

CHECK ONE:

____ Federal Gov't sales	____ Heating Fuel sales
____ State/local Gov't sales	____ Charitable Institution sales
____ Bonded Jet Fuel sales	____ Residential Power Plant sales
____ Sales to Qualified Dealers	____ Public Utilities/Power Association sales
____ Use Conversion sales	____ Jet Fuel-foreign Flight(s)
____ Actual Losses	____ Fuel Consigned to Foreign Countries
____ Gasohol	____ Refined Fuel Exported as cargo

NAME OF PURCHASER	TYPE OF FUEL	NUMBER OF GALLONS

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Alaska Department of Revenue



Motor Fuel Tax
Discussion Topics
February, 1983

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
POUCH SA
JUNEAU, ALASKA 99811

Dear Motor Fuel Dealer:

I believe we can all agree that Chapter 40 of Title 43 of the Alaska Statute has provided for a motor fuel tax that has been difficult to administer or comply with. Determining the point of taxability and defining the term "motor fuel" are only two of the problems which have created controversy between the Department of Revenue and motor fuel dealers. The 1982 Legislature passed new legislation addressing these problems. That legislation, among other things, provided for the transfer of fuel ex-tax to an exempt user provided a Certificate of Use was issued by the purchaser to the seller. The Department of Revenue promulgated regulations intended to interpret Chapter 40 as amended by Chapter 82 of the 1982 Session Laws.

Obviously, the regulations have not created a cure-all for all ills. The Department of Revenue, however, with some recent administrative action has reduced the Certificate of Use requirements to a more logical and workable format.

We are most appreciative of the cooperation shown by you dealers in assisting the Department toward its objective of equitable administration. I realize you may feel that we impose many reporting and compliance requirements. Let me assure you, however, that the reporting requirements for Alaska motor fuel dealers cannot compare to the exhaustive demands of other states. A review of motor fuel regulations and forms as required by states such as Texas, California, Illinois, North Dakota and others supports that conclusion.

I hope this question and answer booklet will help in responding to some of your questions. The booklet is not intended as a substitute for the statutes or regulations.

Please feel free, always, to contact our office when necessary. The Department of Revenue is sincere in its belief that we must work together to assure proper collection of motor fuel taxes without requiring elaborate forms and reports.

Sincerely,

Robert R Kessel

Robert R. Kessel, CPA, CMA
Director
Audit Division
(907) 465-2320

04-D4LH

INDEX

Subject	Page #	Questions
Motor Fuel Definitions and Exemptions	1	1-3
Tax Rate	3	4
Certificate of Use.	3	5-20
Qualified Dealer License	9	21-32
Motor Fuel Tax Return & Supporting Schedule	13	33-36
Refunds	14	37-38
Miscellaneous Issues	15	39-54
Administration and Compliance	18	55-60

ALASKA MOTOR FUEL EXCISE TAX
QUESTIONS AND ANSWERS

Motor Fuel Definition and Exemptions

Question 1: What is considered motor fuel and thus subject to the Alaska motor fuel tax?

Answer: Motor fuel is defined as fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor.

Question 2: What fuel is not considered motor fuel and thus exempt from the Alaska motor fuel tax?

Answer: The following uses of fuel are not included in the definition of motor fuel and are thus exempt from the motor fuel tax:

(1) Fuel sold to, transferred to, or used by United States, Alaska, or local government agencies for official use, except motor fuel sold to a contractor who purchases motor fuel either for its own account or as the agent of a government agency for use in the performance of a contract with that agency.

(2) Fuel sold to, transferred to, or used by auxiliary military units for official use, not including fuel purchased by a volunteer member of an auxiliary unit for use in a private vehicle.

(3) Fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public.

(4) Fuel used exclusively for use in heating private residential buildings.

(5) Fuel sold exclusively for use for heating commercial buildings or facilities including apartment buildings, not including fuel used in or on watercraft.

(6) Fuel used in stationary power plants that generate electrical energy exclusively for private residential consumption.

(7) Fuel used by non profit power associations or corporations for generating electrical energy for resale.

(8) Fuel used by charitable institutions.

(9) Refined fuel transported as cargo out of the state on a vessel from a port in this state to a port outside this state, except fuel purchased in the state for use in the exploration for and development of subsoil and seabed resources in and upon the adjacent outer continental shelf of the state.

(10) Fuel consigned to foreign countries.

(11) Fuel sold to, transferred to, or used on jet propulsion aircraft operating flights from the state to a foreign country, except flights to a foreign country with intermediate stops within the United States.

(12) Fuel which is at least 10 percent alcohol by volume.

(13) Fuel sold to or transferred between licensed qualified dealers.

(14) Actual losses of volume which occur during handling, transporting or storing motor fuel, including shrinkage and losses from fire and other accidents.

(15) Additives that are used for improving existing characteristics of fuel, not including blended fuels.

(16) Fuel used for any other purpose which the department determines does not meet the definition of motor fuel.

Question 5: Is fuel used in off highway vehicles and equipment exempt from the motor fuel tax?

Answer: No, fuel used in any equipment with an internal combustion engine is motor fuel and is taxed at 8¢ per gallon. However, there is a provision for a refund of 6¢ per gallon for motor fuel used to operate an internal combustion engine if the internal combustion engine is <u>not used in or in conjunction with a licensed motor vehicle</u>. If the fuel is used in or in conjunction with a licensed motor vehicle, even if the use is off highway, no refund is allowed.

Tax Rate

Question 4: What is the current tax rate on motor fuel?

Answer: The tax on motor fuel is 8¢ per gallon unless it is aviation gasoline which is 4¢ per gallon, or fuel used in and on watercraft which is 5¢ per gallon, or aviation fuel other than aviation gasoline which is 2 1/2¢ per gallon.

Certificates of Use

Question 5: What is the purpose of the certificate of use?

Answer: The certificate of use allows a purchaser of fuel the privilege of buying tax free under one of the motor fuel tax exemptions. If a customer does not sign a certificate, he or she should pay the tax on the fuel purchased, otherwise the dealer would remain liable for the tax.

Question 6: How does a fuel dealer know when the motor fuel tax is to be collected?

Answer: The motor fuel tax is collected when a dealer sells or otherwise transfers motor fuel in Alaska unless a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel. If the tax is not collected the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel.

Question 7: How often do these certificates of use have to be obtained in order for the dealer not to be liable if he does not collect the tax?

Answer: By statute it appears that a certificate of use is required whenever the tax is not collected. AS 43.40.010(1) states:

> If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel.

Regulation 15AAC 40.030 and subsequent Department of Revenue memoranda have served to greatly relax this stringent requirement. The requirements for certificates of use are now as follows:

(1) A one-time only certificate of use is required for sales of fuel to a consumer for use in heating a residential building. A statement, as mandated by the department, and in lieu of the certificate of use, may be incorporated into the dealer's invoice as long as it is signed by the fuel purchaser. A third alternative is the use of a rubber stamp.

(2) An annual certificate of use is required:
(a) for sales of fuel to United States, Alaska and local government agencies and auxiliary military units for official use;
(b) sales of fuel to a consumer for use to heat a commercial building or facility including apartment units, not including fuel used in and on watercraft;
(c) sales of fuel to a consumer for use in a private residential power plant; and
(d) sales of fuel to a licensed qualified dealer.

(3) A certificate of use at the time of every sale is required for all the other motor fuel exemptions.

Question 8: I'm a dealer and I make many sales of fuel every week to public utilities, non profit organizations for electrical generation for resale, and charitable institutions. Why do I need to get a certificate of use at the time of every sale when these are exempt users of the fuel? Why can't there be an annual certificate of use requirement or at least a monthly requirement for these exempt uses? Many deliveries of fuel are made every week to these exempt agencies and it is very difficult to have someone to sign a certificate of use at every delivery which constitutes a sale for us.

Answer: The Department is giving consideration to adopting an annual certificate for these type of sales. A decision will be made in the near future. In the meantime, you must continue obtaining a certificate for each sale.

Question 9: Why can't there be a blanket certificate of use for exempt agencies such as government agencies? Once the agency meets the requirement for exemption then a blanket certificate would be all that is necessary.

Answer: Since the fuel sold to a government agency is exempt only if it is for official use, then an annual reminder of this by requiring an annual certificate of use to be signed, should not be an undue hardship on the government agency. An annual certificate of use should be a very small administrative burden on the dealer as compared to requiring a certificate at the time of every sale.

Question 10: I'm a heating fuel dealer and I have 500 residential heating accounts. These constantly change because of people moving so often and I am required to have each owner of the residence sign a once only certificate of use. What do I do if customers refuse to sign the certificate and I have already delivered the fuel?

Answer: In order for the dealer not to be liable for the tax the dealer by statute has to obtain a certificate of use. If a certificate of use is not signed then the dealer should charge the tax. If a certificate of use is not signed the dealer bears the risk of being billed for the tax. Unless the law is changed, a certificate of use has to be obtained for each residential customer, unless the dealer decides to bear the risk that he or she will be able to provide, upon audit, evidence that the sale was for residential heating.

Question 11: If numerous customers purchase five and ten gallons of fuel, do I need to have them sign a certificate of use each time or can there be a minimum gallonage upon which a certificate of use is not required? An invoice is often not used for these cash sales so a statement can't always be incorporated on the invoice for the customer to sign.

Answer: AS 43.40.010(1) does not allow for a minimum gallonage which would not require a "certificate of use". However, for sales of 25 gallons or less, the dealer may decide to bear the risk on these walk-in sales. If these sales amount to a substantial gallonage every day, the dealer should have the customer sign a certificate of use so that the dealer will not be

liable for the tax. Some flexibility in the application of the certificate can be used, as follows: An exempt use statement could be posted on a clipboard and all customers would be required to sign this statement and to show the number of gallons purchased for this exempt use. Separate certificate of use forms would therefore not be required.

Question 12: Why is there an exemption for fuel used in private residential generators and not for fuel used in commercial generators?

Answer: The statute specifically exempts only fuel used in private residential generators, not commercial generators. The only exemption for commercial generators is if all the generated power is used exclusively for heating.

Question 13: Customer A has a lodge in the Alaskan wilderness and the only source of power for lighting, heating and cooking is from a generator. 90% of the fuel is used to heat the lodge which is an exempt use of the fuel. A has to pay all the tax up front on all his fuel purchases even though 90% of the fuel use is exempt. Even though A can claim a refund for the fuel generating heat how does A determine how much fuel flowed through the generator for the tax exempt use of heating, and the taxable uses of lighting and cooking?

Answer: Since all the fuel flowing through the generator serves both taxable and non taxable uses A has to pay 8¢ per gallon on all fuel purchased. A can claim a refund of 8¢ per gallon for the estimated gallons of fuel used in the generator for heating the lodge, and 6¢ per gallon for the other uses of the generated power. A must use his best estimate of the gallons of fuel used to generate power for heating. This estimate would be subject to audit by the Department.

Question 14: Dealer A sells to customer B, a hotel, and customer B signs a certificate of use that the fuel is to be used exclusively to heat the commercial building, the hotel. If unforseen circumstances arise such as a power outage and the hotel uses some of the fuel in a standby generator to produce electricity for heating, lighting and cooking, can B account for the taxable use at this time as a user and pay the tax?

It will be very difficult to determine how much generator power is used for taxable lighting and cooking purposes.

Answer: If taxable and non taxable use is anticipated the "common storage tank" provision would require the hotel to pay the tax on all the fuel up front if only one storage tank is involved. If the power outages are a rare occurance the hotel owner can still purchase fuel tax free if at the time of purchase he certifies to the best of his belief that the fuel is to be used exclusively for heating purposes. If fuel has to be used in a generator upon the occurrance of an emergency event such as a power outage, the hotel can submit to the department the tax on the fuel used.

Question 15: Can I as a fuel dealer design my own certificate of use form or do I have to use the form as prescribed by the department?

Answer: Although the regulations have not specifically addressed this question, the statute is very clear in that the certificate of use may be prescribed by the Department of Revenue. Other than for fuel used for residential heating purposes, the certificate of use form as prescribed by the department has to be used. The forms are being redesigned and will be invoice size with separate certificate of use forms for the "annual and once only requirements," and the "at the time of every sale" requirements. The new forms will be less burdensome for the dealer.

Question 16: I am a fuel dealer and customer A walks in and purchases four 55 gallon drums of fuel and signs a certificate of use certifying that the fuel is to be used for private residential heating purposes. I know A has a commercial business license operating a truck delivery service out of his home, so I do not have a reasonable belief that the fuel is not to be used as motor fuel. Am I liable for the tax if I make an exempt fuel sale to A?

Answer: If you have explained the law to customer A and he has make it clear that the fuel is to be used in a tax exempt manner, you would have a reasonable belief and could have A sign the certificate of use and receive the fuel tax exempt.

Question 17: What is the responsibility of the dealer to determine if a "common storage tank" situation exists? Example: Dealer A sells to customer B which is a construction company and B signs a certificate of use that he is purchasing fuel to be used exclusively for heating purposes. Does dealer A have to determine if B has a common storage tank before allowing the tax free sale of the fuel?

Answer: The responsibility is upon B, the purchaser of the fuel who signs the certificate of use to certify that he does not have a common storage tank situation. The new certificate of use forms will require this certification. However the dealer must exercise some judgment. Example: If the fuel is being delivered to a "truck tank at a construction site" then the dealer should question the signing of the certificate of use for an exempt sale. The ultimate liability for the tax will however be on the person signing the certificate of use if tax free fuel is used in a taxable manner.

Question 18: Can I, a user, sign a certificate of use to avoid paying tax for fuel used in an asphalt plant if it does not operate with an internal combustion engine?

Answer: Yes. You must contact the Department of Revenue, Excise Tax Unit, to obtain an exemption letter for this use authorized by Regulation 15 AAC 40.020(b)(16).

Question 19: I am an airline operating jet flights exclusively from Alaska to foreign countries. A certificate of use is required at the time of every sale to support this exempt use of fuel. Can I obtain an annual certificate of use for this exemption?

Answer: The Department is giving consideration to adopting an annual certificate for these type of sales. A decision will be made in the near future. In the meantime, you must continue obtaining a certificate for each sale.

Question 20: A construction company has a fuel tank at their shop and this fuel is used to heat the shop. Another fuel tank at the camp is used to heat the camp. Also, the construction company uses space heaters to heat visquene enclosed construction sites in the winter. The fuel is delivered to a portable tank that supplies these space heaters. Should the dealer obtain an annual certificate of use for the tank at the shop and the portable tank?

Answer: A separate certificate of use should be obtained once a year for each heating fuel tank. i.e. a separate annual certificate of use should be obtained for the shop tank, the camp tank and the portable tank provided that the portable tank is used exclusively for the space heater.

Qualified Dealer License

Question 21: How do I become a licensed qualified dealer so I can purchase my fuel tax exempt?

Answer: A person is eligible to become a qualified dealer if he refines, imports, manufactures, produces, or compounds fuel, or if in the regular course of business he sells at least 20% of his fuel to another party for resale or for residential heating purposes or for a combination of these purposes. License application form 04-407 is completed and accompanied by affidavit form 04-408 which requires security for the motor fuel tax. Alternatives for the security are:

1) A surety bond equal to twice the average monthly tax but not less than $5000.
2) A letter of credit, CD or cash equal to twice the average monthly tax but not less than $5000.
3) Real property or interest therein equal to twice the average monthly tax.

Question 22: I am a major supplier of fuel and have a good track record of having filed and paid my monthly motor fuel tax on time. With the new regulations a large amount of money now has to be provided as security for twice the average monthly tax, in order for me to get my qualified dealer license. Why is security necessary for existing suppliers and dealers? Can there be a ceiling on the security requirement for suppliers and dealers who have already established a good track record of collecting and filing the tax?

Answer: Security requirements for licensing are a common practice for motor fuel excise taxes in other states, and for other tax types in Alaska. A fuel distributor obtains a qualified dealer license for the privilege of receiving all fuel tax free, and then collecting and paying tax to the department only when taxable sales and uses occur. For this privilege and the

obvious cash flow advantage to a licensed qualified dealer, the department requires security for twice the monthly tax with a minimum of $5000. The department recognizes that some fuel distributors have good track records of paying their taxes, but not all have, so it is not unreasonable for us to require security.

Question 23: If I am strictly a heating fuel distributor and will have no monthly tax liability, why do I have to provide any security?

Answer: As discussed above, the security is required for the privilege of receiving fuel tax free plus it provides a security for any taxes which will be due the department. Even if no taxes will be collected because all sales will be exempt, security is still required for the privilege of becoming a licensed qualified dealer. A recent approximate quote on the tax deductable cost of the $5000 bond was $100 per year. This is not an unreasonable cost for the privilege of purchasing all fuel tax free. A reasonable alternative to the $5000 security requirement would be the pledging of real property as provided under Regulation 15 AAC 40.050(b).

Question 24: Dealer A has an average $100 monthly tax. Why does he have to secure this with a minimum of $5000 when he has a good track record of paying his tax on time? Can't the department remove the $5000 minimum and only require security for twice the average monthly tax?

Answer: See answer 23 above.

Question 25: Distributor A sells no fuel for resale but 100% of his fuel to users to heat commercial buildings. Does A have to pay all the tax on his purchases of fuel from his supplier because he does not meet the definition of a qualified dealer even though all his sales of fuel are exempt.

Answer: Yes, distributor A will have to pay tax on all his fuel purchases because he does not meet the requirements for a qualified dealer. However, A will be eligible for a credit for the tax from his supplier or a refund from the department, if A obtains an annual certificate of use from his commercial heating customers. A cannot sign a certificate of use as using the fuel for commercial heating purposes unless A himself is actually consuming the fuel to heat his own buildings or facilities.

Question 26: As a dealer do I have to obtain a qualified dealer license in order to obtain fuel tax free?

Answer: Yes. It is very simple. A dealer can obtain fuel tax free only if he or she is a qualified dealer. Otherwise he or she has to pay tax up front on all fuel purchased.

Question 27: Is it to my advantage to become a qualified dealer?

Answer: That depends. If a dealer makes many exempt sales it may be to his advantage to receive fuel tax free and report monthly to the department his small proportion of taxable sales. If a dealer makes very few exempt sales to customers it may be more advantageous to pay all the tax up front and then claim a refund from the supplier or department for any exempt sales made. This way he would avoid having to file a monthly tax return. A dealer's decision whether or not to become a qualified dealer will depend on each situation. Most heating fuel dealers should find it advantageous to become a qualified dealer if most of their sales are exempt.

Question 28: Dealer A sells to dealer B who signs a certificate of use that he is a qualified dealer. Does dealer A have a responsibility to determine that B is actually a qualified dealer, or does the fact that B signs the certificate of use relieve A of any responsibility to determine if B really is a qualified dealer? Who will the Department of Revenue bill if B is not a licensed qualified dealer or the license has been recently revoked? Will the department publish a list of licensed qualified dealers and if so, how often?

Answer: In signing the certificate of use as a qualified dealer, B is relieving A from any responsibility. If B is not a qualified dealer then the department will bill B for the tax. Yes, the department does plan on publishing an annual list of current licensed qualified dealers and sending this to all dealers and resellers of fuel.

Question 29: If I become a qualified dealer can I purchase my gasoline tax paid and my diesel tax free? If I do purchase my gasoline tax paid and then sell some to an exempt government agency, can I claim credit for this on my monthly motor fuel tax return?

Answer: It is the intent of the Department of Revenue that a qualified dealer receive all his fuel tax exempt. It should also be advantageous for a qualified dealer to do this because he will not have to pay tax on his fuel purchases, but will collect the tax on his taxable sales of fuel.

Question 30: I own a gas station and purchase all gasoline and diesel for the pumps tax paid. I also have a separate tank for which I purchase diesel to sell to customers to heat residential and commercial buildings. I cannot qualify as a qualified dealer so do I have to buy this "heating fuel" tax paid even though it is in a separate tank?

Answer: If you are not a licensed qualified dealer all fuel must be purchased tax paid.

Question 31: I have a lodge in a remote area and I have one fuel storage tank. I use fuel from this tank to heat the lodge and I also sell fuel for heating purposes to residences nearby as the nearest town is too far for that fuel dealer to deliver to these residences. All fuel I sell is for residential heating purposes and I make very few sales. How can I still purchase my fuel tax exempt since all my use of fuel and sales of fuel are exempt?

Answer: If all your sales are for residential heating purposes you would qualify as a qualified dealer and once licensed you could obtain all your fuel tax exempt. If you do not wish to become a qualified dealer you could sign a certificate of use for the fuel you used to heat the lodge and pay the tax on all the other fuel. This could only happen if you had separate tanks for the fuel you used and the fuel you sold. Otherwise, if you have only one tank, you would have to pay tax on all the fuel you purchase and then you could claim a refund for the exempt use and sales of the fuel for heating purposes.

Question 32: How long does my qualified dealer license remain in effect? Does it have to be renewed annually?

Answer: The qualified dealer license remains in effect indefinitely until:

1) The business ceases or
2) The 20% quota of yearly sales made for resale or for residential heating purposes is no longer met or
3) The license is revoked by the Department of Revenue

The license itself does not have to be renewed annually but an affiviait of security for motor fuel tax due, form 04-408, must be completed annually on or before September 1 of each year.

MOTOR FUEL TAX RETURN & SUPPORTING SCHEDULE

Question 33: As a qualified dealer why do I have to file a monthly motor fuel tax return with supporting schedules if I have no monthly tax liability, and all my sales are tax exempt heating fuel sales?

Answer: For federal reporting purposes we need to know the final exempt use of the fuel. If your supplier reports sales of fuel to you as sales to a qualified dealer, we will not know the nature of your exempt heating fuel sales if you do not report to us. If all your sales are exempt, the monthly reporting is very simple and no supporting schedules are required for sales of fuel for heating purposes. Therefore you do not have to prepare schedules of your commercial or residential heating fuel sales every month. In lieu of this, we require an annual list of all commercial heating fuel accounts. Schedules are required only for other exempt sales.

Question 34: Do I need supporting schedules showing names of customers and fuel gallons sold if all my sales are taxable sales?

Answer: No. Support schedules are only required for tax exempt sales of fuel except fuel sold and used for heating purposes.

Question 35: Can I substitute a computer printout of my sales of fuel in lieu of having to manually prepare the supporting schedules?

Answer: Yes, as long as the same data required on the supporting schedule, is shown on the printout.

Question 36: Why is a supporting schedule necessary for the other exempt sales when you don't require it for fuel sold for heating purposes? As a dealer I would be glad to supply the names of all exempt customers on an annual basis. A monthly report of the number of gallons sold to each exempt customer requires alot of work as this information is not often readily available even with a computer.

Answer: The supporting schedules are required in order to provide an audit trail for the department, as these schedules show the final users of the fuel. The amendment to the law, HB101, intended to transfer the liability for tax exempt sales from the dealer to the user if certificates of use were properly obtained. Unless each licensed qualified dealer submits supporting schedules showing their tax exempt fuel customers and tax exempt gallons sold, we will not have an audit trail to the final user, and we may have to audit the dealer to obtain this. We already greatly relaxed the supporting schedule requirement for fuel sold for heating by requiring an annual list of commercial heating accounts in lieu of monthly heating fuel schedules.

REFUNDS

Question 37: In order for me to file a refund claim for fuel used in my unlicensed equipment, my first claim filed during each calendar year must include a list of all my equipment including license and serial number. Does this mean the first claim filed during each calendar year even though the claim covers a period of use in the prior year?

Answer: No, the listing of equipment is required when you first file in a calendar year and the claim period is also for a period in that calendar year.

Question 38: Why am I denied being able to claim a refund if I am unable to produce original fuel invoices? In certain cases original invoices are lost and the fuel user is out of luck in claiming a refund on this fuel. Can't dealer certified copies of the original invoices be allowed when originals are not available?

Answer: Dealer certified copies of original invoices are allowed under the following circumstances:

1) the taxpayer must furnish an acceptable explanatory statement as to why originals are not being submitted.

2) the taxpayer must obtain a statement that copies submitted are true copies (with invoice numbers, dates and amounts), from the vendor.

MISCELLANEOUS ISSUES

Question 39: If I import fuel into Alaska, or I refine fuel in Alaska for my own use, when is the fuel subject to tax?

Answer: The fuel is subject to tax as you use it. The tax on the fuel actually used during a calendar month should be remitted to the department by the last day of the month following the month the fuel was used.

Question 40: Why do I have to keep monthly inventory records? Can't this be an annual or semi-annual requirement? What if I don't keep inventory records but pick up my fuel from a bulk plant and deliver directly to customers? The only fuel on hand at any given time is fuel sitting in the trucks. Do I have to keep inventory records of this fuel?

Answer: Monthly fuel inventory records are required of all dealers, fuel resellers and users, so that upon audit, we can determine the correct amount of monthly tax liability. Fuel inventory records should therefore be kept on a monthly basis for fuel in the trucks.

Question 41: Could you please give examples of which type of organizations are covered under your tax exempt definition of charitable institutions?

Answer: The Department of Revenue recognizes that it needs to do a comprehensive analysis of this subject, and we will then publish a list of examples. If you have a question regarding a specific institution, you should submit to the department for approval or disapproval as a charitable institution.

Question 42: Could you please define "watercraft" as this is not defined in the law or regulations?

Answer: "Watercraft" means a ship, boat, vessel or other structure which is capable of being moved in or on water either under its own propulsion or in conjunction with the propulsion of another craft.

Question 43: Does this definition of watercraft include barges and floating seafood fisheries?

Answer: Yes

Question 44: If I file a claim for refund how long after I file my claim will it be before I receive my refund?

Answer: If the claim is properly filed the refund should be received in three to four weeks from the date we receive your claim. If we have to correspond with you because of ommissions in your claim, this three to four week period of time would begin when we receive a properly filed claim.

Question 45: What if I charge a residential home heating individual with the Motor Fuel tax because he refuses to sign the certificate of use and that user switches suppliers? Will the Department of Revenue reimburse me for my loss of revenue from that customer?

Answer: No, the department can not reimburse you for lost revenue. In the case of a residential home heating customer, if, upon audit, you can provide evidence that the fuel was delivered to a residence and you made reasonable effort to get the customer to sign the certificate of use, the department would not hold you liable for the tax.

Question 46: Why doesn't Alaska tax liquified petroleum gas and compressed natural gas used as motor fuel? Do other states tax these items?

Answer: Liquified petroleum gas is specifically not included as motor fuel under AS 43.40.010(k). Compressed natural gas, if used as motor fuel, would be subject to the tax.

Question 47: Does Alaska tax gasohol?

Answer: Gasohol, defined as fuel which is at least 10 percent alcohol by volume, is specifically exempt from the motor fuel tax.

Question 48: Are sales to farmers exempt? If not, can the farmer claim a refund of 6¢ a gallon? Do other states tax farmers?

Answer: No, sales of fuel to farmers are not tax exempt in Alaska, although other states have this provision for farmers. A farmer can sign a certificate of use for his purchases of fuel for heating purposes if this fuel is kept in a separate tank from his taxable fuel. Fuel for his equipment is taxed at 8¢ per gallon, but the farmer can claim a 6¢ per gallon refund for fuel used in his unlicensed equipment.

Question 49: What is the "importers-for-use" tax that other states impose on certain taxpayers?

Answer: This tax is related to inter-state trucking and is generally not applicable to Alaska. However, if fuel is brought into Alaska, it is subject to the motor fuel tax as it is sold or used.

Question 50: Why doesn't Alaska allow motor fuel dealers a commission for collecting the motor fuel tax?

Answer: Many states provide for a commission for collecting the motor fuel tax, and the Alaska cigarette tax statute provides for a commission. This definitely helps to offset the cost of collecting the tax. Legislation would be required to accomplish this statutory change.

Question 51: Are contractors who perform federal or state contracts exempt from the motor fuel tax?

Answer: No, fuel sold to a contractor who purchases motor fuel either for his own account or as the agent of a government agency for use in the performance of a contract with that agency, is not exempt from the motor fuel tax.

Question 52: How can I determine the amount of shrinkage which I am allowed to deduct as a result of the new regulations?

Answer: The dealer should keep records, through his inventory reconciliation, of fuel temperature shrinkage and expansion, tank filling losses, and loading and unloading losses of fuel.

Question 53: Are sales of fuel to well drillers which operate equipment utilizing a power take-off which transmits power from vehicles to auxiliary equipment exempt from the motor fuel tax?

Answer: The major issue here is whether or not the vehicle is licensed. If the vehicle is licensed all sales of fuel to the well drillers for this purpose will be taxable at 8¢ per gallon with no refund allowed. If the vehicle is unlicensed, the fuel is taxed at 8¢ per gallon, but the well driller can claim a refund of 6¢ per gallon.

Question 54: Isn't it silly to require certificates of use for fuel sold to the United States Government, the State of Alaska and local governmental agencies? After all, everyone knows who the government is and all sales to those agencies are exempt.

Answer: Not all divisions of government agencies are well known in Alaska especially in the more remote areas of the state. The annual certificate of use requires certification that the purchaser of fuel is actually a government agency and thus tax exempt. Also, for the fuel to be tax exempt, it must be used for official use, so an annual reminder of this should not be an undue administrative hardship for the privilege of buying fuel tax exempt.

Administration and Compliance

Question 55: Does the Department of Revenue intend to assess additional motor fuel tax for the period July 1, 1982 - December 31, 1982 for failure to obtain either a qualified dealers license or certificate of use?

Answer: No, because the Department recognizes the uncertainty that exists in the these two areas.

Question 56: Does the department intend to enforce the qualified dealers licensing provisions?

Answer: The department will make every effort to enforce full compliance with the qualified dealer licensing requirements for every dealer purchasing tax exempt fuel as a qualified dealer.

Question 57: How does the department intend to enforce these regulations?

Answer: The department has a three person excise tax unit who, along with assistance from the Anchorage and Juneau Field audit staff, will enforce full compliance with these regulations. We will select an area and visit five to ten dealers per day to test for compliance. If compliance is not adequate, we will schedule in depth audits from these visits

Question 58: There has been much speculation in the past one year regarding the Department of Revenue and its audit program. Exactly what kind of assessments did the department make and were dealers assessed for sales made to what later was proven to be residential heating purposes?

Answer: The majority of motor fuel tax assessments made by the department were for large sales of so called "heating fuel" to contractors which was used in a taxable manner by the contractor. You can therefore see the importance of the dealer having certificates of use signed by these contractors whenever tax exempt sales are made. If properly complied with, this should avoid future tax assessments in this area. To our knowledge the department has not made any assessments for sales which were proven to be for residential heating purposes.

Question 59: Since Maureen Thomas has resigned, which individual within the Department of Revenue will be our main source of contact in the future when questions arise?

Answer: Richard Kirkland has just moved into Maureen's position and he will be happy to research and answer any questions you have. The Director of Audit and the Chief of Audit Services will also on occasion be available to answer questions. Maureen Thomas will be attending college in Oregon in pursuit of a veterinary career.

Question 60: It sure seems as if we dealers have a lot of silly forms, including certificates of use, to complete to satisfy the Alaska Department of Revenue. Is this just the Alaska bureaucracy or do other states require a large amount of forms and if so how come?

Answer: As discussed in the introductory memorandum, many states have much more detailed and stringent reporting requirements for motor fuel tax.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

ELEVENTH FLOOR
STATE OFFICE BUILDING
POUCH SA
JUNEAU, ALASKA 99811

March 11, 1983

To Motor Fuel Licensed Qualified Dealers:

During our February motor fuel meetings in Fairbanks, Anchorage and Juneau, the question was addressed whether a qualified dealer can purchase all gasoline fuel tax-paid and all diesel fuel tax-exempt. In answering this question, we indicated that it is the intent of the Department of Revenue that a qualified dealer receive all fuel tax-exempt, and then subsequently collect the tax on all taxable sales and uses of the fuel.

Since our motor fuel meetings, several qualified dealers have specifically asked to be allowed to continue to purchase gasoline fuel tax-paid by their supplier, and to use the qualified dealer license to purchase only diesel fuel tax-exempt. In these instances, the supplier and the qualified dealer have both agreed that it would be in both their best interests for the supplier to continue to collect and remit the tax on all gasoline fuel.

We have therefore decided that if a qualified dealer wishes to purchase only diesel fuel tax-exempt, and to continue to purchase all gasoline fuel tax-paid, he or she may do so as long as this agreement has been reached between the qualified dealer and his or her supplier. A qualified dealer wishing to do this must submit to us a copy of this agreement with their supplier.

If you have any questions regarding specific situations, do not hesitate to contact the Excise Tax Unit at 465-2322 for more information.

Sincerely,

Paul W. Taylor

Paul W. Taylor
Chief, Audit Services
Audit Division
(907) 465-2371

PWT:jg

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
POUCH SA
JUNEAU, ALASKA 99811

February 18, 1983

Dear Motor Fuel Dealers and
Suppliers:

This letter is in response to the many questions generated during our recent informal meetings in Fairbanks, Anchorage and Juneau. Our division was very gratified to see the public response in the form of good attendance at all three meetings with plenty of input from the industry. The problems of dealing with administering the new motor fuel tax law and regulations have been rather large and have generated a great deal of interest. This letter is just another small step in a procedure designed to arrive at a workable law and workable procedures. I believe that you will find as a result of these meetings, and the answers to these questions herein, that we are on the path to good administration of the tax. Again, thank you for everyone's participation in these meetings.

As a way to begin to present this material, let me state that we have sent to Representative Bettisworth suggested legislation to cure many of the ills sensed by you and our division. In summary, the main points of the suggested legislation are as follows:

1. To eliminate the certificate of use requirements in total for fuel used exclusively for heating a private residence.

2. To eliminate the certificate of use requirement in total from fuel which is at least 10% alcohol by volume.

3. For virtually all of the other exempt uses, only an annual certificate will be required.

The only exempt use now that could possibly require multiple certificates would be a situation under sub-paragraph (k) of Section 100 where the department was approached by someone that had an unusual usage of fuel that had not been anticipated by the statute and subsequent determination indicated that it was of an exempt nature. Under those conditions the division has retained some rights to make a judgement at that time as to whether or not an annual certificate or multiple certificates would be appropriate.

4. We have recommended the adoption of a commission of 1% of the monthly tax with the maximum of $100 (on a timely filed return) in order to compensate the fuel dealers for collecting the tax and maintaining the records necessary to verify the proper collection of the tax.

With that bit of background I'm going to repeat most of the questions that were raised at the three seminars and answer them as best I can in the context of the legislation that we are suggesting. Incidentally, I would encourage you to contact your legislators and inform them of Representative Bettisworth's efforts with regards to the motor fuel tax and would suggest that you would lend your support and your recommendations to his efforts.

1. Would we supply a feed-back letter to everyone who attended the seminar?

Answer This is it.

2. Mr. Bud Wiese requested that a list of the attendees at all the meetings be sent to him as he would like to contact the other fuel dealers in the state.

Response That was done as of February 8.

3. Mr. Wiese also requested that the department sponsor a half-page or a full page newspaper ad in the newspapers around the state in order to educate dealers and the public alike with regards to the basic concepts of the new motor fuel law. His question was "Would we do it?"

Answer It is a distinct possibility that we could place an ad but we feel that it would be premature to do it at this time due to the pending legislative changes that will make a considerable difference with regards to the public's responsibilities to comply with the new statutes. We should know within the next sixty (60) days as to whether or not the suggested legislative changes are going to proceed with some alacrity through the legislature.

4. Would we check with the Attorney General's office to see if we have more administrative room to eliminate the home heating certificates - or at least have the discretionary authority to take that action?

Answer At this time we believe that the best procedure to follow to eliminate the requirements for home heating oil certificates would be with legislative change. There appears to be a receptive mood in the legislature to get rid of this

paper work and if that is able to be accomplished smoothly, it may be accomplished in about the same time frame as it would in getting an Attorney General's opinion with regards to this question.

5. Can we expand the use of a stamp to other exempt sales-"fuel will not be used for motor fuel" ?

Answer As our suggested legislative changes propose to have only an annual certificate for almost all exempt sales we feel that the document that is being signed by the customer should be one designed by the department that lays out the full parameters of the law with regards to the user's responsibility in signing that exemption certificate. Therefore we feel that there is some merit to utilization of a department form as opposed to instituting a statement on an invoice.

6. Will there be a moritorium with regards to solictiting residential heating certificates of use?

Answer Yes, the department has instituted a moritorium on the requirement that the dealers obtain residential heating oil certificates for the next sixty (60) days from the date of this letter in order to give the legislature and the department time to see if our legislative changes stand a good chance of being adopted. We will continue to be in correspondence with each of the motor fuel dealers to keep them posted on the legislative progress.

7. Does the fact that the statute indicates that sales of motor fuel that "will be" taking place open the door for us (The Department)to have more legislative latitude towards a certificate of use?

Answer The need to answer this question is now a moot point as the legislative changes we've proposed specifically authorize the implementation of annual certificates of use.

8. Earl Billingsly, from the Kenai area, felt that the words "may be prescribed by the department" pertaining to the wording with regards to the certificates of use, should allow the department flexibility in allowing dealers to incorporate the certificate of use language on their invoices and their statements. Would we recognize that flexibility by allowing dealers to do that.?

Answer As we have proposed legislation to have only annual certificates for exempt sales, we do feel there is merit to using the department designed form and to stay away from individually designed invoices and statements at the dealer

level. Certainly, if the "every sale" concept was going to have to be incorporated, then we would probably agree that some sort of statement printed on invoices might be more economical and feasible, but with the emphasis now being placed on an annual certificate, we again feel that the department's form should be used.

9. Dale Lindsey, from Seward, raised the question as to "Whether or not we should collect the marine fuel tax of 5¢ per gallon on fuel delivered into the operating fuel tanks of foreign vessels who put in port for infrequent fillups and then either fish exclusively outside the three (3) mile limit of Alaska or are bound for foreign ports", and along with that question "Whether or not fuel used on oil drilling rigs beyond the outer continental shelf should be subject to the marine fuel tax?" A portion of the logic at question here is based on the premise that jet fuel which is delivered into the wing of a plane bound for a foreign port is exempt from the motor fuel tax and couldn't that same logic be applied to a vessel also bound for a foreign port.

Answer We do not have statutory authority to exempt these sales. Legislative changes would be necessary in order to exempt these types of sales, and that may be the only remedy. In the meanwhile, if the sale of the fuel occurs within Alaska, the dealers should charge and collect the marine fuel tax.

10. On listing exempt sales to government agencies, how detailed a list of agency breakdown is necessary in order for the department to properly examine the motor fuel tax return?

Answer We will require a breakdown of governmental exempt sales at least by the particular governmental agency. For example, so many sales to the department of Fish & Game, sales to the Department of Labor, sales to the Department of Health & Social Services, to U.S. Forest Service, to Bureau of Land Management, etc. This minimal amount of breakdown is necessary for us to be able to "desk examine" the tax returns that are submitted so that we have some method of determining whether or not we agree that these particular sales were tax exempt. Some of the dealers have indicated that their newly acquired computer packages do not breakdown their exempt sales by a particular government agency. I am sorry that this will present a logistical or programming problem for some, but we are trying to keep the requirement broad enough and yet detailed enough so that we can determine that all of the exempt sales are indeed exempt, short of having to conduct a field examination of the documentation to support them.

11. Will the department set a policy with regards to recognition of normal spillage and evaporation losses?

Answer The answer here will have to be qualified with a statement that if the procedure for handling spillages and losses that I'm going to suggest does not meet with unfavorable response, then we will probably follow it both from a desk audit point of view and also from an auditing point of view. Basically, the procedure would be to:

1. Recognize the normal breathing allowances that are common throughout the industry based on mathematical charts that convert fuel volumes according to temperatures and so forth for determining gallons to be taxed.

2. I believe, in the industry, that for incidental spillages, there are acceptable and recognized allowances for these losses which we will attempt to become familiar with and apply fairly.

3. For unusual and abnormal losses, such as a broken pipe, or spillage at sea, or a fire, where an identifiable event has occurred and the gallons can be ascertained with a reasonable accuracy, that with adequate verification of the loss through affidavits and an explanantion of the circumstances, and some verification fro either insurance companies or the supplier, we would also recognize that loss and not require tax to be paid on those gallons. Some industry input on these three (3) procedures will be welcomed.

12. Will our department be responsive to suggestions and changes?

Answer I hope that we have put feet to our intentions through these different questions and answers in this letter and in the booklet and through suggested legislative changes which indicate that we are making a diligent effort to be responsive.

13. This question dealt with eliminating the tax on sales of fuel for use in commerical generators. From the definition of a taxable sale or taxable use, this question I believe relates back to the situation of a generator being used primarily for heating, but occasionally, being used for supplying energy to people in need, in emergency situations or for cooking and lighting where the percentage is relatively small. We're locked into some statutory language here that indicates that in order for the sale to be exempt, the generator must be used exclusively for heating or the electricity should be for resale.

Of course, the question is, "Is this a good procedure and how should the taxes be handled in this situation?"

Answer My recommendation is that where the taxable use of the generator is going to be very limited and a very small percentage, we would probably recognize the economies involved and suggest that the owner of the generator sign a certificate of use and then remit whatever tax is due on taxable use of the fuel on a "user" basis and thereby fulfill his/her obligation with regards to the motor fuel tax.

14. Why are we going after the wrong people? Shouldn't we concentrate on the industry or industries where the abuse of using so-called heating fuel for taxable purposes is occurring?

Answer This is a tough one to answer. The objective of the legislation was not to identify an industry or certain industries where diesel fuel that had been purchased as heating fuel was being used as motor fuel. The objective of the legislation was to proceed in a broad and general way by being able to clearly identify situations where if the dealer had reasonable doubt that all of the fuel would not be used as heating fuel, that he should either collect the tax or obtain a certificate of use and thereby shift the potential tax burden to the user. I'm sure the legislature was purposefully not specific as to an industry or industries where abuse was occurring. Rather the approach was a general solve-all approach, and hopefully to cure the ills that have been occurring. But I think now, with the elimination of home heating certificates and the going to annual certificates for all other exempt uses except for an exceptional case by case basis under sub-paragraph (k), we've achieved a better perspective. There is some merit to mentioning that the dealer, even now, may be of a mind to avoid the new rather limited application of the certificate of use, and continue to bear the risk of selling heating fuel for potential taxable purposes. I certainly would not recommend this because then he is not utilizing the law as it was intended to be used. I also think that the utilization of the certificate of use by the customers will be an effective means to put them on notice that "Let's be up front with regards to the use of the fuel which I am buying and that I can not fail to be accountable to the government for proper use of the fuel purchased."

This concludes our approach to handling the specific questions which have arisen during our public meetings. I am very optimistic with regards to the current efforts to bring about legislative changes in our motor fuel statutes.

It is our intent to fairly administer these laws and we really appreciate the opportunity to discuss them with you and to have your input because after all, we are public servants and the law basically is the law of the people and our objective has to be to make sure that it's fairly administered and applies to everyone in the same manner.

I appreciate again this opportunity to communicate with you. Please feel free to call either myself or Mr. Kessel at anytime to further discuss ways that we can improve our administration of this particular tax.

Sincerely,

Paul W. Taylor

Paul W. Taylor
Chief, Audit Services
465-2371

PWT/jc
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Attachment

February 18, 1983

For your information the following is a list of all qualified dealer licenses issued or in process:

QUALIFIED DEALER LICENSES ISSUED

Alaska Fuel Service
Alaska Oil Sales, Inc.
Alaska Transfer Company
Anderes Oil Company
Chevron, U.S.A.
Columbus Distributing Company
Denali Fuel Company, Inc.
Doyles Fuel Service
Exxon Corporation
Fisher's Fuel, Inc.
Harbor Enterprises, Inc.
Katmai Oil & Gas, Inc.
Kodiak Oil Sales, Inc.
Mobil Oil Corporation
Petro Products, Inc.
Pye-Per Transport
Service Oil & Gas, Inc.
Sitka Sound Oil
Synder Mercantile Company
Tesoro Alaska Petroleum Company
Texaco, Inc.
Tok Tesoro, Inc.
Unifuels, Inc.
Union Oil Co of California
Valley Fuel Service
Vangas, Inc.
Whittier Service, Inc.
Wrangell Oil Heat, Inc.

February 18, 1983

QUALIFIED DEALER LICENSE APPLICATIONS APPROVED IN EXCISE TAX UNIT AND CURRENTLY IN PROCESS IN OUR LICENSING DIVISION

Big State Equipment Co
Chilkat Fuel, Inc.
Cottles Fuel
Harbor Fuel Company, Inc.
Interior Energy Corp.
Johnny's Express
Johnson Fuel Service
Marathon Fuel Service
North Pole Fuel
Petroleum Sales Ltd.
Reliable Transfer, Inc.
Sitka Fuels, Inc.
Star Heating Fuels, Inc.
Taku Oil Sales, Inc.
Union Products, Inc.
Willners Fuel Distributors, Inc.

The above companies who are in process of becoming licensed, should be considered qualified dealers for the purpose of receiving all fuel tax exempt, as long as their license is issued within sixty(60) days of this letter.

1887I
MF/jc

Original sponsors: Martin and
Grussendorf

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending motor fuel tax provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

* Sec. 2. AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The <u>Department of Revenue</u> [DEPARTMENT] may not collect the motor fuel

tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10 percent alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.-100(2), except subparagraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue [DEPARTMENT]. The form of a certificate of use may be prescribed by regulation adopted by the department.

* Sec. 3. AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.-010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40.010(1) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

* Sec. 4. This Act takes effect April 1, 1983.

Introduced: 2/4/83
Referred: Transportation and Finance

IN THE HOUSE BY MARTIN AND GRUSSENDORF

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.030, 43.40.035, 43.40.040, 43.40.050, 43.40.060, 43.40.070 and 43.40.080 are repealed.

* Sec. 4. This Act takes effect April 1, 1983.

Sec. 43.31.171. Civil penalties.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220.

Editor's notes. — The repealed section derived from § 2, ch. 24, SLA 1970; § 3, ch. 166, SLA 1976.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Secs. 43.31.360 — 43.31.390.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed sections derived from § 2, ch. 24, SLA 1970.

Chapter 35. Coin-Operated Devices and Punchboards.

Article 1. Coin-Operated Amusement and Gaming Devices.

Section
80. [Repealed]

Sec. 43.35.080. Penalties.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220. For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-3-3 ACLA 1949; § 3, ch 142, SLA 1960; § 2, ch. 58, SLA 1971.

Chapter 40. Motor Fuel Tax.

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. [Repealed]
30. Refund for nonhighway use
35. Other refunds and credits
40. [Repealed]
50. Refund claim by affidavit
80. Examination of books and records
90. [Repealed]
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

Early collection as it goes later in collection - exemptions grow.

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10 — 100 of this chapter shall perform, when feasible, all construction or reconstruction projects by

contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10 — 100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(*l*) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970;

am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 4, 1982, added subsection (*l*).

Editor's notes. — Section 15, ch. 82, SLA 1982, provides: "The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor fuel that occurs before the effective date of this Act [June 4, 1982] if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was not to be used as motor fuel, as that term is defined in AS 43.40.100(2), or if the dealer relied upon the purchaser's representation that the fuel would not be used as motor fuel. This section is intended to clarify ambiguities in the existing language of AS 43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, this section serves the general public interest in the fair and equitable administration of AS 43.40."

Sec. 43.40.020. Penalty for violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-5-3, ACLA 1949; § 4, ch. 153, SLA 1972; § 3, ch. 116, SLA 1977.

Sec. 43.40.030. Refund for nonhighway use.

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment, effective June 4, 1982, substituted "the tax has been" for "duty is" in subsection (b).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and a certificate of use is acquired under AS 43.40.010(1); or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the reseller, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982)

Effective dates. — Section 19, ch. 82, SLA 1982, makes this section effective June 4, 1982, in accordance with AS 01.10.070(c).

Sec. 43.40.040. Applications and permits for refund.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning contents of applications for refunds, see AS 43.40.050(a).

Editor's notes. — The repealed section derived from § 3, ch. 47, SLA 1955; § 4, ch. 131, SLA 1962.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used.

The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7—9 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment, effective June 4, 1982, substituted "under AS 43.40.030" for "as provided in AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) Repealed by § 46 ch 113 SLA 1980. (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.090. Criminal violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 11, ch. 47, SLA 1955; § 4, ch. 27, SLA 1957.

Sec. 43.40.100. Definitions. In AS 43.40.010 — 43.40.100

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by AS 43.40.010 — 43.40.100 have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities, or;

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(3) "user" means a person consuming or using motor fuel, who either

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

(4) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10—12 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment added subparagraph (F) in paragraph (2).

The 1982 amendment, effective June 4, 1982, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the subparagraphs (A) and (B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

Chapter 45. School Tax.

Section

10—60. [Repealed]

Secs. 43.45.010 — 43.45.060. Tax imposed; persons exempt; record of withholding; overpayment, credit and refund; failure to file return; penalties.

Repealed by § 3 ch 166 SLA 1976; § 2 ch 64 SLA 1980; § 46 ch 113 SLA 1980.

Editor's notes. — The repealed chapter derived from §§ 37-4-3 — 37-4-6, ACLA 1949; § 1, ch. 41, SLA 1957; § 1, ch. 175, SLA 1957; § 1, ch. 149, SLA 1959; §§ 1—5, ch. 179, SLA 1960; § 11[illegible], ch. 127, SLA 1974.

Section 3, ch. 64, SLA 1980 makes the repeal of this chapter applicable to tax years beginning after December 31, 1979.

Section 4, ch. 64, SLA 1980 provides: "The Department of Revenue shall establish procedures for refunding to a taxpayer amounts received in payment of the school tax levied under AS 43.45 for the 1980 tax year and shall refund to the taxpayer the tax which was withheld for the 1980 tax year by an employer and paid to the department under AS 43.45.010(c). Other tax money paid to the Department of Revenue under AS 43.45 for the 1980 tax year shall be refunded to the taxpayer who made the payment."

Chapter 50. Tobacco Tax.

Article 1. Cigarette Tax Act.

Section

10. License
100. Civil penalties
150. Administration
160. [Repealed]

Sec. 43.50.010. License. (a) No person may sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested of him to determine his eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

Truckers, Transit Operators Complain:

Fuel Tax Hike Takes Effect Amidst Drive to Change Law

A nickel-a-gallon increase in federal gasoline and diesel fuel taxes goes into effect April 1 amidst an intense lobbying drive by mass transit operators and truckers who complain that they are not being treated fairly.

Mass transit operators, who had supported passage of the legislation raising the fuel tax partly because it diverted 1-cent of the new tax to public transportation, bitterly contend that President Reagan has reneged on transit funding. Meanwhile, the truckers, who had opposed the law, are trying to change the increased taxes they would have to pay on heavy trucks.

Public transportation and city officials charge that they have been betrayed by the Reagan administration, which has proposed cutting transit funding in 1984 to $3.53 billion, instead of providing the full $4.47 billion authorized by the new law (PL 97-424). They say the administration promised them the funds, including more than $1 billion in gas tax revenue, in exchange for the support of urban interests in passing the controversial fuel tax increase three months ago. *(Weekly Report, p. 310; 1982 Weekly Report, p. 3088)*

"Promises have been broken," said William R. Lucius, commissioner of the Metropolitan Transportation Commission, Berkeley, Calif. Lucius was one of 500 transit officials in Washington, D.C., March 14-15 for an American Public Transit Association conference aimed at getting Congress to override the proposed cuts.

The transit operators won an early round with the House March 23 approval of a budget resolution (H Con Res 91) restoring the Reagan cuts. However, whether they will succeed in the Senate — and forestall a possible presidential veto — is uncertain. Transit operators also will have to fight later in the year for actual appropriations. *(Story, p. 601)*

—By Judy Sarasohn

Truckers' Complaints

While the transit operators argue that the law should be carried out fully, truckers are campaigning to keep some parts of the law from taking effect.

Their main target is the higher tax that they would be required to pay beginning in 1984 on heavy trucks — those weighing 80,000 pounds or more. The levies, based on the theory that big trucks have not paid their share of road maintenance costs, would go from the current maximum of $240 a year up to $1,500 July 1, 1984, and to $1,900 July 1, 1988.

Highway Tax Revenues

Following are the funds available from U.S. gas, diesel, truck and other highway use taxes for highway and mass transit programs.

FY 1982 (actual)	$6.744 billion
FY 1983 (estimated)	8.469 billion
FY 1984 (estimated)	11.420 billion

Source: Office of Management and Budget

The tax on small owner-operator fleets would not go into effect until 1985.

At least 13 bills have been introduced to change the truck taxes. Although congressional tax-writing committees do not plan to consider the legislation soon, truckers say they will continue to press their case.

"We're going to push for early hearings. We just can't take that thing [the heavy-truck tax]," Edward V. Kiley, senior vice president of the American Trucking Associations, said.

Political Trade-offs

The transit funding and the truck tax provisions in contention were included in the 1982 Transportation Assistance Act as part of the political trade-offs required to pass the controversial law.

The statute increased fuel taxes a nickel a gallon, from 4 cents to 9 cents, and for the first time, allowed a major diversion of the Highway Trust Fund monies for public transportation. The trust fund — made up of taxes on fuel, tires and truck sales, and fees for heavy trucks — has been earmarked for highway projects. The 1982 law targeted 1-cent-a-gallon of the fuel tax, or about $1.1 billion a year, for transit.

The new taxes feeding the trust fund would raise an estimated $8.469 billion in fiscal 1983 for highway and transit programs and $11.420 billion in fiscal 1984. *(Table, this page)*

Former Transportation Secretary Drew Lewis backed the diversion of gas tax revenue to ensure funding for badly needed mass transportation capital improvements.

But President Reagan does not believe federal funds should be used to subsidize mass transit operating expenses, and he demanded an end to operating subsidies.

City and public transportation officials pushed for continuing the operating aid arguing that it was necessary to prevent the elimination of vital transit service. The compromise bill signed Jan. 6 by the president continued the operating subsidies but with deep cuts of up to 20 percent for the largest cities.

Increased fees for heavy trucks were imposed by House members in exchange for granting the truckers' request to permit heavier and longer trucks on highways. Truckers argued that bigger trucks would allow them to increase productivity.

The law required all states to allow trucks weighing up to 80,000 pounds on Interstate Highways, up from 73,280 pounds. Also vehicle lengths were set at 48 feet for a single

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truck trailer or 28 feet for each semi-trailer in a double combination. States could not bar twin-trailer trucks. The length requirements applied to Interstate and qualified Primary routes.

Lewis maintained that the big trucks did not pay their fair share of highway costs, and in return for the increased size limits, they should pay higher fees. But the industry fought the heavy-truck tax hike, contending it was too severe.

Tire and truck excise taxes also were changed to shift the burden to heavier trucks. However, levies on truck parts and lubricating oil expired in January. *(Table, this page)*

Transit Proposals

Although the 1982 transportation act authorized a total of $4.47 billion for mass transit in 1984, Reagan requested a level of only $3.53 billion, including 1 cent from the gas tax.

He also proposed that $275 million of the funds be available for transit operating subsidies, rather than the $873 million authorized, and he renewed his longstanding plan to eliminate the subsidies after fiscal 1984.

In response to the angry outcry of transit operators to Reagan's Jan. 31 budget proposal, administration officials maintained that the president never promised to support the operating aid program. They said Reagan was not committed to everything in the bill that he signed.

And Budget Director David A. Stockman said at a Feb. 3 House Budget Committee hearing that the total requested funds for public transportation was "a pretty healthy sum to spend on mass transit" given the nation's budget deficit problem.

Betrayal Charged

Representatives of transit systems and cities contend that public transportation needs as a bare minimum the full $4.5 billion for fiscal 1984, plus assurance of continued operating subsidies.

If operating subsidies are ended as Reagan wants, some 100 urban and small rural transit systems probably will be forced to shut down, according to William R. Blue, general manager of the Mass Transportation Authority of Flint, Mich. Blue is the transit association's vice president for small operations.

Some urban interests supported the gas tax hike in exchange for what they thought was a presidential commitment for the transit funding.

Frank Shafroth, legislative counsel for the National League of Cities (NLC), said that cities have not received a fair share of the gas tax revenues, which are generated mostly by city residents.

"If we had known that the administration only planned to carry out those provisions of the legislation it wanted and to disregard the compromise necessary to secure our support, NLC would have strongly opposed the legislation," George Latimer, first vice president of the league and mayor of St. Paul, said in a March 18 letter to Transportation Secretary Elizabeth Hanford Dole.

Message to the Hill

About 500 transit operators and suppliers came to Washington in March for the transit association legislative conference, according to Jack R. Gilstrap, executive vice president of the association. That was the association's largest turnout for what has become an annual event, he said.

And this year, the transit officials were angry and anxious to lobby Congress to restore the funding.

"Not to see this legislation culminate in real funding got a lot of people very agitated," Gilstrap said.

The program included suggestions for association members to use when meeting with their representatives in Congress.

Richard S. Page, general manager of the Washington Metropolitan Area Transit Authority and chairman of the association's legislative committee, led the attendees in a how-to-lobby-Congress exercise. They were given copies of "talking points" and instructed in filling in the blanks to show members of Congress how transit systems in their districts will be hurt by the Reagan budget.

"We didn't like the legislation, but it was legislation that let us survive until 1986. At least we knew

Fuel Tax, User Fee Changes

Following are the major changes in fuel taxes and other user fees required by the Transportation Assistance Act of 1982. The money raised will go into the Highway Trust Fund to be used for highway projects and mass transit.

	Current Rate	New Rate	Effective Date
Gasoline, diesel fuel	4¢/gallon	9¢/gallon	April 1, 1983
Gasohol	0	4¢/gallon	April 1, 1983
Tire excise tax	9.75¢/lb.	Graduated increases for tires over 40 lbs. Fee for tires under 40 lbs. repealed.	Jan. 1, 1984
Truck sales	10 percent on manufacturer's price for trucks 10,000 lbs.	12 percent on retail price of trucks over 33,000 lbs. and truck trailers over 26,000 lbs.	April 1, 1983
Heavy-vehicle use fee	$3/1,000 lbs. for trucks 26,000 lbs.	Graduated increases for trucks 33,000 lbs. and more.	July 1, 1984
		Trucks 80,000 lbs. and over would pay a maximum of $1,900 by 1988.	

**Taxes on lubricating oil and truck parts expired in January 1983. Taxes on tread rubber and inner tubes will be repealed Jan. 1, 1984*

Source: Highway Users Federation

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where we were going. You can't cut people's legs off this quickly," Harold C. Jenkins, general manager of the Cambria County Transit Authority, Johnstown, Pa., said.

"I always thought when Secretary Lewis spoke, he spoke for the administration," said John C. Pingree, general manager of the Utah Transit Authority, Salt Lake City.

The transit officials also met with sympathetic key members of Congress.

Sen. Alfonse M. D'Amato, R-N.Y., a key transit backer in the debate last year on the transportation legislation, said even non-transit supporters in Congress recognized that "fair play" was involved.

"You cannot make an agreement one day and renege on it the next day," D'Amato told the transit association March 14.

House Majority Leader Jim Wright, D-Texas, exhorted the transit officials to pressure their representatives to support the budget resolution approved by the House Democrats, which included the restored funds.

"You can assist powerfully in seeing that this budget is passed," Wright said at the association's dinner March 15, before House passage of the budget proposal. The Senate Budget Committee has not yet acted on its measure.

Trucks and Taxes

Many truckers accepted the fuel tax hikes as necessary to help complete the Interstate Highway System and to repair potholed highways and inadequate bridges. But they vigorously opposed the increases in the levies that heavy trucks must pay and the excise tax on trucks and trailers.

Industry spokesmen maintained that the administration's studies on the truckers' "fair share" of highway costs were wrong. And, they said the increases will seriously hurt an industry already reeling from the depressed economy.

They also disputed the administration's contention that the taxes were "user fees," levies charged a specific group for special federal services.

"It's not a user fee. You pay it if you go 10 feet or 10 miles," said Bill Scheffer, vice president of the Independent Truckers Association (ITA), which represents 30,000 of the 100,000 independent owner-operators.

ITA called on truckers to park their vehicles in protest Jan. 31. The violence-marked strike was called off Feb. 10 after many members of Congress agreed in an "expression of concern" letter to review the taxes. *(Weekly Report p. 357)*

Scheffer claimed that the introduction of several bills, as well as the "expression of concern," was an indication of the strike's success. "There's no doubt in my mind that these bills would not have been introduced if we had not parked our rigs," he said.

However, the Transportation Department contended that no more than 20 percent of the independent truckers honored the strike. ITA officials claimed many more did stop driving. The ATA, which represents regulated truckers, did not join the strike, arguing that it would hurt efforts to convince Congress to modify the taxes.

Potential Compromise

While administration officials said they would not compromise on the overall total amount of tax revenue that would be generated by truckers, they said they would consider a different type of tax, such as a further increase in the diesel fuel levy for trucks.

Also the study on the tax situation mandated by the Transportation Assistance Act will be moved up to January 1984, from January 1985, DOT officials said.

Many of the truck bills introduced in Congress this year would repeal the heavy-truck tax and increase the levy on diesel fuel by varying amounts. Although ATA and ITA officials said they were not commited to one measure yet, a bill (HR 2124) they lean toward supporting was proposed by Reps. Bill Frenzel, R-Minn.; Carroll A. Campbell Jr., R-S.C.; and Ed Jenkins, D-Ga.

HR 2124 would increase the diesel fuel tax to a total of 12 cents a gallon in 1983 and to 14 cents in 1984. Vehicles under 10,000 pounds, such as automobiles, would not be subject to any increase over 9 cents.

"It can also be more easily assimilated by the trucking industry because it is a pay-as-you-go system," Frenzel said in a statement March 17.

Kiley and Scheffer said their trucking organizations need to study the bill to make sure it is adequate before throwing their lobbying weight behind it.

The Truck Owner-Operators Association, an independent truckers group which claims about 4,500 members, also supports an increased diesel fuel levy instead of the heavy-truck tax hike. The group also pushed an anti-inflation program to improve the economy, which in turn would help the trucking industry.

Rep. Peter H. Kostmayer, D-Pa., who promoted the "expression of concern" letter, is urging members of the House Ways and Means Committee to review changes in the heavy-truck and excise taxes.

Signing the letter did not commit anyone to support actual changes in the taxes.

Staffers of the Ways and Means and the Senate Finance committees said their panels are not expected to take up any truck bills soon because of busy agendas dealing with the budget and other matters.

They noted that the heavy-truck tax increase does not begin to go into effect until July 1, 1984.

The excise taxes on trucks and truck-trailers, however, go into effect April 1. ■

"If we had known that the administration only planned to carry out those provisions of the legislation it wanted and to disregard the compromise necessary to secure our support, NLC would have strongly opposed the legislation."

—George Latimer,
first vice president,
National League of Cities



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Highway Users Federation

STATE MOTOR FUEL TAX RATES

March 1, 1983

MAR 29 1983

	GASOLINE	DIESEL	GASOHOL (10% blend)	ADDED TAXES	LOCAL TAXES	NOTES
ALABAMA	11¢	12¢	8¢		L	
ALASKA	8	8	0			
ARIZONA	10	10	10			Will inc. 2¢ 7/83; 1¢ 7/84.
ARKANSAS	9.5	10.5	0			3% sales tax on gasohol.
CALIFORNIA	9	9	9	6%	L	Sales tax reduced on gasohol. All inc'd 2¢ 1/83.
COLORADO	9	9	4			
CONNECTICUT	11	11	10			
DELAWARE	11	11	11			
D.C.	*14	14	14			Computed annually based on Consumer Price Index.
+ FLORIDA	8	8	4		L	Eff. 4/83, gasoline & diesel inc. 1.7¢ by variable.
GEORGIA	7.5	7.5	7.5	3%		
HAWAII	8.5	8.5	8.5	4%	L	Gasohol exempt from sales tax.
IDAHO	12.5	11.5	8.5			
ILLINOIS	7.5	7.5	7.5	4%	L	Sales tax reduced on gasohol.
INDIANA	*11.1	11.1	11.1	5%		Percentage tax set semiannually. Sales tax inc'd. 1% 1/83.
IOWA	13	15.5	8			No sales tax on gasohol.
KANSAS	8	10	6			
KENTUCKY	*10	10	6.5			9% wholesale set quarterly. 10¢ min. Large trucks pay
LOUISIANA	8	8	0			+2% per gal.
MAINE	9	9	9			
MARYLAND	11	11	11			Will inc. 2.5¢ 6/83; switch to 10% 6/84.
MASSACHUSETTS	* 9.9	9.9	9.9			10% wholesale computed quarterly.
MICHIGAN	*13	13	8	4%		Indexed rate set annually. Inc'd. 2¢ 1/83.
MINNESOTA	13	13	13			-
MISSISSIPPI	9	10	9	55%L		Sales tax inc'd. 0.5% 1/83.
MISSOURI	7	7	7			
MONTANA	9	11	2			
NEBRASKA	*13.9	13.9	8.9			11.5¢ + approx. 2% computed quarterly.
NEVADA	12	12	11		L	
NEW HAMPSHIRE	14	14	9			3¢ will expire 6-30-83 unless extended.
NEW JERSEY	8	8	8			
NEW MEXICO	*10	10	0			Indexed rate computed annually. Will inc. 1¢ 7/83.
NEW YORK	8	10	8	4%	L	
NORTH CAROLINA	12.25	12.25	10.25			
NORTH DAKOTA	8	8	4			
OHIO	*12	12	8.5			Indexed rate computed annually. 12¢ maximum.
OKLAHOMA	6.58	6.5	6.58			Gasohol exemption repealed eff. 3/1/83.
OREGON	8	8	8		L	
PENNSYLVANIA	*11	11	11	3.5%		
+ RHODE ISLAND	*11	11	11			10% wholesale computed quarterly. Changes to 11% with
SOUTH CAROLINA	13	13	13			13¢ min. 4/83.
SOUTH DAKOTA	13	13	9		L	
TENNESSEE	10	13	6		L	
TEXAS	5	6.5	0			
UTAH	11	11	6			
VERMONT	11	14	11			
VIRGINIA	*11	11	3	3%	L	Large trucks pay +2¢/gal.
WASHINGTON	*12	12	10.8			10% retail computed semiannually. 12¢ maximum.
+WEST VIRGINIA	10.5	10.5	10.5			Eff. 4/83, +5% wholesale.
WISCONSIN	13	13	13			
WYOMING	8	0	4			Diesel taxed by ton-mile structure, approx. 8¢/gal.

+ Legislative action in 1983 on gasoline or diesel taxes.
* Variable tax rate expressed in cents-per-gallon.

For further information, contact Catherine Yoe, 202-857-1242.

From the Highway Users Federation
202/857-1242

MOTOR FUEL TAXES

Proposals to increase state taxes on motor fuels have surfaced in 27 states. Bills have passed in three legislatures.

FLORIDA - Effective April 1, 4¢ of the current 8¢ state tax will be replaced by a new 5% of wholesale "sales tax." This sales tax will be computed at 5.7¢/gal. for two years, then recalculated annually. The state road fund's share of the motor fuel tax, thus, increases by 1.7¢/gal. However, county commissions are given the authority to adopt local option taxes up to 4¢/gal., in addition to the current 1¢ local tax which requires voter approval.

RHODE ISLAND - Effective April 1, the state's current 10% of wholesale variable tax changes to 11% with a 13¢/gal. floor. This automatically increases the tax from 11¢ to 13¢. Rhode Island is a general fund state, but 1.5¢/gal. of this increase has been earmarked to bus transit.

WEST VIRGINIA - Effective April 1, a 5% of wholesale "sales tax" will be added to the state's current 10.5¢/gal. tax. The sales tax will be converted annually to cents-per-gallon using an average wholesale price of at least 97¢/gal. This increase of about 5¢ /gal. is dedicated to highways.

Motor fuel tax increase bills have been passed by one house in four states.

Idaho - 3¢ (now 12.5¢).
Montana - 3.5¢ on gasoline; 4.5¢ on diesel (now 9¢ and 11¢).
North Dakota - 5¢ passed by House; 1¢ by Senate.
South Dakota - 1¢ in conference committee.

Proposals are under consideration in 19 states.

Alaska
Arkansas (diesel)
California (sales)
Colorado
Connecticut
Illinois
Maine
Massachusetts
Minnesota
Mississippi (sales)
Missouri
New Jersey
Oklahoma
Oregon
Pennsylvania
Texas
Vermont
Washington
Wisconsin

A Wyoming bill for a cents-per-gallon diesel tax died.

Four states have introduced bills to reduce motor fuel taxes.

Alaska - by 5¢ to offset Federal tax increase.
Maryland - repeal 2.5¢ increase scheduled for June 1.
New Hampshire - keep only 1¢ of 3¢ scheduled to expire July 1.
Virginia - bill to repeal 3% excise tax on motor fuels died.

A local option tax passed in FLORIDA (see above); is pending in Montana; failed in Georgia.

GASOHOL TAX EXEMPTIONS

Legislation in 13 states would grant tax breaks to gasohol or extend current tax reductions. Legislatures in three states have passed such bills.

ARKANSAS - Exempt from sales tax if produced in state. Gasohol is now exempt from the motor fuel tax but - unlike gasoline or diesel - is charged the retail sales tax.

FLORIDA - New motor fuel tax structure increases amount of exemption given gasohol. Gasohol will be charged 4¢ per gallon (of 9.7¢ tax) until April 1, 1985, when half of "sales tax" will be added. Tax reduction would expire in 1987.

SOUTH DAKOTA - Legislature extended current 4¢ tax break (from 13¢) until June 30, 1985.
NOTE: Report that tax break expired June 30, 1982 (State Legislative Report, Jan. 10, 1983) was in ERROR.

Bills to give new or extended tax breaks are pending in ten states.

Arizona
Illinois
Maine
Maryland
Massachusetts
Minnesota
Mississippi
New Jersey
New York
South Carolina

GASOHOL TAX INCREASES

Six states are considering legislation removing or limiting the tax breaks now offered to gasohol. One has approved such a tax increase.

OKLAHOMA - Effective Mar. 1, the total exemption from motor fuel taxation was repealed. The tax on gasohol is now 6.58¢/gal., the same as on gasoline.

Such bills are pending in five other states.

Arkansas
Indiana
Iowa
Montana
Nebraska

AUTOMOBILE REGISTRATION FEES

Bills to increase registration (license tag) fees for cars and pickup trucks have been introduced in 11 states. Only one has passed.

FLORIDA - $2 increase in all weight classes.

Bills are pending in nine states.

Colorado
Illinois
Iowa
Missouri
Montana
Nebraska
New York
North Dakota (Senate passed)
Washington

A $ crease failed in Wyoming.

TRUCK FEES & TAXES

Increases in special truck taxes or permit fees have been considered in 18 states. Two legislatures have passed higher fees.

FLORIDA - Increased registration fees; more than doubled for heaviest trucks.
SOUTH DAKOTA - Increased overweight permit fees from $25 to $250.

Bills are pending in 15 states.

Arizona
Arkansas (Senate passed)
Colorado (each house passed
Idaho own bill)
Illinois
Indiana
Kansas
Maine
Missouri (House passed)
Montana
North Dakota
Oklahoma
Oregon
Vermont
West Virginia

Bills died in Wyoming.

BOND ISSUES

Ten states are looking at bond financing for highway projects.

ALABAMA - Authority to counties to offer revenue bonds for roads and bridges.

Bills are pending in nine other states.

Connecticut
Minnesota
Montana
Nebraska
New Hampshire
New Mexico
New York
Rhode Island
Wisconsin

DEDICATION OF USER REVENUES

Ten states are considering legislation to earmark various user-generated revenues to highway purposes.

Three "general fund" states without any dedication have such bills pending.

Connecticut
New Jersey
New York

Bills in five other states would earmark additional user fees, such as vehicle sales taxes, to highway programs.

Indiana
Kansas
Montana
New Mexico
Texas

Such bills died in Massachusetts and Wyoming.

DIVERSION OF USER REVENUES

Bills in 14 states would divert user-generated revenues to non-highway purposes.

RHODE ISLAND - Currently a "general fund" state, the bill which raises the motor fuel tax also specifically earmarks a portion of its revenues to bus transit.

Diversion bills are pending in 11 other states.

Arizona
Colorado
Illinois
Indiana
Iowa
Maine
Maryland
Minnesota
Nebraska
Nevada
Washington

Such bills were killed in South Dakota and Wyoming.

TOLL FINANCING

Only Connecticut has introduced legislation concerning tolls. Several bills would phase out turnpike and bridge tolls.

Introduced: 1/18/83
Referred: Transportation and Finance

2/4/83

IN THE HOUSE BY MARTIN AND GRUSSENDORF

HOUSE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act decreasing the motor fuel tax to offset tax increase by federal government; repealing motor fuel tax refund provisions and providing for an effective date."

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

* ~~Section 1. AS 43.40.010(a) is amended to read:~~ (added) (deleted)

(a) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

~~Sec. 2. AS 43.40.010(b) is amended to read:~~

(b) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. ~~This Act takes effect April 1, 1983.~~ AS 43.40.030, 43.40.040, 43.40.050, 43.40.060, 43.40.070 and 43.40.080 are repealed.

* Sec. 4 This Act takes effect April 1, 1983

Section
50. Refund claim by affidavit
60. Separate invoices
70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
90. Criminal violation
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel; rate; exemptions; proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money

for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10—100 of this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10—100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1—3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1—3 ch 58 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1—3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977)

Cross reference. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1976 amendment repealed subsection (d), which provided for an additional amount to be added to the tax for failure to file a return and remit the tax within the time prescribed by law or prescribed by the department pursuant to law, due to wilful neglect.

The 1977 amendment rewrote paragraph (2) of subsection (a) and paragraph (2) of subsection (b).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "**Intent.** The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the protection of traveling citizens of the state."

Purpose of subsection (g). — The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

Amendment of 1957 effected no change in dedication. — The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

Civil Air Patrol exempt. — The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government. 1961 Op. Att'y Gen., No. 26.

But volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Am. Jur. and C.J.S. references. — 51 Am. Jur., Taxation, §§ 1260 to 1279.

53 C.J.S. Licenses § 30.

Sec. 43.40.020. Penalty for violation. (a) A person who violates a provision of §§ 10—100 of this chapter upon conviction is punishable for each violation by a fine of not less than $50 nor more than $5,000, or by imprisonment for not more than one year, or by both. Each day's violation is a separate offense.

(b) Repealed by § 3 ch 116 SLA 1977. (§ 48-5-3 ACLA 1949; am § 4 ch 153 SLA 1972; am § 3 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment repealed subsection (b), which read "A person who claims the nonpropulsion use fuel tax exemption under § 10 (a) (2) or § 10 (b) (2) of this chapter and who uses a portion of the amount of the exempted fuel for another purpose is guilty of a misdemeanor, and is punishable by a fine of not more than $5,000."

C.J.S. reference. — 53 C.J.S. Licenses § 62.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in § 10 (j) of this chapter, a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SS HB 55 Date on Bill: 2/4/83
Title: "An Act decreasing the motor fuel tax."
Sponsor: Martin, Grussendorf
Requestor: Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue			(2.0 mil.)	(17.0 mil.)	(10.0 mil.)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues. Only AS 43.40.030(a) needs to be repealed.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Pehlfeld Spec. Asst. Phone: 465-2300
Division: Comm. Office Date: 2/22/83

Approved by Commissioner: [signature] Date: 2/22/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

THE LEGISLATURE OF THE STATE OF ALASKA FEB 10 1983
THIRTEENTH LEGISLATURE

FISCAL NOTE

AMENDED

I. REQUEST
Bill/Resolution Number: HB 55
Title: An Act Decreasing the motor fuel tax to offset increase by federal government.
Requested by: House Transportation and Finance Date: February 10, 1983

II. FISCAL DETAIL
Agency Affected: Department of Revenue
Program Category Affected: Revenue Collection and Management
BRU, Program, or Subprogram(s) Affected: Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)

GENERAL FUND	-2	-20	-21	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)						
( )	-	-	-	-	-	-
	-	-	-	-	-	-

POSITIONS

FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill would substantially reduce Motor Fuel tax collections. Motor fuel funds are used, in part, to finance repair of hignways, bridges, etc. These expenditures are sometimes matched with available federal-aid highway money. A reduction in motor fuel tax would not only lower the general fund money available for expenditures by the Department of Transportation and Public Facilities but potentially could reduce federal aid.

Since the tax is proposed to be lowered from 8¢ to 3¢ a gallon, a refund of 6¢ a gallon cannot occur. Therefore, AS 43.40.030 must be amended to eliminate or lower the refund.

IV. DATE: February 10, 1983

PREPARED BY: Robert D. Heath
AGENCY: Department of Revenue
PHONE: 465-2300

Original: Legislative Finance
cc: Office of Management and Budget
Prime Sponsor (First Legislator Named)
33-001 (Rev. 01/83)

RECEIVED
FEB 11 1983
LEGISLATIVE FINANCE

Referred: Community and Regional Affairs and Finance

Funding Information
General Fund $25,100,000
Other Funds -0-
$25,100,000

BY GILMAN, STURGULEWSKI, KELLY, P.FISCHER & V. FISCHER

IN THE SENATE

SENATE BILL NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making an appropriation to the Department of Revenue for financial assistance to municipalities; and providing for an effective date."

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

* Section 1. The sum of $25,100,000 is appropriated from the general fund to the Department of Revenue for the municipal assistance fund (AS 43.20.016(a)) for distribution to municipalities for the fiscal year ending June 30, 1984.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending motor fuel tax provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

* Sec. 2. AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The <u>Department of Revenue</u> [DEPARTMENT] may not collect the motor fuel

tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10 percent alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.-100(2), except subparagraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue [DEPARTMENT]. The form of a certificate of use may be prescribed by regulation adopted by the department.

* Sec. 3. AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.-010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40.010(1) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

* Sec. 4. This Act is retroactive to April 1, 1983.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

BILL COMPARISON

Hayes, Martin, Lindauer, Tischer, Barnes SSHB 40	Martin & Grussendorf SSHB 55	Zharoff & Grussendorf HB 150
An Act repealing the motor fuel tax (AS 43.40); and providing for an effective date.	An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date	An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date.
Would only repeal the state motor fuel tax (AS 43.40), retroactive to January 1, 1983, and applying to tax years beginning after December 31, 1982 Directs the Dept. of Revenue to adopt regulations providing for refunds of motor fuel taxes collected after December 31, 1982. Effective immediately.	Lowers motor fuel tax to 3¢ per gallon, and repeals motor fuel tax refund provisions contained in the following statutes: --AS 43.40.030 "Refund for Nonhighway Use," allows six-cent-per-gallon refund on any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country. --AS 43.40.035 "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax. --AS 43.40.050 "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue. --AS 43.40.060 "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. -continued-	Would repeal the 5¢ per gallon tax on motor fuel tax used in or on watercraft.

SSHB 40	SSHB 55	HB 150
	--AS43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim. --AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine validity of a claim for refund. Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.) Fiscal Note Info.: The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues - FY 83 - 2.0 mill. FY 84 - 17.0 mill. FY 85 - 10.0 mill. Only AS 43.40.030(a) needs to be repealed	Fiscal Note Info.: Shows a loss of revenues in the General Fund as follows: FY 83 - 0 FY 84 - 3.2 mill. FY 85 - 4.2 mill.

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 15 B
CHAIRMAN, LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—86
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

MAR 5 1983

March 2, 1983

Representative Bette Cato, Chair
House Transportation Committee
House of Representatives
Capitol Building
Juneau, Alaska

Dear Bette.

I'm writing in follow-up to yesterday's meeting of your committee to furnish "on paper" supporting information relative to HB 55, a bill to lower the state motor fuel tax by five cents to three cents a gallon.

There are, I submit, seven major advantages which this bill offers which, as a result of yesterday's deliberations in committee, I feel compelled to re-emphasize at this time:

1) HB 55 represents significant savings to state and local governments in physical plant heating costs.

2) Major savings in automotive fuel charges to state trooper and city police vehicles, as well as to state and municipal non-law enforcement vehicles and mobile equipment, will result through passage of this bill. HB 55 will mean reduced costs for school transportation services, as well.

3) HB 55 will result in reduced costs in mass transportation for public carriers in Alaska, on land, in the air or over water -- savings in the competetive market will be passed on to Alaskans.

4) Reductions in motor fuel costs through enactment of HB 55 will be of direct benefit to the trucking industry in Alaska and particularly helpful to high overhead, small-scale independent trucking operations.

5) HB 55 will prove of notable benefit to the Alaska car owner. This bill will save the average motorist fifty-five to seventy-five dollars a year.

6) On a broader scale, HB 55 will serve to leave more money in the resident-consumer's pocket, and will stimulate the state economy in both the public and private sector.

7) HB 55 will offset the five cents per gallon increase in the Federal gas tax and significantly help balance the cost of living in Alaska compared to living in the other 49 states.

Thanks for the opportunity to share further my thoughts relative to reducing the state motor fuel tax. Best personal regards.

Sincerely,

Terry

Representative Terry Martin

Department of Revenue
Memorandum

TO: Bette Cato
Chairman, Transportation Committee

FROM: Robert R. Kessel
Director, Audit Division

RE: CS for Sponsor Substitute for HB 55

DATE: March 25, 1983

On Monday March 21, 1983, you requested a fiscal note regarding the proposed CS for Sponsor Substitute HB 55.

The Department has not received a formal request for a fiscal note since the bill apparently has not been introduced for first reading. However, we anticipate eventually to have about 100 qualified dealers. The average monthly commission would be about $40 per dealer. The revenue impact then would be $40 x 100 x 12 or about $48,000 revenue loss per year.

At this point, I would be comfortable with an estimate in the range of $48,000 to $65,000 per year.

RRK/jc
2056I

Original sponsors: Martin and Grussendorf

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending motor fuel tax provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

* Sec. 2. AS 43.40.010(1) is amended to read:

(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The <u>Department of Revenue</u> [DEPARTMENT] may not collect the motor fuel

tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10 percent alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except subparagraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue [DEPARTMENT]. The form of a certificate of use may be prescribed by regulation adopted by the department.

* Sec. 3. AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40.010(1) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

* Sec. 4. This Act takes effect April 1, 1983.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 4, 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: Motor Fuel Special Tax Accounts -
Your Request of Mr. Robert Kessel

Dear Representative Cato:

You requested certain information from Mr. Kessel during the March 2, 1983 hearing relating to various motor fuel bills. The information has been somewhat difficult to compile but I hope what I present herein is adequate. If not, please feel free to call me and we will make additional efforts.

Our qualified conclusion is that even though specific accounts are provided for in the motor fuel statutes (AS 43.40.010), the legislature does not, in fact, correlate appropriations to the amount in the accounts. In other words, appropriations for water and harbor facilities, maintenance of highways, etc. are not limited to the amounts accumulated in the special accounts. As will be demonstrated, monies appropriated come partly from the special accounts and partly from other General Fund monies.

Our contacts during this mini-project have been the Finance Section of the Department of Administration and the Finance Section of the Department of Transportation.

REVENUES - FUEL TAX ACCOUNTS

Gross receipts deposited as unrestricted revenues in the General Fund, and designated as unreserved special accounts in the General Fund (thousands of dollars) are as follows:

	Actual FY 81	Actual FY 82	Estimated FY 83	Three Year Total
Fuel Taxes - Aviation	$ 4,100	$ 6,300	$ 5,100	$15,500
Fuel Taxes - Highway	15,600	20,300	21,000	56.900
Fuel Taxes - Marine	3,600	3,700	3,800	11,100

04-D2LH

APPROPRIATIONS - FUEL TAX ACCOUNTS

Included within the General Fund appropriations for the operating and capital expenses of the state government were the following amounts from the above unreserved special accounts (thousands of dollars):

	Actual FY 81	Actual FY 82	Actual FY 83	Three Yr Total
Aviation Fuel Tax Acct.	$ 3,700	$ 4,300	$ 4,500	$13,500
Highway Fuel Tax Acct.	19,000	20,200	18,500	57,700
Watercraft Fuel Tax Acct.	3,200	3,300	3,800	10,300

The amounts shown for the highway fuel tax and the aviation fuel tax accounts were included in the appropriations from the General Fund for the Operating Budget. The amounts shown for the watercraft fuel tax account were included in the appropriations from the General Fund for the capital budget for water and harbor facilities. The original capital budget for FY 1983 for ports and harbors appropriated from the General Fund was $4,707,000. Included in this is the $3,800,000 from the watercraft fuel tax account.

EXPENDITURES FROM FUEL TAX ACCOUNTS

The General Fund summary of expenditures and encumbrances compared with appropriations for the operating programs of the Department of Tranportation and Public Facilities supports the previous statement made in this memo regarding lack of correlation. Example: The line item amount for Highway Design & Construction expenditures and encumbrances for FY 1982 was $39,577,000. Included in this would be the $20,200,000 appropriated from the highway fuel tax account in the General Fund. The balance of this line item expenditure apparently came from other General Fund monies.

The General Fund summary of expenditures and encumbrances compared with appropriations for the capital outlay projects of the Department of Transportation & Public Facilities further supports our statement. Example: The total expenditures for capital outlay projects for the Department of Transportation & Public Facilities for FY 1982 was $46,742,000. Included in this was the $3,300,000 appropriated from the watercraft fuel tax account. The balance of the expenditure came from other General Fund monies.

CONCLUSION

It would require many hours of work to match the actual expenditures for highway, airport, and port & harbor facilities against the appropriations from the unreserved highway, aviation and watercraft fuel tax accounts in the General Fund. Since these funds are not restricted in the General Fund or

set aside in a Special Revenue Fund, they are always included in the general appropriations made from the General Fund for airports, highways, and port & harbors operating and capital budgets.

QUALIFICATION

Please bear in mind that the above is from the limited perspective of this Department. If the Committee has more specific questions pertaining to federal matching funds, the Department of Revenue would defer to the Department of Transportation, or the Office of Management and Budget for a more comprehensive explanation of the funding formulas.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH/RRK/gb

STATE HIGHWAY FUNDING METHODS

An Analysis and Update

Prepared by:

THE ROAD INFORMATION PROGRAM (TRIP)
1899 L Street N.W.
Washington, D.C. 20036
202/466-6706

SEPTEMBER 1982

The Road Information Program (TRIP) of Washington, D.C., researches, evaluates and distributes economic and technical data on transportation issues. TRIP is a non-profit agency sponsored by insurance companies, motor vehicle manufacturers, energy companies, highway contractors, construction equipment manufacturers and suppliers, and businesses involved in highway engineering, construction and financing.

STATE MOTOR-FUEL TAX RATES
(as of August 1, 1982)

NOTE: States with percentage or variable tax rates have been computed on a cents-per-gallon basis for this chart. The total gas tax paid column shows the actual cost to the user -- without attempt to indicate how much of the revenue raised by these taxes goes for highway uses.

STATE	CURRENT GAS TAX	SALES OR FRANCHISE TAX ON GAS	TOTAL GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
Alabama	11¢	--	11¢	1980 - from 7¢	12¢
Alaska	8¢	--	8¢	1961 - from 7¢	8¢
Arizona	10¢	--	10¢	7/1/82 from 8¢	10¢
Arkansas	9.5¢	--	9.5¢	1979 - from 8.5¢	10.5¢
California	7¢	6.2¢	13.2¢	1963 - from 6¢	7¢
Colorado	9¢	--	9¢	1981 - from 7¢	9¢
Connecticut	11¢	--	11¢	1976 - from 10¢	11¢
Delaware	11¢	--	11¢	1981 - from 9¢	11¢
District of Columbia	14¢	--	14¢	6/1/82 from 11¢	14¢
Florida	8¢	--	8¢	1971 - from 7¢	8¢
Georgia	7.5¢	3.6¢	11.1¢	1971 - from 6.5¢	7.5¢
Hawaii	8.5¢	5.2¢	13.7¢	1975 - from 5¢	8.5¢
Idaho	12.5¢	--	12.5¢	7/1/82 from 11.5¢	12.5¢
Illinois	7.5¢	6.1¢	13.6¢	1969 - from 6¢	7.5¢

STATE	CURRENT GAS TAX	SALES OR FRANCHISE TAX ON GAS	TOTAL GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
Indiana	11.1¢	5¢	16.1¢	1981 - from 8% + 4%	11.1¢
Iowa	13¢	--	13¢	1981 - from 10¢	13.5¢
Kansas	8¢	--	8¢	1976 - from 7¢	10¢
Kentucky	10¢	--	10¢	1980 - from 9¢	10¢
Louisiana	8¢	--	8¢	1969 - from 7¢	8¢
Maine	9¢	--	9¢	1971 - from 8¢	9¢
Maryland	11¢	--	11¢	6/1/82 from 9¢	11¢
Massachusetts	10.8¢	--	10.8¢	1980 - from 8.5¢	10.8¢
Michigan	11¢	4.8¢	15.8¢	1978 - from 9¢	11¢
Minnesota	13¢	--	13¢	1981 - from 11¢	13¢
Mississippi	9¢	6.2¢	15.2¢	1973 - from 8¢	10¢
Missouri	7¢	--	7¢	1972 - from 5¢	7¢
Montana	9¢	--	9¢	1979 - from 8¢	11¢
Nebraska	13.7¢	--	13.7¢	1980 - from 10.5¢	13.7¢
Nevada	9¢	--	9¢	1981 - from 6.5¢	9¢
New Hampshire	14¢	--	14¢	1981 - from 11¢	14¢
New Jersey	8¢	--	8¢	1972 - from 7¢	8¢
New Mexico	10¢	--	10¢	1981 - from 8¢	10¢

STATE	CURRENT GAS TAX	FRANCHISE TAX ON GAS	GAS TAXES PAID	GAS TAX LAST CHANGED	CURRENT DIESEL TAX
New York	8¢	4.8¢	12.8¢	1972 - from 7¢	10¢
North Carolina	12.25¢	--	12.25¢	1981 - from 9.25¢	12.25¢
North Dakota	8¢	--	8¢	1977 - from 7¢	8¢
Ohio	11.7¢	--	11.7¢	1981 - from 7¢	11.7¢
Oklahoma	6.58¢	--	6.58¢	1949 - from 5.5¢	6.5¢
Oregon	8¢	--	8¢	1/1/82 from 7¢	8¢
Pennsylvania	11¢	3.7¢	14.7¢	1979 - from 9¢	11¢
Rhode Island	12¢	1.2¢	13.2¢	1981 - from 10¢	12¢
South Carolina	13¢	--	13¢	1981 - from 11¢	13¢
South Dakota	13¢	--	13¢	1981 - from 12¢	13¢
Tennessee	9¢	--	9¢	1981 - from 7¢	12¢
Texas	5¢	--	5¢	1955 - from 4¢	6.5¢
Utah	11¢	--	11¢	1981 - from 9¢	11¢
Vermont	11¢	--	11¢	1981 - from 9¢	14¢
Virginia	11¢	3.6¢	14.6¢	1980 - from 9¢	13¢
Washington	12¢	--	12¢	1981 - from 12¢	12¢
West Virginia	10.5¢	--	10.5¢	1978 - from 8.5¢	10.5¢
Wisconsin	13¢	--	13¢	1981 - from 9¢	13¢
Wyoming	8¢	--	8¢	1976 - from 7¢	0

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heating a private residence.

2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.

3. Require <u>only</u> an <u>annual</u> certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (K) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to $100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

Tax To Be Remitted	Commission
$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to $100)

The maximum amount of $100 would provide remuneration for the dealers extra work and yet would not be costly to the state. There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1, would provide for the above recommendations; the changes could very well be incorporated into Senate Bill 117 (By the Rules Committee by Request of the Governor) which is "An Act making technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(1) is amended to read:

(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 2, 1983

MEMORANDUM

TO: Representative Dick Shultz

FROM: David Teal
Research Staff

RE: Motor Fuel Taxes
Research Request Number 83-75

Jack Goddard, of your staff, asked the House Research Agency to determine the amount of motor fuel tax received by the State and the amount it costs the State to collect motor fuel taxes. The attached fiscal note for SSHB40 shows that the State could eliminate two positions (at a savings of about $65,000 per year) if the fuel tax were repealed. Information on tax receipts is contained in the Department of Revenue's Revenue Source Book, which was published in January of 1983. A copy of a table from that book is also attached to this memorandum. That table shows total net motor fuel tax receipts of $23.2 million and $30.3 million in FY 1981 and FY 1982, respectively.

Because Mr. Goddard wanted an accounting of tax receipts by type of fuel as well as by type of use, an additional table was created from information available from the Department of Revenue. The following (full page) table provides more specific information on tax receipts than is available in the Revenue Source Book. The figures in the table show that net receipts from motor fuel taxes were $23 million in FY 1981 and $32 million in FY 1982. In both years, the tax on highway fuel was about two-thirds of total motor fuel tax receipts.

The figures in the table prepared by the House Research Agency are not identical to those reported in the Department of Revenue's Revenue Source Book. The figures in the agency's table were computed by multiplying the applicable tax rate by the number of gallons reported in the attached reports of motor fuel sold in Alaska. Deductions for refunds were made according to information supplied by the Department of Revenue. These computations produce net receipts that are $800,000 and $1 million greater (for aviation and highway fuel taxes, respectively) than are reported for FY 1982 in the Revenue Source Book. For FY 1981, the Revenue Source Book reports aviation fuel tax receipts that are about $200,000 greater than the figure computed by the House Research Agency. Bob Kessel, of the Department of Revenue, said the differences are probably due to timing of payments and/or refunds.

Motor Fuel Taxes
State of Alaska
FY 1981 and FY 1982

	Tax Rate (¢ per gal.)	FY 1981 Amount	FY 1981 Percent of Unrestricted Revenue	FY 1982 Amount	FY 1982 Percent of Unrestricted Revenue
Jet Fuel	2.5	$ 3,234,951	.087 %	$ 6,461,218	.157 %
Aviation Gasoline	4.0	709,618	.019	678,551	.017
Aviation Subtotal		3,944,569	.106	7,139,769	.174
less Revenue Sharing		135,038	.004	122,441	.003
Net Receipts		3,809,531	.102	7,017,328	.171
Highway Diesel	8.0	6,712,771	.181	17,142,893	.417
Highway Gasoline	8.0	13,807,751	.371	15,022,047	.366
Other Highway	8.0	9,203,816	.248	1,708	.000
Highway Subtotal		29,724,338	.799	32,166,648	.783
less Refunds		*	*	10,835,303	.264
Net Receipts		15,600,000*	.420	21,331,345	.519
Marine Diesel	5.0	3,206,815	.086	3,380,558	.082
Marine Gasoline	5.0	395,351	.011	368,884	.009
Marine Subtotal		3,602,166	.097	3,749,402	.091
Total Net Tax Collected		$23,011,697	.619 %	$32,098,075	.781 %

*The cumulative amount of highway fuel tax refunded during FY 1981 was not compiled by the Department of Revenue; the 1983 Revenue Source Book is the source of the $15.6 million listed as net highway fuel tax receipts for FY 1981.

House Research Agency 3/83

Mr. Goddard asked that I report any items of interest that I discovered in my research of this topic. The following paragraphs contain information which you may find interesting.

- Motor fuel taxes accounted for less than one percent of Alaska's total unrestricted revenues in FY 1981 and FY 1982. Ten years ago, motor fuel taxes comprised just over five percent of unrestricted revenues. During the period from 1972 to 1982, motor fuel tax revenues increased by 166 percent, while total unrestricted revenues increased by 1,775 percent. During the same period, non-oil-related revenues increased by about 209 percent.

- Although AS 43.40.010(e) states that 60 percent of the proceeds (less collection costs) from taxes on aviation fuel sold at airports operated by municipalities shall be refunded to the municipality that collected the tax, the amount of revenue distributed to municipalities was less than two percent of the total aviation fuel tax collected in 1982.

- Mr. Kessel is currently compiling information on appropriations for port and harbor facilities in order to compare the figures to income from the marine fuel tax. The comparison should aid in drawing conclusions about the probability that repeal of the marine fuel tax would adversely affect State appropriations (and perhaps federal matching funds) for construction and improvement of ports and harbors.

- Of the $15 million in highway gasoline tax collected in 1982, $308,481 (two percent) was refunded. Of the $17 million in highway diesel tax collected in 1982, over $10 million, or 60 percent, was refunded.

- Mr. Kessel voiced concern that wide differences in tax rates could cause enforcement problems since there would be incentive to switch fuel from "low tax uses" to "high tax uses" without paying the tax. The concept applies to repeal of a tax on diesel fuel as well as to repeal of the marine fuel tax.

- Repeal of motor fuel taxes may not substantially reduce record-keeping chores of industry. The federal government also requires that certain records be maintained; those requirements would be unaffected by changes in State law.

- There is no State highway tax on gasohol and the federal tax is 5¢ per gallon rather than the 9¢ that applies (after April 1, 1983) to gasoline. If alcohol can be produced and delivered for less than $2.20 per gallon, there is some possibility that barley could be used to produce alcohol for highway fuel.

I hope you find this information useful. Please call if you have additional questions.

Attachments
fiscal note for SSHB40
Table 2, 1983 Revenue Source Book
motor fuel tax reports for 1981 and 1982

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SS HB 40 Date on Bill: 2/11/83
Title: An act repealing motor fuel tax.
Sponsor: Hayes
Requestor: House Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			-0-	(65)	(65)			
Total			-0-	(65)	(65)			

b. Revenues:

Revenue			-0-	(48,000)	(33,000)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:
Since the bill would eliminate the Motor Fuel Tax, positions currently allocated to those sources could eventually be eliminated. The elimination of those positions could not occur until sometime in FY 84 because there would be substantial clean up work between now and the several months succeeding the effective date of the bill. The task of refunding the numerous fuel users could be monumental.

The loss in revenues to the state are as a result of repealing highway, marine, and aviation taxes.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Reinhold Phone: 465-2300
Division: Comm. Offing Date: 2/28/83

Approved by Commissioner: Robert O'Keefe Date: 2/28/83
Department: Revenue

5. Distribution:
- Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

TABLE 2
STATE OF ALASKA - UNRESTRICTED REVENUES
TAX PORTION

($ millions)	FY 71	FY 72	FY 73	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
Corporate General	6.1	6.5	6.8	8.2	17.3	31.1	35.8	33.5	24.8	17.9	34.8	34.8
Corporate - Petroleum	--	--	--	--	--	--	--	--	232.6	547.5	860.1	668.9
Fiduciary	--	--	--	--	.1	.1	.1	.1	.1	.1	--	--
Individual	35.5	39.1	43.4	49.2	86.9	146.2	210.4	145.7	117.2	100.5	--	--
TOTAL INCOME	41.6	45.6	50.2	57.4	104.3	177.4	246.3	179.3	374.7	666.0	894.9	703.7
Alaska Business License	5.6	6.1	6.7	7.5	11.2	19.1	23.2	21.7	28.2	4.2	5.4	5.5
Fish - Canned Salmon	3.5	2.7	1.7	1.4	1.6	1.8	3.8	5.5	6.7	4.3	5.9	8.6
Fish - Shore Based	.3	.3	.5	.9	.8	.8	1.9	2.3	3.3	7.6	11.0	8.7
Fish - Floating	.2	.2	.3	.5	.3	.5	.5	.5	1.9	2.7	3.8	5.5
Salmon Enhancement	--	--	--	--	--	--	--	--	--	--	--	2.4
Insurance Companies	3.0	3.5	3.7	3.8	4.4	6.1	8.1	10.0	10.8	10.4	10.6	12.5
Other	.4	.5	.6	.6	.7	1.0	1.3	1.6	1.9	2.1	1.2	1.4
TOTAL GROSS RECEIPTS	13.0	13.3	13.5	14.7	19.0	29.3	38.8	41.6	52.8	31.3	37.9	44.6
Gravel, Timber, Etc.	--	--	--	.3	.8	1.8	1.0	.8	1.7	1.6	2.7	--
Oil & Gas Production	10.5	11.4	12.0	14.8	26.6	27.9	23.7	107.6	173.6	506.2	1,169.9	1,581.1
Oil & Gas Conservation	--	--	--	--	--	.1	.1	.1	.2	.3	.3	.6
TOTAL SEVERANCE	10.5	11.4	12.0	15.1	27.4	29.8	24.8	108.5	175.5	508.1	1,172.9	1,581.7
Oil & Gas	--	--	--	--	6.6	83.4	139.1	173.0	163.4	168.9	143.0	142.7
Oil & Gas Reserves	--	--	--	--	--	223.1	270.6	--	--	--	--	--
Vehicle Registration	--	--	--	--	--	--	--	.2	.2	.1	.2	--
TOTAL PROPERTY	--	--	--	--	6.6	306.5	409.7	173.2	163.6	169.0	143.2	142.7
Alcoholic Beverages	4.9	4.8	5.2	5.7	6.6	7.8	8.0	7.6	7.4	7.4	8.3	9.0
Fuel Taxes - Aviation	1.6	1.5	1.3	1.6	2.8	3.0	2.5	3.3	3.4	4.0	4.1	6.3
Fuel Taxes - Highway	8.6	8.9	10.1	11.0	14.0	20.2	16.7	17.9	16.3	18.9	15.6	20.3
Fuel Taxes - Marine	.8	1.0	1.1	1.2	1.1	1.2	1.3	2.1	2.6	3.2	3.5	3.7
Tobacco Products	1.1	1.2	1.2	1.3	1.5	1.7	1.8	1.7	1.7	1.6	1.7	1.9
TOTAL SALE/USE	17.0	17.4	18.9	20.8	26.0	33.9	30.3	32.6	31.4	35.1	33.2	41.2
Estate	--	--	--	.1	.1	.2	.2	.2	.1	.2	.5	.3
School	1.4	1.5	1.6	1.6	2.2	2.6	2.6	2.4	2.5	2.6	--	--
TOTAL OTHER	1.5*	1.6*	1.6	1.7	2.3	2.8	2.8	2.6	2.6	2.8	.5	.3
TOTAL TAXES	83.6	89.3	96.2	109.7	185.6	579.7	752.7	537.8	800.6	1,412.3	2,282.6	2,514.2

*Includes disaster relief

Source: Department of Revenue, Revenue Sources FY 1971 - FY 1982. Revised November 1982.

STATE OF ALASKA - UNRESTRICTED REVENUES
NON-TAX PORTION

($ millions)	FY 71	FY 72	FY 73	FY 74	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
LICENSES & PERMITS												
Business	2.7	2.8	3.2	4.1	4.2	5.1	5.5	6.8	7.5	8.1	9.1	10.8
Non-Business	6.0	6.3	6.6	6.8	9.4	11.3	10.6	12.3	12.3	10.7	12.2	13.0
TOTAL	8.7	9.1	9.8	10.9	13.6	16.4	16.1	19.1	19.8	18.8	21.3	23.8
INTERGOVERNMENTAL RECEIPTS												
Federal Shared Revenues	9.7	9.0	7.7	8.0	10.6	6.4	2.5	3.6	4.1	4.8	8.5	21.7
STATE RESOURCE REVENUE												
SALE/USE												
Bonus Sales	.2	.3	3.8	24.8	1.0	--	--	--	--	342.4	7.6	5.0
Investment Earnings	78.4	67.3	43.2	41.1	38.5	31.7	34.8	44.2	59.2	119.9	227.8	324.7
Rents	3.2	3.3	3.7	4.0	4.3	4.1	3.4	2.3	2.1	3.0	5.4	3.5
Royalties	23.9	24.6	23.5	28.7	40.0	43.3	34.3	149.6	249.2	688.2	1,118.5	1,157.3
Sale of State Property	1.0	1.4	1.7	1.4	12.2	1.9	1.8	1.9	8.4	5.7	4.8	5.2
Gravel, Timber, etc.	--	--	--	--	--	--	--	--	--	--	--	1.2
TOTAL	106.7	96.9	75.9	100.0	96.0	81.0	74.3	198.0	318.9	1,159.2	1,364.1	1,496.9
FACILITIES RELATED CHARGES												
Airports	.6	.5	.7	.6	.5	.6	.7	.8	.9	.8	1.1	1.6
Ferry System--SE	6.5	8.1	10.1	9.6	12.0	13.9	15.4	14.0	17.1	18.7	21.0	25.2
Ferry System--SW	.6	.9	.9	1.0	1.2	1.3	1.5	1.6	1.8	2.4	3.4	4.0
Other	1.9	2.2	3.8	4.3	2.1	2.2	2.7	4.0	3.1	4.1	3.7	3.6
TOTAL	9.6	11.7	15.5	15.5	15.8	18.0	20.3	20.4	22.9	26.0	29.2	34.4
SERVICES RELATED CHARGES												
Court System	1.2	1.7	1.6	1.9	3.0	3.7	3.6	2.8	2.8	2.8	2.9	3.5
Other	.2	.3	.3	.4	1.4	.7	.9	1.7	2.3	2.0	4.1	6.1
TOTAL	1.4	2.0	1.9	2.3	4.4	4.4	4.5	4.5	5.1	4.8	7.0	9.6
TOTAL RESOURCE	117.7	110.6	93.3	117.8	116.2	103.4	99.1	222.9	346.9	1,190.0	1,400.3	1,540.9
Miscellaneous Revenue	.7	1.2	1.2	8.5	7.4	3.9	3.9	3.9	7.2	6.7	5.5	7.8
Total Unrestricted Non-Tax Revenue	136.8	129.9	112.0	145.2	147.8	130.1	121.6	249.5	378.0	1,220.3	1,435.6	1,594.2
Less: Native Claims Payments	--	--	--	--	--	--	--	22.4	45.6	131.4	--	--
TOTAL NET UNRESTRICTED NON-TAX REVENUE	136.8	129.9	112.0	145.2	147.8	130.1	121.6	227.1	332.4	1,088.9	1,435.6	1,594.2
Total Unrestricted Tax Revenue	83.6	89.3	96.2	109.7	185.6	579.7	752.7	537.8	800.6	1,412.3	2,282.6	2,514.2
TOTAL UNRESTRICTED REVENUE	220.4	219.2	208.2	254.9	333.4	709.8	874.3	764.9	1,133.0	2,501.2	3,718.2	4,108.4

REPORT OF MOTOR FUEL SOLD OR DISTRIBUTED IN ALASKA DURING June 1981

ABLE FUEL

l Type	Total Gallons	GALLONS BY DIVISION Division I	Division II	Division III	Division IV	Accumulative Total Gallons From 7-1-80 To 6-30-81
ation Jet	10,878,549	436,143	198,070	6,882,259	3,362,077	129,398,054
ation Gas	2,478,935	258,919	253,373	1,454,985	511,658	17,740,441
hway Diesel	6,055,540	838,797	3,009,210	1,406,073	801,460	83,909,631
hway Gas	16,927,042	1,437,709	521,741	11,492,304	3,475,288	172,596,892
hway Other	5,973,654	93	81	417	5,973,063	115,047,697
ine Diesel	7,245,364	1,385,023	45,252	5,763,438	51,651	64,100,327
Gas	1,604,548	279,993	177,624	1,000,125	236,806	7,907,010
ine Other	26	14	-0-	12	-0-	35,998
able Total	51,253,658	4,636,691	4,205,351	27,999,613	14,412,003	590,736,050

EMPT FUEL

l Type	Total Gallons	Division I	Division II	Division III	Division IV	Accumulative Total Gallons From 7-1-80 To 6-30-81
lation Jet	13,018,125	34,352	17,006	8,849,068	4,117,699	155,074,371
lation Gas	73,238	10,046	2,869	16,956	43,367	568,949
lation Bonded	8,652,368	-0-	-0-	8,652,368	-0-	118,955,511
hway Diesel	4,207,770	658,440	496,439	3,035,881	17,010	20,781,797
y Gas	1,286,597	54,523	19,186	1,084,474	128,414	7,975,064
-Highway Diesel	9,012,653	1,584,650	1,869,881	3,724,670	1,833,452	97,798,851
ine Diesel	434,272	8,882	-0-	425,390	-0-	5,079,260
ine Gas	8,341	5,787	-0-	2,554	-0-	93,975
empt Total	36,693,364	2,356,680	2,405,381	25,791,361	6,139,942	406,337,778

nd tal	87,947,022	6,993,371	6,610,732	53,790,974	20,551,95	997,073,828

-547
/79)

REPORT OF MOTOR FUEL SOLD OR DISTRIBUTED IN ALASKA DURING JUNE 1982

XABLE FUEL

el Type	Total Gallons	GALLONS BY DIVISION Division I	Division II	Division III	Division IV	Accumulative Total Gallons From July 1, 1981 To June 30, 1982
iation Jet	27,404,054	624,315	221,063	26,258,664	300,012	258,448,730
iation Gas	2,238,564	250,270	159,563	1,245,456	583,275	16,963,767
ghway Diesel	18,825,399	1,078,162	4,025,955	3,280,526	10,440,756	214,286,160 -
ghway Gas	19,099,694	1,642,772	570,493	12,983,023	3,903,406	187,775,589
ghway Other	861	88	49	260	464	21,354
rine Diesel	7,325,764	1,595,909	28,866	5,639,214	61,775	67,611,163
rine Gas	1,590,731	330,587	36,200	861,696	362,248	7,376,872
rine Other	42	16	-0-	26	-0-	185
xable Total	76,485,109	5,522,119	5,042,189	50,268,865	15,651,936	752,483,820

EMPT FUEL

el Type	Total Gallons	Division I	Division II	Division III	Division IV	Accumulative Total Gallons From July 1, 1981 To June 30, 1982
iation Jet	2,998,692	34,859	7,752	2,923,994	32,087	120,832,900
iation Gas	79,447	8,877	9,325	20,997	40,248	613,820
iation Bonded	297,628	-0-	-0-	297,628	-0-	47,750,839
ghway Diesel	1,604,533	774,963	165,427	661,466	2,677	21,087,939
ghway Gas	511,395	59,054	63,052	276,011	113,278	8,701,102
f-Highway Diesel	21,925,961	1,479,886	1,067,344	17,441,642	1,937,089	121,563,149
rine Diesel	320,797	34,494	-0-	286,303	-0-	4,039,826
rine Gas	-0-	-0-	-0-	-0-	-0-	56,729
empt Total	27,738,453	2,392,133	1,312,900	21,908,041	2,125,379	324,646,304

and tal	104,223,562	7,914,252	6,355,089	72,176,906	17,777,315	1,077,130,124

-547
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Motor Fuel Tax (decreasing & repealing refund provis.)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55, by Reps. Martin and Grussendorf. Lowers motor fuel tax to three cents per gallon, as did original (see p. 46), and repeals motor fuel tax refund provisions contained in the following statutes:

--AS 43.40.030, "Refund for Nonhighway Use," allows six-cent-per-gallon refund of any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country.

--AS 43.40.035, "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax.

--AS 43.40.050, "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue.

--AS 43.40.060, "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred whe. the invoices will be the basis for a refund claim.

--AS 43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim.

--AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine the validity of a claim for a refund.

Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.)

Effective April 1, 1983.

Introduced February 4 and referred to Transportation and Finance.

Appropriation (special) (Tununak seawall)

HOUSE BILL NO. 149, by Rep. Vaska. Would appropriate $905,000 for a grant to the City of Tununak to construct a seawall for the prevention of soil erosion. Tununak is on the western side of Nelson Island on the Bering Sea. Provides appropriation be disbursed in accordance with laws governing state grants (AS 37.05.315 - 319). Effective immediately.

Introduced January 31 and referred to Community & Regional Affairs and Finance.

Motor Fuel Tax/Water-Craft (repealing)

HOUSE BILL NO. 150, by Zharoff, Grussendorf and McBride. Would repeal the five cent per gallon tax on motor fuel used in or on watercraft (AS 43.40.010(a)(2) and (b)(2)). Effective July 1, 1983.

Motor Fuel Tax (decreasing)

HOUSE BILL NO. 55, by Martin and Grussendorf. Decreases the motor fuel tax to three cents a gallon (currently eight cents) to offset the tax increase imposed by the federal government. Decrease would apply to all motor fuel sold or otherwise transferred in the state (AS 43.40.010(a)) and motor fuel consumed by a user (AS 43.40.010(b)) except aviation gas, motor fuel used in and on watercraft and all aviation fuel other than gasoline. Provides Act takes effect April 1,1983.

Introduced January 18 and referred to Transportation, then to Finance.

Student Loans (amount of & interest)

HOUSE BILL NO. 56, by Lindauer. Would change the amount and interest rate of undergraduate and graduate student loans providing eligible undergrads and grad students may receive a loan for each school year not to exceed an amount equal to the actual costs of tuition, room, and board (currently undergrads may receive up to $6,000 per year, and grad students may receive up to $7,000 per year). Increases the interest rate on student loans to seven percent a year (currently five percent). Does not provide for an effective date (takes effect 90 days after being signed by the Governor).

Introduced January 18 and referred to Health, Education & Social Services, then to Finance.

ASHA Home Loan Program (creation)

HOUSE BILL NO. 57, by Lindauer. Establishes the Alaska State Housing Authority Home Mortgage Program. The bill states that its purpose is ". . .to assist state residents who might not otherwise be able to buy homes at realistic interest rates." Provides the Home Loan Program be financed through bond sales to the Alaska Permanent Fund, and the proceeds of the bond sales be used to make loans or purchase mortgages. Amends section of the Alaska Permanent Fund relating to the investment responsibilities of the Board of Trustees (AS 37.13.120) by stating the Board shall purchase all of the ASHA bonds that bear interest of 10 percent, are guaranteed by ASHA, and are secured by first mortgages under the ASHA Home Mortgage Program, until 40 percent of the assets of the Corporation are invested in the bonds.

Loans are to be made at an interest rate of 10 percent, may not exceed $160,000, may not exceed 80 percent of the appraised value of the home, shall be secured by a first mortgage, and may be assumed after a period of four years. Provides for the purchase of loans from banks and financial institutions if certain requirements are met. Sets out eligibility requirements for borrowers, stating the Authority may not require the borrower have a specified level of income as a condition for a loan is it is demonstrated that he can meet monthly rental payments comparable to loan payments. Also states that the willingness of a bank or other financial institution to take a second mortgage to secure a retained interest establishes the financial eligibility of a borrower. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 18 and referred to Labor & Commerce, then to Finance.

APR 5 1983

ALASKA TRUCKING ASSOCIATION, INC.

March 22, 1983 3443 Minnesota Drive • Anchorage, Alaska 99503 • Phone (907) 276-1149

Representative Terry Martin
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Martin,

During my last trip to Juneau we discussed Sponsor Substitute for House Bill No. 55. The Alaska Trucking Association is in full support of this legislation and we commend you for your efforts to offset tax increases by the federal government.

Whatever assistance we can offer in support of this legislation is available. I discussed our position in support of SSHB55 with your Aide, Elmer Lindstrom and he indicated that he would contact me at a later date.

Again, we appreciate your desire to create a better business environment for the transportation industry as well as provide relief to the general public in the motor fuel tax area.

Sincerely,

T. J. Thrasher
Managing Director

3/31/83

Bette -

For your review and the record with regard to HB 55.

Terry

Bette: Why are you passing this out if no body supports it?

Martin insists.

- Should we send a letter for the Committee bill so that it is referred to Finance because the Committee sponsored it.
You may want to ask the Committee.

FACT SHEET
MOTOR FUEL TAX

Collect at earliest point of distribution possible.

Trend in last 5 years - Ed. users
Feds. collect from ed users

EXEMPTIONS

Sawmills - 80% subject to 6¢ refund
Construction companies 6¢ refund 60-80%
Submit original invoice tax paid
Equipment listing

Airlines

# of certificate of users will trade this language

1 certificate/year under suggested language

Department has 1½ employees - tax returns - issuing refunds

.43 refund/
10 for 65% of total $1.6 million/monthly

education field - 12 ~~M/C~~ tax auditors
detailed inspection

Fed requires keeping categories - Fed-State tax exempt sales, etc. in this case of fuel revenue or shortage

1. DOT Central Region Introduction
2. Fuel tax - Our Committee Bill
   I have Info
3. HB 1909 Lachenbruch

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending motor fuel tax provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him (the user) during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he (each) has distributed or used during the month.

* Sec. 2. AS 43.40.010(1) is amended to read:

(1) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue [DEPARTMENT] may not collect the motor fuel

tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10 percent alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.-100(2), except subparagraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue [DEPARTMENT]. The form of a certificate of use may be prescribed by regulation adopted by the department.

* Sec. 3. AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.-010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40.010(1) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

* Sec. 4. This Act is retroactive to April 1, 1983.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

BILL COMPARISON

Hayes, Martin, Lindauer, Tischer, Barnes SSHB 40	Martin & Grussendorf SSHB 55	Zharoff & Grussendorf HB 150
An Act repealing the motor fuel tax (AS 43.40); and providing for an effective date.	An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date	An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date.
Would only repeal the state motor fuel tax (AS 43.40), retroactive to January 1, 1983, and applying to tax years beginning after December 31, 1982 Directs the Dept. of Revenue to adopt regulations providing for refunds of motor fuel taxes collected after December 31, 1982. Effective immediately.	Lowers motor fuel tax to 3¢ per gallon, and repeals motor fuel tax refund provisions contained in the following statutes: --AS 43.40.030 "Refund for Nonhighway Use," allows six-cent-per-gallon refund on any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country. --AS 43.40.035 "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax. --AS 43.40.050 "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue. --AS 43.40.060 "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. -continued-	Would repeal the 5¢ per gallon tax on motor fuel tax used in or on watercraft.

SSHB 40	SSHB 55	HB 150
	--AS43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim. --AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine validity of a claim for refund. Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.) Fiscal Note Info.: The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues - FY 83 - 2.0 mill. FY 84 - 17.0 mill. FY 85 - 10.0 mill. Only AS 43.40.030(a) needs to be repealed	Fiscal Note Info.: Shows a loss of revenues in the General Fund as follows: FY 83 - 0 FY 84 - 3.2 mill. FY 85 - 4.2 mill.

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 13 B
~~CHAIRMAN, LABOR AND COMMERCE COMMITTEE~~
~~PHONE [illegible]~~

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

MAR 5 1983

March 2, 1983

Representative Bette Cato, Chair
House Transportation Committee
House of Representatives
Capitol Building
Juneau, Alaska

Dear Bette,

I'm writing in follow-up to yesterday's meeting of your committee to furnish "on paper" supporting information relative to HB 55, a bill to lower the state motor fuel tax by five cents to three cents a gallon.

There are, I submit, seven major advantages which this bill offers which, as a result of yesterday's deliberations in committee, I feel compelled to re-emphasize at this time:

1) HB 55 represents significant savings to state and local governments in physical plant heating costs.

2) Major savings in automotive fuel charges to state trooper and city police vehicles, as well as to state and municipal non-law enforcement vehicles and mobile equipment, will result through passage of this bill. HB 55 will mean reduced costs for school transportation services, as well.

3) HB 55 will result in reduced costs in mass transportation for public carriers in Alaska, on land, in the air or over water -- savings in the competetive market will be passed on to Alaskans.

4) Reductions in motor fuel costs through enactment of HB 55 will be of direct benefit to the trucking industry in Alaska and particularly helpful to high overhead, small-scale independent trucking operations.

5) HB 55 will prove of notable benefit to the Alaska car owner. This bill will save the average motorist fifty-five to seventy-five dollars a year.

6) On a broader scale, HB 55 will serve to leave more money in the resident-consumer's pocket, and will stimulate the state economy in both the public and private sector.

7) HB 55 will offset the five cents per gallon increase in the Federal gas tax and significantly help balance the cost of living in Alaska compared to living in the other 49 states.

Thanks for the opportunity to share further my thoughts relative to reducing the state motor fuel tax. Best personal regards.

Sincerely,

Terry

Representative Terry Martin

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SS HB 55 Date on Bill: 2/4/83
Title: "An Act decreasing the motor fuel tax."
Sponsor: Martin, Grussendorf
Requestor: Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue			(2.0 mil.)	(17.0 mil.)	(10.0 mil.)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The proposed bill reduces the tax on motor fuel, thus reducing General Fund revenues. Only AS 43.40.030(a) needs to be repealed.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Rehfeld Spec. Asst. Phone: 465-2300
Division: Comm. Office Date: 2/22/83

Approved by Commissioner: [signature] Date: 2/22/83
Department: Revenue

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

HB

68

We're getting letters fra Constituents
on the Columbia glacier issue.
All supporting old route into the
Glacier.

Bette —

I thought you said Kitchen facilities.

I wondered why you wanted me to ask

Do you want to ask about the benefit
a maritime academy may have to establish
a hiring Pool of Alaskans?

Questions:

Gov. Sheffield in the campaign supported the formulation of an authority to manage and operate the maine Hwy. Authority

Has this administrations philosophy changed?

If so, why?

Steve —

do you have

Chapter & Verse on

this? On what Sheffield statement?

If so can I get it

Not in writing but near primary election time you told me that he was supporting this, splitting DOT, PF, and Regions.

Jack —

ask about the

Kitchen facilities

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 68 Date on Bill: 1/18/83
Title: Re ferries & ferry terminals & establ. AK Marine Hwy. Authority
Sponsor: Cato and Grussendorf
Requestor: House Transportation Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				2440.4	1360.0	1500.0		
Total								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Sponsor did not identify source.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of t impact.

Prepared By: Doug Goldbach Phone: 465-3911
Division: Financial Management Date:

Approved by Commissioner: [signature] Date: 2/14
Department: Transportation & Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

III. ANALYSIS

There are administrative and organizational topics not specifically addressed in House Bill No. 68, "An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority". Since the proposed legislation is similar in each of these bills, we are making the following assumptions in preparation of fiscal notes for each bill.

1. There is no offsetting credit taken for the expenditure of earned revenue to support the cost of operation of "Alaska Marine Highway Authority". In actuality, the initial cost would be the same if funding came from a direct appropriation for the full cost of operations from the legislature with earned revenue returned to the General Fund, or if earned revenue was expended with an appropriation to support the shortfall.
2. It is assumed the "Alaska Marine Highway Authority's" Payroll, Personnel, and Accounting systems would feed into the existing State systems to insure checks and balances, and would eliminate the necessity of creating a duplicate system.
3. We have assumed that initial start-up costs will be fully funded by the Legislature.
4. It is assumed the "Authority's" funding would be at the Division level and allocated to operating components as set out in its budget.
5. We have assumed a General Fund Subsidy for the difference between the total operating cost and the expected revenue for each fiscal year. We have further assumed that the total amount authorized would be available at the beginning of each fiscal year to allow the "Authority" to plan operations for each year.

6. The same inflation factor would apply to the "Authority's" budget request as followed by State agencies. We have assumed it to be seven percent (7%) for the fiscal note.

7. Initially the "Authority" would continue direct involvement with the State in the following:

   A. Occupancy of a State owned office building.

   B. Continued support from the State mail system.

   C. Access to the State equipment fleet.

   D. Access to the Statewide purchasing contract (i.e. fuel).

   E. Continued use of "shared" communications lines through Department of Administration, Division of Communications.

   F. Continued insurance, bonding, etc., as now supplied through Department of Administration, Division of Risk Management.

   G. Legal service from the Attorney General's office.

8. We have assumed that Department of Transportation and Public Facilities transferred employees would bring their own equipment and that equipment for the proposed twenty-four (24) new hire employees would be $81.0.

9. We have assumed the "Authority" would require its own computer services for reservations, cost accounting, dispatching vessels crews, and payroll input; and that one time costs would be $577.0 for hardware and $265.0 for software.

10. Assuming expansion, the first year shows one time start-up funds for Contractual $576.2; (Software $265.0; Legal Services $212.0; Additional Space Rental [illegible].2); and $53.0 Commodities (primarily office supplies).

Summary - 200 - 500 Accounts: Of $1620.8 shown for the first year, $1287.2 is a first time start-up cost. Yearly maintenance of all 200 through 500 Accounts would be around $333.6 per year.

11. Of the $2174.1 increase in Personal Services, $1268.4 is assumed to be positions already within the Department of Transportation and Public Facilities performing similar services in Finance, Supply, Payroll, Design and Construction, and Personnel for the Division of Marine Highway Systems. The actual increase then would be $905.6 for Personal Services to fund eight (8) upgraded positions and twenty-four (24) new positions.

MHS EXISTING	DOT TRANSFERS	NEW POSITIONS	TOTAL POSITIONS
PFT 36	PFT 32	PFT 24	PFT 92
PPT 4			PPT 4

This is a total of ninety-two (92) Permanent Full Time and four (4) Permanent Part Time Administrative positions, with a total of thirty-one (31) Supervisors (Range 18 and above) and sixty-five (65) support positions to operate and supervise nine vessels (725 employees) and twenty-six Shore Facilities (twenty-eight (28) Permanent and twenty-three (23) Permanent Part Time employees). No increase has been made in Vessel or Shore Facility Personnel.

Approximately $238,500 of CIP funded positions are proposed to be general funded because they would be considered more operational.

NEW POSITIONS FOR ALASKA HIGHWAY AUTHORITY

	1.	FY 83 2.Pos	3.Mo.	4. $	FY 84 5.Pos.	6.Mo.	7. $
APPROPRIATION	1. Full Time (From APUR or Form 11A)				24	288	677,030
	2. Part Time/Seasonal (From Form 11B)						
	3. Overtime (From Form 11C)						
	4. Shift Differential (From Form 11D)						
	5. Additional Salary Costs (From Form 11E)						
	6. Subtotal - Permanent Positons and Gross Salary Costs (Sum of Lines 1 - 5)				24	288	677,030
	7. Enter SBS Costs (Calculate in Box A)						41,502
	8. Standard Benefits FY 83 (Calculate in Box B)						119,428
	9. Police, Firemen Retirement Adjustment (Calculate in Box C)						
	10. Enter Adjustment for TRS Employee if Applicable (Calculate in Box D)			( )			( )
	11. Enter Monthly Fixed Costs (Calculate in Box E)						67,680
	12. Subtotal - Authorized Permanent Positions, Salaries and Benefits (Sum of Lines 6 thru 11)						
	13. Non-Permanent Positions, Salaries and Benefits (From Form 11F)						
	14. TOTAL POSITIONS, SALARIES AND BENEFITS (SUM OF LINES 12 AND 13)						905,640

A SUPPLEMENTAL BENEFITS (SBS)

	FY 83 POSITIONS	FY 83 AMOUNT
1.		
2.	X2188	X.0613
3.	$	$
4. Trans. lower - Line 7, Col 4.		
	FY 84 POSITIONS	**FY 84 AMOUNT**
5.	24	677,030
6.	X2240	X.0613
7.	$ 53,760	$ 41,502
8. Trans. lower - Line 7, Col 7.		

ADJUST

15.	FY 83 Authorized (From Form 5A)
16.	FY 83 Salary Increase Distribution
17.	FY 83 Total Adjusted Funding (Line 15 + Line 16)
18.	FY 83 Amount Underfunding (Line 14 - Line 17)
19.	FY 83 + FY 84 Percent Underfunding (Line 18 ÷ Line 14)
20.	FY 84 Amount Underfunding (Line 19 X Line 14, Col. 7)
21.	FY 84 Continuation Request (Line 14 - Line 20)
22.	Continuation Adjustment (Line 21 - Line 15)

B VARIABLE BENEFITS %

	1.Gross Salary	2.Rate	3.Adjustment
FY 83			
FY 84	677,030	.1764	119,428

C BENEFITS ADJUSTMENT FOR POLICE, FIREMEN

	1.Affected Salaries	2.Rate	3.Adjustment
FY 83		.0965	
FY 84		.0965	

D BENEFITS ADJUSTED FOR TRS EMPLOYEES

	1.TRS Salaries	2.Rate	3.Adjustment
FY 83		.0426	( )
FY 84		.0426	( )

E

Monthly Ben.		LTC	Oth.	TOTAL
FY 83	Months			
	$ Fact.	X170	X183	
	TOTAL			
FY 84	Months	36	252	
	$ Fact.	X200	X240	
	TOTAL	7200	60.480	67,680

11 CURRENT AUTHORIZED POSITION SUMMARY

AGENCY Alaska Marine Highway Authority

PROGRAM

BRU

COMPONENT

Page of

Revised Date

FY 84

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DIVISION OF MARINE HIGHWAY SYSTEMS

NEW POSITIONS

Position	Wage At Started Range Step A	Range	Wages	9/3/82 APBR FY83 Wage	Location	Notes
erations Director	*51,840	24	$52,656		JNO	
mputer Manager I	*36,492	19	36,468		JNO	
ccounting Supervisor III	*34,056	18	34,044		JNO	
ystems Analyst	*34,056	18	34,044		JNO	
roperty Control Officer III	*34,056	18	34,044		JNO	
nformation Officer	*32,868	17	31,680		JNO	
urchasing Agent I	*29,556	16	29,460		JNO	
ommunications Specialist	*29,556	16	29,460		JNO	
nternal Auditor	*29,556	16	29,460		JNO	
ccounting Supervisor II	*29,556	16	29,460		JNO	
omputer Operator	*25,740	14	25,620		JNO	
omputer Operator	*25,740	14	25,620		JNO	
ersonnel Technician II	*25,740	14	25,620		JNO	
ccounting Technician I	*22,668	12	22,440		JNO	
ersonnel Technician I	*22,668	12	22,440		KTN	
ccounting Clerk III	*20,076	10	19,944		JNO	
ccounting Clerk II	*21,984	9	18,768		SRD	
ail Clerk Carrier III	*19,524	9	18,768		JNO	
ata Processing Asst.	*18,936	9	18,768		JNO	
ata Processing Asst	*18,936	9	18,768		JNO	
aintenance Foreman	*29,679	WG 55	29,679		JNO	

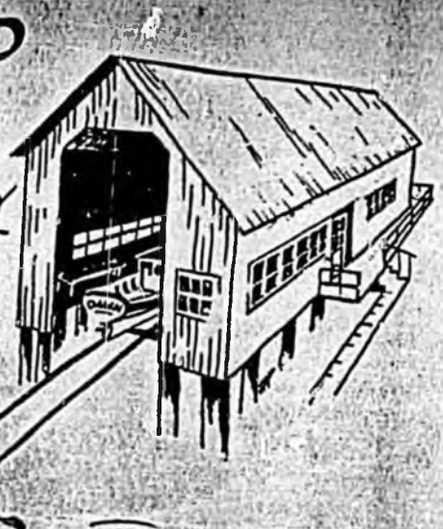
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DIVISION OF MARINE HIGHWAY SYSTEMS

NEW POSITIONS

Position	Wage At Started Range Step A	Range	Wages	9/3/82 APBR FY83 Wage	Location	Notes
Maintenance Man	*27,905	WG 56	27,905		JNO	
Maintenance Man	*26,286	WG 57	26,306		JNO	
Executive Secretary III	*29,556	16	29,460		JNO	

PENNISLE BOAT SHOP
PENNOCK ISLAND

BOX 3033
KETCHIKAN, ALASKA 99901
907-225-2872



2/4/83

per 2/11/83

Dear Representative Cats,

I recently tried to make state-room reservations for the Sea-ICTN route on the Alaska Marine System. This request was made in January for either June or July. All state-rooms were reserved – both ways.

It has come to my attention that travel agencies reserve these rooms as soon as the computer is ready to go for the upcoming season. If the agencies cannot 'resell' these tickets, their reservations are canceled, they are no money out, and we residents who ~~stand~~ happen to be standing on the dock may get a 'stand-by'. Reminds me of when I was in the army, trying to fly home on stand-by.

After residing in this state for ten years, I figured it was about time for my family to come up and visit. I wanted them to travel comfortable and -, being a fisherman, wanted them to take a little boat ride - first class.

I realize that the more tickets get sold the more hotel rooms, food and alcohol gets sold and our economy needs all of this very much.... but, couldn't a few of us locals be given a chance to reserve a state-room? I tried, six months in advance - No go.

Could this policy please be reviewed and ammended?

Thank you,

Garry Couch

Added to your (+ members) files on HB 68

Bill analysis – DOT

Position Paper – DOT

Minutes (draft) of Friday 2/18
TAPE Recording No. 0461 – 0518 is verbatum

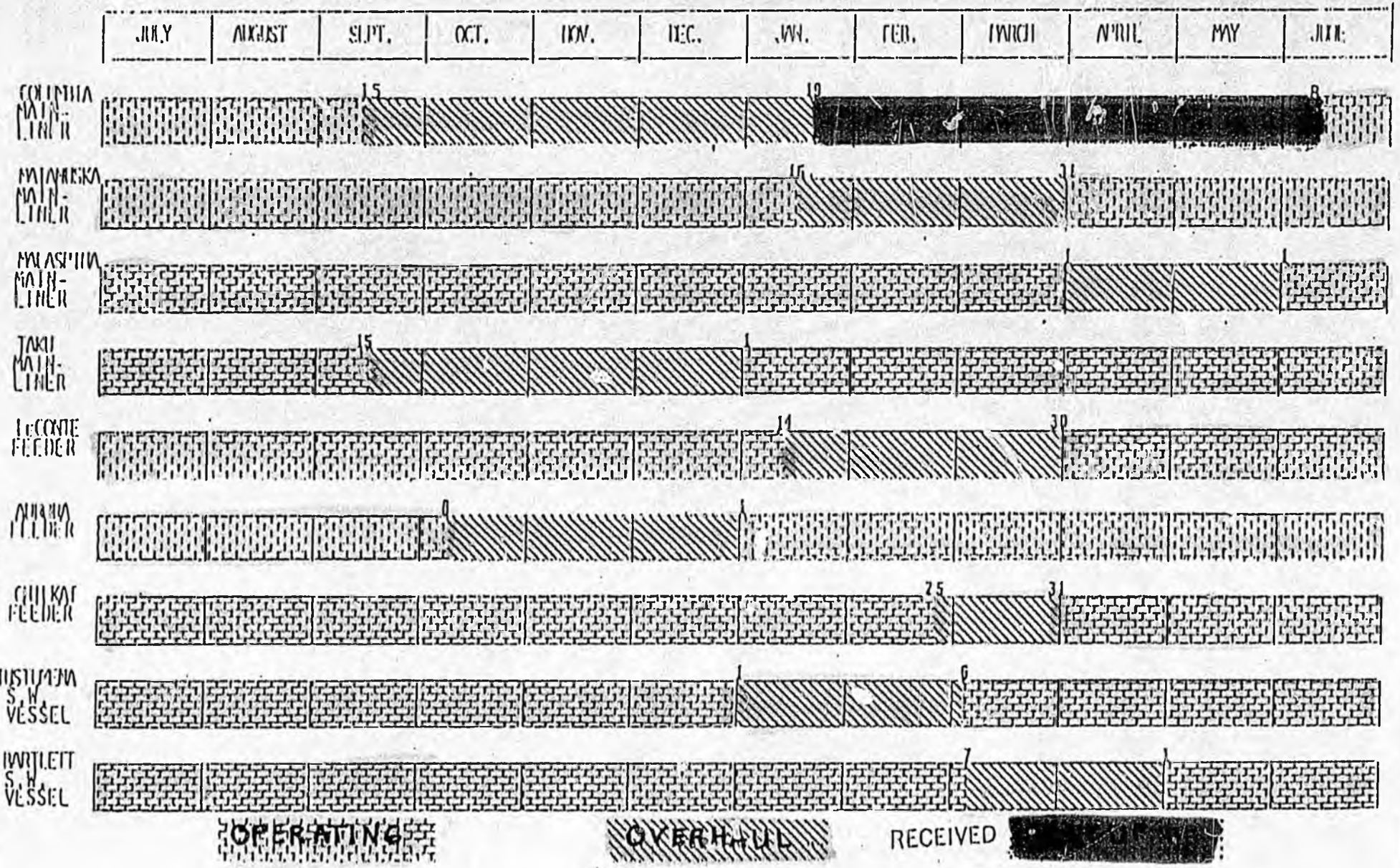
Spoke w/ Commissioner Casey yesterday –
he is unable to attend this morning due to prior
appt. w/ the Governor.

Mr Nusbaum + Mr. Kind are available to
answer questions

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT IN THE ALASKA STATE ARCHIVES

FY 84

DIVISION OF MARINE HIGHWAY SYSTEMS PROPOSED SCHEDULE



RECEIVED
NOV 2 1982
BUDGET AND MANAGEMENT

.. Revised 02/15/83

D U P L I C A T I O N

M E M O R A N D U M April 6, 1978

SUBJECT: Federal highway funds and proposed Marine Highway Authority (SSSB 371)

TO: Senator Bill Ray

FROM: Kenneth M. Rosenstein, Legislative Counsel

I am enclosing the material that expresses the foundation for the conslusion by the federal highway people that under current federal law an independent marine highway authority would make the state ineligible for federal highway funds for ferries.

The Federal-Aid Highway Act requires that in order for a state to receive federal funds for the construction of ferries the operating authority and amount of fares charged on them be under the control of the state. The intent of SSB 371 is to create an agency for the operation of Alaska's ferry system that has an independent legal existence from the state. Despite the fact that the governor would appoint and could remove directors of the authority and that the legislature would control the authority's purse, the view of the Federal Highway Administration (FHWA) is that the state would not retain the control necessary to comply with the Federal-Aid Highway Act (see attached correspondence).

Additionally, in the opinion of the FHWA's chief counsel, the intent of the federal act is that federal funds would be provided only to one agency that is repsonsible for all phases of a state's highway program which in Alaska includes the ferry system (see attached correspondence).

I have researched the position expressed by the FWHA's lawyers and have concluded that, unless the federal law is changed, it seems unlikely that the state would be eilgible for federal funds for ferry construction if the ferry system was operated under the scheme set forth in SSB 371.

If there are any other avenues or approaches that I can explore for you, do not hestitate to contact me or call me at 465-4996.

MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y — STATE CAPITOL
JUNEAU, ALASKA 99811

TO: W.I. (Bob) Palmer, Executive Assistant
Office of the Governor

DATE: 15 July 1975

FROM: Stuart C. Hall, Legislative Counsel

SUBJECT: Dept. of Transportation

The U.S. Advisory Commission on Intergovernmental Relations has developed a "package" of materials dealing with, and including a model, state Department of Transportation. One of the Commission's senior staff members discussed this at the NCSL Seminar on Public Transportation Issues, Wed., June 25, in Seattle. I have written ACIR for a copy of the material which was supposed to have been forwarded to all seminar participants in any event, but which I have not received to date. Hopefully the letter will expedite matters.

Will keep in touch and advise you of what I find.

MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y — STATE CAPITOL
JUNEAU, ALASKA 99811

TO: W.I. (Bob) Palmer
Executive Assistant to the Governor

DATE: 15 September 1975

FROM: Stuart C. Hall
Senior Legislative Counsel

SUBJECT: Model DOT Legislation

Per your request of several weeks (months?) ago, I am attaching a copy of the Third Draft of the U.S. Advisory Commission on Intergovernmental Relations' Model State Department of Transportation legislation. I also have on my desk a document entitled "Transportation Departments in the Several States" (Informational Bulletin No. 74-10-?) published in February, 1974, by the Legislative Reference Bureau of the State of Wisconsin. If you'd like a copy of that, I'll have one made for you. I'm sorry for the delay, but I think we've survived the "interregnum" down here, and are back "on track" -- or at least I hope so.

ALASKA
INTERNATIONAL
CONSTRUCTION, INC.
P.O. Box 60029
Fairbanks, Alaska 99701
(907) 452-7171
Telex: 090-25454

Lon McDermott
President

Lon R. McDermott

Testimony on State of Alaska Senate C.S. for House Bill No. 63
Presented to the Senate Commerce Committee March 22, 1976

Subject: An Act relating to the organization of transportation related functions; creating the Department of Transportation and providing for an effective date.

Mr. Chairman and members of the Senate Commerce Committee:

My name is Lon McDermott. I am a citizen of the State of Alaska and reside at 390 Hamilton Avenue, Fairbanks, Alaska. I am employed as President of Alaska International Construction Co., which is a wholly owned subsidiary of Alaska International Industries. Our offices are located in Fairbanks, Alaska and our firm is licensed and does perform construction contracts throughout the State of Alaska, both as a prime contractor and in joint ventures with other Alaskan corporations. In the performance of projects I have become familiar with the present organizational structure of the State of Alaska departments that are responsible for the various phases of transportation related construction.

A.I.C. is a member firm of the Alaska Chapter of the Associated General Contractors of America and I am priviledged to serve as a member of the Alaska Chapter Board of Directors and as a Vice President of the chapter. I am also an A.G.C. national committee member of the American Association of State Highway Officials-A.G.C. National Joint Cooperative Committee.

My career encompasses twenty-four years of active engagement in the construction industry, the last five of which have been in Alaska.

My purpose in appearing before this committee today is to present testimony on the proposed legislation creating a Department of Transportation for the State of Alaska.

I have thoroughly read Senate Committee substitute for House Bill No. 63 and I am of the firm opinion that its adoption by the Alaskan Legislature would be a positive action beneficial to the people of the State of Alaska and to the construction industry.

The legislation as written should provide for a more efficient, better planned and more economical utilization of State and Federal transportation funds.

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF THE ADMINISTRATOR

JAN 19 1976

IN REPLY REFER TO:
HCC-50.2

Stuart C. Hall, Esquire
Senior Legislative Counsel
State Capitol - Pouch Y
Juneau, Alaska 99801

Dear Mr. Hall:

Your letter of November 21 to Secretary of Transportation William T. Coleman, Jr., relative to proposed State legislation which would place the present State highway department responsibilities in a newly created State Department of Transportation has been referred to the Federal Highway Administration (FHWA) for reply.

The bill passed by the House of Representatives which was enclosed with your letter places the responsibility for the planning, operations, and construction of State highways in a proposed Department of Transportation, and if enacted, this bill would satisfy the requirements of Title 23, United States Code, with regard to the unity of the State entity with which the FHWA should deal in all matters pertaining to Federal-aid highways.

You indicate that there is a possibility that an attempt will be made to amend this bill, in line with a proposal by the Commissioner of Public Works, to retain all construction of transportation systems in the Department of Public Works, with planning, design, operation, and maintenance of such systems assigned to the Department of Transportation. This proposal, as we understand it, was in the original House Bill No. 63, and Division Administrator Hanna's memorandum to Commissioner Parker dated February 28, 1975, correctly reflected informal advice at that time from the FHWA Office of Chief Counsel to our Assistant Regional Counsel in Portland, Oregon. This informal advice was confirmed by a memorandum dated March 28, 1975, a copy of which is enclosed. It is our conclusion that the placing of the construction of highways in one State department and the placing of planning, operation, and maintenance thereof in another State department would be inconsistent with the long-standing administrative interpretation of the purpose of 23 U.S.C. 302(a).

Please let me know if FHWA can be of further assistance to you in this matter.

Sincerely yours,

Norbert T. Tiemann
Federal Highway Administrator

1 Enclosure

Alaska Carriers Association, Inc.

3443 MINNESOTA DRIVE
ANCHORAGE, ALASKA 99503

2/23/76

TELEPHONE (907) 272-0568

REFER TO FILE

TESTIMONY OF ALASKA CARRIERS ASSOCIATION REGARDING PROPOSALS FOR A STATE DEPARTMENT OF TRANSPORTATION

The Alaska Carriers Association has carefully reviewed the proposals for a state Department of Transportation from the following aspects:

1. Improvement of present coordination of transportation planning and development.
2. Governmental efficiency and staffing without excess duplication of personnel.
3. Operations of other states who have established DOT's.
4. Impact on the basic highway needs of the state.
5. Concentration of power in a bureaucracy and subsequent erosion of the legislative control which is more responsive to the people.

On Item 1 it is conceded that better coordination is needed than at present. One of the chief arguments for a state DOT are the many stories about airports or docks being built while a highway is constructed a mile or two away with no connections to the facility.

This is a communications problem and does not require a super agency to solve it. The concept of a governor appointing his own department heads is designed so that he can also see that they do

FHWA 121 (Rev. 5-73)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
Washington, D.C. 20590

DATE: March 28, 1975

IN REPLY REFER TO: HCC-50

SUBJECT: Alaska DOT Bill

FROM: Assistant Chief Counsel
For General Law

TO: Mr. James F. Zotter
10-00 Assistant Regional Counsel
Portland, Oregon

This is in response to your memorandum of March 18, 1975, requesting our opinion as to the effect of 23 U.S.C. 302 upon the proposed Alaska Department of Transportation Bill (House Bill No. 63, section 3). It is our view that the proposed bill will not meet the requirement of 23 U.S.C. 302(a) that a State have a suitably equipped and organized highway department with adequate powers to discharge the duties required by title 23, United States Code.

The proposed bill would authorize the Department of Public Works to assume the duties and powers over (1) State highway design and construction; (2) acquisitions of rights-of-way; and (3) the relocation assistance program. The bill would vest with State Department of Transportation the duties and powers over (1) highway planning; (2) highway maintenance and operation; and (3) all other duties not specifically given to the Department of Public Works. In Section 2 the bill states that the State DOT will "work cooperatively with the Department of Public Works to assure that design and construction of transportation facilities by the Department of Public Works are consistent with plans and operational requirements." (Section 44.42.020(7)) It appears that the State DOT will be equal in status with the State Department of Public Works. That is, in the functional area of governmental action that FHWA oversees, there would be two co-equal State agencies, the State DOT and the State Department of Public Works. For different parts of the highway program, FHWA, according to this proposed bill, would have to deal with two State agencies independent of one another.

23 U.S.C. § 302(a) speaks of "a State highway department" which will be adequate to perform the duties required of it by Title 23. "State highway department" is defined in 23 U.S.C. § 101(a) as "that department,

commission, board, or official of any State charged by its laws with the responsibility for highway construction." The term "construction" is defined in § 101(a) as "the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping . . . acquisition of rights-of-way, relocation assistance . . . ." In all of above mentioned sections, there is only one State agency mentioned--not two. Furthermore, in §§105, 106, 109 which deal with planning of a highway project there is only one State agency mentioned--the State highway department--and this is the same agency as mentioned in §110 which concerns the actual project agreement for the highway construction.

From the language of the code it is clear that Congress intended that one State agency should be responsible for all facets of the highway program from the original planning stage through to the construction phase. The proposal to split the functions of highway construction and planning between co-equal State agencies runs counter to the terms of the statute. In our opinion Congress intended that there be one State agency, by whatever name it is designated, which handles all phases of the Federal-aid highway program.

Brian R. Williford

Brian R. Williford

222 S. W. Morrison St.
Portland, Oregon 97204
March 18, 1975

Alaska DOT Bill 10RC

Assistant Regional Counsel, Region 10

Mr. David E. Wells, Chief Counsel
Washington, D.C.
HCC-50 ATTENTION: Mr. Brian Williford
Assistant Chief Counsel

Alaska State Representative Bill Parker has requested a formal legal opinion from the Federal Highway Administration regarding Alaska House Committee Substitute 63 which would create an Alaska Department of Transportation (copies attached). Mr. Parker is specifically interested in knowing whether Section 3 of this bill which vests all powers and duties relating to planning, maintenance, and operation of State highways in the Department of Transportation and all powers and duties relating to design and construction in the Department of Public Works complies with Title 23, U.S.C., particularly the definition of "State Highway Department" in §101, and the requirements of §302(a).

We previously discussed this matter over the phone with Mr. Norm McPhee at the urgent request of Deputy Highway Commissioner Charles Matlock. During those discussions, Mr. McPhee informally indicated that he did not believe that section 3 of the proposed bill complied with 23 U.S.C. §101 and §302(a). It was his opinion that those sections required a single state entity to discharge all of the duties called for by Title 23, U.S.C., including planning, design, construction, operations and maintenance. Mr. McPhee's informal opinion was provided to Deputy Commissioner Matlock.

Could you please provide us with a formal legal opinion in response to Mr. Parker's request. If your formal opinion concludes that the proposed bill would comply with Title 23,U.S.C., Division Engineer Hanna has requested comments on any problem areas which might result from the bifurcation of the present duties of the Department of Highways into two separate and distinct departments. Mr. Hanna has expressed to us over the phone

his personal concern over the effects of this bill on Division's operations if they are required to coordinate and work with two separate departments regarding different aspects of the federal-aid highway program.

We would appreciate your response as soon as possible as the present legislative sessions should be ending shortly.

James F. Zotter

Attachments

cc: Lybecker/E. Green
Gene Hanna

JFZ:dzj

SB 213 SENATE BILL NO. 213 was referred to the Rules Committee.

SS SB 371 The State Affairs Committee has had SPONSOR SUBSTITUTE FOR SENATE BILL NO. 371 (creating the Alaska Marine Highway Authority) under consideration and reports it back with the following amendments:

Amendment No. 1
Page 1, lines 20 - 23 delete
line 24 : delete the word "system." and insert: "two directors appointed by the governor from communities in southeast Alaska and two directors from the remainder of the state, at least one of whom shall be from an area not served by the marine highway system."

Amendment No. 2:
Page 3, lines 13 and 14: delete "income, revenues, funds and money;" and insert: "own appropriations"

Amendment No. 3:
Page 1, line 19: after "facilities" insert: "or his designee"

The report was signed as follows: Senator Willis, Co-Chairman, signed "no recommendation, must be amended"; Senator Bradley signed "no recommendation, should be amended", Senator Kerttula signed "no recommendation, amend". Senator Ray signed "do pass if amended" and Senator Huber signed "do not pass unless amended". The committee also reported the bill back with a letter of intent to the Finance Committee.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 371 was referred to the Finance Committee.

Letter of intent on the above bill follows:

MEMORANDUM

To: Finance Committee Date: March 22, 1978

From: Senate State Affairs Subject: SB 371

The Department of Transportation and Public Facilities and the appropriate federal officials are currently working on a change in wording in SB 371 that would ensure the continued access to certain federal funds.

The Senate State Affairs Committee has reported out SB 371 with the understanding that this important wording would be presented to the Finance Committee by the DOT.

The Judiciary Committee has had SPONSOR SUBSTITUTE FOR SENATE BILL NO. 509 (modification of sentences) under consideration and the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 509 and that it do pass. The report was signed by Senator Hohman, Chairman, and concurred in by Senators Kerttula and Tillion. SS SB 509

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 509 was referred to the Rules Committee.

The State Affairs Committee has had SENATE BILL NO. 530 (special appropriation to the New Capital Site Planning Commission) under consideration and reports it back with the following amendment: SB 530

Page 1, line 10: delete "$1,221,200" insert: "$1,778,000"

lines 12 - 20: delete. Insert "Complete data collection necessary for the environmental impact assessment."

The report was signed as follows: Senator Willis, Co-Chairman signed "do pass if amended". Senators Huber and Ray signed "do not pass". Senators Bradley and Kerttula signed "no recommendation".

SENATE BILL NO. 530 was referred to the Finance Committee.

The Finance Committee has had COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 773 (Finance) (special appropriation to the Department of Fish and Game division of commercial fisheries) under consideration and the committee recommends it do pass. The report was signed by Senator Sackett, Chairman, and concurred in by Senators Croft, Meland, Tillion, Orsini and Hohman. CS HB 773 (Fin)

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 773 (Finance) was referred to the Rules Committee.

The Rules Committee has had the following under consideration and recommend they be placed on the March 23 calendar:

SENATE CONCURRENT RESOLUTION NO. 87 (annulling a regulation relating to drinking water) SCR 87

SENATE BILL NO. 311 (authorizing the Alcoholic Beverage Control Board to issue club permits) SB 311

ANCHORAGE
DAILY NEWS

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Editor and Publisher, 1967 to 1971

Katherine Fanning
Editor and Publisher

Frederick W. Field
President

Stan Abbott
Executive Editor

Tom Gibboney
Managing Editor

Alaska's Only Morning Newspaper

Founded in 1946 by Norman C. Brown

Our views:

The DOT debate

Current debate over the proposed state Department of Transportation (DOT) is not so much about whether a cabinet-level agency is needed as it is how the new department should be structured.

One plan, supported by Gov. Jay S. Hammond, calls for the DOT to be a planning agency, divorced from building functions but in command of them.

The governor is convinced that the separation of functions into two agencies — the departments of Public Works and Transportation — is the best way to strengthen planning and closely examine policy questions surrounding construction.

As envisioned by the governor's bill, the Department of Public Works would be in charge of building everything the state constructs, from highways to hiking trails, from airstrips to ferry terminals. The DOT, however, would control all planning, design and funding.

In short, the Department of Public Works couldn't build any transportation facility unless directed to do so by the Department of Transportation.

Highway Administration sought clarification about just who would hold final accountability for federal dollars granted to transportation programs here. That led to revisions, and the amended governor's bill apparently satisfies federal authorities: complete accountability would be shouldered by the DOT, with construction authority delegated to the Department of Public Works.

Criticism of the governor's plan comes from within his administration as well as from powerful legislative leaders and transportation industry representatives in Juneau. One of the key participants is Mr. Hammond's commissioner of Highways, Walt Parker, who is lukewarm to the plan because of its divided function.

Commissioner Parker has vowed to support the administration's plan "as long as I am a part of it." But he and others have quietly opposed the concept because they believe the split-function DOT is not comprehensive enough. Splitting the functions will make the process even less coordinated than now, they argue.

Opponents of the governor's DOT plan envision a single, integrated department, spanning all transportation needs from start to finish — from planning to construction.

The outcome of the debate, which has been both educational and lively, will have much to do with the public process in Alaska. Fewer needs are more pressing than transportation across our vast state, and few areas of government account for so much of the public money.

Despite unfortunate personality differences which have entered the debate, it promises to be the kind of discussion which important public policy demands. Both administratively, in the departments and agencies involved, and in the public hearing process of legislative committees, the subject will be widely discussed. There is opportunity for citizens, either in writing or by appearance, to make their position known; there will also be a clear chance for us all to watch the process and learn the arguments.

We join numerous other concerned Alaskans in promising just that. We will all be watching the process and result closely.

8) Domestic production will continue to decline until 1985 and then increase gradually. Despite price increases and increased conservation, demand will far exceed domestic supply, and, prior to 1990, demand will be met through increased imports.

9) By the year 2000, 40 percent of domestic crude will be from Alaska.

10) Coal will play an increasingly important role in meeting not only national energy needs, but also energy needs of the transport sector. By the final decade of this century, synthetic crude oil will represent 20 percent of the crude oil available to refineries from all sources. Of the synthetic crude about 78 percent will be from coal.

11) In the future coal will move twice its current average distance, and at three times the volume, for a six-fold increase in ton-miles. Thus, the BTU efficiency of coal as an energy resource will actually decline.

12) Sufficient petroleum based fuels can be made available for transportation only if all domestic energy resources are exploited (e.g. solar, nuclear, oil shale, tar sands, coal liquification and bio-mass) to meet total national energy needs.

Safety

13) Projections show that although the amount of vehicle miles traveled in the year 2000 will increase, improved safety features will result in a lower fatality rate. Because of increased travel, the total number of fatalities will most likely rise to 66,900 annually by the year 2000 but may range as high as 75,600.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION
2000 M Street, NW., Suite 3000
Washington, D.C. 20036
202-254-7453

Hon. Bud Shuster, M.C.
Chairman

Dear Reader: June 25, 1979

This report sounds an alarm!

The world's best transportation system is in danger. It may not be able to meet the needs of a growing America.

* The present levels of public and private investment will not preserve the existing system.

* The demand for transportation will grow dramatically, outdistancing the rate of population growth by 9 times for freight and 4 times for people.

* The capital investment required to meet the growing demand by the year 2000 exceeds $4 trillion, over $1 trillion from the public sector.

* Government over-regulation is inhibiting the return on investment necessary to attract capital for future growth.

* A maze of federal agencies, congressional committees and conflicting policies is driving up costs and retarding innovation.

* Highway fatalities could increase 45 percent, exceeding 66,000 annually by the year 2000.

* A lackluster energy policy, impeding production of oil, coal and other forms of energy, is endangering transportation's ability to keep up with demand.

The NATIONAL TRANSPORTATION POLICY STUDY COMMISSION in its final report to Congress and the President includes over 80 specific recommendations to improve America's transportation system. This summary describes 33 of those recommendations. It is significant that the final report was unanimously adopted by a vote of 18 to 0, although, obviously, not every Commissioner agrees with every recommendation.

The world's best transportation system need not decline. Implementation of the COMMISSION'S recommendations will contribute to the revitalization of transportation in America and help provide one of the critical prerequisites for economic growth and prosperity in the future.

America's transportation system must be designed to meet the requirements of the people, not to dictate what those requirements should be. The American people and their leaders in both public and private sectors must squarely face the developing deficiencies in transportation and adopt new policies for the future.

Bud Shuster

BUD SHUSTER, M.C.
CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801
(907) 465-3800

November 21, 1975

Honorable William T. Coleman, Secretary
Department of Transportation
400 Seventh Street, N.W.
Washington, D.C. 20590

Dear Secretary Coleman:

The Alaska State Legislature has under consideration legislation establishing a state Department of Transportation. Committee Substitute for House Bill number 63 (Finance), amended, has passed the state House of Representatives and the bill presently is pending before the Senate Commerce Committee for consideration during the 1976 Session convening January 12, 1976. The bill also is being studied by the Legislative Council's Interim Subcommittee on Transportation.

For some months considerable controversy has surrounded the deliberations on this legislation. The principal point in contention has been a proposal by the Commissioner of Public Works (the majority of whose divisions would be absorbed along with the existing Department of Highways into a state DOT) that all construction of transportation systems be retained in the Department of Public Works, but that planning, design, operation and maintenance of the systems would be assigned to the Department of Transportation. (The bill as passed by the House, a copy of which is enclosed, does not expressly reflect the Commissioner of Public Works' philosophy, but it is responsibly believed that the separation of construction from the state DOT will be proposed either as an amendment to, or as a substitute for, CSHB 63 (Finance), amended.)

The attached correspondence from Mr. Gene A. Hanna, Division Engineer, Alaska Division, Federal Highway Administration, indicates that separation of highway construction from the department responsible for highway planning, design, operation and maintenance would not comply with existing federal highway legislation and thus would disqualify the State of Alaska for substantial federal highway construction funds.

5331 [redacted] Minnesota Drive
ANCHORAGE, ALASKA 99503

October 16, 1975

Senator J.M. Kerttula, Chairman
Legislative Council Sub-Committee
on Transportation
310 "K" Street Suite 701
Anchorage, Alaska 99501

Dear Senator Kerttula,

The Highway Users Federation of Alaska has made a thorough study of the proposals now before the legislature for the creation of a State Department of Transportation. Both our Board and our entire membership were polled on this issue and the response was 80% in opposition to a State Department of Transportation.

It will not be possible for a representative of our organization to appear before your committee on Octobe 20th, but we would like our position to be known on this issue and so noted in your proceedings.

Our position can perhaps best be stated by the enclosed fact sheet and news release based on the response of our members.

We do appreciate the opportunity to state our position on this matter and assure you that we share the concern of you and your committee in finding ways to improve all aspects of Alaska transportation for the greater good of the state.

Sincerely,

Vern Smith
President - HUF of A

DIRECTORS

PRESIDENT
VERN SMITH
MINNESOTA MINING & MANUFACTURING CO.

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DOUG HULEN
ALASKA AUTOMOBILE DEALERS ASSOCIATION

GLEN GLENZER
ASSOCIATED GENERAL CONTRACTORS

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whose property the highway will pass to express any objections they may have to the proposed location of such highway.

(b) When hearings have been held under subsection (a), the State highway department shall submit a copy of the transcript of said hearings to the Secretary, together with the certification. Pub.L. 85-767, Aug. 27, 1958, 72 Stat. 902.

Notes of Decisions

Failure to grant hearing 4
Judicial action 8
Location, construction, and maintenance, state power 9
Nature and form of hearing 2
Opportunity to be heard 3
Persons conducting hearing 6
Purpose 1
Questions of fact 7
Sufficiency of notices 5

Library references
Highways ⇨10(11).
C.J.S. Highways § 102 et seq.

1. Purpose

Purpose of this section providing that any highway department which submits plans for a federal-aid highway project shall certify to Secretary that it has held public hearings or has afforded opportunity for such hearings and has considered economic effects of such a location was to insure wise and fair use of federal funds, and under Pennsylvania law, 36 P.S. § 2301 ff. and policy, almost federal aid, such hearings are not required to be held. Hoffman v. Stevens, D.C.Pa.1959, 177 F.Supp. 898.

2. Nature and form of hearing

This section relating to public hearings by State Highway Department planning a federal aid highway project which bypasses or goes through city does not contemplate that Department shall conduct quasi judicial hearing but merely that Department will hold public hearing to inform residents of area of location under consideration so that such residents can express their views, including their views as to economic effects of such locations. Lisnecke v. Department of Highways, 1960, 348 P.2d 235, 76 Nev. 24.

3. Opportunity to be heard

Where a highway is to be built under this chapter, statutes and regulations, when read together require state officers to afford an opportunity for but not necessarily to hold public hearings to give consideration to the economic effects of the proposed road location, file with the Commissioner of Public Roads a transcript of the hearings and a certify to the Commissioner that such opportunity to be heard has been afforded and such economic effects considered. Binghamton Citizens Penn-Can-Route 17 Highway Committee v. Federick, 1958, 180 N.Y.S.2d 913, 7 A.D.2d 170.

The spirit of this section and regulations of New York statutory acceptance and implementation with respect to location of a federal aid highway is that a fair opportunity should be given to the citizens to express their views on the proposed road location. Id.

4. Failure to grant hearing

Under this section providing that when any State Highway Department submits plans for a federal aid highway project it shall certify to the Secretary that it has held public hearings or has afforded opportunity for such hearings and has considered economic effects of such a location, the affording of a hearing is a preliminary step, but failure to grant hearing may be raised subsequently in a state court proceeding. Hoffman v. Stevens, D.C.Pa.1959, 177 F.Supp. 898.

5. Sufficiency of notices

Where notices were published in newspapers that State Highway Department would hold public hearing regarding proposed federal aid highway through city and there was nationwide local newspaper, radio and television coverage preceding the hearing and a week prior thereto detailed descriptions of proposed routes were distributed to utility users in the area and economic effects of such routes were discussed at hearing, there was sufficient compliance with requirement of this section that Department shall hold public hearing and consider the economic effects of location of such highway, notwithstanding that notice did not state that economic effects would be considered at hearing. Lisnecke v. Department of Highways, 1960, 348 P.2d 235, 76 Nev. 24.

6. Persons conducting hearing

That public hearings conducted under this section with respect to a freeway through a municipality were presided over by private citizen other than by an officer of the department did not violate the constitutional rights of objecting property owners. Piekarski v. Smith, 1953, 107 A.2d 176, 37 Del.Ch. 501, affirmed 113 A.2d 567, 38 Del.Ch. 402.

7. Questions of fact

Affidavits of citizens seeking injunction against State Highway Commission and others in connection with designating, laying out, opening and constructing an interstate highway through city were insufficient to raise fact issues as to holding of public hearing on locating and planning highway, laying out and constructing it, presenting schematic design, making of economic survey, and complying with federal and state laws. Futch v. Greer, Tex.Civ.App. 1962, 353 S.W.2d 896, ref. n. r. e., certiorari denied 83 S.Ct. 729, 372 U.S. 913, 9 L.Ed.2d 721.

8. Judicial action

In proceeding for an order annulling public hearings concerning the location of a federal aid highway by officers of the State Department of Public Works, pleading legal generalizations such as that the hearings were conducted in a manner contrary to law and in disregard of the rights of the petitioners, presented no ground for judicial action where nowhere in the pleading was there any demonstrative factual allegation in context. Binghamton Citizens Penn-Can-Route 17 Highway Committee v. Federick, 1958, 180 N.Y.S.2d 913, 7 A.D.2d 170.

9. Location, construction, and maintenance, state power

Federal regulations with respect to interstate highway must be complied with in order for state to receive federal funds, but such requirements do not limit or affect authority of State Highway Commission to select location, construct and maintain highways in the state. Futch v. Greer, Tex.Civ.App.1962, 353 S.W.2d 896, ref. n. r. e., certiorari denied 83 S.Ct. 729, 372 U.S. 913, 9 L.Ed.2d 721.

§ 129. Toll roads, bridges, tunnels, and ferries

(a) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation, on the same basis and in the same manner as in the construction of free highways under this chapter, in the construction of any toll bridge, toll tunnel, or approach thereto, upon compliance with the conditions contained in this section. Such bridge, tunnel, or approach thereto, must be publicly owned and operated. Federal funds may participate in the approaches to a toll bridge or toll tunnel whether such bridge or tunnel is to be or has been constructed, or acquired, by the State or other public authority. The State highway department or departments must be a party or parties to an agreement with the Secretary whereby it or they undertake performance of the following obligations:

(1) all tolls received from the operation of the bridge or tunnel, less the actual cost of such operation and maintenance, shall be applied to the repayment to the State or other public authority of all of the costs of construction or acquisition of such bridge or tunnel, except that part which was contributed by the United States;

(2) no tolls shall be charged for the use of such bridge or tunnel after the State or other public authority shall have been so repaid; and

(3) after the date of final repayment, the bridge or tunnel shall be maintained and operated as a free bridge or free tunnel.

(b) Upon a finding by the Secretary that such action will promote the development of an integrated Interstate System, the Secretary is authorized to approve as part of the Interstate System any toll road, bridge or tunnel, now or hereafter constructed which meets the standards adopted for the improvement of projects located on the Interstate System, when such toll road, bridge or tunnel is located on a route heretofore or hereafter designated as a part of the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll road, except to the extent permitted by law after June 29, 1956. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll bridge or tunnel, except to the extent permitted by law on or after June 29, 1956.

(c) Funds authorized for expenditure on any of the Federal-aid systems, including the Interstate System, shall be available for expenditure on projects approaching any toll road, bridge or tunnel at any point where such project will have some use irrespective of its use for such toll road, bridge or tunnel.

(d) Funds authorized for the Interstate System shall be available for expenditure on Interstate System projects approaching any toll road on the Interstate System, although the project may be no more than an approach to such toll road, if an agreement satisfactory to the Secretary has been reached with the State prior to the approval of such project —

(1) that the section of toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against such section of toll road covered in the agreement and their maintenance and operation and debt service during the period of toll collections, and

(2) that there is one or more reasonably satisfactory alternate free routes available to traffic by which the toll section of the system may be bypassed.

(e) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems and has not been designated as a route on the Interstate System.

Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement. Pub.L. 85-767, Aug. 27, 1958, 72 Stat. 902; Pub.L. 86-657, §§ 5, 8(a), July 14, 1960, 74 Stat. 523, 524.

Historical Note

[illegible] Pub.L. 86-657, § 5(b), [illegible] to the catchline.

Subsec. (c). Pub.L. 86-657, § 8(a), eliminated words "under prior Acts" which followed "Funds authorized."

Subsec. (e). Pub.L. 86-657, § 5(a), added subsec. (e).

Legislative History. For legislative history and purpose of Pub.L. 86-657, see 1960 U.S.Code Cong. and Adm.News, p. 3130.

Notes of Decisions

[illegible] 1
Time to amortize cost 1

Library references
Bridges ⇐111.
Ferries ⇐3.
Turnpikes and Toll Roads ⇐4.
C.J.S. Bridges § 15.
C.J.S. Ferries § 5.
C.J.S. Turnpikes and Toll Roads § 9.

1. Time to amortize cost

Express Commission's contract to issue toll bridge revenue refunding bonds was not violative of act of Congress authorizing commission to operate interstate toll bridges provided that tolls were so adjusted as to amortize cost of bridges within 20 years, notwithstanding that issue of refunding bonds extended period 20 years, since act did not purport to limit time which bonds should run. State Highway Commission of Kansas v. King, Ky.1935, 82 S.W.2d 443, 267 Ky. 124.

Act of Congress, authorizing highway commission to operate interstate toll bridges provided that tolls were so adjusted as to amortize cost of bridge as soon as possible within 20 years, made it duty of commission to so operate bridges as to free them from tolls at earliest possible date, but did not hamper commission in financing their costs, and would not prohibit collection of tolls after 10 year period if revenue had not been sufficient to pay bonds issued in financing costs of bridge. Id.

3. Ferries

The establishment of ferries across streams and on navigable waters, for normal transportation purposes as distinguished from sightseeing, amusement and the like, is not a matter of purely private right and function, but is a public function permitted only by the consent, express or implied, of sovereign authority. U. S. v. Washington Toll Bridge Authority, D.C.Wash.1960, 190 F.Supp. 95, reversed on other grounds 307 F.2d 339, certiorari denied 83 S.Ct. 324, 372 U.S. 911, 9 L.Ed.2d 719.

Where a ferry serves as an essential link in a highway, it is as much an integral part of the highway system as a bridge. Id.

§ 130. Railway-highway crossings

(a) Except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway cross-

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ALASKA MARINE HIGHWAY AUTHORITY

HB 651

At the present time, the Alaska Marine Highway is included in the Federal Highway System and is eligible for participation in primary and secondary federal-aid highway funding.

Generally, the south-eastern routes are on the primary system, and the south-central routes are on the secondary system.

It is very important to note that only construction expenditures may qualify for inclusion in the federal-aid program. It is also important to note that there are no funds designated for the sole purpose of expanding the Marine Highway System. The funds spent on the Marine System come directly from the yearly appropriation.

The State of Alaska receives funds for new construction on the primary, secondary, and urban systems. The state receives the funds on the basis of a formula that includes system mileage, postal routes, area of federal lands, and other minor factors. Funding comes in several categories such as primary, secondary, urban, safety, railroad crossings, junk yard control, planning, beautification, etc.

The federal funding varies from year to year as appropriated in the federal budget. In recent years, the funds made available to the state have exceeded $120 million yearly. By special legislation, Alaska receives the primary and secondary funds and may redesignate

according to the long-range plan. Thus, the Marine Highway System may utilize the federal highway funding without regard to any federal allocation limits.

The same stipulations apply to the Marine Highway System - funds are for construction only. Maintenance and operations costs do not qualify. On the average, approximately 95% of the project cost is federal-aid, and the remaining 5% is provided by the state. In addition, the state may be responsible for costs that the feds do not allow.

The Marine Highway System originated when it became obvious that the panhandle cities may never be connected by roads. The fleet was acquired at a typical cost of several million dollars per ship. The smaller cities were serviced with boats such as the Chilkat, designed to carry a few passengers, vehicles, and vans on short trips. Most of the fleet is designed for the inland passage, with only the Tustamena rated for crossing the Gulf of Alaska and other open waters.

It is possible that the creation of the Marine Highway Authority will cause problems in utilization of the federal-aid highway trust fund monies. The question is, does this matter?

Consider that the State of Alaska has thousands of miles of substandard roads on its limited system. Reviews by a national users group revealed that the state was losing ground with the highway system deteriorating faster than it was being rebuilt.

A recent project was awarded on a section of the Seward Highway south of Anchorage. The ten-mile long project will

cost almost thirty million dollars. Each region has several major projects scheduled and the overall program could easily use twice the federal funds ($120 million plus) available each year. The Marine Highway System has similar needs. The recent repowering and rehabilitation of the Taku cost over $15 million. The replacement of the aging Tustamena is estimated to cost $55 million. The entire highway allocation to the central region, including Anchorage, Kenai Peninsula, Matanuska-Susitna, Kodiak Island, the Aleutians, and south-west Alaska totals less than $50 million yearly.

The need for replacement and expansion of the Marine Highway System is documented by the studies conducted by the Department of Transportation and Public Facilities. The creation of the Authority and the ability of that Authority to finance improvements should stabilize the long-range program for the ferry system. Since no portion of the federal highway funds are reserved for the Marine Highway System, there will be no effect other than a possible minor reduction due to a system mileage reduction. This reduction could be zeroed out by adding resource development routes to the system.

WILLIAM J. TOBIN
Associate Editor
And General Manager

DREX HEIKES
Managing Editor

Anchorage Times

Heavy seas

IN ALL the operations of the state government, there must be nothing more difficult than running the Alaska marine highway system. Things have not been going well with the ferry service. As a matter of fact, the situation hasn't been good for a long time.

Granted, it's proper to expect high performance from all those who draw state pay for providing public services. True, it's disappointing when things don't seem to function properly. Admittedly, it's all too easy to be critical when that happens.

A new legislative report makes the marine highway operation a matter of timely concern. A $16.5 million refurbishing job on the ferry Taku, it was reported, has left the vessel listing, with serious mechanical and structural deficiencies.

Who's to blame?

ACCORDING TO Sen. Bill Ray, the Juneau Democrat who heads the Senate Transportation Committee, the fault lies with the Alaska Department of Transportation and Public Facilities, the agency that directs the ferry system.

Department officials deny the allegation. They say the legislative investigation, conducted by Sens. Ray and Ed Dankworth, the Anchorage Republican who is co-chairman of the Senate Finance Committee, was inadequate and deficient itself.

Indisputably, there is concern over the way the ferry system is being run. Complaints are common about the mishandling of passenger bookings. Hardly anyone can be certain that schedules will be met because frequent mechanical breakdowns result in cancellation of sailings. Indifference seems to be the by-word for customer relations. There has been a running battle over the propriety of having Alaska ferries manned mainly by crewmen who live in Seattle. The ships seem to spend more time tied up in Seattle for repairs and servicing than they do in plying their routes. Things are so bad financially that Gov. Jay Hammond has canceled service to and from Seattle for three months early next year.

Rather than emphasizing the negative, however, Alaska's goal should be to find a positive approach to correct the problems and make the system sail smoothly. Surely there must be a way — or is the situation so hopeless than the only alternative would be to abandon the whole operation?

NOBODY WANTS THAT to happen. The ferries were conceived primarily to provide surface transportation between the island cities of Alaska's scenic Southeastern panhandle, where it is impossible to build highways in the traditional sense.

The task of operating the system is one of the many responsibilities of the Department of Transportation. Maybe that's one of the problems. It could be that the duties and responsibilities of the department and its people are so wide-ranging that, bureaucratically speaking, effective management is impossible.

The first step may be to provide the department with effective assistance to examine its structure and procedures — not in an atmosphere of accusation and condemnation but with a positive approach aimed at corrections that will make the ferry system work.

Clearly, something must be done.

A real puzzler

THE OPERATION of Alaska's ferry system has always been something of a mystery to those who live in this part of the state. It appears that it likewise is pretty much a mystery to those who live in Southeastern Alaska, where the ferries are an important slice of the social and economic life.

Who could make much sense out of spending millions of dollars to build and staff vessels, only to assign the three largest ships in the fleet to be tied up and left idle at the Port of Seattle for one quarter of the year?

THAT'S THE WORD this week from the state's Marine Highway office, which announced that budget cuts imposed by the 1981 legislature will force cancellation of all service between Seattle and Alaska next March, April and May. During that period, the largest ships will be tied up at dockside and smaller ferries will make runs between Prince Rupert, B.C., and Southeastern Alaska ports.

Service will be continued to and from Seattle through the winter months of December, January and February — a time when it would seem that traffic would be light. But the other side of that coin is that winter driving conditions are such that ferry business might be lost because people would be reluctant to undertake the 900-mile drive from Seattle to Prince Rupert.

GOV. JAY HAMMOND has said on previous occasions that the best way to save money on ferry operations is to keep the vessels tied up and out of operation. This latest move indicates that the experts managing the system agree.

But it's a funny way to way to run a ferry system — or so it seems from a distance, at any rate.

If the demand isn't great enough to support the system, or if the rates can't be set high enough to bring in reasonable revenues measured against operating expenses, this move is nothing more than a stopgap remedy.

The situation calls for a long-term solution. That doesn't appear to be forthcoming from Juneau.

As it is, docking the ferries is good business for the Port of Seattle. But how it helps Alaska is — as we said at the beginning — a real mystery.

Q: Dec 10/15/81

JUNEAU EMPIRE, MONDAY, MARCH 9, 1981 3

Ferry ...ges discussed

By LORI EVANS
Empire Staff Reporter

Everything from selling the ferry fleet to a private corporation to establishing wages that reflect the cost-of-living between Alaska and Seattle are being considered as alternatives to induce ferry workers to move to Alaska, according to a list released by Juneau Sen. Bill Ray, chairman of the Senate Transportation Committee.

Ray and three members of his committee, along with House Transportation Committee Chairwoman Bette Cato, D-Valdez, presented the list of 15 alternatives to ferry workers — about 34 percent which live outside Alaska — during meetings this weekend in Seattle.

In addition to selling the fleet and favoring Alaskan ferry workers with higher wages, other alternatives in the list include:

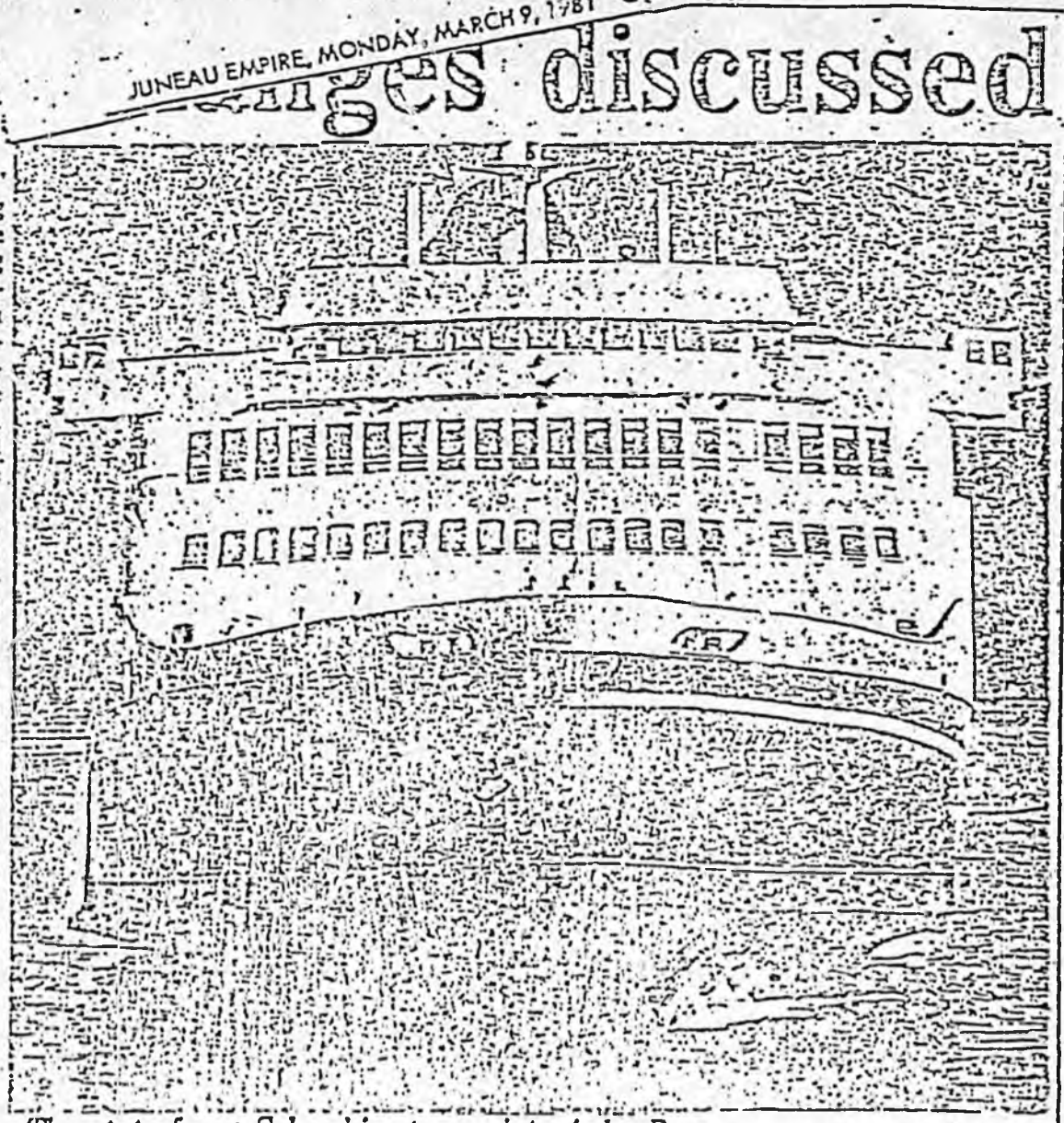
•Paying a cost-of-living allowance to Alaska residents;

•Discontinuing Seattle service and establishing Prince Rupert, British Columbia, as the southern terminus;

•Placing a Malaspina or Columbia class vessel on the Seattle run for twice weekly service between Seattle and Ketchikan with all other vessels on intra-state routes only;

•Minimizing lay-up time in Seattle by using Ketchikan and Juneau as lie-up terminals. Seattle would only be used for dry dock for a maximum of two weeks per year;

•Giving preference to Alaskans in hiring;



The state ferry Columbia steams into Auke Bay

•Reclassifying ferry workers to eliminate the right to strike;

•Mandating a state stance on hiring practices, eliminating Seattle-based union hiring halls;

•Replacing mainline vessels with a fleet of hydrofoils with smaller crews. (five to seven compared to 25 to 50) and completely automated engine rooms with independent wheel house control;

•Contracting with a private management firm to operate and manage the ferry system;

•Placing ferry workers in a partially exempt or exempt service;

•Encouraging ferry workers to decertify Seattle based unions in favor of Alaska-based organizations.

Ray said the purpose of the weekend meetings was to present union officials with ideas being considered to entice ferry workers to live in the state.

While Ray said the meeting, which lasted about four hours, was "positive," he added it is too early to say what — if anything — came of it.

Of the approximate 645 people employed on the ferries about 220 live outside of Alaska.

A new ferry story

THE STATE FERRY system is apparently going to be asking for big money from the legislature next year. The director says the ferry Tustumena, which was built for $2.82 million in the 1960s, should be retired because operating costs are too high. He plans to replace it with a new ferry that would cost $48 million.

That will be a financial jolt for the legislators who apparently will be facing new financial crunches. Forecasts are being made that state revenues will fall short of expectations because of the intricacies of the world oil markets and resultant effects on state oil revenues. Gov. Jay Hammond has said he will apply the proposed spending limit on budget operations.

And that could mean that money for the new ferry will become an issue to be put up to the voters in a referendum

THE FERRY SYSTEM has always been subsidized by the general fund of the state. The Alaska Marine Highway System has been designated by the federal government as eligible for highway funds, so much of its support comes out of Alaska's share of the national road program money.

The idea of building a new ferry might be seen as an oblique approach to adding another vessel to the fleet. This is implied in the comment of the director that he has not determined whether or not the Tustumena would remain in service after it is replaced.

That brings up the question of why a replacement is needed if the old ship can still be operated after the new one is on line.

The Tustumena carries 325 passengers in inland waters, 220 in open waters and 54 standard-sized autos. Its length is 296 feet and its speed 14 knots. The so-called replacement would accommodate 450 passengers, 80 vehicles, length, 350 feet, speed 16 knots. It would also introduce berths for 150 passengers — something that has not been enjoyed on the runs from Homer to Kodiak and Prince William Sound ports in the past.

THE FERRY SYSTEM has been controversial throughout its history. Residents of Southeastern Alaska communities love the ferry boats and respond violently to any criticism of them or their operating costs. But the system has less support in other parts of Alaska.

The proposal to spend $50 million on a new boat will inevitably stir up a big fuss in the next session. Enthusiasm among Southeastern legislators for spending this big bundle of money will be quite a contrast to the same legislators' claim that the state cannot afford to move its capital to Willow, which when originally proposed was only a $110-million project.

Anch. T 11/25/81

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – ADMINISTRATION

(907) 465-3900

POUCH Z
JUNEAU, ALASKA 99811

February 22, 1982

Honorable Bette M. Cato, Chairman
House Transportation Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Your assistant requested that we answer the question "would an authority as proposed in House Bill 651, be eligible to receive federal highway construction funds as a pass through from the designated State agency"? The simple answer is "we assume that they would be eligible to receive pass through funding." The authority would need to have an organization and financial system which met all of the requirements of the federal program.

Since there is not a category of federal funding set aside for marine construction, the use of funds for their purpose reduces the amounts available for other projects. We do not believe it would be in the State of Alaska's best interest to require the authority to meet all of the federal requirements. In the projected future, there should be a sufficient level of state funds available to provide State project funds if the legislature and the governor agree.

Sincerely,

Ron Lind

Ron B. Lind
Deputy Commissioner

Recently, news reports have referred to possible legislative action to restructure the Department of Transportation and Public Facilities, or to establish a separate operating agency for the Division of Marine Highways which operates the Alaska Ferry System.

Last summer, our family had the distinct displeasure of traveling from Seattle to Juneau aboard the ferry system vessel MV Matanuska. I was embarrassed for all Alaskans to hear the comments about the voyage by visitors from out of state, and I was tremendously disappointed in the functioning of a group of state employees who are the first Alaskans many of our visitors encounter. So disappointed, in fact, that I wrote the attached letter to the System Director, Jim Eide.

Mr. Eide responded to my letter, but in the ensuing months, I have misplaced that letter. His response was polite, but only apologetic, not giving any indication that serious effort would be taken to improve the situation which ruined our trip.

I hope that when the matter of restructuring the DOT/PF arises, you will take some of the information in my letter to Eide as a basis for considering the problem. The present DOT simply is too massive and unwieldy for any single person to control, and long-entrenched employees have made plain that they have no interest in improving their performance or the system's operation. If the ferry system is to continue as a viable substitute for highways in Southeast, some action must be taken to bring the organization back under control of properly constituted authority. At the moment, it appears that only union membership carries authority within the ferry system.

You may use my letters in whatever fashion you deem appropriate.

Sincerely

Sam Akin

Sam C. Akin

1740 Patterson Ct.
Anchorage, AK 99504
Sept. 11, 1981

Mr. James Eide
Director, Division of Marine
Highway Systems
Alaska Department of Transportation
and Public Facilities
Pouch R
Juneau, AK 99811

Dear Mr. Eide

This letter is one of complaint. I am writing it one month after beginning the ferry trip concerned, hoping that my comments will not be too colored by the intense disgust and anger aroused by the events of the trip.

On August 11, my wife, daughter, mother-in-law and I embarked from Seattle aboard the MV Matanuska, bound for Haines/Skagway, with a layover in Juneau. We had made reservations for the voyage during the preceding May, and had paid our fare the required 45 days in advance. At the time we made reservations we were unable to obtain stateroom reservations, and so made plans to have our names placed on the waiting list upon our arrival at the Ferry System office in Seattle. We did so, and subsequently obtained a room after departure from Seattle. That, and the pleasant treatment received from the Seattle office staff were about the only favorable aspects of the trip.

As we were traveling with a large camper, our tickets were written in such a manner that the Matanuska purser would not allow us to board except as a group in the camper. Inasmuch as foot passengers were boarded before passenger vehicles, we were among the last passengers to board the vessel. By the time we reached the passenger facilities aboard, the only remaining seats were located in the forward observation lounge. All deck seats and recliner seats were occupied by passengers, back packs, sleeping bags and other impedimenta. There was no effort by the purser staff to determine which seats were being used as seating and which were being used as convenient luggage storage. During the first several hours of the voyage, while stateroom vacancies were being checked, we occupied seats in the forward lounge. Throughout that time, over the public address system, the staff continually announced that all luggage would have to be removed from the lounge area, and placed in lockers. All lockers, unfortunately, were in use. Needless to say, we remained where we were, sitting with sleeping bags and toilet kits on our laps.

When we lodged a complaint with the purser about the boarding system used, he responded that "This is the way we've been doing it for twenty years, and we don't intend to change." That was the moment when I realized that the Ferry System was no longer under control of the State government, but under control of the crew.

I am convinced that passengers who are required to pay fares in advance should at least have equal opportunity for deck seating with those foot passengers who pay their fares on the date of sailing. As a matter of fact, I cannot see why the Ferry System cannot devise a means of assuring that those who pay in advance are allowed to board in advance. When a party is ticketed with a vehicle, only the driver needs to board with that vehicle. Why cannot your people adjust their system to allow others of the party to board with pre-ticketed foot passengers ?

all vehicles were lined up in an apparent effort to load them in reverse order of their destinations. In other words, vehicles going to Ketchikan were loaded after those destined for Wrangell. This makes sense, doesn't it ? But yet at Ketchikan, Wrangell and Petersburg, about a dozen vehicles were off-loaded, then re-loaded after cargo was discharged. The excuse given us, and th other inconvenienced passengers, was that "Safety rules" required this process. Then why go through the exercise of pretending to load cargo in reverse order of destination? To me, and to the other passengers who played "on and off the ferry" it seemed apparent that the first officer simply did not wish to be bothered with the extra effort required to load in sensible fashion.

There was sufficient time in Ketchikan for most passengers to do some sight-seeing. However, those of us who were waiting on the dock to reload our vehicles were told to remain with the vehicles, as we would be reloaded as soon as all cargo was removed. About a half hour after all passengers had returned to the vessel, our vehicles were reloaded. Again, it seems to me to be more inconsiderate handling of passengers. There was no reason for us to remain dockside with our vehicles. It simply was easier for the person responsible for cargo loading to do it that way.

Incidentally, the first officer, whose name I failed to get, very coldly informed me after a similar botchup in Wrangell, that I "should stop chipping teeth", and let him get on with his very important job. Frankly, the urge to chip a couple of his teeth was almost overpowering. To think that I've paid taxes for over 20 years to support a clod of this type!

On reboarding after the scheduled stop at Sitka, we were informed by an assistant purser that our ticket was improperly prepared, and that we might not be able to reboard. This was our fourth boarding of the vessel, and only now was our ticket unacceptable. The young lady was polite, and when she realized that I was at the extreme limit of my patience with the ferry crew, she allowed us to board, and subsequently corrected our ticket, blaming the problem on an error by inexperienced clerks at the Anchorage office. I don't care whose error it was, it should have been detected at our first boarding, not our fourth !

After stopping over in Juneau, we boarded the "Columbia" on Aug. 1 to continue our trip to Haines. Thankfully, we had no problem boarding, and met a young man who seemed to know what he was doing. Probably one of your lower-paid employees, he was responsible for lining vehicles up prior to loading. He knew his job, and was able to communicate very effectively and politely. Frankly, you might want to groom him as a purser or first officer. At least he wasn't alienating passengers!

Once aboard the "Columbia", however, we again found that seating was at a premium. Boarding had been at about 2:00 AM, and most seats and sheltered areas already had been claimed. However, in the recliner lounge area, we found that people were sleeping on the floor between the seat rows, having the effect of occupying three seats for one passenger.

The watchman didn't seem too concerned about that. Not nearly so concerned as he was about my wife sleeping on the floor in front of his time clock. When he needed to punch in on the clock, he simply prodded her with his foot and told he she'd have to move.

Our plans had been to go by ferry to Skagway from Haines, but after the experiences detailed in this now over-long letter, we elected discretion as the better move, and left the vessel in Haines to return to Anchorage.

The events I've detailed completely spoiled a trip we had contemplated for several years. Very honestly, I have no intention of ever boarding an Alaska ferry again, and I certainly will do my best to discourage others from doing so.

While I understand the basic need for the ferries as transport for residents of Southeast, and concur fully in the validity of the concept, I have found nowhere in your travel promotional materials a warning that such inconveniences should be expected, or that the system hires surly officers so as to discourage pleasure passengers.

We found most of the deck and dining crew to be pleasant, cooperative and interested in assuring that we enjoyed the voyage. The pursers (there were two plus assistants on the voyage to Juneau) and the first officer we encountered have left a bad taste we'll be a long time forgetting. Other passengers commented to us from time to time, also, about the apparent lack of interest in passenger care exhibited by these officers.

I have taken time to write this letter because I am deeply disturbed that the State of Alaska will tolerate attitudes of the kind we encountered among its employees, and particularly so in a group which represents much of the first impression visitors from outside will have of our State.

I am sending copies of this letter to my area legislators, and to the editors of the various newspapers in the Southeast ports touched by the ferries. Copies also are going to the various tourism promotional groups in the State.

In the future, I will recommend to friends and acquaintances planning a trip aboard the ferry system that they think twice before making reservations.

I believe that you and your administrative staff should take a careful look at the procedures used to ticket passengers, at the methods used to determine loading/offloading procedures, and that you should make a very careful examination of the public relations attitudes of ships' crews and officers, particularly those who are in daily contact with passengers.

Sincerely

Samuel C. Akin

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

TO : Members of the House
Transportation Committee

FROM : Steven M. Soenksen A.A.

RE : HB 651 Marine Highway Authority
(Advisory Board)

DATE February 17, 1982

Based on the committee discussions today and from the previous hearings on the HB 651, I have prepared this information for Legal Services to draft a committee substitute bill. Legal services work schedule is such that they will not be able to prepare a draft until next Thursday, February 25. I will put in this memo the issues that need to be addressed in the draft for the committee's consideration. I want to stress at this point, that I am not an attorney and therefore not qualified to write statutory language. However, this should serve for committee discussion and for Legal Services to prepare a bill.

The draft should follow the HB 665 from 1978. The intent language in Chapter 1 of this bill, is current and appropriate.

"It is the purpose of this chapter to provide users of the state ferry system and the taxpayers of the state with a ferry service operated and managed as a public service for their benefit under a fair and reasonable tariff schedule, and to ensure that the Marine Highway System will be rendered equitably, economically and efficiently to all users. It is also the purpose of this chapter to make certain that the state ferry system is properly developed and operated, in coordination with other transportation modes and services, to assure the traveling public complete and dependable marine transportation services, and that the state ferry system is operated in the public interest."

Alaska Marine Highway Advisory Board.
There is created within the Department of Transportation and Public Facilities the Alaska Marine Highway Advisory Board.

Membership and Vacancies
The board consists of five members appointed by the governor. Members should be chosen from communities served by the Marine Highway System. Two of the members should be from South East, one member from South Central, one member from Western, and one member from the public at large. Members serve at the pleasure of the governor for five year terms. They must be residents of the state and qualified voters at the time of their appointment and shall comply with the requirements of AS 39.50 (conflict of interest). The members first appointed shall have terms of one, two, three, four and five years respectively. Each member shall hold office for the term of his/her appointment and until his/her successor has been appointed and qualified. A member is qualified for reappointment. A vacancy in a membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but only for the unexpired term. Each member, before entering upon his duties, shall take and subscribe to an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of the oath shall be filed with the Office of the Governor.

Compensation
The members of the board serve without compensation, but are entitled to travel and per diem expenses as provided in AS 39.20.180.

Officers, Meetings, Rules, and Quorum
The members shall elect one of their number as chairman.
The board shall prescribe its own rules of procedure. It shall meet at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the board members, consider necessary.
The powers of the board are vested in the members, and three members of the board constitute a quorum. Action may be taken and motions and resolutions adopted by the board at any meeting by the affirmative vote of at least three members. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the powers and perform all the duties of the authority.

Director
The board shall appoint a director whose salary range shall be below a range 20 (or whatever range you'd want put in here).

Duties
The board shall make recommendations to the Department regarding the operation, including schedules and tariffs, management, and planning and construction of facilities, of the marine highway system. The department shall submit written comments on these recommendations. In addition to the comments, the department shall develop a plan of implementation of the recommendations. Should the department not plan to adopt a recommendation made by the board they shall provide options or

reasons why they would not plan to adopt the board's recommendation. The department, in the commissioner, shall respond within thirty days of receiving the board's recommendations. Before the convening of the Legislative session each year, the board shall submit to the governor and the legislature a comprehensive report describing the operations, recommendations made, and expenditures for the previous year.

The board shall hold public hearings to access the public's reactions to the operations of the marine highway system, including employee/customer relations, schedules. The board may make recommendations to include but not limited to the previously mentioned items regarding the operations, schedules, tariffs, management, planning and construction of facilities of the marine highway system. The board may also give recommendations as to labor relations and agreements with the appropriate marine unions.

Bill Analysis by Rep. Bette Cato's office

HB 651

"An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority"

Sec. 1 Purpose : The purpose of this act is to establish an authority for the operation, management, and planning and construction of facilities for the marine highway system that is independent of state government. The authority shall be the exclusive state agency directly associated with the operation, management, planning and construction of facilities for the marine highway system.

Sec. 2 Adds a new chapter 70 to title 19; AS 19.70.010, ALASKA MARINE HIGHWAY AUTHORITY.
This section creates the Marine Highway Authority as a public corporation of the state. The corporation is an instrumentality of the state in the Department of Transportation and Public Facilities but has a legal existence independent of and separate from the state and continues until its existence is terminated by law.

Sec. 19.70.020. DIRECTORS Directors, consists of seven directors, the commissioner of DOT/PF, ex-officio, (non-voting), and six directors appointed by the governor with the following qualifications; a representative of commercial carriers, representative of the maritime industry, a representative of the tourism industry, and three members of the public representing regions, Region 1, southeast Alaska, Kodiak, Region 2, and Region 3, southcentral (Prince William Sound).

Most language in this section is boilerplate "board" language pertaining to qualifications, conflict of interest... Directors serve without compensation, but are entitled to travel and per diem expenses.

Sec. 19.70.030 OFFICERS AND QUORUM The directors elect a chairman from their number. The directors shall elect a secretary that need not be one of the directors. Four directors constitute a quorum. Majority motions or action may be taken.

Sec. 19.70.040 STAFF The authority may employ staff, may contract for services in exercising it's powers.

Sec. 19.70.050 POWERS OF THE AUTHORITY Sets out powers and obligations of the authority.

Sec. 19.70.060 authorizes the name for the system; "ALASKA MARINE HIGHWAY SYSTEM."

Sec. 19.70.070 COMPREHENSIVE LONG RANGE PLAN, mandates a comprehensive long range plan for the marine highway system that shall be updated at least every five years.

Sec. 19.70.080 ACQUISITION OF LAND AND EASEMENTS, sets out procedures that the authority utilizes to acquire property.

Sec. 19.70.090 AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF EXCHANGE allows the authority to purchase property for exchange.

Sec. 19.70.100 VACATING OF LAND OR RIGHTS IN LAND, This section allows the authority to vacate land or use rights by filing a deed in the appropriate recording district. Upon vacating, title reverts to persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The authority may transfer land tot he Department of Natural Resources for disposal, proceeds of which go to the General Fund.

Sec. 19.70.110. ANNUAL REPORT. By March 1 of each year, the authority shall submit to the governor and the legislature a comprehensive report describing the operations, income, and expenditures for the preceding calendar year.

Jan 15

Sec. 19.70.120 ANNUAL AUDIT Also by March 1, records shall be checked by a CPA. Allows a legislative auditor access to these records at any time.

Sec. 19.70.130 BUDGET AND APPROPRIATIONS The authority is funded by the legislature through the governor by the Executive Budget Act (AS 37.07) Money is directly appropriated and may be spent as authorized.

Sec. 19.70.140 PUBLIC RECORDS;OPEN MEETINGS. Subject the authority to open meetings and public records.

Sec. 19.70.150 NAMING OF VESSEL OR FACILITY sets guidelines for naming

Sec. 19.70.160 DEFINITIONS should be self explanatory.

Sec. 3 AS 19.60.010 and following sections of the bill are amended to read "authority" instead of "Department" giving the authority jurisdiction in law where the department had been specified.

No other substantive changes have been made in this bill

TESTIMONY ON CS HB 648, CS HB 649, CS HB 651, CS HB 652 and CS HB 654

My name is Walter B. Parker. I am a resident of Anchorage, Alaska residing at 3724 Campbell Airstrip Road. I have been active in Alaskan transportation operations and planning since 1946.

CS HB 651

I support the concept of the Marine Highway Authority and believe it could work well with a restructured DOT. I believe the Authority could have financing options available that would be more difficult to achieve as a regular state agency.

If the legislature elects to establish this Authority I would urge to allow for a reasonable break in period. It will not be possible for the Authority to impress itself overnight on the old operation and the real gains make take five years or longer to achieve.

In passing, it would seem that board members of the Authority should receive the same compensation as other major state boards.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 651 - Establishing the Alaska Marine
Title Highway Authority'
Requested by House Transportation Date 3/26/82

II. FISCAL DETAIL
Agency Affected Department of Transportation & Public Facilities
Program Category Affected Transportation
SRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		925.4				
200 TRAVEL		92.3				
300 CONTRACTUAL		708.8				
400 COMMODITIES		107.3				
500 EQUIPMENT		621.5				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		2455.3	1342.9	1437.7	1539.2	1877.9

FUNDING (Thousands of Dollars)

GENERAL FUND		2230.3	1094.6	1169.0	1255.0	1573.7
FEDERAL FUNDS						
OTHER (Specify Source) CIP		(225.0)	(248.3)	(268.7)	(284.2)	(304.2)

POSITIONS

FULL TIME		22	22	22	22	22
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note shows the net expected cost to the State under the attached assumptions. Costs for FY 84 reflect the deletion of one time items and addition of inflation at 7%.

The assumptions used in this fiscal note do not have the authority utilizing its full powers for separation and therefore have reduced the costs. If additional authority is desired, the costs would increase.

Before accurate costs can be determined for this bill, a substantial amount of time should be devoted to determining the requirements for separation of duties from the State system as well as estimating the amount of autonomy the authority would desire.

IV. DATE 3/31/82 PREPARED BY RON LIND
AGENCY DOT/PF
PHONE 465-3900

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

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Agency Affected Department of Transportation & Public Facilities
Program Category Affected Marine Transportation
ERU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		2086.5	2232.6			
200 TRAVEL		92.3	99.6			
300 CONTRACTUAL		787.4	260.7			
400 COMMODITIES		110.0	64.2			
500 EQUIPMENT		621.5	15.0			
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		3697.7	2672.1	2859.9	3060.9	3506.2

FUNDING (Thousands of Dollars)

GENERAL FUND		3697.7	2672.1	2859.9	3060.9	3506.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		56.0	56.0	56.0	56.0	56.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Additions required to the Marine Transportation budget.

See attachments.

IV. DATE 3/31/82 PREPARED BY Ron Lind
AGENCY DOT/PF
PHONE 465-3900

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

III. ANALYSIS

There are administrative and organizational topics not specifically addressed in either House Bill No. 651, "An Act relating to ferry and ferry terminals and establishing the Alaska Marine Highway Authority", or House Bill No. 661, "An Act establishing the Alaska Marine Highway Authority". Since the proposed legislation is similar in each of these bills, we are making the following assumptions in preparation of fiscal notes for each bill.

1. There is no offsetting credit taken for the expenditure of earned revenue to support the cost of operation of "Alaska Marine Highway Authority". In actuality, the initial cost would be the same if funding came from a direct appropriation for the full cost of operations from the legislature with earned revenue returned to the General Fund, or if earned revenue was expended with an appropriation to support the shortfall.
2. It is assumed the "Alaska Marine Highway Authority's" Payroll, Personnel, and Accounting systems would feed into the existing State systems to insure checks and balances, and would eliminate the necessity of creating a duplicate system.
3. We have assumed that initial start-up costs will be fully funded by the Legislature.
4. It is assumed the "Authority's" funding would be at the Division level and allocated to operating components as set out in its budget.
5. We have assumed a General Fund Subsidy for the difference between the total operating cost and the expected revenue for each fiscal year. We have further assumed that the total amount authorized would be available at the beginning of each fiscal year to allow the "Authority" to plan operations for each year.

6. The same inflation factor would apply to the "Authority's" budget request as followed by State agencies. We have assumed it to be seven percent (7%) for the fiscal note.

7. Initially the "Authority" would continue direct involvement with the State in the following:

   A. Occupancy of a State owned office building.

   B. Continued support from the State mail system.

   C. Access to the State equipment fleet.

   D. Access to the Statewide purchasing contract (i.e., fuel).

   E. Continued use of "shared" communications lines through Department of Administration, Division of Communications.

   F. Continued insurance, bonding, etc., as now supplied through Department of Administration, Division of Risk Management.

   G. Legal service from the Attorney Generals' office.

8. We have assumed that Department of Transportation and Public Facilit transferred employees would bring their own equipment and that equipment for the proposed thirty (30) new hire employees would be $76.5.

9. We have assumed the "Authority" would require its own computer services for reservations, cost accounting, dispatching vessels crews, and payroll input; and that one time costs would be $545.0 for hardware and $250.0 for software.

10. Assuming expansion, the first year shows one time start-up funds fo Contractual $543.6; (Software $250.0; Legal Services $200.0; Additional Space Rental $93.6); and $50.0 Commodities (primarily office supplies).

Summary - 200 - 500 Accounts: Of $1623.0 shown for the first year, $1145.6 is a first time start-up cost. Yearly maintenance of all 200 through 500 Accounts would be around $475.0 per year.

CSHB 15

11. Of the $2086.5 increase in Personal Services, $1172.4 is assumed to be positions already within the Department of Transportation and Public Facilities performing similar services in Finance, Supply, Payroll, Design and Construction, and Personnel for the Division of Marine Highway Systems The actual increase then would be $914.1 for Personal Services to fund eight (8) upgraded positions and twenty-four (24) new positions.

MHS EXISTING	DOT TRANSFERS	NEW POSITIONS	TOTAL POSITIONS
PFT 36	PFT 32	PFT 24	PFT 92
PPT 4			PPT 4

This is a total of ninety-two (92) Permanent Full Time and four (4) Permanent Part Time Administrative positions, with a total of thirty-one (31) Supervisors (Range 18 and above) and sixty-five (65) support position to operate and supervise nine vessels (725 employees) and twenty-six Shore Facilities (twenty-eight (28) Permanent and twenty-three (23) Permanent Part Time employees). No increase has been made in Vessel or Shore Facili Personnel.

Approximately $225,000 of CIP funded positions are proposed to be general funded because they would be considered more operationa

CSHB65

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 647/651 Establishing the Alaska Marine
Title [illegible] Authority
Requested by House Transp[illegible]on Committee Date 3/26/82

II. FISCAL DETAIL
Agency Affected Department of Transportation and Public Facilities
Program Category Affected Transportation
BRU, Program, Or Subprogram(s) Affected various-See Analysis
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		<1161.1>				
200 TRAVEL		0				
300 CONTRACTUAL		<78.4>				
400 COMMODITIES		<2.7>				
500 EQUIPMENT		-				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		<1242.2>	<1329.2>	<1492.2>	<1521.7>	<1628.3>

FUNDING (Thousands of Dollars)

GENERAL FUND		<1017.2>	<1080.9>	<1156.5>	<1237.5>	<1324.1>
FEDERAL FUNDS						
OTHER (Specify Source)		<225.0>	<248.3>	<268.7>	<284.2>	<304.2>

POSITIONS

FULL TIME		<34>	<34>	<34>	<34>	<34>
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Identifies costs and positions dedicated to Marine Transportation under current systems. (See attached).

IV. DATE 3/31/82 PREPARED BY Ray Lind
AGENCY DOT/PF
PHONE 465-3900

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-C01 (Rev. 12/81)

	Personal Services	Travel	Contractual	Commodities	Equipment	Total	General Fund	Other	PFT	Man Mos
S.E. Design and Construction	275.0	-	-	-	-	275.0	50.0	225.0	5	60
Info. Systems	40.0	-	67.4	-	-	107.4	107.4	-	1	12
Support Services	796.1	-	10.0	2.5	-	808.6	808.6	-	26.5	318
S.E. Region	50.0	-	1.0	.2	-	51.2	51.2	-	1.5	18
	1161.1	Ø	78.4	2.7	Ø	1242.2	1017.2	225.0	34.0	408

USHB 65

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Transportation & Public Facilities	Representative Cato	HB 68

Department Position

Opposed

Division Director	Date	Commissioner's [illegible]	Date
Ron B. Lind, Deputy Commissioner	2/9/83		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

Create "Authority" to run the Alaska Marine Highway.

4. Fiscal Impact: ☐ None ☒ Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

Reduces operational control by Executive Branch.
Increases costs related to operations.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

(907) 465-3900

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

The Honorable Bette Cato
Chairman
House Transportation Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Cato:

As requested by a member of your staff, we are providing the attached position paper on HB 68, "An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority."

Sincerely,

Daniel A. Casey
Commissioner

Enclosure

A-T1LH

HB 68: An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority.

The Department of Transportation and Public Facilities is opposed to the creation of an authority to operate the Alaska Marine Highway System. Given the lack of attention to the System over the past many years and user's concerns in this regard, it is understandable why the establishment of an authority may be considered. However, the concept of an authority to harness private sector self-sufficient, motivation for efficiency, with certain powers of the State that private industry does not have, such as the rights of eminent domain and access to government bond markets. In this instance, the system falls way short of being fiscally able to cover its own bonding, thus, the general fund obligations would be necessary, with no increase in debt capacity gained. In the case of the Marine Highway System revenues, only 50% of operating costs are covered, not to mention capital requirements. Such an Authority creates an additional administrative layer, insulated from the Executive Branch, is not responsive to the electorate's mandates as resulted by the Exectutive and yet draws a significant amount of its operating monies directly from the General Fund. In short, accountability is deminished.

The Marine Highway System is a marine highway and qualifies for substantial Federal highway funding. The administration of the construction projects associated with the Marine Highway System, to qualify for Federal funds, needs to follow strict design and financial audit guidelines. The amount of construction entailed in the Marine Highway System does not necessitate the full design and construction discipline capacity for a stand-alone department. The continued support from the Department of Transportation and Public Facilities in this regard insures that we execute these projects in a way that complies with the Federal Highway Administrative Guidelines without burdening the system with the requirement, otherwise, of establishing self-sufficiency for part-time requirements. Operations staff input into the design process needs improving and will be.

The performance problems associated with the Marine Highway System are well understood by the existing Governor and his Commissioner of the Department of Transportation and Public Facilities and the addressing of these problems are not necessarily solved through establishment of an authority. Both the public and the Legislature can have a significant influence on the attentiveness to the ferry system. Their recent concerns, as well as the personal commitments of the Governor and the incumbent Commissioner, will go farthest in insuring a rebalance of system service, strategy and resources.

Some organization changes envisioned within the Department of Transportation and Public Facilities will insure 1) greater visibility of the system, 2) more control of the system management over the configuration of its capital assets without necessarily having to execute the programs directly, and 3) a freer hand to initiate operating improvements. In the latter instance, we plan to modify the Marine Highway BRU format, so that businesslike trade offs between revenue and costs are highlighted and encouraged. This will provide simila financial visibility as well as authority.

HB

69

HB 69 Rec'd

Jan. 18 '83

HOUSE BILL NO. 69 by Cato, entitled:

"An Act relating to the Department of Transportation and Public Facilities and establishing the Board of Transportation and Public Facilities at the head of the department."

was read the first time and referred to the Transportation and Finance Committees.

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: 5-6-83

1/18/83 Mr. Speaker:

The Committee on TRANSPORTATION has had HB 69

"An Act relating to the Department of Transportation and Public Facilities and establishing the Board of Transportation and Public Facilities at the head of the department"

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[X] reports it back with~~out~~ individual recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Bette Cate	[illegible] No Rec
	[illegible] No Rec
	M.W. Miller No Rec
	[illegible] No Rec
	[illegible]

Bette Cate
CHAIRMAN

H 60

HB 69 TITLE & SPONSOR SUMMARY 15:33 7/27/83 PAGE 1 OF 2

AMENDED TITLE:
AN ACT RELATING TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND ESTABLISHING THE BOARD OF TRANSPORTATION AND PUBLIC FACILITIES AT THE HEAD OF THE DEPARTMENT

PRIME SPONSOR: CATO.

CO-SPONSORS:

CURRENT STATUS: 5/09/83 IN (H) FINANCE

HB 69 HOUSE ACTION 17:34 7/27/83 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/18/83	01	0044	FIRST READING -- COMMITTEE REPORTS
05/09/83	02	1235	TRAN -- DP01, NR06
05/09/83	03	1235	TRSP F/NOTE HSE SUPPL #57
			FINANCE
			RULES
****	**	**	*** *** ***

Fed ?

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 69 - Re DOTPF and establishing the Board of
Title Transportation & Public Facilities at the head of the department
Requested by Representative Cato Date 1/18/83

II. FISCAL DETAIL
Agency Affected Dept. of Transportation & Public Facilities
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		230.0	240.0			

FUNDING (Thousands of Dollars)

GENERAL FUND		230.0	240.0			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 1/28/83 PREPARED BY Doug Goldbach
AGENCY DOT/PF - Financial Management
PHONE 465-3911

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Jeff Morrison

HB

70

FISCAL NOTE | Revision Date April 14 , 1983

I. REQUEST

Bill/Resolution No.: HB 70
Title: Relating to regions in DOT & PF and prescribing duties of directors
Sponsor: Cato
Requestor: Cato

II. FISCAL DETAIL

Agency Affected: DOT & PF
Program Category Affected: All

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0.0	8,785.8	9,225.1	9,686.3	10,170.7	10,679.2
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Funds

IV. ANALYSIS: See Attached for Analysis.

Prepared By: Paula Ramsey | Phone: 465-4060
Division: Planning and Programming | Date: 4/14/83

Approved by Commissioner: [signature] | Date: 4/18/83
Department: Transportation and Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different for Sponsor)

3/8/83

Paula Ramsey
April 14, 1983

ATTACHMENT FOR FISCAL NOTE - HB 70

Estimated Additional Design and Construction functions:

Central Region - Director's Office	457.3
Buildings & Harbors	555.1
Southeast Region - Right of Way	324.0
Technical Services	410.6
Highway and Aviation	746.8
Subtotal:	2,493.8
Southcentral Residency	(122.5)
Western Residency	(115.6)
Total	2,255.7
Estimated COLA 20%	451.1
Total	2,706.8

Estimated Additional Planning and Programming functions:

Interior Region - Transportation Planning	1,596.3
Facility Planning	345.6
Subtotal	1,941.9
Estimated COLA 10%	194.2
Total	2,136.1

Subtotal D & C and P & P:	4,842.9
X Two additional regions	x 2
	9,685.8
Less estimate of 11 Directors (5 M&O, 3 D&C, 3 P&P) and 4 Deputies which exist in current regions	(1,500.0)
Total	8,185.8
Plus estimate of 5 Directors (one for each region) and 1 Deputy	600.0
Total	8,785.8

T O T A L	$8,785.8

IV. ANALYSIS

The operating costs to duplicate the regional organizations for Design and Construction Unit and the Planning Programming Unit in two additional regions would approximate $8.8 million in general funds. This estimate does not attempt to cover any cost which would be required for space and other capital costs. Without further detailed study, we estimate that space costs could range from $500,000 to $3,000,000. Additional facilities will be needed in both new regions, and Nome has little to no space currently available.

The actual costs would vary greatly based upon the level of autonomy desired in the regions and refinement of possible reduction in the existing regions. Reductions for duplication of effort would be minimal compared to the total cost. The estimate provided here is based upon the assumption that only the Design and Construction (D&C) and Planning and Programming (P&P) Units would be expanded into the two additional regions. No specific estimates have been made for costs of increased administrative services required in the regions. Each region could operate with relative autonomy in the three major components, D&C, P&P, and Maintenance and Operations (M&O).

Beyond these assumptions, the estimated changes are conservative. Economies are identified in reductions on possibly duplicative management staff in all regions, and yet cost reductions are minimal compared to the total cost.

In order to estimate five full regions, we removed the functions in the Western Maintenance and Operations (M&O) Region and the Southcentral Region, which are Design and Construction (D&C) positions known as "Residencies". These positions formerly served limited reconnaissance and coordination functions in Nome and Valdez. This leaves three full regions, with all three components, and two with the M&O component only. Each component, however, currently has a director, and the proposal in HB 70 speaks of only five directors, one for each region. We therefore estimate conservatively that eleven directors (five for M&O, three for Planning and Programming (P&P), and three for D&C) and four deputy directors be removed from the cost estimate.

We then estimated the cost of adding a D&C and P&P component to both the Western and Southcentral Regions. These estimates were derived from the component in existing full regions we thought most realistically appropriate. The proxies were selected for D&C functions from either Central or Southeastern Region, whichever was lower. Interior Region's P&P functions were used as proxies for the P&P component.

With D&C and P&P components added in, we then had five full regions with all three components in each, but without management. Accordingly, we added back in the cost of five directors (one for each region as specified in the bill) and one deputy director.

The direct costs for capital projects were not included because it is assumed they would be transferred from the regional offices now handling those projects.

Attachment

STATE OF ALASKA / BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Deputy Commissioner - Standards and Statewide Programs

Pouch Z
Juneau, Alaska 99811
(907)465-3900

March 30, 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

In response to your recent questions regarding the Department of Transportation and Public Facilities (DOT&PF), the following information is provided:

1) The Department currently employs a total of 85 planners, Transportation Planners and Facility Planners as follows:

Central Region	34
Interior Region	19
Southeast Region	28
Headquarters	4

2) There is nothing formal in the State's personnel system which states the minimum qualifications for Deputy Commissioners. For your information, however, the Department's new appointments have the following experience in positions related to their current functions:

Fred Seeger, Deputy Commissioner for Standards and Statewide Programs-15 years
David Haugen, Deputy Commissioner for Central Region-16 years
H. "Glen" Glenzer, Deputy Commissioner for Interior Region-19 years
Jonathan W. Scribner, Acting Deputy Commissioner for Southeast Region-15 years

3) Enclosed please find a 24" X 36" Organization Chart of DOT&PF, which is identical to the one distributed to Department employees.

4) The Executive Budget, Book II is the most recent official version of the FY 84 Capital Budget which is available. A copy is enclosed.

5) Although I have not yet received a transcript or tape of the meeting on March 28th, I will attempt to summarize my comments. I cautioned the

committee to be very careful of any expansion which would be occasioned by the creation of additional regional offices in the DOT&PF. The costs, in particular, to be concerned about are administrative overhead costs, such as Administrative Officers and other personnel. The proposal to expand to five regions would increase these costs for both Planning and Programming and Design and Construction functions. Enclosed, please find a copy of the fiscal note prepared for CSHB 649 introduced last year. It will provide some idea of how costly such a decision might be--as much as $9.7 million for staff and as much as $500,000 to $3 million for space cost.

6) A list of the locations of DOT&PF Maintenance Stations follows. Some of these serve for both road and airport maintenance. There are additional maintenance stations - not listed here - which are entirely, or almost entirely for airport maintenance.

Maintenance Stations (Road Camps)

Bear Creek	Girdwood	Birch Lake
Cottonwood	Silver Tip	Eagle
Nome	Moose Pass	O'Brien Creek
St. Mary's	Seward	South Fork
Bethel	Kalsin Bay	Tok
McGrath	Kodiak	Gardiner Creek
Dillingham	Seldovia	Slana
King Salmon	Homer	Skagway
Ruby	Ninilchik	Haines
Deadhorse	Soldotna	Juneau
Livengood	North Kenai	Sitka
Manley Hot Springs	Cascade	Kake
Fairbanks	Nelchina	Petersburg
Nenana	Cordova	Wrangell
Healy	Valdez	Klawock
Cantwell	Thompson Pass	Ketchikan
East Fork	Ernestine	Hyder
Chulitna	Chitna	Seven Mile
Talkeetna	Taslina	Jim River
Willow	Gulkana	Cold Foot
Palmer	Paxson	Chandalar
Birchwood	Trims	Fag River
Anchorage	Big Delta	

If our office can be of further assistance, please call.

Sincerely,

Fred Seeger

Fred J. Seeger
Deputy Commissioner

Enclosure

cc: John C. Bates
Wayne E. Weeks
Emil Notti
Office of the Governor

FJS/PR/rw

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 649 Relating to regions in DOTPF and prescribing
Title duties of directors
Requested by House Transportation Committee Date March 26, 1982

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	up to	9720.0				

FUNDING (Thousands of Dollars)

GENERAL FUND	up to	9720.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
The operating costs to duplicate the regional organizations for the Design and Construction Unit and the Planning and Programming Unit in two additional regions would approximate $9.7 million in general funds. This estimate does not attempt to cover any costs which would be required for space and other capital costs.

The actual costs would vary greatly based upon the level of autonomy desired in the regions and the refinement of possible reduction in the existing regions. Reductions for duplication of effort would be minimal compared to the total cost.

Reductions to the existing regions have been limited to those now used for the Nome and Valdez Residencies and the three existing director positions which would be deleted.

IV. DATE March 30, 1982 PREPARED BY Ronald Lind
AGENCY DOT/PF
PHONE 465-3900

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

The cost estimates are based upon the assumptions that only the Design and Construction and Planning and Programming Units would be expanded into the two additional regions. No specific estimates have been made for costs of increased administrative services required in the regions.

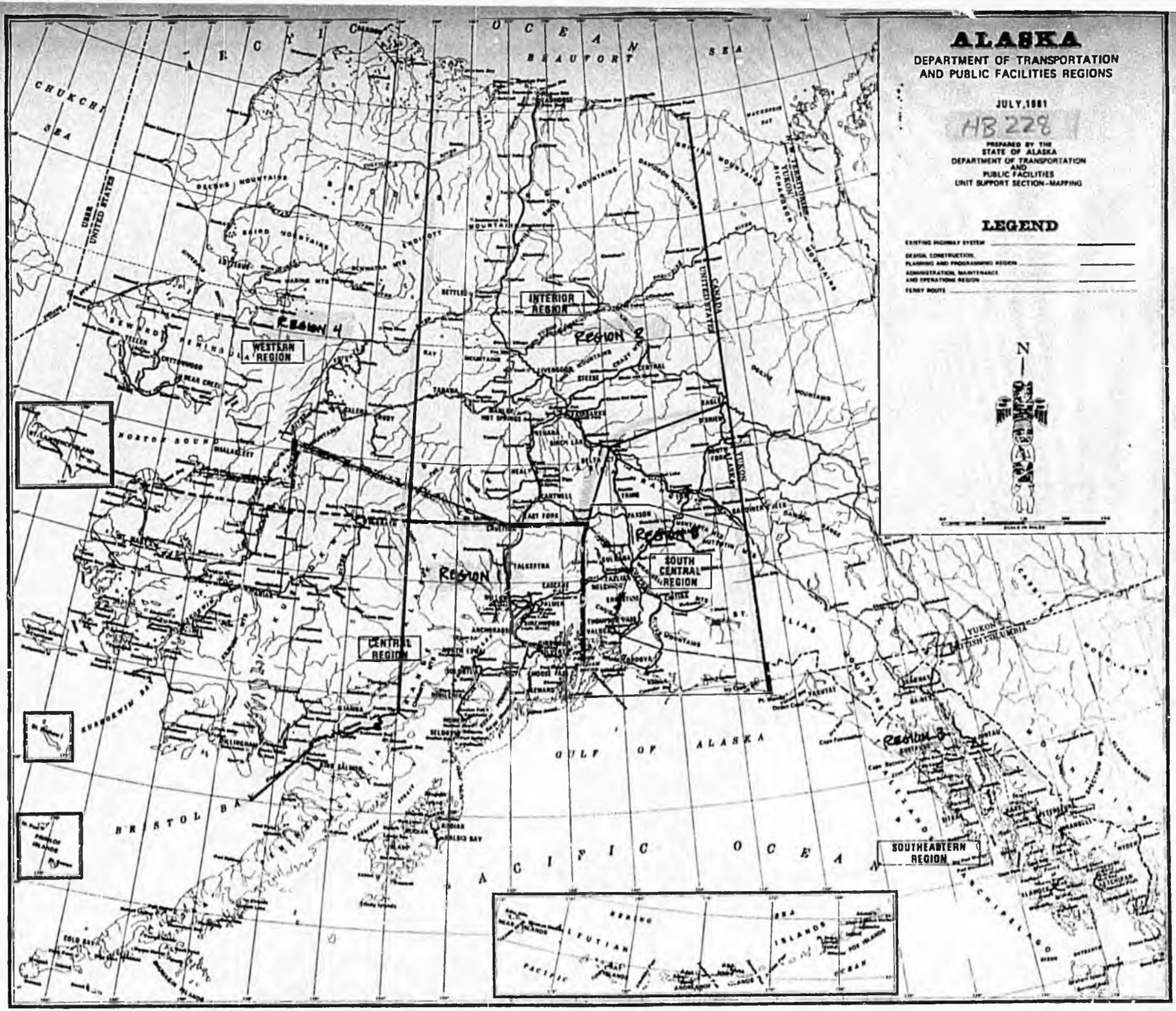
The costs were calculated as follows:

For the Design and Construction activities, the lower general fund amount in the Southeast or Central Division in the 1983 budget for each component was used. The general fund costs for the two residencies were then deleted. The estimate for the Planning and Programming activities is based upon costs for the Transportation and Facility components for the Interior Region. The direct costs for capital projects were not included because it is assumed that they would be transfers.

Attachment

Attachment for Fiscal Note -
CSHB 649

	General Fund	
	Operating	Indirect
Central Region - Director's Office	450.0	105.0
" " Technical Services	260.0	200.0
" " Buildings & Harbors	395.0	175.0
Southeast Region - Right of Way	310.0	20.0
" " Highway and Aviation	570.0	95.0
Subtotal:	$1,985.0	595.0
Southcentral Residency	[30.0]	-
Western Residency	[40.0]	-
	$1,915.0	595.0
Estimated COLA 20%	380.0	120.0
	$2,295.0	715.0
Interior Transportation Planning	$1,450.0	-0-
" Facility Planning	500.0	-0-
	$1,950.0	-0-
Estimated COLA 10%	200.0	-0-
	$2,150.0	
Subtotal D & C and P & P	$4,445.0	715.0
Less estimate of 3 Directors which exist in current region	[300.0]	-0-
	$4.145.0	715.0
Two additional regions	x 2	x 2
	$8,290.0	$1430.0
TOTAL		$9,720.0


ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES REGIONS
JULY, 1981
HB 228
PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND
PUBLIC FACILITIES
UNIT SUPPORT SECTION-MAPPING
LEGEND
EXISTING HIGHWAY SYSTEM
DESIGN, CONSTRUCTION, PLANNING AND PROGRAMMING REGION
ADMINISTRATION, MAINTENANCE AND OPERATIONS REGION
FERRY ROUTE
N
REGION 1
REGION 2
REGION 3
REGION 4
REGION 5
WESTERN REGION
INTERIOR REGION
CENTRAL REGION
SOUTH CENTRAL REGION
SOUTHEASTERN REGION
CHUKCHI SEA
BEAUFORT SEA
GULF OF ALASKA
PACIFIC OCEAN
BRISTOL BAY
NORTON SOUND
CANADA
UNITED STATES
YUKON
BRITISH COLUMBIA
ALEUTIAN ISLANDS
BERING SEA

Asper
3/25/83

Original sponsor: Cato

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 70 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to regions in the Department of Transportation and Public Facilities and prescribing the duties of regional transportation and public facilities directors."

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

* Section 1. AS 44.42.040 is amended to read:

Sec. 44.42.040. REGIONAL [DEPARTMENTAL] ORGANIZATION OF DEPARTMENT. (a) The commissioner shall establish five regions within the state in accordance with (b) of this section. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. Each regional transportation and public facilities director shall have at least six years experience in transportation construction or engineering.

* Sec. 2. AS 44.42.040 is amended by adding a new subsection to read:

(b) The five regions are:

(1) Region one begins in Bristol Bay on latitude 58°00'N and travels east along that line to longitude line 158°00'W; then north along longitude line 158°00'W to the mouth of Kvichak Bay; then travels northeasterly along the southern bank of the Kvichak River to Iliamna Lake; then northeasterly along the southern shore of Iliamna Lake to longitude line 154°00'W, and travels north along longitude line 154°00'W to a point due west of the community of Cantwell; then

east to the community of Cantwell; then southwesterly to the junction of the Glenn Highway and the Fishhook-Willow Road (approximately one mile northeast of Palmer); then southeasterly to Prince William Sound at Fairmount Point 60°53'45"N, 147°27'W and inclusive of Kodiak, Afognak, Barren, Trinity, Chirikof, and Pribilof Islands.

(2) Region two begins at the Arctic Ocean on latitude 141° 00'W; then southerly along that line to a point due east of the community of Eagle; then southwest to the community of Cantwell; then west to longitude 154°00'W; thence north along longitude 154°00'W; to the Arctic Ocean.

(3) Region three begins in the Gulf of Alaska on longitude line 141°00'W; then north along longitude 141°00'W to Boundary Point 187; then southeasterly along the Canadian-United States border bounding Southeastern Alaska in its entirety.

(4) Region four begins in the Arctic Ocean at Smith Bay on longitude line 154°00'W; travels south along longitude 154°00'W to a point where longitude line 154°00'W crosses the southern shore of Iliamna Lake; then southwesterly along the southern shore of Iliamna Lake to the Kvichak River; then southwesterly along the southern bank of the Kvichak River to Kvichak Bay; then south along longitude line 158°00'W to latitude line 58°00'N, then west along that line into Bristol Bay, and inclusive of St. Matthew, St. Lawrence, and Nunivak Islands.

(5) Region five begins at the Gulf of Alaska on longitude line 141°00'W and travels northerly along that line to a point due east of the community of Eagle; then southwest to the community of Cantwell; then southwesterly to the junction of the Glenn Highway and the Fishhook-Willow Road (approximately one mile northeast of Palmer); then southeasterly to Prince William Sound at Fairmount Point

60°53'45"N, 147°27'W.

* Sec. 3. AS 44.42 is amended by adding a new section to read:

Sec. 44.42.045. DUTIES OF REGIONAL TRANSPORTATION AND PUBLIC FACILITIES DIRECTORS. (a) Each regional transportation and public facilities director is responsible for planning, design, and construction within the region consistent with the state transportation plan established under AS 44.42.050 and the state public facilities plan established under AS 44.42.055.

(b) Each regional transportation and public facilities director shall submit to the commissioner proposed program plans, agency budget requests, and reports of program performance at a time directed by the director of the division of budget and management, Office of the Governor. The commissioner may comment on the program and financial plans submitted by a regional transportation and public facilities director under AS 37.07 but shall forward the program and financial plans submitted by a regional transportation and public facilities director to the division of budget and management without change.

(c) Each regional transportation and public facilities director shall submit to the commissioner a plan implementing the state transportation plan and the state public facilities plan 90 days before the end of a fiscal year for implementation in the succeeding fiscal year. A revision of the plan implementing either the state transportation plan or the state public facilities plan may be submitted at any time. A regional implementation plan or a revision of a regional implementation plan is final unless disapproved by the commissioner within 30 days of its receipt by the commissioner.

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

APRIL 4, 1983
AMENDMENTS TO CSHB 70

Page 1, lines 18-20:

Delete: Each regional transportation and public facilities director shall have at least six years experience in transportation construction or engineering.

Insert: The Department of transportation and public facilities shall require that a director or candidates for regional directors position possess at least 6 years experience in transportation construction and engineering.

Page 1, lines 23 - Page 2 line 5

The boundary lines for Region one will include Rep. Herrmann's election district boundary lines in order to accomodate her concerns of having her election district incorporated into one region.

Page 3, lines 9 through 26 TO BE DELETED.

TESTIMONY ON CS HB 648, CS HB 649, CS HB 651, CS HB 652 and CS HB 654

My name is Walter B. Parker. I am a resident of Anchorage, Alaska residing at 3724 Campbell Airstrip Road. I have been active in Alaskan transportation operations and planning since 1946.

CS HB 649

I strongly support the primary concepts contained in this bill. The original idea of a state DOT envisioned regional transportation directors who would be responsible for coordinating planning, programming, operations and maintenance in their regions and who would report directly to the Commissioner. The director for each region could be selected for a background that most suited the problems of that region.

Normally, it is bad practice to place administrative boundaries in the statutes as this bill does. However, it is not a major problem and if other regions were created it could be accomplished at the next legislative session.

I would hope that we would soon have another region for Kodiak, the Aleutians, the Alaska Peninsual and Bristol Bay. I believe that the unique transportation requirements of western Alaska can best be met by having two regions which are devoted soley to those problems and staffed to handle those problems.

I also believe that the AMATS and FMATS structures could be separated out from their regions and handled as independent entities with liaison and coordination staff from DOT. This would leave Central Region and Interior free to handle the state concerns and the intent of AMATS and FMATS for maximum municipal control would be further enhanced. In the same manner, there is no particular reason why the Anchorage and Fairbanks International Airports could not be independent entitites for administrative purposes. This would ensure that the regional director would focus most of his energies on regional concerns rather than on the major units for which he has responsibility. Obviously, planning would relate to all of the above both at the regional and statewide level but it would be planning for systems and not for day to day operations and maintenance.

Finally, the structure proposed in this bill would enable the Commissioner's office to become a lean planning, auditing and evaluating function. This would leave the Commissioner free for interaction with the regional directors, other state and federal agencies, the Governor and the legislature to maintain overall policy direction. The main point is that the relationship between regional directors and the Commissioner would be uninterrupted by other staff levels. Overall system direction for highways, aviation, marine, transit and other systems could be maintained through assignments in the Commissioner's office.

MAR 9 1982

Woodrow Johansen
P.O. Box 80422
College, AK. 99708

March 3, 1982

Subject: House Bills/DOT&PF

Steve Soenksen
Administrative Assistant
House Transportation Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Soenken:

I want to thank you for the opportunity of reviewing the seven pieces of legislation recently introduced to the House of Representatives concerning reorganization of the Department of Transportation and Public Facilities.

I found the proposals interesting and it is heartening to know that there are concerns in Juneau for the efficient administration of the transportation segment of the state government.

I cannot agree with all proposed changes but they definitely are a starting point for discussion.

There are attached my comments on the bills submitted in numerical sequence.

Sincerely,

Woodrow Johansen

Attachments

House Bill 649

This bill establishes five Department of Transportation and Public Facilities Regions within the state and further places a director in charge of each region. I have no comment on the number of regions established. I do believe, however, that the boundaries of the regions should be studied. Consideration should be given to the transportation and communication facilities within the regions and between the regions. I heartily agree with the concept of placing one indiviudal in charge of a region, that individual to be completely responsible for the functioning of the department within that region. I also believe, however, that there must be an organization existing within the state exercising control over all the regions by establishing policy and procedures on a statewide basis. Without this statewide organization to establish uniformity in policy and procedure, the department would function as a group of independent entities.

ESTABLISHING FIVE REGIONS WITHIN THE
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

HB 649

The Department of Transportation and Public Facilities (DOTPF) was created for several good reasons, one of which was to place the authority and responsibility for designing, constructing and maintaining public transportation facilities in the hands of those people closest to those facilities. The philosophy that prompted that decision was, "those people closest to the transportation problem are most intimate with the problem and left to their own devices, they are in the most knowledgeable position to selve that problem at the lowest possible cost to the taxpayer while providing the safest and most convenient transportation facility to the traveling public."

Unfortunately the DOTPF did not turn out as planned. The administration advocatd a strong emphasis on planning, which resulted in the creation of a completely independent section headed by a director who had more authority than the regional engineer. The planning section duplicated the work that the design section had been doing but they did it with many more people and in reality the planning and the construction estimates were still being done by the design section. The planning section's primary function was to send the paperwork into headquarters which would allocate federal or state money to the individual projects so that the design and construction section could begin the project development which would ultimately lead to construction.

The creation of the planning section added one more layer of paper shufflers to the growing bureaucracy and the end result was higher preliminary engineering costs due to the many new highly paid planners that charged their time to these projects, and most severe, was the fact that the projects were delayed because each Project Development Authorization PDA form had to be signed by five to seven different level planners before the project could be funded.

The old Department of Highways operated fairly efficiently because there was one person in charge who could resolve internal disputes. The DOTPF created a many headed monster that was only controlled by the commissioner. The general organization is shown below:

Your reorganization of the DOTPF, to be effective, should establish one leader in each region.

This one leader or director in each region would report directly to a chief engineer at headquarters.

The Chief Engineer would report to a board of commissioners appointed from each region and representing all of the required sciences as outlined in 12-1989 "Bradley". The preferred organizational chart is shown below:

Section 44.42.040 (a) spells out the requirement for six years of experience. This is good but you should add the word "civil" prior to "engineering". Civil engineering encompasses all phases of transportation engineering. It is very important that the Regional Director have a good academic education and practical experience in civil engineering so that he can effectively direct those working under him to accomplish the goals set by the Commission and/or Legislature.

The regional boundaries that you have set up are generally good. However, Region I (Anchorage) is primarily an urban region and the boundaries should be moved from Mile 118 on the Glenn Highway to Mile 66. This would put the Cascade Maintenance station in Region V and it would allow Region V, which is a rural region, to upgrade the road access between Valdez and Palmer. The section of the Glenn Highway from Palmer to the existing regional boundary at Mile 118 has not had a single mile of reconstruction since 1961 and there is nothing planned in this section within the next six year program.

The Longitude line used for the East Boundary of Region I should be 148° 42' W, South to Latitude 61° N., thence East along Latitude 61° to Prince William Sound, as shown on the attached map.

The new region that represents the greater Anchorage Bowl should not have jurisdiction over the Glenn Highway North of Palmer since they have exhibited no interest in upgrading that section of highway since Statehood. The Glenn Highway is the main thoroughfare for travelers driving into the State of Alaska and it is in deplorable condition from Palmer out to the existing regional boundary at Mile 118.

Section 44.42.045 (a) - The creation of the DOTPF was intended to streamline the department and make it more efficient and productive. The opposite has occurred because of one major blunder. Someone determined that one person should not be in charge of each region because he had too much power, or the job was too complicated, or because there were too many disciplines under his command. The solution to this problem was to create several equal directors in each region who would report directly to one of the four deputy commissioners in headquarters. The result is that the following sections:

1. Maintenance and Operations
2. Design and Construction
3. Planning
4. Administration

are controlled by a different deputy commissioner at headquarters and each section is protective of its authorities and is almost totally uncooperative with the other sections.

The solution to this problem is obvious to anyone working in any of the regions. They need one person in charge who can coordinate the work of the region and who can resolve disputes between the sections. Woody Johansen and his leadership in the Interior Region (Fairbanks) is a good example of how the regions should be run. The Interior Region is the only region that has developed a good land transportation system in the state. Mr. Johansen could not accomplish what he did under the current DOT segmented authority.

This section should be revised to place the authority of all sections in the region under the authority of one person.

HB 70, by Cato. Would organize the Department of Transportation & Public Facilities into five regions within the state (currently organized in regions--no number specified.) Sets out specific location of each region. Provides each regional director shall have six years experience in transportation construction or engineering. Outlines duties of the directors, stating each is responsible for planning, design, and construction within the region, as well as for submission of plans, budget requests, and reports of program performance to the Commissioner of DOTPF. Does not provide for an effective date (effective 90 days after Governor's signature)

Sec. 3 AS 44.42 Adds a new section for duties of the directors.

(a) Each director is responsible for planning, design, and construction within the region consistent with the state transportation plan and the public facilities plan.

(b) directors shall submit to the commissioner proposed program plans, program budget requests, and reports of program performance at a time directed by the director of the division of budget and management. The commissioner may comment on the plan but shall forward it to budget and management without change.

(c) The directors shall submit to the commissioner a plan for their region implementing the statewide plan 90 days prior to the end of the fiscal year, for the following year. A change in plan can be submitted at any time but the commissioner has 90 days to disapprove of the plan.

OFFICE OF ADMINISTRATION
February 23, 1982

City of Valdez
Gateway to the Interior
Terminus of the Trans-Alaska Pipeline

Representative Bette Cato
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 649
Valdez Backup Information

Dear Representative Cato:

Due to perceived inefficiencies within the Department of Transportation and Public Facilities (DOT/PF), the Commissioner decided, during the spring of 1981, to reorganize the DOT/PF design section into three regions. Historically, there have been five regions administered from Valdez, Nome, Anchorage, Fairbanks and Juneau. However, not all functions of the department were necessarily represented in each region.

The reorganization plan is reducing the number of regions responsible for design functions to three, eliminating the design component in Valdez (Nome not currently having a design component) by transferring Valdez construction employees to Anchorage and Fairbanks. In conjunction with this transfer will be the expansion of the three regional offices' authority and responsibilities so that disputes can be settled on the regional level and need not be mediated by the Juneau Headquarters. This reorganization is supposably being accomplished in order to increase the efficiency of the department by:

- facilitating the integration of department functions and eliminating duplicative efforts by maximizing the utilization of available design personnel; and

- decentralizing headquarters authority into strong regional organizations that can more adequately fulfill the myriad types of projects required of the department.

However, from the outset there has been strong opposition to this reorganization from the Valdez community and the DOT/PF employees effected by the plan. Four points keep surfacing when considering the organizational changes and the affect it will and has had upon Valdez.

1) A major concern of the opponents of the move/reorganization is that the removal of the highway design function in the Southcentral Region, served by Valdez, may result in a reduced interest in the rural highway systems. There is legitimate and strong fear that the design component for those highway projects will have to compete for attention and funding with urban projects.

   This concern has already been proven justified due to the change in the five-year capital improvement priorities plan that has occurred since the reorganization of the Southcentral District Headquarters. The new capital improvement plan for this area now includes projects for the Whittier area, which had never previously been considered a part of the Southcentral District, and the overall budgets have been cut considerably for each year.

2) There was also considerable pride in Valdez that the Valdez design contingent has proven itself to be one of the most efficient design units in the State. Valdez residents have contended that if the DOT/PF Commissioner wants to increase the efficiency of the department, he should not integrate one of the most efficient units into a design unit that has a high concentration of problems.

3) Of major concern in and for Valdez are the adverse social and economic impacts on the community of Valdez. The loss of these state jobs will and is having an impact on retail businesses, the schools (the Growden-Harrison Grade School already under consideration for shutting down) and to some extent, the regional economy. Also, the Valdez DOT/PF design personnel are totally integrated within the community and are therefore actively involved in community affairs, serving on the many boards and commissions and providing many significant "professional" contributions to the growth and potential of the City.

4) The original reorganization plan stated that of the thirty-five positions in the design and construction unit in Valdez, twenty-five positions would move by October 01, 198., leaving only construction employees in the design and construction unit in Valdez. As a result of these transfers, there would be two promotions and five demotions for the Valdez employees. In addition to the permanent employees in the design and construction unit in Valdez, there were fifty seasonal employees. After the transfer there would be fifty-two seasonal employees in design and construction in Valdez.

   The original strength of the entire Valdez DOT/PF contingent was 110 full-time positions and 100 seasonal.

positions. About 25% of the entire contingent will be or has been effected by the move.

Although we are unable to assertain if this original plan has been precisely activated, I do feel sure that these are fairly accurate numbers when estimating the DOT/PF employees already relocated out of Valdez. Additionally, there is valid concern among Valdez residents that more transfers will follow. The construction unit (eight employees) will remain in Valdez through the 1982 construction season because of the large number of projects on-line in the Southcentral Region, but there is a great deal of uneasiness that some support personnel will be moved to Anchorage and Fairbanks subsequent to this transfer of the design unit.

Additionally, the housing impact is and will continue to be large, due to several houses going on the market at the same time in a town the size of Valdez. This affects the price of existing housing as well as new construction.

4) A final point of concern, one voiced by both employees of Valdez DOT/PF and by other members of the community, is that the DOT/PF design contingent works within a relatively compact DOT/PF unit in Valdez. There is justifiable concern that this move to the much larger structures in Fairbanks and Anchorage will contribute to inter-division disputes being sent to headquarters for resolution, thus delaying and diluting decisions. Currently, disputes and/or differences between different sections can be resolved easily in-house because of the smallness of the operation in Valdez.

Therefore, due to our concerns mentioned above, it is the City of Valdez' opinion that a five-region DOT/PF system is preferable to a three region system. A persuasive case can and has been made for preserving a "rural-oriented" highway design and construction unit in Valdez. If the existing unit in Valdez is meshed into the larger more urban-oriented Anchorage and Fairbanks regions, the rural highway needs of a vast section of Alaska will most likely suffer. A design unit located in a region where sensativities are attuned to rural highway requirements will undoubtedly be more affective in dealing with those requirements.

One of the basics that cannot be overlooked is that the Department of Transportation and Public Facilities was created for several good reasons, one of which was to place the authority and responsibility for designing, constructing and maintaining public transportation facilities in the hands of those people closest to those facilities. The philosophy that prompted that decision was, "those people closest to the transportation problem are most intimate with the problem and left to their own

devices, they are in the most knowledgeable position to solve that problem at the lowest possible cost to the taxpayer while providing the safest and most convenient transportation facility to the traveling public".

This then forms the basis for proceeding with House Bill 649 and our belief in a "rural-oriented" system, which is what a five-region program provides.

Much of Alaska's road system, covering less than one-fourth of the State, can be easily served out of Valdez. Consequently, Valdez' current role should be at least maintained if not expanded . Rather than abolishing the rural highway emphasis, serious consideration should be given to expanding the Valdez region's jurisdictional area to cover more highway miles, both north towards Fairbanks and north and west towards Anchorage. Approximately two years ago the DOT/PF even considered expanding the Valdez region's reach and we feel this consideration was valid.

Additionally, the Prince William Sound area represents a major target area for expansion of the State's transportation system. The DOT/PF unit in Valdez should become the focal point for that expansion. Given the transportation benefits of making the area more accessible for recreation and visitor use as well as general economic development, an expanded DOT/PF presence in Valdez seems called for.

In closing I wish to reiterate that the City of Valdez heartily supports House Bill No. 649 and will assist its approval in any manner we possibly can.

If you require any additional information, please let me know.

Re: 12-1988
Bradley

BY CATO

The Department of Transportation and Public Facilities was created for several good reasons, one of which was to place the authority and responsibility for designing, constructing and maintaining public transportation facilities in the hands of those people closest to those facilities. The philosophy that prompted that decision was, "those people closest to the transportation problem are most intimate with the problem and left to their own devices, they are in the most knowledgeable position to solve that problem at the lowest possible cost to the taxpayer while providing the safest and most convenient transportation facility to the traveling public."

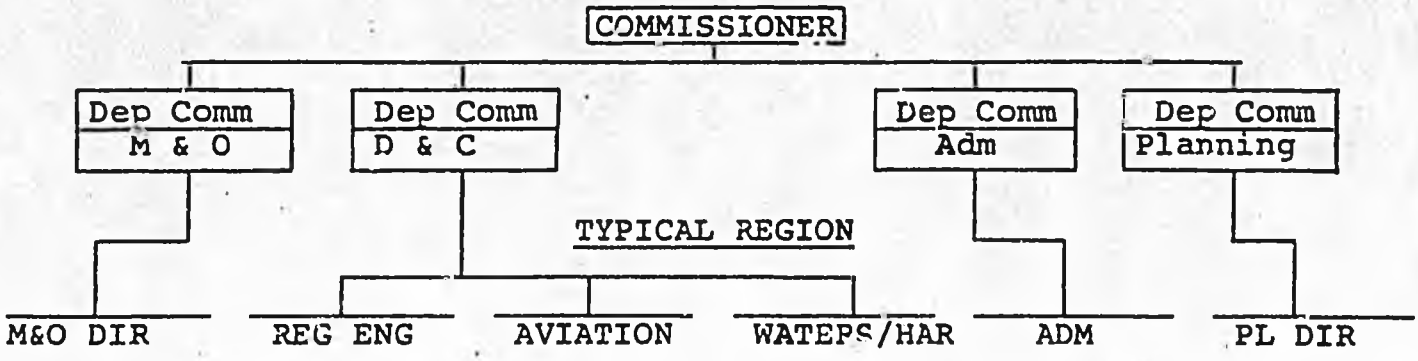
Unfortunately the DOT/PF did not turn out as planned. The administration advocated a strong emphasis on planning, whichresulted in the creation of a completely independent section headed by a director who had more authority than the regional engineer. The planning section duplicated the work that the design section had been doing but they did it with many more people and in reality the planning and the construction estimates were still being done by the design section. The planning section's primary function was to send the paperwork into headquarters which would allocate federal or state money to the individual projects so that the design and construction section could begin the project development which would ultimately lead to construction.

The creation of the planning section added one more layer of paper shufflers to the growing bureaucracy and the end result was higher preliminary engineering costs due to the many new highly paid planners that charged their time to these projects, and most severe was the fact that the projects were delayed because each Project Development Authorization PDA form had to be signed by five to seven

different level planners before the project could be funded.

The old Department of Highways operated fairly efficiently because there was one person in charge who could resolve internal disputes. The DOT/PF created a many headed monster that was only controlled by the commissioner. The general organization is shown below:

TYPICAL ORGANIZATION CHART



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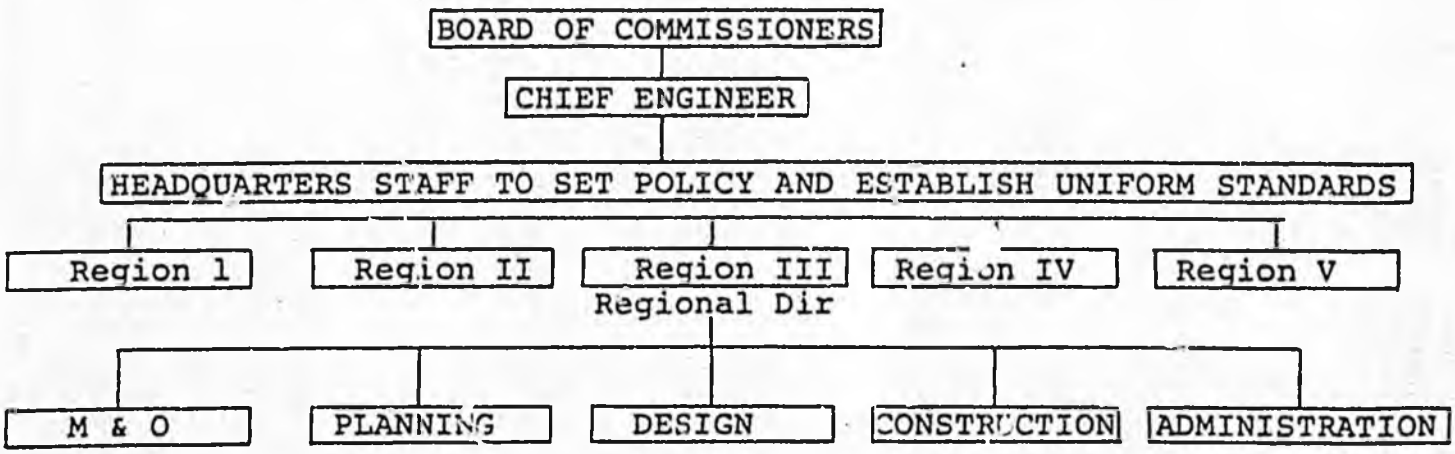
This one leader or director in each region would report directly to a chief engineer at headquarters.

The Chief Engineer would report to a board of commissioners appointed from each region and representing all of the required sciences as outlined in 12-1989 "Bradley".

The preferred organizational chart is shown below:



Section 44.42.040 (a)

The requirement for six years of experience is good but you should add the word "civil" prior to "engineering". Civil engineering cncompasses all phases of transportation engineering. It is very important that the Regional Director have a good academic education and practical experience in civil engineering so that he can effectively direct those working under him to accomplish the goals set by the Commission and/or Legislature.

The regional boundaries that you have set up are generally good. However, Region I (Anchorage) is primarily an urban region and the boundaries should be moved from Mile 118 on the Glenn Highway to Mile 66. This would put the Cascade Maintenance station in Region V and it would allow Region V, which is a rural region, to upgrade the road access between Valdez and Palmer. The section of the Glenn Highway from Palmer to the existing regional boundary at Mile 118 has not had a single mile of reconstruction since 1961 and there is nothing planned in this section within the next six year program.

The Longitude line used for the East Boundary of Region I should be 148° 42' W, South to Latitude 61° N., thence East along Latitude 61° to Prince William Sound, as shown on the attached map.

The new region that represents the greater Anchorage Bowl should not have jurisdiction over the Glenn Highway North of Palmer since they have exhibited no interest in upgrading that section of highway since Statehood. The Glenn Highway is the main thoroughfare for travelers driving into the State of Alaska and it is in deplorable condition from Palmer out to the existing regional boundary at Mile 118.

Sec. 44.42.045 (a)

The creation of the DOT was intended to streamline the department and make it more efficient and productive. The opposite has occurred because of one major blunder. Someone determined that one man should not be in charge of each region because he had too much power, or the job was too complicated, or because there were too many disciplines under his command. The solution to this problem was to create several equal directors in each region who would report directly to one of the four deputy commissioners in headquarters. The result is that the following sections:

1. Maintenance and Operations
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3. Planning
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are controlled by a different deputy commissioner at headquarters and each section is protective of its authorities and is almost totally uncooperative with the other sections.

The solution to this problem is obvious to anyone working in any of the regions. They need one man in charge who can orchestrate the work of the region and who can resolve disputes between the sections. Woody Johansen and his leadership in the Interior Region (Fairbanks) is a good example of how the regions should be run. The Interior Region is the only region that has developed a good land transportation system in the state. Mr. Johansen could not accomplish what he did under the current DOT segmented authority.

This section should be revised to place the authority of all sections in the region under the authority of one person.

Sec. 44.39.040. Vacancy. If a vacancy occurs in the office of the commissioner of fish and game, the governor shall appoint a successor for the unexpired term in the manner provided for the regular appointment. (§ 17 ch 64 SLA 1959)

Sec. 44.39.050. Removal of commissioner. The Board of Fisheries or the Board of Game may submit a resolution to the governor requesting the removal of the commissioner. The resolution shall set out the grounds for the request and the governor shall give the commissioner and both boards an opportunity to be heard. The final decision to remove or retain the commissioner shall be made by the governor. (§ 17 ch 64 SLA 1959; am § 38 ch 206 SLA 1975)

Chapter 41. Department of Public Safety.

Section

10. Commissioner of public safety
20. Duties of department

Sec. 44.41.010. Commissioner of public safety. The principal executive officer of the Department of Public Safety is the commissioner of public safety. (§ 18 ch 64 SLA 1959)

Am. Jur. 2d and C.J.S. references. — 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.; 63 Am. Jur. 2d, Public Funds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, § 22; 64 Am. Jur. 2d, Public Works and Contracts, § 1 et seq.; 72 Am. Jur. 2d, States, Territories and Dependencies, §§ 66-74.

81A C.J.S. States § 147.

Sec. 44.41.020. Duties of department. The Department of Public Safety shall administer functions relative to the protection of life and property. (§ 18 ch 64 SLA 1959)

State troopers are employees of the Department of Public Safety. Lee v. State, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971).

And are not shielded by AS 09.65.090 from liability for ordinary negligence. — The Good Samaritan Statute, AS 09.65.090, does not shield a police officer from liability for ordinary negligence. Lee v. State, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971).

Chapter 42. Department of Transportation and Public Facilities.

Section

10. Commissioner of transportation and public facilities
20. Powers and duties
30. Regulations
40. Departmental organization
50. State transportation plan
55. State public facilities plan
60. Grants to the department
65. Conservation of energy in public buildings
70. Limitation on transportation facilities
80. Capital projects funds
900. Definitions

Editor's note. — Section 1, Executive Order No. 39 (1977) provides: "FINDINGS AND PURPOSE. As governor, I find that the diverse transportation needs of the state would best be served by the creation of a single department for the planning, study, development, management and operation of integrated, intermodal transportation systems. The purpose of this department is to evaluate, plan, design, construct, manage, operate and maintain all state transportation modes and systems, relying on analysis of the relative advantages of different modes and systems and considering their social, economic, and environmental consequences."

Section 8, Executive Order No. 39 (1977) provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Order remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Order. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment, and other property or agencies of the state whose functions are transferred under this Order shall be transferred commensurate with the provisions of this Order."

Section 9, Executive Order No. 39 (1977) provides: "(a) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Public Works relating to planning, construction, maintenance and operation of transportation facilities, including state ferries, airports and water and harbor facilities, and for design and construction of buildings and appurtenant structures, and specifically including all powers and duties formerly held by the Department of Public Works under AS 02, AS 30.05, AS 30.15, AS 35, AS 41.20 and AS 44.65.

"(b) The Department of Transportation and Public Facilities is vested with the duties and powers formerly held by the Department of Highways relating to planning, construction, maintenance and operation of state transportation facilities including state highways, roads, bridges, traffic signs and signals, the supervision and maintenance of state automotive and mechanical equipment, the control of outdoor advertising visible from state highways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 28.01, AS 28.05, and AS 44.57."

Section 10, Executive Order No. 39 (1977) provides: "The commissioner of transportation and public facilities shall replace the commissioner of highways on the state Geographic Board, the Alaska Toll Bridge Authority, and all other boards and commissions."

Section 12, Executive Order No. 39 (1977) provides: "During Fiscal Year 1978, all appropriation items made for that fiscal year and prior years for the Department of Highways and the Department of Public Works may, upon approval of the governor, be appropriately transferred to implement the purposes of this Order."

Am. Jur. 2d and C.J.S. references. — 39 Am. Jur. 2d, Highways, Streets, and Bridges, § 1 et seq.

39A C.J.S. Highways § 1 et seq.

Sec. 44.42.010. Commissioner of transportation and public facilities. The principal executive officer of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.020. Powers and duties. (a) The department shall

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities, communication facilities, and all docks, floats, breakwaters, buildings and similar facilities;

(2) study existing transportation modes and facilities and communication facilities in the state to determine how they might be improved or whether they should continue to be maintained;

(3) study alternative means of improving transportation and communication in the state with regard to the economic costs of each alternative and its environmental and social effects;

(4) develop a comprehensive, long-range intermodal transportation plan for the state;

(5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities, communication facilities, and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

(8) study alternative means of transportation in the state, considering the economic, social, and environmental impacts of each alternative;

(9) coordinate and develop state and regional transportation systems, considering deletions, additions, and the absence of alterations;

(10) develop facility program plans for transportation and communication facilities and state buildings, docks and breakwaters required to implement the duties set out in this section, including but not limited to (A) functional performance criteria; and (B) schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety; and

(12) supervise aeronautics and communications inside the state, under AS 02.10.

(13) complete and maintain a current inventory of public facilities, including a projection of the serviceability of the facilities and projections of replacements and additions to facilities needed to provide the level of services programmed by the various user agencies, for municipalities with populations of less than 12,000 and for unincorporated communities, and perform those duties on a cooperative basis with larger municipalities.

(14) adopt energy performance standards for public facilities of the state, the construction of which begins after July 1, 1980; the standards shall be based on thermal and lighting energy standards established by

the American Society of Heating, Refrigeration and Air Conditioning Engineers as adapted for application in high latitude, cold climate environs;

(15) provide planning assistance, including but not limited to energy audits and related technical services, to school districts and regional educational attendance areas to develop and implement

(A) standards for the design, construction and operation of rural educational facilities; and

(B) energy conservation measures for rural educational facilities.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service and communication;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55. (Executive Order No. 39 § 2 (1977); am § 13 ch 168 SLA 1978; am § 12 ch 83 SLA 1980)

Effect of amendments. — The 1978 amendment added paragraph (13) to subsection (a).

Cross reference. — For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

The 1980 amendment added paragraphs (14) and (15) to subsection (a).

Sec. 44.42.030. Regulations. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.040. Departmental organization. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.050. State transportation plan. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and

authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out his responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following [illegible] years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for his review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

(A) sewage transmission and treatment systems;

(B) water transmission and treatment systems;

(C) electrical generation and distribution systems;

(D) health care and social services facilities;

(E) educational facilities;

(F) communications facilities and transportation facilities;

(G) public safety and justice facilities;

(H) recreational facilities;

(I) sanitation facilities; and

(J) cultural facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include

(A) current and future facility needs;

(B) space standards and design guidelines for the appropriate facility types;

(C) maintenance and operations standards for the appropriate facility types;

(D) construction techniques and contracting methods;

(E) facility project budget requirements; and

(F) relative costs of identified alternatives (life cycle cost analysis) including but not limited to the installation and operation of energy systems which are not dependent on oil or gas for water heating, space heating and cooling requirements, and for the generation of electrical or mechanical power;

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978; am § 6 ch 62 SLA 1979; am § 13 ch 83 SLA 1980)

Revisor's note. — The word "recommended" in subsection (b)(4) was deleted by the revisor under AS 01.10.036 to clarify the meaning of the section.

Cross reference. — For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

Effect of amendments. — The 1979 amendment, in subsection (b), added subparagraph (J) to paragraph (3).

The 1980 amendment rewrote subparagraph (4)(F) in subsection (b).

Sec. 44.42.060. Grants to the department. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.065. Conservation of energy in public buildings. (a) The department shall, as soon as practicable after July 1, 1980, and at least once every seven years thereafter, perform an energy audit of each public building. A report of the results of the energy audits performed during the preceding year shall be submitted to the legislature not later than February 1 of each year.

(b) The department shall include in the report required in (a) of this section recommendations for corrective measures to improve the energy efficiency and to minimize the life-cycle cost of the public buildings surveyed. These measures may include (1) energy conservation measures, (2) measures involving solar technology and other alternative energy systems, (3) energy management, and (4) maintenance and operating procedures and energy-related modifications. In recommending the corrective measures, the department shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or installation of equipment.

(c) In this section, "energy audit" means a determination of

(1) the energy consumption characteristics of a building, including the size, type, and rate of energy consumption of major energy-consuming systems of the building and the climate characterizing the region where the building is located; and

(2) a determination of the energy conservation and cost savings likely to result from appropriate energy-conserving maintenance and operating procedures and modifications, including the purchase and installation of energy-related fixtures. (§ 14 ch 83 SLA 1980)

Editor's note. — For declaration of legislative policy on energy conservation, see sec. 1, ch. 83, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Section 46, ch. 83, SLA 1980 provides: "A report of the results of the first energy audit completed by the Department of Transportation and Public Facilities under AS 44.42.065, added by sec. 14 of this Act, shall be submitted to the legislature not later than January 31, 1982."

Sec. 44.42.070. Limitation on transportation facilities. The department shall consult with the appropriate officials of other departments regarding environmental risks and economic and social considerations that may arise by reason of the location, design, construction or reconstruction of a transportation facility. (Executive Order No. 39 § 2 (1977))

Sec. 44.42.080. Capital projects funds. There is created within the department the following capital projects funds:

(1) educational, cultural, and related facilities;
(2) transportation and related facilities;
(3) public institutions and related facilities;
(4) public safety, justice, and related facilities;
(5) health, and related facilities;
(6) natural resource development facilities;
(7) general purpose facilities. (§ 15 ch 168 SLA 1978)

Sec. 44.42.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of the Department of Transportation and Public Facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "transportation" or "transportation mode" includes, but is not limited to, the following means of conveyance or travel, including their related or auxiliary structures, facilities or services: air, rail, water, highway and pipeline. (Executive Order No. 39 § 2 (1977))

Chapter 46. Department of Environmental Conservation.

Article
1. Organization (§§ 44.46.010—44.46.020)
2. Environmental Advisory Board (§§ 44.46.030—44.46.050)
3. Alaska Council on Science and Technology (§§ 44.46.070 — 44.46.110)

Editor's note. — Section 5, ch. 120, SLA 1971 provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act, remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative history report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

Secs. 44.37.100 — 44.37.180. Creation and purpose; composition and appointment; compensation; chairman and quorum; personnel; powers and duties; report to legislature; dissolution of committee.

Repealed by § 99 ch 59 SLA 1982, effective May 28, 1982.

Editor's notes. — The repealed article derived from § 1, ch. 152, SLA 1966.

Chapter 42. Department of Transportation and Public Facilities.

Section

20. Powers and duties
55. State public facilities plan

Sec. 44.42.020. Powers and duties. (a) The department shall

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities and all docks, floats, breakwaters, buildings and similar facilities;

(2) study existing transportation modes and facilities in the state to determine how they might be improved or whether they should continue to be maintained;

(3) study alternative means of improving transportation in the state with regard to the economic costs of each alternative and its environmental and social effects;

(4) develop a comprehensive, long-range intermodal transportation plan for the state;

(5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

(8) study alternative means of transportation in the state, considering the economic, social, and environmental impacts of each alternative;

(9) coordinate and develop state and regional transportation systems, considering deletions, additions, and the absence of alterations;

(10) develop facility program plans for transportation and state buildings, docks and breakwaters required to implement the duties set out in this section, including but not limited to (A) functional performance criteria; and (B) schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety;

(12) supervise aeronautics inside the state, under AS 02.10;

(13) complete and maintain a current inventory of public facilities, including a projection of the serviceability of the facilities and projections of replacements and additions to facilities needed to provide the level of services programmed by the various user agencies, for municipalities with populations of less than 12,000 and for unincorporated communities, and perform those duties on a cooperative basis with larger municipalities;

(14) adopt energy performance standards for public facilities of the state, the construction of which begins after July 1, 1980; the standards shall be based on thermal and lighting energy standards established by the American Society of Heating, Refrigeration and Air Conditioning Engineers as adapted for application in high latitude, cold climate environs;

(15) provide planning assistance, including but not limited to energy audits and related technical services, to school districts and regional educational attendance areas to develop and implement

(A) standards for the design, construction and operation of rural educational facilities; and

(B) energy conservation measures for rural educational facilities.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55.010 — 09.55.640. (Executive Order No. 39 § 2 (1977); am § 13 ch 168 SLA 1978; am § 12 ch 83 SLA 1980; am Executive Order No. 50, § 10 (1981))

Effect of amendments. — The 1981 amendment, in subsection (a), deleted "communication facilities" following "transportation facilities" in paragraph (1), deleted "and communication facilities" following "modes and facilities" in paragraph (2), deleted "and communication" following "improving transportation" in paragraph (3), deleted "communication facilities" following "transportation facilities" in paragraph (7), deleted "and communication facilities" following "plans for transportation" in paragraph (10), deleted "and" at the end of paragraph (11), deleted "and communications" following "aeronautics" and substituted a semicolon for a period near the end of paragraphs (12) and (13). The amendment also deleted "and communication" following "facilities and service" in paragraph (1) of subsection (b).

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

(1) request and receive on an annual basis from all state agencies a projection of the anticipated facility needs of the agency for the next annual capital improvement program;

(2) consult with officials and representatives of municipalities, the federal government, interest corporations and other organizations concerning public facility needs in the state;

(3) develop specific facility procurement plans for projects in each of the following categories:

(A) sewage transmission and treatment systems;

(B) water transmission and treatment systems;

(C) electrical generation and distribution systems;

(D) health care and social services facilities;

(E) educational facilities;

(F) transportation facilities;

(G) public safety and justice facilities;

(H) recreational facilities;

(I) sanitation facilities; and

(J) cultural facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include

(A) current and future facility needs;

(B) space standards and design guidelines for the appropriate facility types;

(C) maintenance and operations standards for the appropriate facility types;

(D) construction techniques and contracting methods;

(E) facility project budget requirements; and

(F) relative costs of identified alternatives (life cycle cost analysis) including but not limited to the installation and operation of energy systems which are not dependent on oil or gas for water heating, space heating and cooling requirements, and for the generation of electrical or mechanical power;

(5) identify common public facility needs among the various user agencies; and

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

(1) develop and adopt regulations for use in carrying out the purpose of (b) of this section; regulations may not be adopted under this section unless approval is received from appropriate program agencies;

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section which is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978; am § 6 ch 62 SLA 1979; am § 13 ch 83 SLA 1980; am Executive Order No. 50, § 11 (1981)."

Effect of amendments. — The 1981 amendment deleted "communication facilities and" near the beginning of subsection (b)(3)(F).

Chapter 46. Department of Environmental Conservation.

Article
1. Organization (§ 44.46.020)
3. Alaska Council on Science and Technology (Repealed)

Article 1. Organization.

Section
20. Duties of department

Sec. 44.46.020. Duties of department. The Department of Environmental Conservation shall

(1) have primary responsibility for coordination and development of policies, programs and planning related to the environment of the state and of the various regions of the state;

(2) have primary responsibility for the promulgation and enforcement of regulations setting standards for the prevention and abatement of all water, land, subsurface land and air pollution, and other sources or potential sources of pollution of the environment, including by way of example only, petroleum and natural gas pipelines;

(3) promote and develop programs for the protection and control of the environment of the state;

(4) take such actions as are necessary and proper to further the policy declared in AS 46.03.010.

(5) adopt regulations for

HB

72



Office of the City Clerk
832-5441
Incorporated November 17, 1921

City of Nenana

State of Alaska

-HB 72-

A BILL MAKING A SPECIAL APPROPRIATION FOR RESOURCE ROADS AND CROSSINGS IN THE NENANA-TOCHAKET AREA

NENANA RIVER BRIDGE span 440 ft.	3.8 MILLION
3 BRIDGES-LITTLE NENANA span 140 ft.	1.9 MILLION
-EAST MIDDLE span 105 ft. (bank to bank-75 ft.)	
-WEST MIDDLE span 144 ft. (bank to bank-84 ft.)	
22.8 MILES OF ROADWAY @ $442,982/mile	10.1 MILLION
16.8 MILES OF 3 PHASE TRANSMISSION LINE @ $77,602/mile	1.3 MILLION
TOTAL PROJECT	17.1 MILLION



ENGINEERS ESTIMATE OF COST *

NENANA TOTCHAKET ACCESS ROAD (22.8 MILES)

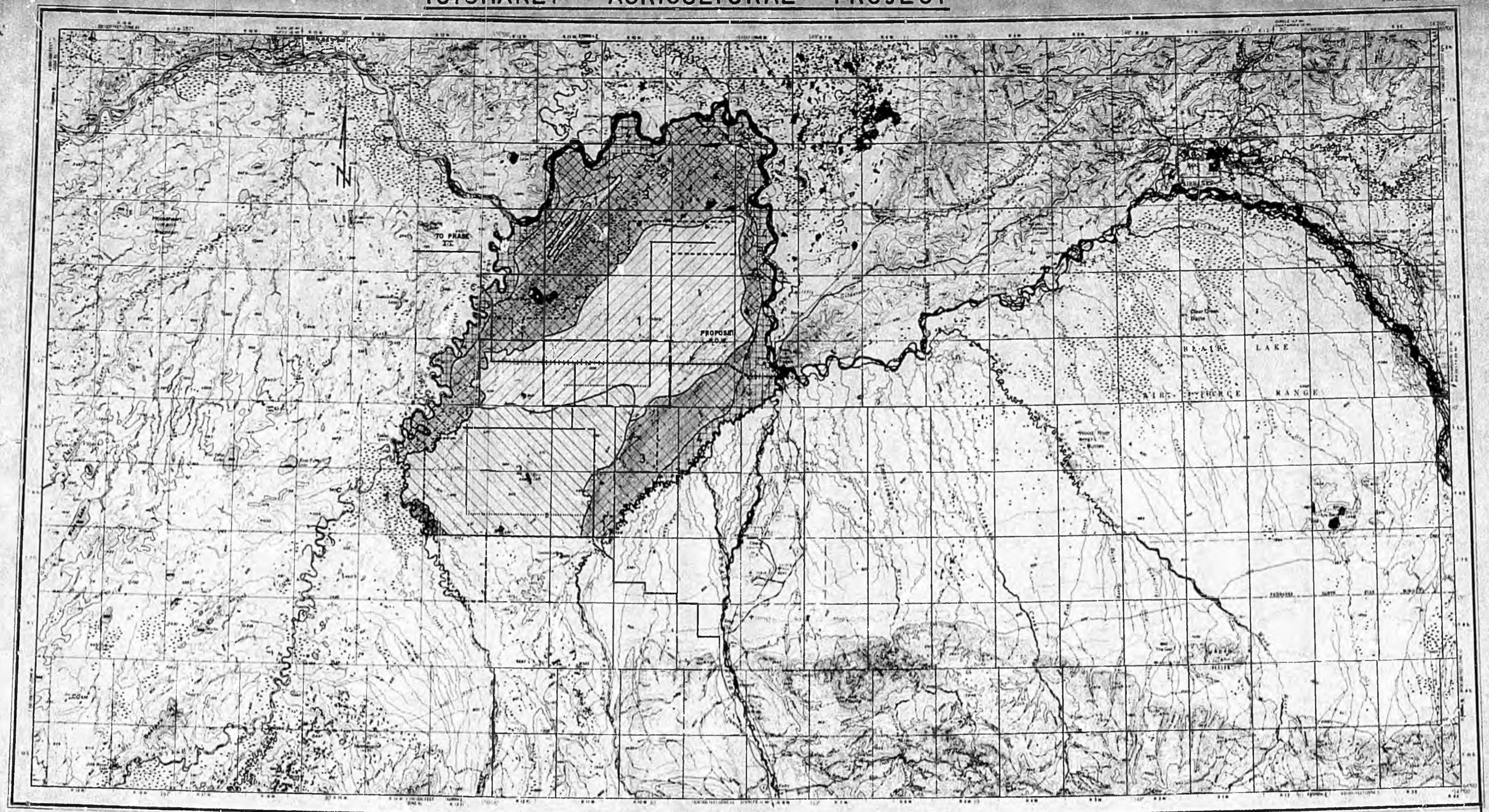
Item No.	Item	Unit	Unit Price	Quantity	Amount
1.	Moblization	L.S.	Lump Sum	All Req'd	$336.915
2.	Temporary Erosion and Polution Control	C.S.	Cont. Sum	All Req'd	28,000
3.	Construction Surveying by Contr.	L.S.	Lump Sum	All Req'd	252,686
4.	Furnishing and Maintaining Field Office	L.S.	Lump Sum	All Req'd	12,000
5.	Furnishing and Maintaining Field Laboratory	L.S.	Lump Sum	All Req'd	12,000
6.	Unclassified Excavation	C.Y.	3.00	1,033,510	3,100,530
7.	Borrow, Type B	C.Y.	4.50	65,850	296,370
8.	Borrow, Type A	C.Y.	7.75	342,805	2,656,738
9.	Filter Cloth	S.Y.	1.10	241,320	265,452
10.	Subbase, Grading "C"	Ton	17.00	99,190	1,686,230
11.	18" CMP Culvert	L.F.	35.00	7,294	255,290
12.	36" CMP Culvert	L.F.	70.00	392	27,440
13.	Box Beam Guardrail	L.F.	30.00	1,812	54,360
14.	Culvert Marker Posts	Each	80.00	196	15,680
15.	Standard Signs	S.F.	60.00	108	6,480
16.	Culvert Thaw Pipe	Each	2,750.00	4	11,000
17.	Seeding	Lb	9.00	65	585
18.	Watering (for compaction)	M.Gal.	1.00	22,741,000	22,741
	Construction Cost				9,040,497
	+ 12 % E & C				1,084,859
	Total Cost				10,125,356

* Assumes R/W Clearing & Grubbing Completed in Spring of '83(with 1.6 Million re-appropriated in 1982)

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT IN THE ALASKA STATE ARCHIVES

TOTCHAKET AGRICULTURAL PROJECT

ALASKA
TOPOGRAPHIC SERIES



MAP UNITS

NENANA - VOLKMAR : DEEP, NEARLY LEVEL TO STRONGLY SLOPING, WELL DRAINED AND MODERATELY WELL DRAINED, SILTY SOILS, ON OUTWASH PLAINS

TEKLANIKA - BEALES - NENANA : DEEP, NEARLY LEVEL TO STEEP, WELL DRAINED TO EXCESSIVELY DRAINED, SILTY SOILS THAT ARE UNDERLAIN BY SAND, ON OUTWASH PLAINS.

GOLDSTREAM - SOLIDAD - KANTISHNA : SHALLOW TO DEEP, NEARLY LEVEL, POORLY DRAINED, SILTY SOILS AND VERY POORLY DRAINED PEAT SOILS, ON BROAD ALLUVIAL PLAINS

TANANA - SALCHAKET : MODERATELY DEEP AND DEEP, NEARLY LEVEL, WELL DRAINED AND SOMEWHAT POORLY DRAINED, SILTY SOILS AND VERY FINE SANDY LOAMS, ON FLOOD PLAINS

GENERAL SOIL MAP

LEGEND

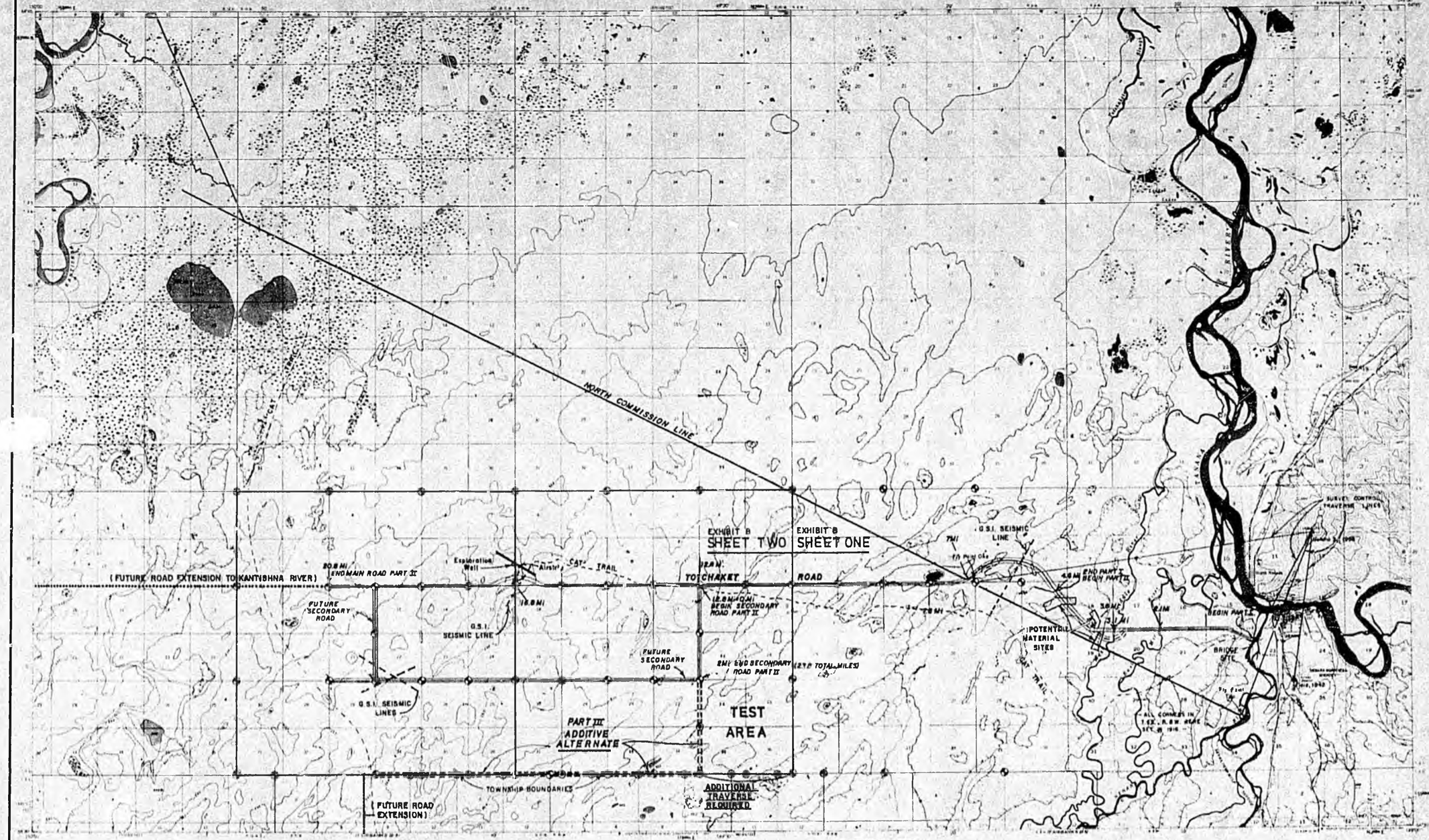
- PHASE I - 46,080 ACRES
- PHASE II - 288,000 ACRES
- ARTERIAL ROADS
- COLLECTOR ROADS
- RAILROAD

SCALE 1 INCH EQUALS 2 MILES

NOTE: INFORMATION FROM U.S.G.S. FAIRBANKS AND KANTISHNA QUADRANGLES / U.S.D.A. SOIL CONSERVATION SERVICE / UNIVERSITY OF ALASKA

- PREPARED FOR -
THE CITY OF NENANA
PROJECT AG-10C
GENERAL SOIL MAP

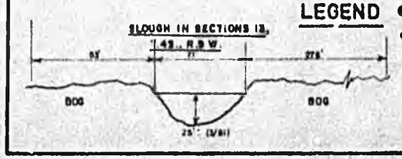
PREPARED BY:	KALJENCO, INC. E.R. 10113 FAIRBANKS, AK 99701		
DRAWN BY: G. HOFFMAN	SCALE: 1" = 3.95 MI.	DATE: 2/19/81	FILE NO. 81-15



TOTCHAKET ROUTE SURVEY

LEGEND

- EXISTING G.L.O. MONUMENT
- SECTION CORNERS TO BE SET THIS SURVEY
- QUARTER CORNER POSITIONS (NOT SET THIS SURVEY)
- NON-FORESTED AREA
- CATERPILLAR TRAIL



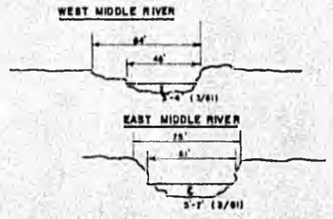


EXHIBIT "A"

-PREPARED FOR-
THE CITY OF NENANA
PROJECT AQ-108 & 109

ROUTE SURVEY MAP

PREPARED BY: KALJENCO, INC. / (A.T.C.)
S.R. 10113
FAIRBANKS, AK. 99701

DRAWN BY:	SCALE:	DATE:	FILE NO
G. HOFFMAN	1" = 1 mile	6/17/81	81-30

TOTCHAKET ROAD

B-9 B-8 B-7 B-6 B-5 B-4 B-3 B-6A B-41 B-42 B-43 B-44 B-2 B-1 B-45

10 MI. 7 MI. 5 MI. 4 MI. 3 MI. 2 MI. 1 MI.

300' R.O.W.

R.O.W.

U.S. SEISMIC LINE

POTENTIAL MATERIAL SITE

5-10 TESTHOLES (OLD STREAM CHANNEL)

85' Bank to Bank

75' Bank to Bank

3 TESTHOLES, 50'-100' IN INT.

NORTH COMMISSION LINE

CATERPILLAR TRAIL

TANANA RIVER

MIDDLE RIVER

LITTLE RIVER

NENANA

PARKS HIGHWAY

EVIA EASEMENT

ALASKA R.R.

LOT B

BRIDGE SITE

25th STREET

APPROACH ROADS BY THE CITY OF NENANA

T.3 S. T.4 S.

SHT. 1 of 2

NOTE

— SOILS TEST HOLE LOCATIONS PROVIDED BY ALASKA ARCHITECTURAL AND ENGINEERING, INC. —

LEGEND

- Existing Section Corner
- Section Corner To Be Set This Survey
- Proposed Road Route
- Future Road Extension
- Soils Testhole Location
- B-33 AG-107
- AS-106 Caterpillar Trails

SOILS DESCRIPTION

SOILS SUITABLE FOR ROADS

A 6, 11, 12, 14, 15, 21, 22 & 30 are Class II soils
B 6, 7, 13, 16, 17, 18, 19, 23, 28 & 31 are Class III soils
C 1, 2, & 20 are Class IV, with no drainage problems.
D 24, 25, 26, & 27 are Class V (fine sand dunes
E 8 is Class VI(a) with no drainage problems

POOR FOUNDATION IMPORTED FILL REQUIRED

F 3, 5 & 29 are Class VI (a), with severe drainage problems.
G 4, 9, 10 are old stream channels, Class V (w) and Class VII (w), potential material sources.

NOTE: FOR SOILS CLASSIFICATIONS, SEE U.S.D.A. / U. OF A. SOIL SURVEY OF TOTCHAKET AREA. ALSO, RECLASSIFICATION OF SOILS ALONG ROAD NEAR BRIDGE SITE FROM FIELD VERIFICATION.

- PREPARED FOR -

THE CITY OF NENANA

(PROJECT AG. 108 & 109)

DETAIL SOIL MAP

PREPARED BY: KALJENCO., INC. / A.T.C.
S.R. 10113
FAIRBANKS, AK 99701

DRAWN BY:	SCALE:	DATE:	FILE NO
G. HOFFMAN	1/20,000 (1"= 1667') (1 mi.= 3.156")	2/19/81	81-30

EXHIBIT "B"

TOTCHAKET ROUTE SURVEY

NOTE
— SOILS TEST HOLE LOCATIONS PROVIDED BY ALASKA ARCHITECTURAL AND ENGINEERING, INC. —

CUTLINE ROAD EXTENSION
(TO KANTISHNA RIVER)
20.8 MI
20 MI
19.8 MI
19 MI
18 MI
300' R.O.W.
17 MI
G.S.I. SEISMIC LINE
16 MI
15 MI
14 MI
13 MI
12.8 MI — 0 MI BEGIN SECONDARY ROAD PART II
12 MI
11 MI
LANDING STRIP
CATERPILLAR TRAIL
TOTCHAKET ROAD
B-29
B-28
B-27
B-26
B-25
B-24
B-23
B-22
B-21
B-20
B-19
B-18
B-17
B-16
B-15
B-14
B-13
B-12
B-11
B-10
B-39
B-30
B-31
B-32
B-33
B-34
B-35
B-36
B-37
B-38
FUTURE SECONDARY ROADS
FUTURE SECONDARY ROAD
2 MI END SECONDARY ROAD PART II
G.S.I. SEISMIC LINES
PART III ADDITIVE ALTERNATE
TEST AREA
ADDITIONAL TRAVERSE REQUIRED
FUTURE ROAD EXTENSION
R.11W.
R.10W.
T.3S.
T.4S.
SEC 4 SEC 5
SEC 9 SEC 8
SEC 4 SEC 3
SEC 9 SEC 10

LEGEND

- Existing Section Corner
- Section Corner To Be Set This Survey
- Proposed Road Route
- Future Road Extension
- Soils Testhole Location
- B-33 AG-107
- AG-108 Caterpillar Trail

SOILS DESCRIPTION

SOILS SUITABLE FOR ROADS

B-1, 11, 12, 14, 15, 21, 28 & 30 are Class III soils
B-7, 13, 16, 17, 18, 19, 23, 26 & 31 are Class III soils
B-20 are Class IV, with no drainage problems
B-22, 25, 29, & 37 are Class VI (s) soils and dense
B-24 is Class VII (s) with no drainage problems

POOR FOUNDATION, IMPORTED FILL REQUIRED

B-2, 3, 4 & 8 are Class VI (s) with severe drainage problems
B-5, 6 & 10 are ice wedge channels, Class VI (s) and Class VII (s), potential thermal karsts.

NOTE: FOR SOILS CLASSIFICATIONS, SEE U.S.D.A./U.O.F.A. SOIL SURVEY OF TOTCHAKET AREA. ALSO RECLASSIFICATION OF SOILS ALONG ROAD NEAR BRIDGE SITE FROM FIELD VERIFICATION

SHT. 2 of 2

— PREPARED FOR —
THE CITY OF NENANA
(PROJECT AG. 108 & 109)
DETAIL SOIL MAP

PREPARED BY: KALJENCO, INC. / (A.J.C.)
S.R. 10113
FAIRBANKS, AK 99701

DRAWN BY:	SCALE	DATE:	FILE NO.
G. HOFFMAN	1/20,000 (1"=1667') (1 mi.=3.168")	8/17/81	81-30

TOTCHAKET ROUTE SURVEY

EXHIBIT "B"



Aerial Photograph - Sept 8, 1981

NO.	DATE	REVISION	BY
OVERALL MAP			82-001 1" = 300' Feb 17, 1982
NENANA RIVER EAST			Ackermann
ALASKA TRANSPORTATION CONSULTANTS, INC. 212 Wedgewood Drive Suite "C" FAIRBANKS, ALASKA 99701			2

HB 72

HOUSE BILL NO. 72 by Shultz, entitled:

> "An Act making a special appropriation to the Department of Transportation and Public Facilities for various construction projects; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

2340 acres - township acrage
strike from Bill Section 2 -

replace with language 35-15

what do we have for Monday -
I received a note from my
desk that Mark will be out of
town Friday but can make it
Monday -

Feds. - The federal highway administration to speak
about federal funding
Can we talk later?

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 72 Date on Bill: February 17, 1983
Title: Special Appropriation to DOT/PF for Various Construction Projects
Sponsor: Shultz
Requestor: House Transportation (Rhonda)

1: Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				17,100.0				
Operating				-0-	-0-	-0-		
Total				17,100.0	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not identified by the Sponsor.

3. Assumptions: As the Nenana River bridge will have to be constructed before the other work is begun, the appropriation for FY 84 could be reduced to $3,800,000. The Department concurs with the $17,100,000 price. We would transfer the funds to Nenana after funding is approved. As this project is assumed to be ready for bid this year, all costs are based on 1983 dollars. If not ready until later years, the amount would increase by 10% per year.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. not represent the policy of the Sheffield Administration or the final estimate o impact.

Prepared By: Wayne Weeks Phone: 465-4060
Division: DOT/PF Planning and Programming Date: Feb 17, 1983

Approved by Commissioner: [signature] Date: 2-17-83
Department: Department of Transportation and Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date March 18, 1983

I. REQUEST

Bill/Resolution No.: CSHB 72
Title: Spec. Appro. to DOT&PF for development of Totchaket Resource Area
Sponsor: Re. Shultz
Requestor: Transportation Committee

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Highway D&C

BRU, Program of Subprogram(s) Affected: Interior Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		263.6	290.0	319.0	351.0	386.1
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		263.6	290.0	319.0	351.0	386.1
CAPITAL		17,100.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		17,363.6				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:
Offsetting funds not identified in bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: David W. Truax Phone: 479-4281
Division: Planning and Programming Date: 3/18/83

Approved by Commissioner: Grant J. Logan, Deputy Date: 3/23/83
Department: Transportation and Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor intorduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

ANALYSIS ATTACHMENT TO CSHB 72 FISCAL NOTE

ROADS

22.8 miles of 28' wide gravel road consisting of 2.5' of borrow on usable excavation, 6" subbase grading "C" with drainage as required.

BRIDGES

Consist of one bridge across the Nenana River at 381' in length and 28' wide and three bridges across the Little Nenena River, two of which would be 140' in length, for each, and one bridge at 101' in length. All three would be 28' wide.

TRIPLE PHASE POWER

Provide 22.8 miles of power line along roadside referenced under "roads" above.

NOTE:

As this project is assumed to be ready for bid this year, all capital costs are based on 1983 dollars. If not ready until 1984, amounts would need to be increased by 10%.

OPERATING COSTS

M&O cost estimate based on 1980 cost provided in draft Interior Region Transportation Study, inflated to FY84 dollars, then inflated for each fiscal year thereafter by 1.1.

GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707 Phone 907-452-1151

November 4, 1982

Mr. Steve Bainbridge
City of Nenana
Box 177
Nenana AK 99760

RE: Nenana Ag Power

Dear Steve,

As promised, attached is a cost estimate for one mile of 1 ϕ and 3 ϕ powerline.

Please keep in touch with Dave Johnson as this project develops.

Best wishes,

Michael P. Kelly
Assistant General Manager

Encl

FROM: GVEA Engineering DATE: Sept. 27, 1982

TO: Joe Killion

COST ESTIMATE for one typical mile of distribution line to serve the Nenana Ag. Project

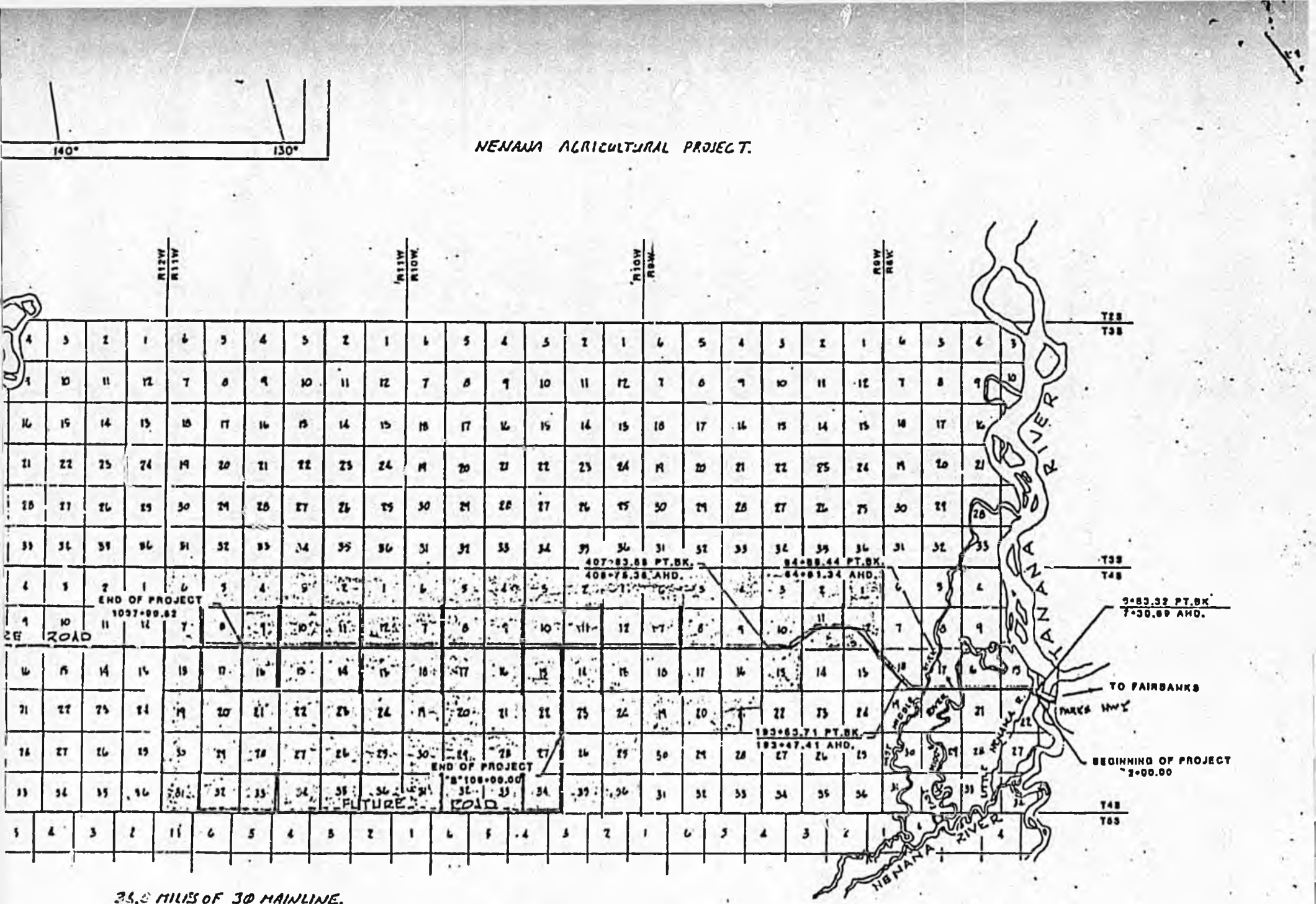
	14.4/24.9kV 3Ø	14.4kV 1Ø
Construction Labor & Material	$52,644.87	$37,096.50
R.O.W. Clearing	$ 5,723.00	$ 5,723.00
Engineering and Design	$12,180.00	$11,680.00
Total	$70,547.87	$54,499.50
Contingencies @ 10%	$ 7,054.79	$ 5,449.95
Total	$77,602.66	$59,949.45

This estimate based on construction being completed within one year.

*Engineering and design includes: staking, design, R.O.W. Aquisition, contracting, administrative labor, inspection, room & board, travel and applicable overheads.

The mainline portion located along the road should be 3Ø 14.4/24.9kV to provide the nescessary power for the distances required. The installation of 1Ø 14.4kV lines should be limited to short taps designated to serve small single phase loads.

The assumption that each tract will receive power at the center of the tract may not be valid. A large cost savings would be realized by requiring service to be received from the mainline and deleting the individual taps.



38.0 MILES OF 30 MAINLINE.
21.5 MILES OF TAPS
59.5 TOTAL MILES

NENANA — TOTCHAKET

UNLOCKING THE AGRICULTURAL POTENTIAL OF WESTERN ALASKA



A Report on A Seminar and Workshop on Agricultural Development.
Sponsored by THE CITY OF NENANA
December 20, 1980

JANUARY, 1981

Office of the City Clerk
332-5441
Incorporated November 17,



City of Nenana

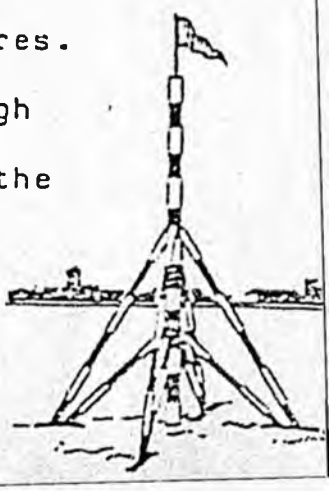
State of Alaska

OVERVIEW OF THE NENANA-TOTCHAKET PROJECT

Date: March 2, 1981
From: John B. Coghill, Mayor

In 1968, during route survey and soil testing work associated with the North Commission west of Nenana, Alaska, field crews found relatively deep top soil covering a broad plateau lying between the Tanana and Nenana rivers to the east and the Kantishna river on the west. More extensive analysis of these soils showed that they possessed excellent agricultural potential. A more extensive and detailed soil survey conducted between 1975 and 1977 by the Soil Conservation Service of the U.S. Department of Agriculture defined the extent of the agricultural soils in what SCS has called the "Totchaket Area", at least 175,000 acres of Class II and Class III soils...soils which, for Alaska, show the highest potential for agricultural productivity. Thousands of acres of Class IV soils with lesser potential are also extensive on the plateau, and preliminary reconnaisance of areas west of the Kantishna show lands with agricultural potential numbering in the millions of acres.

That these lands are capable of producing both High quantity and high quality yields has been accepted by the



State's agricultural community for several years. The more important discussion in recent years has not been whether Totchaket should be developed for agriculture, but what kind of agricultural development would better satisfy the multiple and diverse needs of individual Alaskans and Alaskan families on the one hand, and on the other, what kind of agriculture can best meet the State's urgent need to invest its' short term oil wealth in long term renewable resource industries which can sustain themselves economically far into the future.

Even in view of these urgent concerns, however, planning for eventual development of Totchaket by City, State, University and Federal agricultural interests proceeded slowly during the 1970s as Native Claims in the area were resolved according to the provisions of the Alaska Native Claims Settlement Act of 1971. With final conveyance of land title to Native corporations in the area in late 1979 the last of the major concerns affecting the future of Totchaket were resolved, and the City of Nenana initiated the necessary financing and studies required for the design and long term development of what we are now calling Nenana-Totchaket.

With the support of our delegation to the legislature and the encouragement and assistance of many people around the State, these reports are now either complete or nearly complete and are being presented to the legislature for consideration. It

is important to emphasize again that these studies were not designed by the City to figure out whether or not to develop agriculture. They were designed to determine what kind of agriculture will respond to the real needs of Alaska's people for food, access to land, and increased self-sufficiency; what kind of agriculture can be developed in Nenana-Totchaket which will help the State's new agricultural industry become economically self-sustaining in a reasonably short period of time; and, finally, what will it all cost.

We are pleased with the reports, and we believe they offer a well thought out and detailed plan for initial development of Nenana-Totchaket. The transportation proposal includes both the initial design, and cost estimates for overland access from Nenana to the first two townships which the City and the Department of Natural Resources have scheduled for disposal in February 1982...less than one year from today. The livestock report lays out a detailed and comprehensive plan for the development of a red meat industry that will involve all the State's farming regions. The composite Planning, Development, and Production Schedule from 1980 through 1990 shows our best estimates of the annual financing required and the annual production and employment associated with development in the area. Clearly the amounts of money involved are not insignificant even when compared with the multi-billion annual revenues of the State of Alaska. More importantly, financing decisions this

year will be followed by financing decisions as large, or larger, in subsequent years throughout the decade.

The transportation system should fall into our highest priority for without that access, the proposed clearing, wood fiber harvest, and land disposal programs are meaningless.

AGRICULTURAL PROJECT

Composite Planning, Development and Production Schedule: 1980 through 1990.

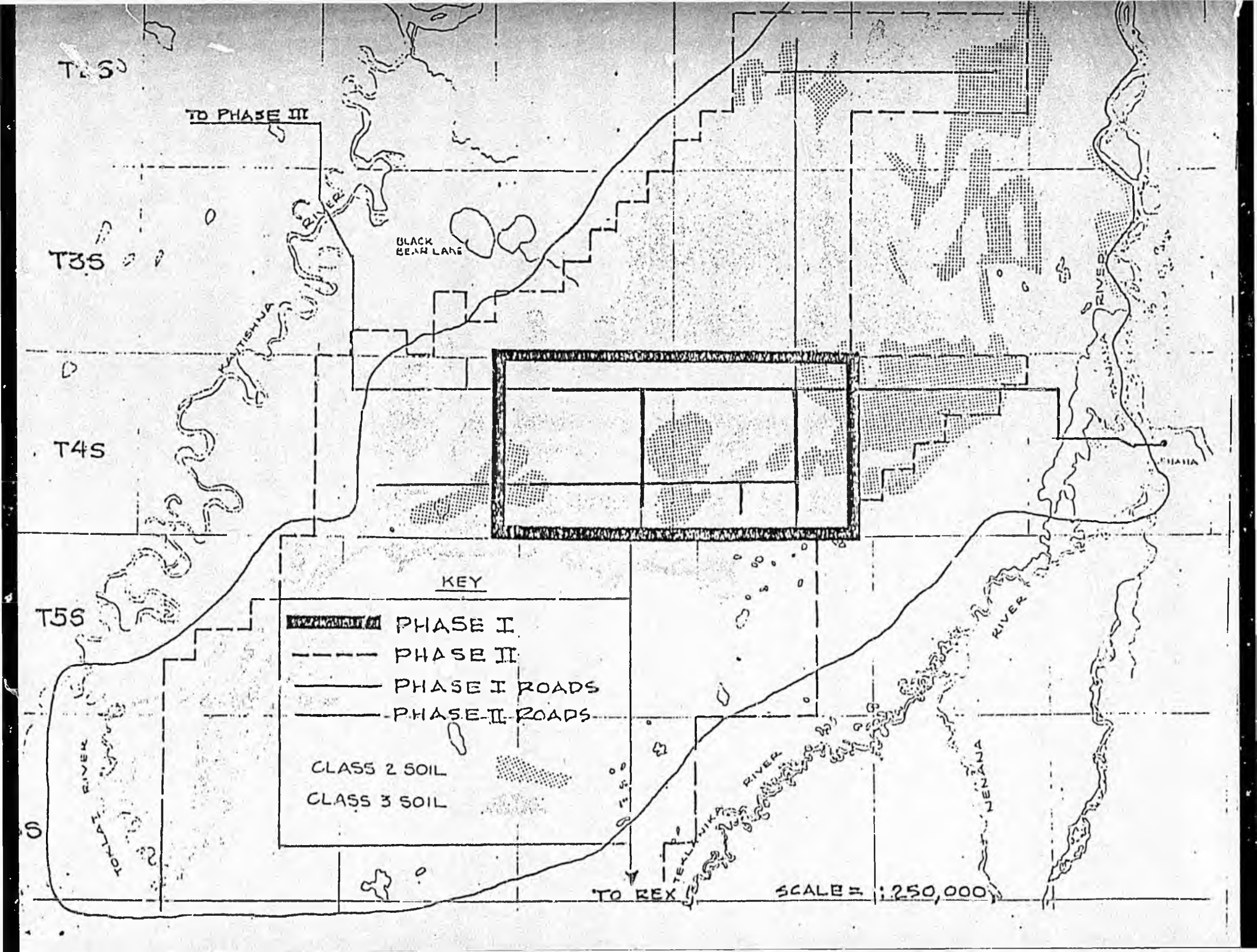
Calendar year.	81	82	83	84	85	86	87	88	89	90
Planning										
1. Research, Development	Phase I			Phase II					Phase III	
2. Project	——	——	——	——	——	——			——	
3. Lot Survey	—	—	—	—	—	—			—	
costs per year (000's)	1600	1600	1600	1600	1600	500	500	500	1600	
Development Programs										
1. Clearing	Phase I			Phase II				Phase III		
2. Farm support	Phase I			Phase II				Phase III		
3. Marketing	Phase I			Phase II				Phase III		
4. Livestock	Purchase			Production						
costs per year(000's)	15450	15450	19561	12561	8450	150	150	150	8450	
Capital Projects										
1. Roads and bridges	Phase I			Phase II				Phase III		
2. Storage, transfer and support facilities	——									
3. Processing facilities	Livestock					Vegetables				
4. Research Facilities	—									
costs per year(000's)	11000	15000	13000	15000	12500	13000	15000	7000	7000	
Land Disposals (# of townships)	(2)	(2)	(3)	(3)	(2)				(2)	

Fiscal year	81	82	83	84	85	86	87	88	89	90
Total Costs Per Year (000's) (1980 dollars)		31050	32050	34161	29161	22550	13650	15650	7650	17050
Total Costs Per Year (000's) (12% inflation)		35087	40704	48850	46949	41041	27983	36175	19850	49616
Disposed Acreage		46080	92160	161280	230400	276480	276480	276480	276480	322560
Cultivatable		41472	82944	145152	207936	248832	248832	248832	248832	290304
In Cultivation		13686	34422	69051	107205	142041	159666	166716	166716	180402
# of Farms		24	48	84	120	144	144	144	144	168
Employment; Farm Production										
1. Direct (on farm)		150	378	758	1176	1558	1752	1829	1829	1979
2. Secondary (marketing)		3	7	13	20	26	30	31	31	33
3. Tertiary (support)		42	105	210	326	432	485	506	506	547
Production Value, Barley										
1. Tons per year			15465	38897	76028	121142	160506	180423	188389	188389
2. Price, F.O.B. Port			150	195	210	225	240	255	270	285
3. Total (000's)			2784	7585	14356	27257	38521	46008	50565	53691

Revised: 2/23/81

by: Northern Development Associates
Fairbanks, Alaska

* Preliminary calculations.



T2S
TO PHASE III
T3S
T4S
T5S
KAUTISHNA RIVER
BLACK BEAR LAKE
TANANA RIVER
KEY
PHASE I
PHASE II
PHASE I ROADS
PHASE II ROADS
CLASS 2 SOIL
CLASS 3 SOIL
TOKLAT RIVER
TEKLANIKA RIVER
NENANA RIVER
TO REX
SCALE = 1:250,000

result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

(c) In this section, "professional services" means architectural, engineering, or land surveying services. (§ 1 art III title IV ch 152 SLA 1957; am § 5 ch 277 SLA 1976; am § 1 ch 143 SLA 1977; am § 4 ch 104 SLA 1978; am § 2 ch 144 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 22, 1982, inserted "AS 36.98 and" in the first sentence of subsection (a).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 35.15.080. Local control of state public works projects. (a) A municipality may, by resolution of its governing body, request the assumption of all or part of the department's responsibilities relating to the planning, design, and construction of a public works project of the state that is to be located within the boundaries of the municipality and that would otherwise be constructed in the manner provided in AS 35.15.010. After receipt of the request, the department may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a) of this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality of his finding and specify reasons for it. If the governing body requests reconsideration of the decision, he shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing, he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design, and construction of a public works project. Two or more municipalities may by agreement provide for cooperative assumption of responsibilities relating to the planning, design, and construction of a public works project. If two or more municipalities request assumption of responsibilities for a project and meet the standard of practicability set out in (a) of this section, the commissioner shall determine which municipality is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality or provide for joint or cooperative administration, as the parties may

agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. He shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 — 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department. (§ 1 ch 57 SLA 1976; am §§ 6, 7 ch 147 SLA 1978; am §§ 5, 6 ch 92 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, in the first sentence of subsection (a), deleted "or, if the public work is an educational facility, a regional educational attendance area established under AS 14.08" following "A municipality," "or operating area" following "located within the boundaries," and "or regional educational attendance area" following "of the municipality," inserted "or part" and "design," and substituted "that" for "which" in two places. In the second sentence of that subsection, the amendment deleted the paragraph designations, deleted the provisions of former paragraph (1), which read "shall provide for the assumption by the municipality or regional education attendance area of all of the department's responsibilities relating to the planning, design and construction of an educational facility" and deleted "planning, design, and construction of a public works" preceding "project, unless the commissioner determines." In subsection (c), the amendment deleted the former second sentence, which read "A regional educational attendance

area may request joint assumption of responsibilities with the department relating to the planning, design and construction of an educational facility," substituted "municipalities may by agreement" for "municipalities or regional educational attendance areas may by mutual agreement" and inserted "design" in the present second sentence, deleted "or regional educational attendance areas" following "municipalities" in one place and "or regional educational attendance area" following "municipality" in two places in the next-to-last sentence, and substituted "in (a) of this section" for "in (a)(2) of this section" in the next-to-last sentence.

Sec. 35.15.090. Use of appropriated funds. Upon execution of an agreement under AS 35.15.080(a), state funds appropriated for a public works project which is the subject of the agreement shall be transferred to a special account in the state treasury. A municipality administering the project under the agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs. (§ 1 ch 57 SLA 1976; am § 8 ch 147 SLA 1978; am § 7 ch 92 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, deleted "assumption by a municipality or regional educational attendance area of the department's responsibilities under AS 35.15.080(a)(1), or upon" preceding "execution of an agreement" and "assumption or the" preceding "agreement shall be transferred" and substituted "AS 35.15.080(a)" for "AS 35.15.080(a)(2)" in the first sentence and deleted "or regional educational attendance area" preceding "administering the project" and "assumption or" preceding "agreement may draw" in the second sentence.

Chapter 25. General Provisions.

Sec. 35.25.020. Definitions.

Cross references. — For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

Chapter 27. Art Works in Public Buildings and Facilities.

Cross references. — As to the applicability of AS 35.27.010 — 35.27.030 to memorials to Alaska veterans, see AS 44.35.030.

Chapter 40. Names of Public Works.

Section	Section
01. Reeve Boulevard	10. E. L. Patton Bridge
05. Klondike Highway	15. Douglas Bridge

Sec. 35.40.001. Reeve Boulevard. The Elmendorf By-Pass Highway is named the Bob Reeve Boulevard. (§ 2 ch 52 SLA 1982)

Original sponsor: Shultz

Funding Information

General Fund	$17,100,000
Other Funds	-0-
	$17,100,000

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 72 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for development of the Totchaket Resource area; and providing for an effective date."

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

* Section 1. The sum of $17,100,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the following construction projects in the Totchaket resource area:

Nenana River bridge	$ 3,800,000
bridges across the Little Nenana River	1,900,000
22.8 miles of roadway	10,100,000
three phase electrical power	1,300,000

* Sec. 2. The appropriation made by this Act shall be disbursed in accordance with AS 35.15.080 and 35.15.090.

* Sec. 3. The appropriation made by this Act is for capital projects and is subject to AS 37.25.020.

* Sec. 4. This Act takes effect July 1, 1983.

NEED FISCAL NOTE

Introduced: 1/18/83
Referred: Transportation and Finance

Funding Information	
General Fund	$18,500,000
Other Funds	-0-
	$18,500,000

IN THE HOUSE BY SHULTZ

HOUSE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for various construction projects; and providing for an effective date."

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

* Section 1. The sum of $17,100,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the following construction projects in the Totchaket resource area:

Nenana River bridge	$ 3,800,000
bridges across the Little Nenana River	1,900,000 have 3 Smaller Structures
22.8 miles of roadway	10,100,000
triple phase electrical power	1,300,000

* Sec. 2. The sum of $1,400,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for construction of a fire fighting center near Nenana to serve the Interior Region of the state.

* Sec. 3. The appropriations made by this Act are for capital projects and are subject to AS 37.25.020.

Shall C disc w/ in acc. w/ 35.15.080 + AK 35.15.090

* Sec. 4. This Act takes effect July 1, 1983.

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/13/83

Date: 2-17-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 72

"An Act making a special appropriation to the Department of Transportation and Public Facilities for various construction projects; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for Transportation [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

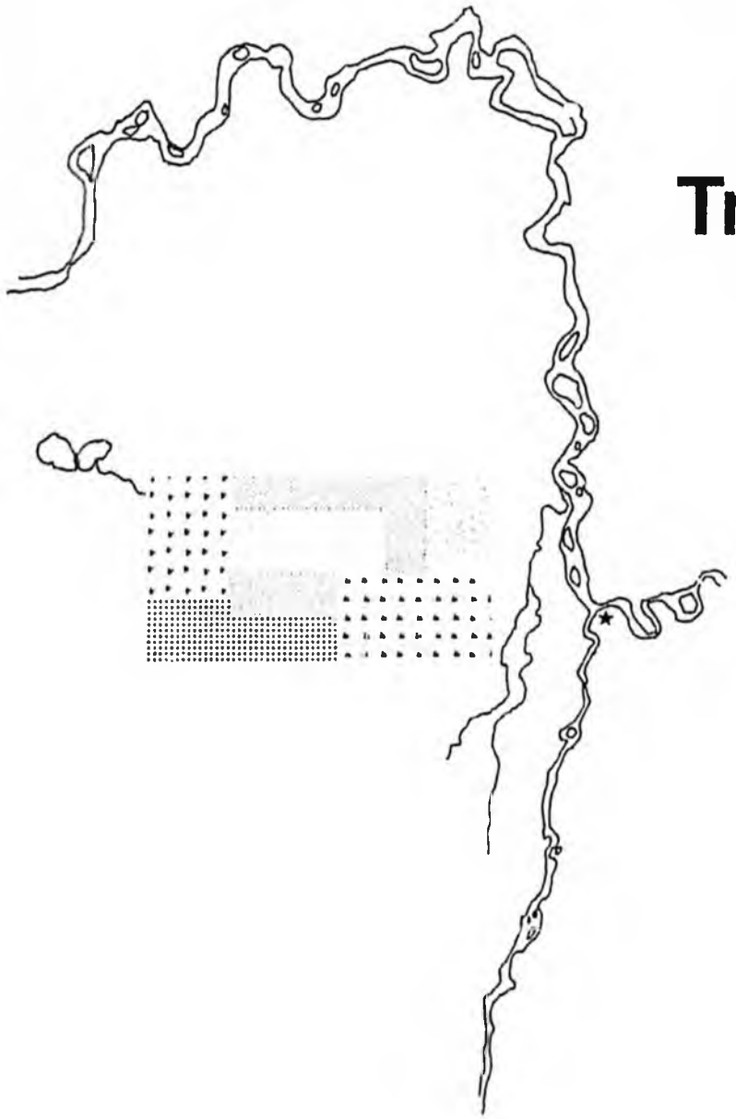
CHAIRMAN

H 60

NENANA AGRICULTURAL TRANSPORTATION SYSTEMS. February, 1981

NENANA

Agricultural Transportation Systems



Project No. AG101

FEBRUARY, 1981

HDR ATC

Henningson, Durham, & Richardson, Inc.
Alaska Transportation Consultants, Inc.

NENANA AGRICULTURAL TRANSPORTATION SYSTEMS

Prepared By

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Fairbanks, Alaska 99701

February 1981

TABLE OF CONTENTS

	TABLE OF CONTENTS	ii
	LIST OF FIGURES	iii
	LIST OF TABLES	iii
I.	Introduction	1
II.	Overview of Commodity Routing Systems	3
III.	Processing Area Location	7
IV.	Preliminary Roadway Network	10
V.	Stream Crossings	19
VI.	Permits	27
VII.	Land Aquisition	30
VIII.	Cost-Benefit Analysis of Phase I Access Routes	36
IX.	Commercial Viability of the Agricultural Transportation System	42

Appendix	I	Request for Proposal sent to various Alaskan Ports
Appendix	II	Master Application-Alaska Department of Environmental Conservation
Appendix	III	Section 46.35.030-46.35.210 Alaska Statutes
Appendix	IV	Data required to determine Navigability of a Waterway, Correspondence relating to U.S. Coast Guard Classification of East and West Middle Rivers

LIST OF FIGURES

1	COMMODITY ROUTING SYSTEMS	4
2	PROCESSING AREA LOCATION	8
3	SOILS AND PHASE I PARCELIZATION	11
4	OVERALL PROJECT ROADWAY SYSTEM	13
5	INITIAL PHASE ROADWAY SYSTEM	14
6	SECTION DRAWING TYPICAL ROADWAYS	15
7	NENANA RIVER BRIDGE	21
8	NENANA RIVER BRIDGE	22
9	WEST MIDDLE RIVER BRIDGE AND EAST MIDDLE RIVER BRIDGE	25
10	LAND OWNERSHIP MAP	34
11	ESSENTIAL COST COMPONENTS OF GRAIN MARKETING	45
12	FORMULAS USED TO DETERMINE GRAIN TRANSPORT COSTS	49

LIST OF TABLES

A	TYPICAL CROSS-SECTION COSTS - PIT/BORROW	17
B	TYPICAL CROSS-SECTION COSTS - ROADSIDE BORROW	18
C	CAPITAL COSTS PROJECTED TO 1981	37
D	USER COST: DOLLARS-PER-YEAR	38
E	ROADWAY OPERATING COST COMPARISONS	39
F	TRAFFIC DATA	40
G	FREIGHT COSTS	41
H	OPERATING COSTS/MILE - ALTERNATIVE GRAIN HAULING VEHICLES	48
I	SCHEME I - DIRECT HAUL: FARM TO ELEVATOR	52
J	SCHEME II - HOME STORAGE WITH TRANSFER POINT IN PROJECT	53
K	SCHEME III - NO HOME STORAGE - TRANSFER POINT IN PROJECT	54
L	SCHEME IV - NO HOME STORAGE - NO TRANSFER	55

CHAPTER I
INTRODUCTION

Transportation is an important aspect in rural development. To quote current research:

> "If rural development is to proceed in an orderly and efficient manner, adequate performance of the transportation infrastructure and regulatory structure is mandatory. Highway, water, rail, and air transportation investments should be closely coordinated with those state and federal agencies directing the various rural development programs."[1]

Efficient and competitive routing of goods to and from a rural center is the key in providing social and economic benefits to that area. A well designed and constructed farm to market road network is essential in any agricultural development as it will be servicing the aggregation of grain, machinery, fertilizer, feed, seed and chemical hauling.

This report provides a proposed roadway network in the Nenana agricultural area starting with an initial phase of two townships expanding to several townships in future phases. Commodity routing systems in the Nenana area were examined to maintain a flexible, multi-modal system in the area. Alternative processing site locations are compared in relation to the City of Nenana, the initial phase of the project, and existing commodity routing systems. Cost analyses were done on alternate access routes to the initial area and the farm to market transport system.

Roadway development and construction includes an examination of soils, land ownership, parcelization and climatic conditions. Alternative roadway section designs are based upon the location of gravel, and wet or permafrost areas. A roadway layout is proposed that takes advantage of section line easements and allows for flexibility in final parcelization. Estimated costs for construction and maintenance of this layout are also presented.

---

[1] Richard K. Hart, Transportation and Rural Development: Some Policy Considerations.

It is our understanding that the project development schedule is for land disposal in 1981 or early 1982 at the latest. In order for the transportation system to be in place, construction must occur in the 1981 construction season. For this to happen, the project planning and design must be fast tracked. Because of this, the consultant team has initiated permit procedure for field work this winter and early spring. This includes bridge-borings, site surveys and borings, plus material site investigations.

Below is a list of total costs for the Nenana Phase I access road. These costs include engineering and construction costs, and are reasonable order-of-magnitude costs for work as of Spring 1981. When more thorough soil testing is complete, costs may be actually lower.

**Three (3) bridges, 23 miles of primary access road (secondary standards) and 14 miles of secondary and tertiary roads connecting farm lots:	$ 15,319,700.00
**Right-of-way Aquisition:	$ 30,300.00
**Contingency:	$ 1,840,000.00
**First Year Maintenance:	$ 115,255.00
T O T A L	$ 17,305,255.00

CHAPTER II
OVERVIEW OF COMMODITY ROUTING SYSTEMS

There are three potential commodities being considered for the Nenana Agricultural Area. Studies to determine the viability of livestock raising and vegetable production are presently being undertaken. However, with the imminent success of the Delta Barley Project in mind, grain production must be given the major consideration. Thus, of the three (3) alternatives, grain production will be considered in this report as the primary user of any routing system established. This is due in part to the information available concerning grain production in Alaska (Delta Junction); the predominance of Class III soils in the project area, which are well suited to grain production; and the present lack of information regarding vegetable and livestock production.

This section will provide an overview of the routing systems that exist in the Nenana area. To remain within the scope of the overall report, no analysis of routing economics will be undertaken here. Rather, the focus will be on how the roadway network and processing area within the project might impact the various routing systems. It should be noted however, that the agricultural industry relies on economically competitive transportation modes. Thus, every effort should be made to maintain maximum flexibility of the routing systems available to various agricultural areas in Alaska. Figure 1 illustrates the commodity routing systems available to various agricultural areas in Alaska. Nenana has a distinct advantage in being on all four modes of routing. This, coupled with its central location within the state, makes it a focal point for the distribution of agricultural goods both within the state and for export.

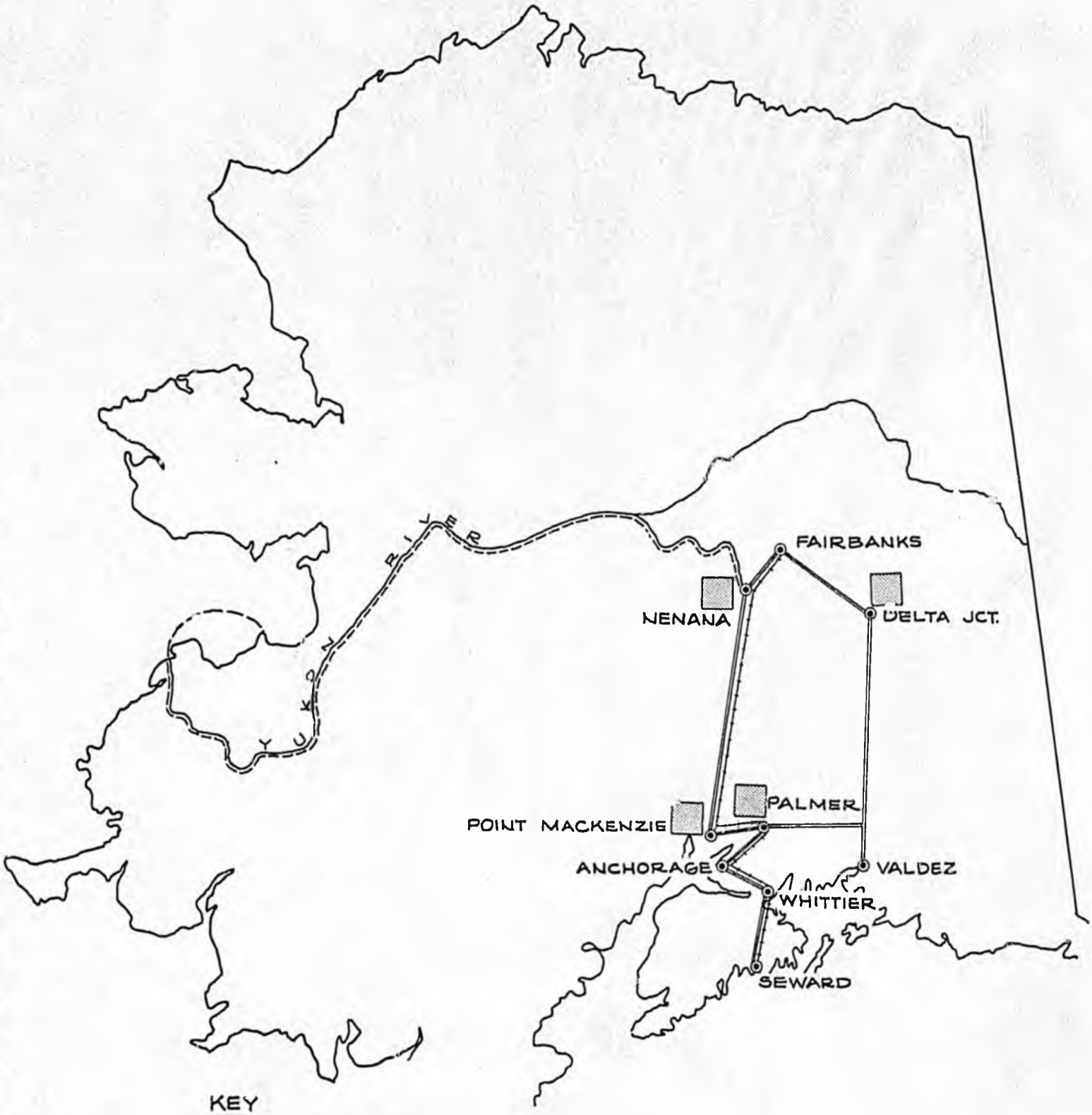
Though there are four systems available for use (air, truck, rail, and barge), raw agricultural goods generally move using the bulk facilities, low operating costs, and proximity to markets available on truck and rail modes.

1. Truck Routing

Routing agricultural commodities by truck is most efficient over short hauls and when backhaul possibilities are definite. Thus, truck routing

FIGURE 1

COMMODITY ROUTING SYSTEMS



would most likely be used in local/intra-state distribution of vegetables grown in Nenana and livestock processed there, having Fairbanks and Anchorage as the two major points of transfer. The hauling of grain by truck, while possible, is not likely due to the large number of trucks needed to haul the grain and the more economical use of rail in hauling such bulk quantities.

Starter herds for livestock would be most effectively transported by truck up the Alaskan highway. Ultimately, red meat for export would be transported by truck to Fairbanks International Airport and flown to foreign markets.

2. Rail Routing

Routing of agricultural commodities by rail is most efficient in bulk handling and long hauls due to its low operating costs and established routes. Currently, problems exist in the availability of equipment to handle grain. As agriculture continues to develop in Alaska basic routing necessities such as these will become economically viable and therefore these are seen as only initial or short term problems.

If fertilizer is to be brought to Nenana from plants on the Kenai, the use of truck routing is most efficient. There is only one transfer required in this mode while there would be three in the rail mode. Rail would be most effective in bringing fertilizer produced in the Lower 48 to Nenana as there is a direct rail link between most ports and Nenana.

Due to high construction costs involved in establishing new rail lines, ($1.4 million/mile) no additional routes are seen in the immediate future and short spurs into the agricultural area seem unlikely at this time.

3. Barge Routing

Though barge routing has low operating costs and relatively large bulk handling capacities, certain restrictions make the use of this mode unlikely in the routing of grain for export. There is potential local

routing of fresh and processed vegetables, processed red meat, and some grain.

Three restrictions to barge routing of export grain are the short season available to both barge operation and agriculture, which often times are not compatible, the more feasible routing of grain by rail, and the difficulty in establishing a scheduled shipping route into the St. Michaels area.

4. Local Air Routing

At the present time, Nenana Air Service, Inc., is the only scheduled air service based in Nenana. They fly supplies to Tanana, and offer charter services to other communities in the bush. Alaska Central Airways, Inc., uses Nenana as a flag stop on flights to Galena and Tanana. It is possible that air service could provide various bush communities with the agricultural commodities grown and processed in the Nenana area (primarily vegetable and red meat).

5. Port Facilities

Currently, the Alaska Agricultural Action Council has Requests for Proposal out to various ports in Alaska with the intention of establishing a permanent facility for the exploration of Alaskan produced grains. Appendix 1 is a copy of the RFP sent to Anchorage, Palmer, Seward, Valdez, and Whittier. Seward was to be utilized for the 1980 barley crop from Delta Junction, though due to a shortened harvest season, no grain was exported this year.

CHAPTER III
PROCESSING AREA LOCATION

Any project area impacts on the routing systems center on the location of a processing area as this is where the major unloading, loading and any processing and packing would take place. To maintain the flexibility desired, this processing area should be located where all routing systems are readily available, or to somehow allow for efficient routing of commodities. The end three locational concepts were developed for the processing area and presented below. Advantages and disadvantages for each concept are identified and impacts on existing routing systems discussed. These should be addressed in making a decision on the location of the area.

1. Concept 1 - Processing Area in City

Figure 2 illustrates a possible processing area in, or adjacent to, Nenana. This location is ideal from a transportation standpoint as all modes of routing are available within a corridor, meaning virtually no capital improvements to reach the area, the area is close to the residences of people who would be working in the processing area; and a source of water is close at hand for processing purposes. Impact from possible noise, smell, and air output could pollute the surrounding area and cause ice fog problems for the airport, though wind data indicates that the direction of prevailing winds might mitigate any air pollution problems within the community boundaries. A potential flood hazard exists due to the areas' proximity to the rivers; and soils maps indicate heavy permafrost in some areas.

2. Concept II - Processing Area Centered in Project Area

In this concept, the processing area would be located along a rail spur in the center of the project (Figure 2). This would cut down the distance between the field and the processing area; reduce the area's impact on the community of Nenana; and, if the spur were to connect Nenana and Tanana, it would create another access to the Tanana area and reduce travel time for

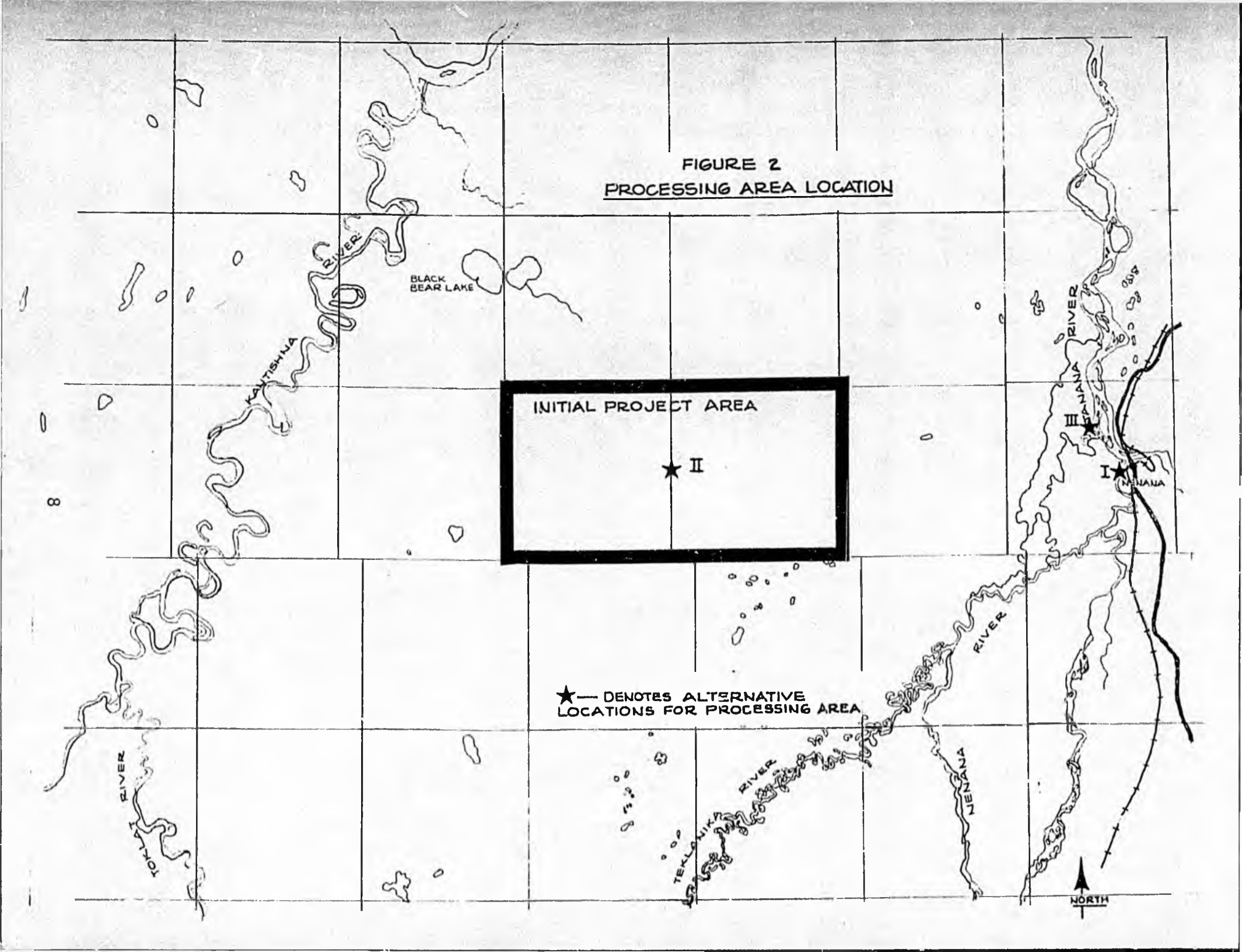


FIGURE 2
PROCESSING AREA LOCATION
BLACK BEAR LAKE
KANTISHNA RIVER
INITIAL PROJECT AREA
II
III
I
NENANA
NENANA RIVER
TOKLAT RIVER
TEKLANIKA RIVER
★— DENOTES ALTERNATIVE LOCATIONS FOR PROCESSING AREA
NORTH

commodities traveling by barge. However, this concept would entail considerable capital expense in terms of a transportation corridor linking the processing area with the existing modes; water would not be as readily available for industrial use; commodities, if shipped by barge to the final destination, would have to be handled twice (load rail/load barge); and locating the area in the center of the project would take up a considerable amount of valuable agricultural land. Workers driving to the area pose potential traffic congestion problems on the bridge and main roads, and the commuting cost is the largest as this location is the furthest from Nenana.

3. Concept III - Processing Area Downstream from Nenana (Figure 2)

In this concept the processing area would be located approximately a mile down the Tanana River from Nenana. Being a distance from the community would alleviate possible incompatability and pollution problems associated with being near other activities. Locating the area here would allow for only a moderate capital investment in terms of a transportation corridor. All modes of routing could still be available; though, as the major expense in linking the areas with the main rail system would be a railroad bridge across the Nenana River, an expenditure of this magnitude is unwarranted unless the spur continued on to the community of Tanana.

CHAPTER IV
PRELIMINARY ROADWAY NETWORK

Before establishing a roadway network for the project area, several factors were reviewed which affect its layout. Soil in the area was reviewed for its agricultural capability and the location of permafrost and bogs. Land ownership was reviewed to determine location of state-patent lands and boundaries of other ownership which might affect roadway layout, (easements and rights-of-way are discussed in Chapter VII). A parcelization scheme was put together based on agricultural capability of the soil and present land ownership.

Various phases of road development are proposed linking the project area with Nenana and the Parks Highway at Rex. The initial phase would provide access from the project area to a central processing point and loading point in Nenana (as discussed in Chapter III). Other phases would continue expansion into areas adjacent to Phase I and would include the development of a road to Rex. Layout, design and estimated costs of this development are discussed in this section.

1. Soils and Parcelization

Figure 3 indicates the soil characteristics in the project area. Class II and III soils are highlighted and are the only soils considered adequate for agricultural production. Class IV and below are being considered for grazing purposes. Areas of permafrost and bog are also identified, as these areas must be avoided both in agricultural activities and roadway construction.

It has been recommended that Class II soils be put into parcels of 640 acres and under for purposes of vegetable production and Class III soils into parcels of 2,560 acres and over for purposes of grain production.[1]

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[1]Interview with Bob Pollock, Agricultural Action Council, October 8, 1980.

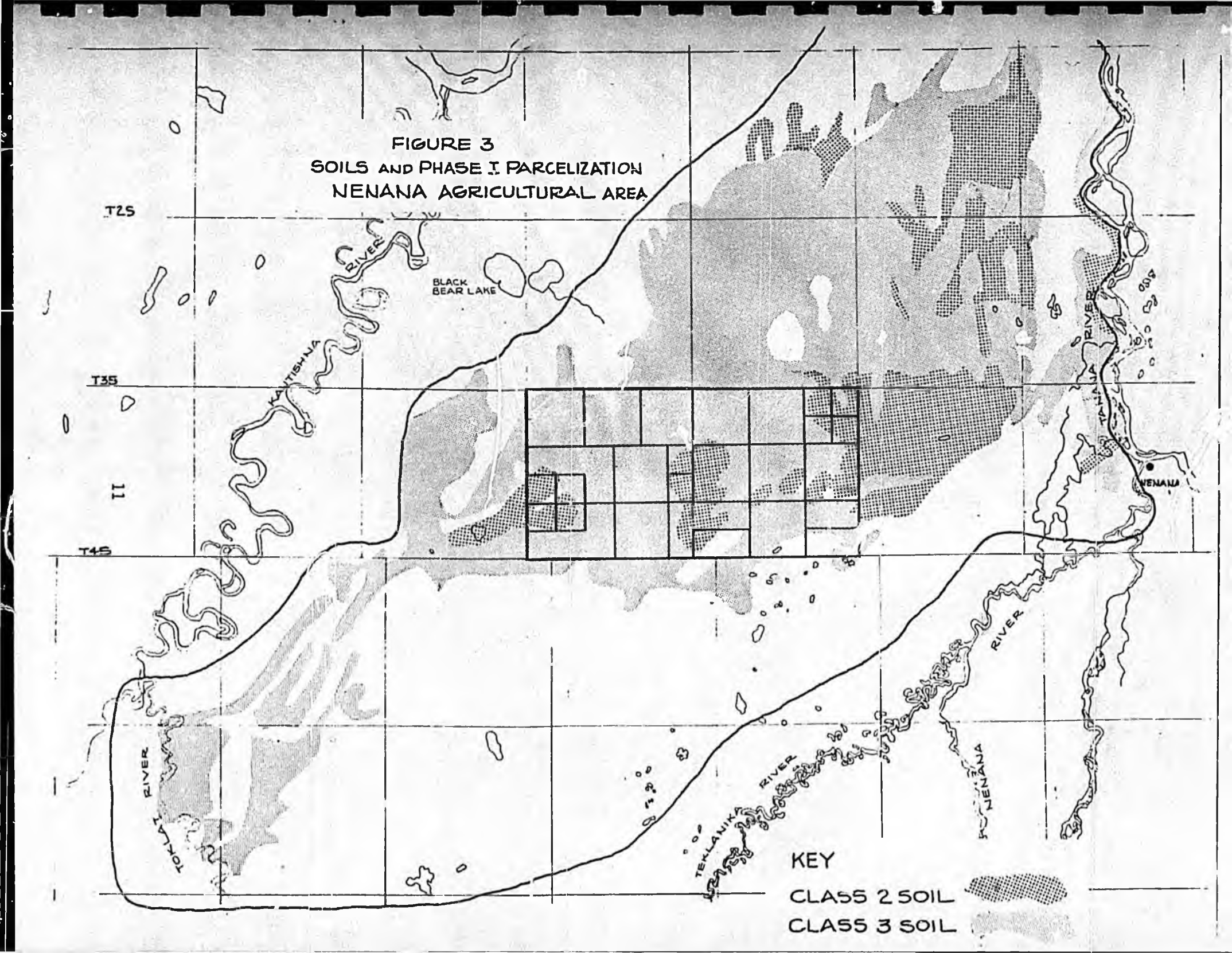


FIGURE 3
SOILS AND PHASE I PARCELIZATION
NENANA AGRICULTURAL AREA
T2S
T3S
T4S
11
BLACK BEAR LAKE
KANTISHNA RIVER
TOLAT RIVER
TEKLANIKA RIVER
NENANA RIVER
TANANA RIVER
NENANA
KEY
CLASS 2 SOIL
CLASS 3 SOIL

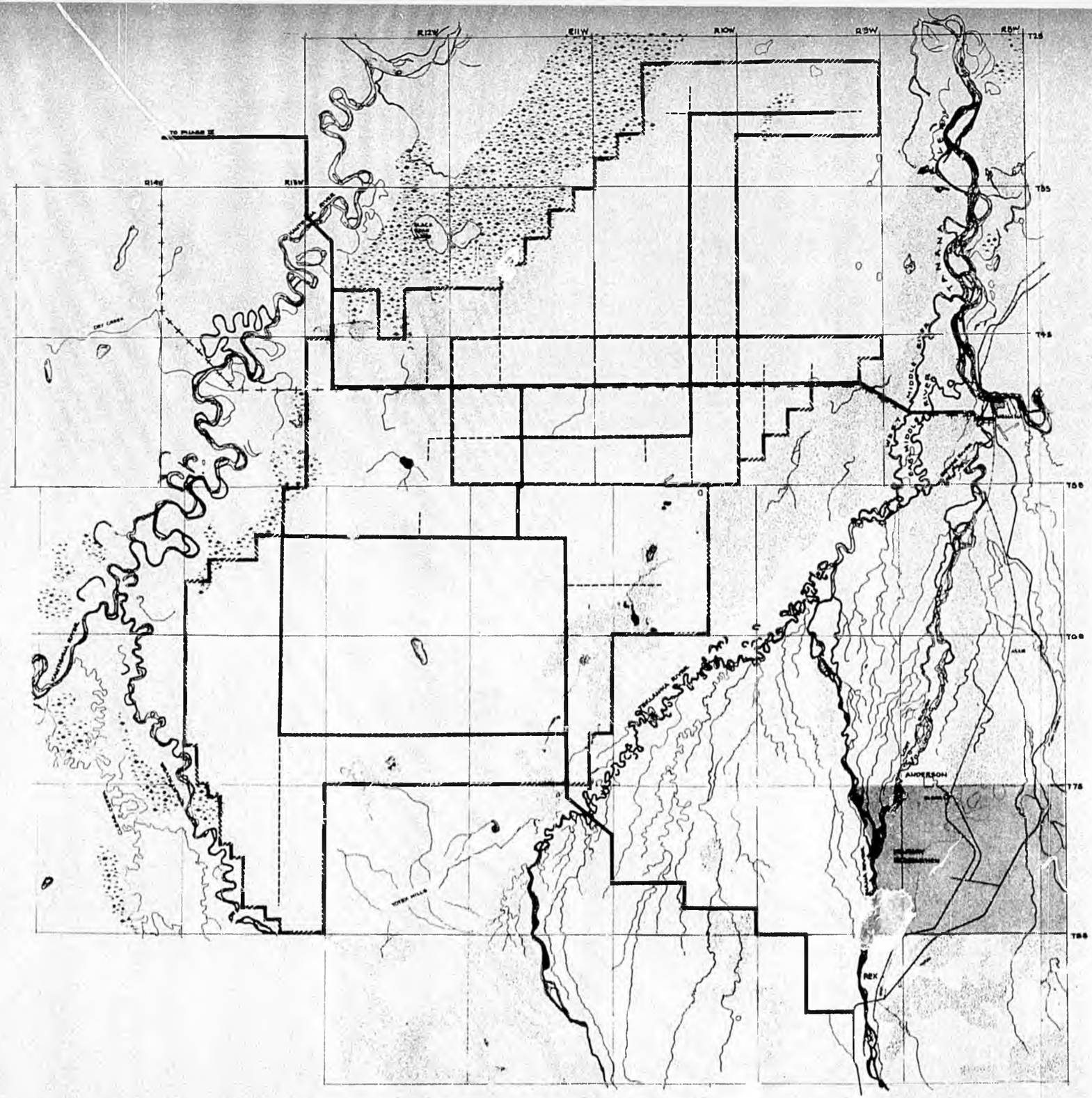
It was also assumed that several small lots (5-10 acres) would be made available to increase the population base and reduce utility costs. Figure 3 illustrates a possible parcelization of the initial project area based on the above information.

2. Layout

Figures 4 and 5 illustrate the proposed roadway network providing access to the initial phase of the project. This network attempted to follow section lines for two reasons: First, to take advantage of section line easements; and second, parcelization will most likely be in aliquot parts. This roadway layout is flexible in that it can be modified fairly easily once the final parcelization is made. This network also lends itself to future branching out from the initial phase in a wheel and spoke manner. Collector and feeder roads were laid out to provide access to parcels and where traffic was estimated to be primarily local.

3. Roadway Design and Estimated Costs

Preliminary soils studies indicate a more economical alternative than the standard pit borrow method of building roads may be utilized for the Nenana Agricultural Project. The combination of minimal overburden with suitable structural material directly beneath lends itself to the roadside borrow concept of construction. This method utilizes the structural material from within the right-of-way to build the road, eliminating the more expensive remote borrow-haul method. The organic overburden is stripped and stockpiled at the edge of the right-of-way for use as backfill to bring the sideslopes and ditches to grade. This method of construction will require rights-of-way in excess of the 100 foot section line easements that may be available. In areas where adequate right-of-way is not available or where pockets of unsuitable structural material exist, the pit borrow method will have to be utilized as an alternate construction method. Tables A and B show estimated 1981 cost comparisons indicating that approximately $35,000.00 per mile may be saved by utilizing the roadside borrow method of construction. Figure 6 illustrates typical roadway sections for all types of roads in the project using both alternatives



LEGEND

PHASE I - 46,080 ACRES
PHASE II - 556,000 ACRES

ROADS
ARTERIAL
COLLECTOR
FEEDER
RAILROAD

AREAS OF LOW RELIEF AS INTERPRETED FROM AERIAL PHOTOGRAPHS - POSSIBLE ICS LENSES.

SWAMPS AS PORTRAYED, INDICATE ONLY THE WETTER AREAS, AS INTERPRETED FROM AERIAL PHOTOGRAPHS - POSSIBLE ICS LENSES.

0 5 MILES

FIGURE Nº 4
FEBRUARY 1981

LAYOUT DRAWING
OVERALL PROJECT ROADWAY
INDIANA

SCALE: 1" = 5 MILES	APPROVED BY:	DRAWN BY: WILKEY
DATE: 2-10-81		REVISED 2-10-81

Alaska Transportation Consultants, Inc.

DRAWING NUMBER SHT 1 of 5

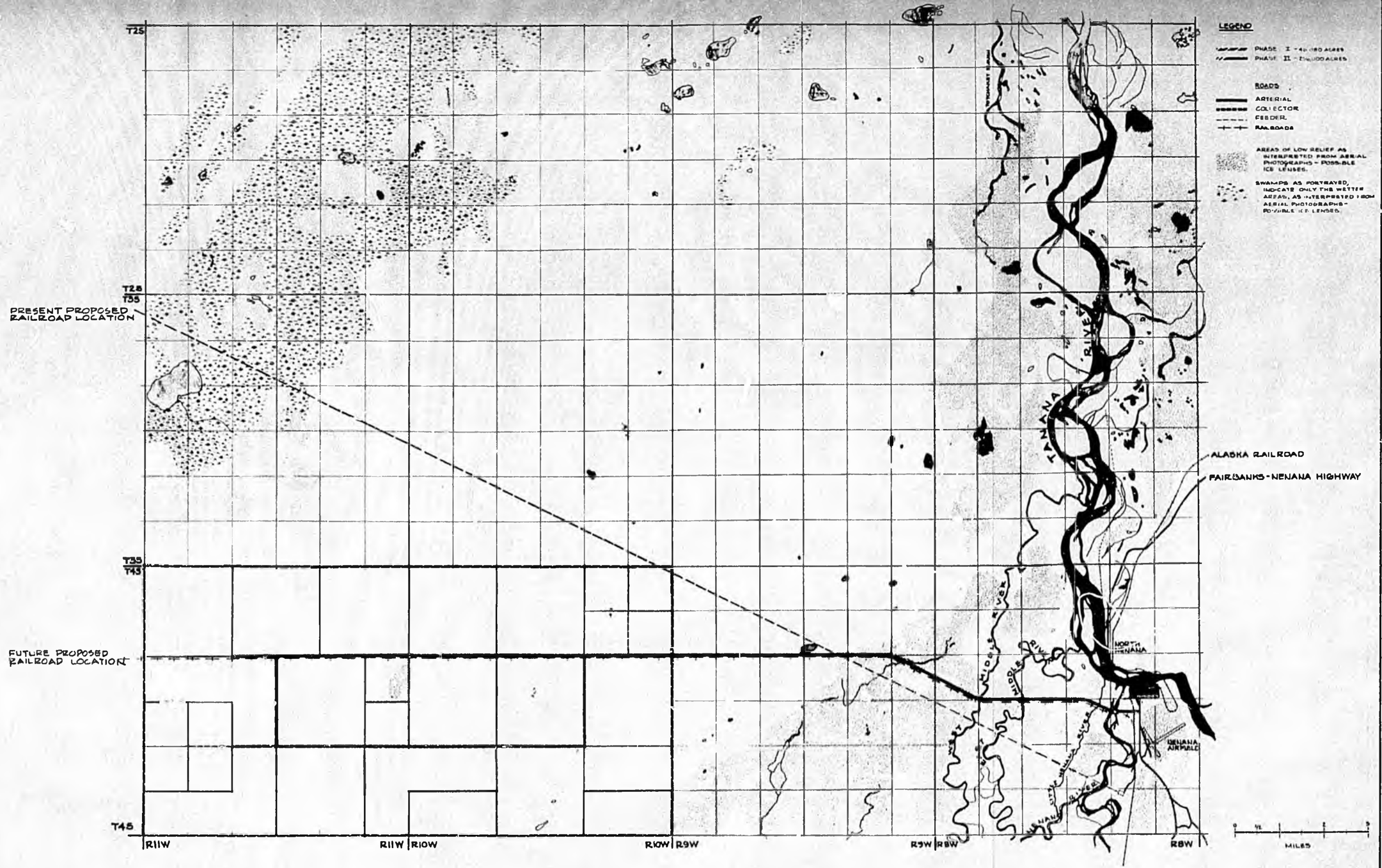


FIGURE Nº 5

FEBRUARY 1981

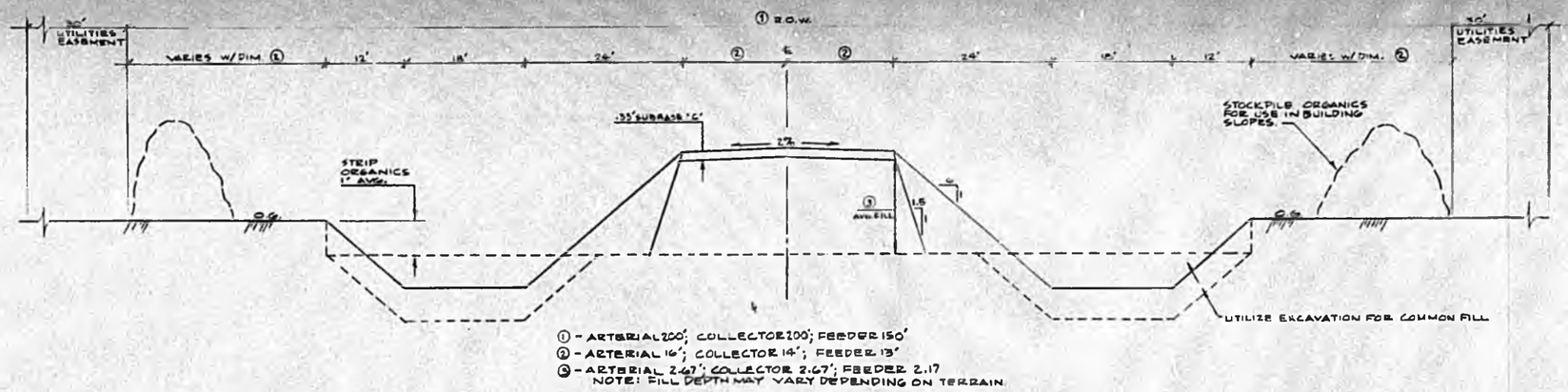
LAYOUT DRAWING
INITIAL PHASE ROADWAY SYSTEM
NENANA

SCALE 1" = 1 MILE | APPROVED BY: | DRAWN BY WHALEY
DATE 2-10-81 | REVISED 1-19-81

Alaska Transportation Consultants, Inc.

DRAWING NUMBER S-11, 2 of 3

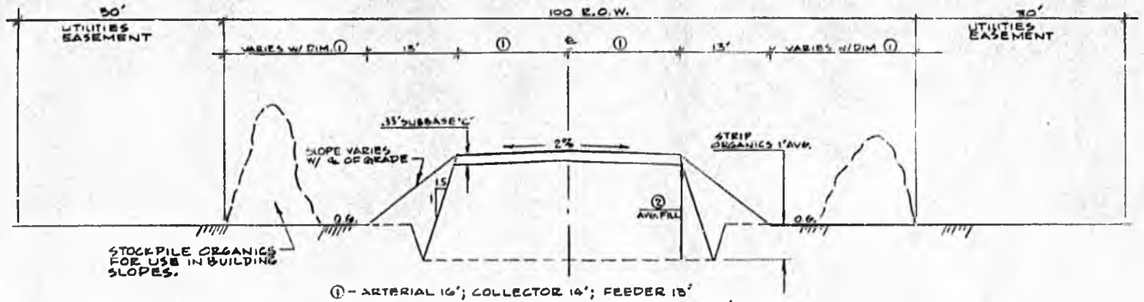
GENERAL NOTES



① - ARTERIAL 200'; COLLECTOR 200'; FEEDER 150'
② - ARTERIAL 16'; COLLECTOR 14'; FEEDER 13'
③ - ARTERIAL 2.67'; COLLECTOR 2.67'; FEEDER 2.17'
NOTE: FILL DEPTH MAY VARY DEPENDING ON TERRAIN

TYPICAL FARM ROADSIDE BORROW

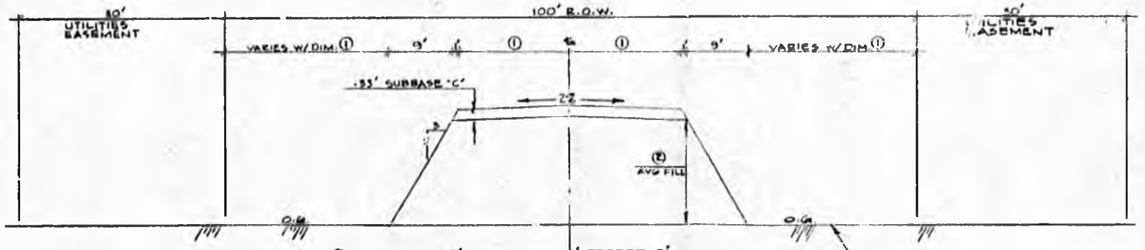
SCALE: HORIZ. 1"=10'; VERT. 1"=2'



① - ARTERIAL 16'; COLLECTOR 14'; FEEDER 13'
② - ARTERIAL 2.67'; COLLECTOR 2.67'; FEEDER 2.17'
NOTE: FILL DEPTH MAY VARY DEPENDING ON TERRAIN.

TYPICAL FARM PIT BORROW

SCALE: HORIZ. 1"=10'; VERT. 1"=2'



① - ARTERIAL 16'; COLLECTOR 14'; FEEDER 13'
② - ARTERIAL 3' AVG.; COLLECTOR 3' AVG.; FEEDER 3' AVG.
NOTE: FILL DEPTH MAY VARY DEPENDING ON ROADBED SOILS CLASSIFICATION.

0 1' 2' 3'

TYPICAL FARM UNSTABLE ROADBED PIT BORROW

SCALE: HORIZ. 1"=10'; VERT. 1"=2'

FIGURE Nº. 6

FEBRUARY 1981

SECTION DRAWING
TYPICAL ROADWAYS
NENANA

SCALE: AS NOTED	APPROVED BY:	DRAWN BY: STATION
DATE: 2-10-81		REVISED: 1-19-81

Alaska Transportation Consultants, Inc.

SHT. 3 OF 3

as well as a typical section for roadway through unstable areas or permafrost. The proposed gravel road system within the Nenana Agricultural Project will be quite similar to the existing gravel roads that service the Delta Barley Project with respect to usage and climatic influences. State Department of Transportation figures indicate that the Fiscal Year of 1979-1980 average maintenance cost per mile per year for 41.36 miles of gravel road near Delta was $2,490.00. Assuming a 25% inflation factor from 1980 to 1982, surface maintenance and snow removal costs for gravel roads in the Nenana Agricultural Project should average approximately $3,115.00 per mile for the Fiscal Year of 1982.

TABLE A

TYPICAL CROSS SECTION QUANTITIES - PIT BORROW

			UNIT PRICE	COST/MILE
Cleared Grub	100 LF		$2,000/acre	$ 24,242.42
Unclassified Exc.	41.5 sq.ft.		$2.50/yd.	$ 20,288.89
Borrow	104.1 sq.ft.		$3.75/yd.	$ 76.340.00
Subbase "C"	10.83 sq.ft.		$19.75/yd.	$ 1,827.27
Side slopes	35.28 sq.ft.		$2.50/yd.	$ 17,248.00
Seeding	68 LF		$11.75/1,000 sq.ft.	$ 4,218.72
18" Culverts (82 LF)	1 pr. 2500 ft.		$35.00/LF	$ 6,061.44
Culvert markers	2 pr. 2500 ft.		$50.00/EA	$ 211.20
Monument cases	4/miles		$200.00/EA	$ 800.00
Open borrow pits	1 pr. 2 miles		$64.60/EA	$ 3,230.00
Road Signs	10 sq.ft/mile		$40.00/sq.ft.	$ 400.00
		Subtotal		$ 194,868.55
Dust control			$7.50/1,000 gal.	$ 550.00
Equal Employment Opportunity			N/A	$ 100.00
		Subtotal		$ 194,868.55
Contractor Engineering (5%)				$ 9,775.93
Contractor Costs		Total		$ 205,294.48
Consultant Engineering (20%)				$ 41,058.90
		Total		$ 246,353.38
Assume 25% inflation 1979-1981				$ 307,941.72
		Use		$ 310,000.00

* rounded numbers

TABLE B

TYPICAL CROSS SECTION QUANTITIES - ROADSIDE BORROW

			UNIT PRICE	COST/MILE
Cleared grub	200 LF		$2,000/acre	$ 48,484.85
Unclassified exc.	132 sq.ft.		$2.50/cu.yd.	$ 64,533.33
Subbase "C"	10.83 sq.ft.		$19.75/cu.yd.	$ 41,827.27
Seeding	168 LF		$11.75/1,000 sq.ft.	$ 10,422.72
18" Culvert (92 LF)	1 pr. 2500 ft.		$35.00/LF	$ 6,800.64
Culvert markers	2 pr. 2500 ft.		$50.00/EA	$ 211.20
Monument cases	4/miles		$200.00/EA	$ 800.00
Road signs	10 sq.ft./mile		$40.00/sq.ft.	$ 400.00
		Subtotal		$ 173,480.01
Dust control			$7.50/1,000 gal.	$ 550.00
Equal Employment Opportunity (EEO)			N/A	$ 100.00
		Subtotal		$ 174,130.01
Contractor Engineering (5%)				$ 8,706.50
Contractor Costs		Total		$ 182,836.51
Consultant Engineering (20%)				$ 36,567.30
		Total		$ 219,403.81
Assume 25% inflation 1979-1981				$ 274,254.76
		Use		$ 275,000.00*

* rounded numbers

CHAPTER V
STREAM CROSSINGS

The roadway network which will serve the agricultural development in the Tanana Valley will originate in Nenana. Nenana has rail, highway, and river transportation facilities, and is the logical focal point for this transportation link.

Direct access to Nenana does require a major river crossing structure over the Nenana River, as well as several other smaller structures for the West Middle and East Middle Rivers and for the Little Nenana River. Since Nenana will be the origin and destination for much of the traffic generated in this valley, the optimum cost benefit ratio for users would dictate that the river crossing be placed in close proximity to Nenana.

A reconnaissance of the Nenana River Valley upstream from its junction with the Tanana River was made by air. The general mapping of the region was reviewed and using the air reconnaissance and the mapping, it is possible to determine the general characteristics of the river in this area. For an extended distance upstream from the river junction, the Nenana River flows through a broad, flat flood plain. Generally, the stream is highly braided, with evidence of a shifting stream occuring through the years. There is evidence that the erodable nature of the river valley, coupled with periods of high stream flow, due to the source of the stream in mountainous terrain, results in frequent shifts in the river course and in general instability of the river channel.

Although it is not clear cut, there appears to be some higher degree of stability of the river in the vicinity of its junction with the Tanana River. Because of the general development in this region, some minor bank control has been done in the past. Future development of this area would warrant additional stabilization measures in the vicinity of Nenana, and these measures would not only benefit the community, but could also serve to protect the roadway link to the Tanana Valley.

Limited geological information is available for the area. It is assumed that the river is of sufficient size for a thaw bulb to exit in the

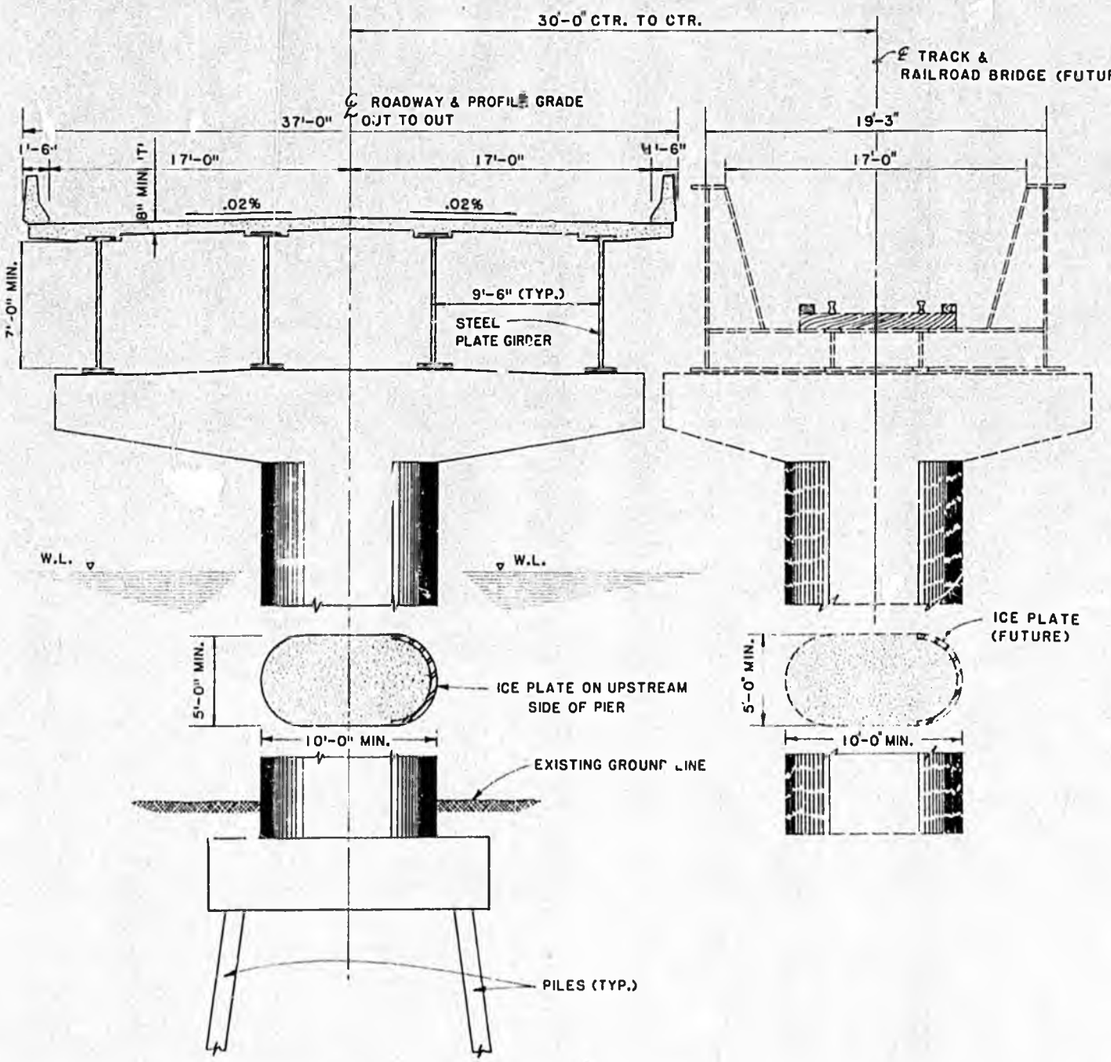
general vicinity of the river. Generally, it is understood that unconsolidated gravels and sands which are an outwash from the mountains prevail through the area. Since these underlying materials are unconsolidated, it is anticipated that piles will be required for the foundation support. In accordance with local practice and also as a general appropriate application, it is anticipated that steel H piles will be used for all foundations. Soil borings will be required at the location of the substructure units along with a geotechnical report to more accurately identify actual insitu conditions.

At the West Middle and East Middle River and at the Little Nenana River, it appears that the stream flow is minimal. Thus, there is a possibility that permafrost does exist in these locations. The presence of permafrost would be determined by future soil borings.

There is not a gaging station in the vicinity of Nenana on the Nenana River and as a result, there is limited hydrological information available. Generally, the approximate ground elevation of Nenana is 351.0 feet. A high water elevation on the Tanana River at the railroad bridge is 358 feet for a 50 year flood. The proximity of the bridge crossing to the railroad bridge justifies the use of this elevation for the high water elevation in the development of the bridge concept plan.

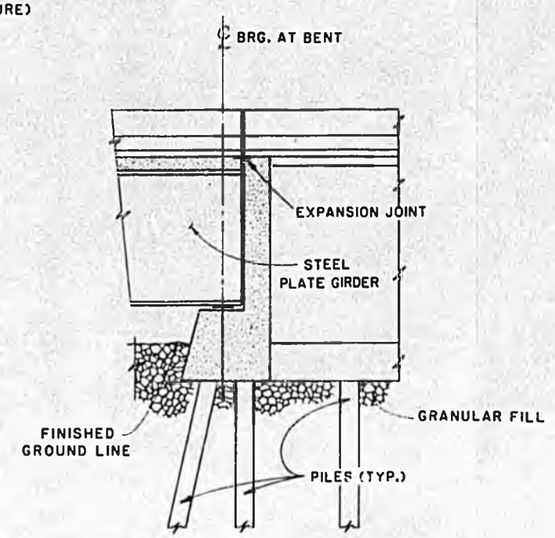
A tentative location for the river crossing has been set at a location approximately 3,000 feet upstream from the Tanana River. This location will permit the roadway to connect with Tenth Street, which has been extended by the City across the railroad. At this location, the river channel is relatively well defined and a crossing can be made without skewing the structure, which will optimize the structural length and result in minimum costs.

The proposed structure is a three span stucture with a length of 560 feet having spans of 172'-6". 215"-0". 172'-6". (Figure 7,8) The superstructure consists of four steel girders using composite action with a concrete deck. The concrete deck has a clear roadway width of 34'-0" with concrete barrier curbs.



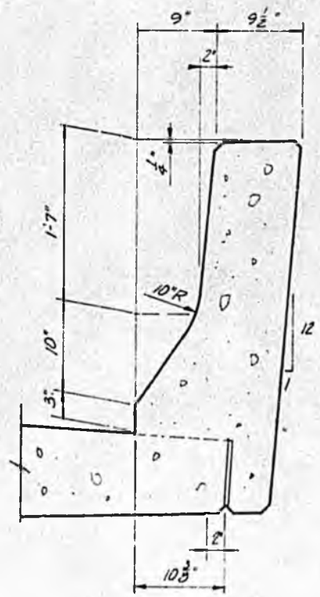
TYPICAL PIER ELEVATION

SCALE: 1/4"=1'-0"



TYPICAL BENT SECTION

SCALE: 1/4"=1'-0"

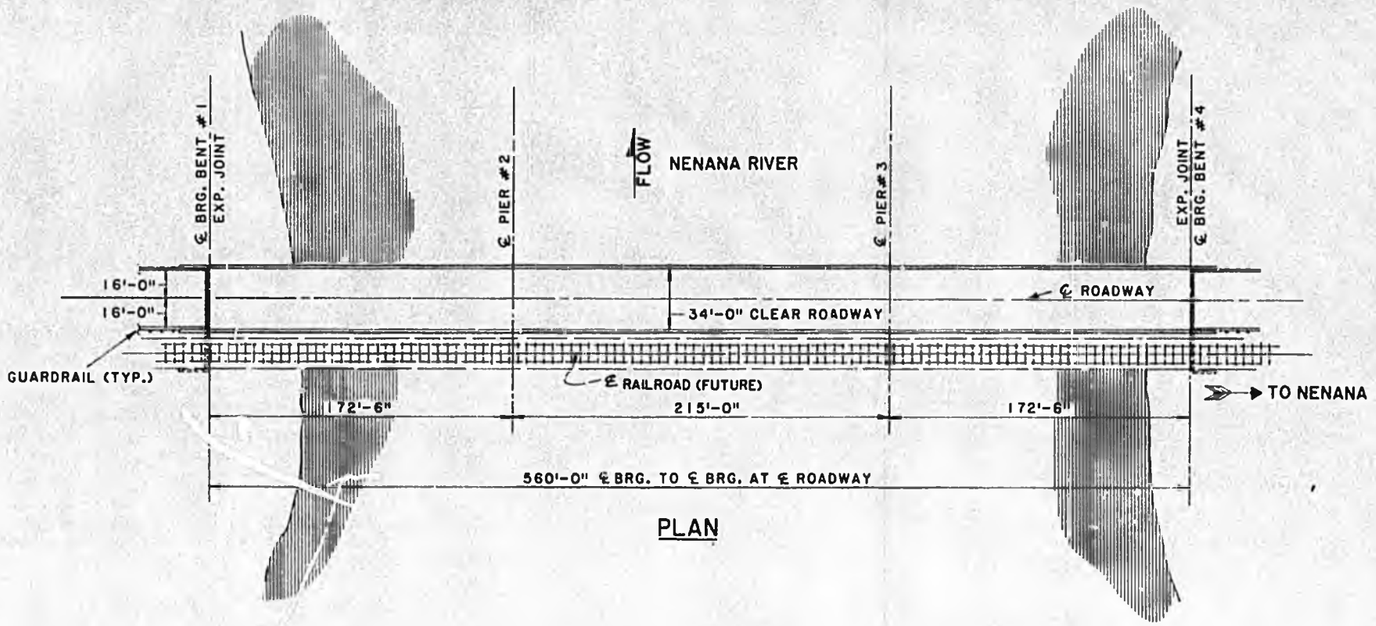


BARRIER DETAIL

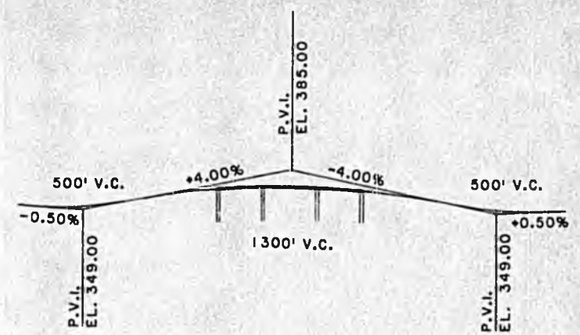
SCALE: 1 1/2"=1'-0"

FEBRUARY 1981

NENANA RIVER BRIDGE		
SCALE: AS SHOWN	APPROVED BY	DRAWN BY: SB/RC
DATE: 11/12/80		REVISED
HDR ALASKA TRANSPORTATION CONSULTANTS, INC.		
		DRAWING NUMBER 2 OF 3

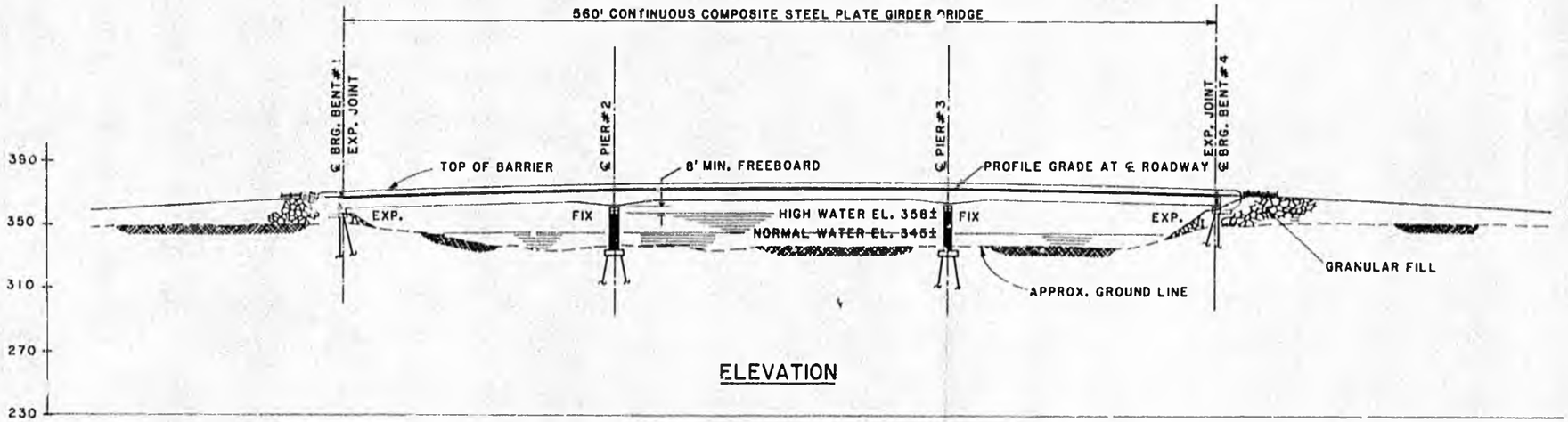


PLAN



PROFILE GRADE

NO SCALE



ELEVATION

NOTES:

LIVE LOADS: HS20-44
COOPER E80
DESIGN SPEED: 60 MPH
STREAM DATA: ASSUMED

FIGURE Nº 7

FEBRUARY 1981

NENANA RIVER BRIDGE

SCALE: 1"=40'-0" | APPROVED BY | DRAWN BY SB/RC
DATE 11/12/80 | DESIGNED

HDR
ALASKA TRANSPORTATION CONSULTANTS, INC.

1 OF 3

Using a high water elevation of 358 feet, a minimum clearance of 8'-0" is indicated above high water to low steel, which exceeds the suggested 6'-0" clearance by AASHTO Bridge Specifications. The necessary clearance over high water, and the depth of the superstructure will elevate the roadway above the approach roadways. The roadway elevation will be achieved by using a gradient on the approach roadways from each direction, and with a vertical curve on the structure with its apex near the center of the structure. The vertical curve will be designed for a speed of 60 mph.

A three span bridge will require the placement of two piers in the stream flow. The velocity of the stream, heavy water volumes, and thick ice will require large massive piers. Presently, it is contemplated that these will be single shaft concrete piers with steel ice plates. Footings will be located below the stream bed sufficiently to be below anticipated scour depths, and will be supported on steel H piles.

The abutments would be concrete stub abutments supported on steel H piles. These abutments will be located on embankment and the material for the embankment in the vicinity of these abutments should be non-frost susceptible soils to prevent frost heave.

Without specific information on water volumes, it has not been ascertained that the indicated waterway opening is sufficient to accomodate the flows. However, with low profile approach roadways, the approach roadways would be inundated during periods of flooding with flow crossing over the roadway.

Initially, it was contemplated that rail service to the area was a consideration. There presently does not exist justification for rail service to the study region based on cost-benefit ratios. However, should the ultimate development of the area occur with the addition of agri-processing plants, there may well be the economic need and demand for rail service to the area. This rail link would logically tie to the existing rail line at Nenana. To avoid the establishment of an additional and independent transportation corridor, the future rail line would closely parallel the roadway corridor. As a result, the river crossing of the Nenana would be

parallel and adjacent to the highway crossing.

The railroad bridge would preferably be a through girder steel bridge structure on the upstream side of the highway bridge. The superstructure and substructure would be independent of the highway bridge. Some overall cost savings would be achieved if the substructure for the railroad bridge was constructed with that of the highway bridge, but this would require a substantial investment for a structure which may not be constructed at any time in the near future.

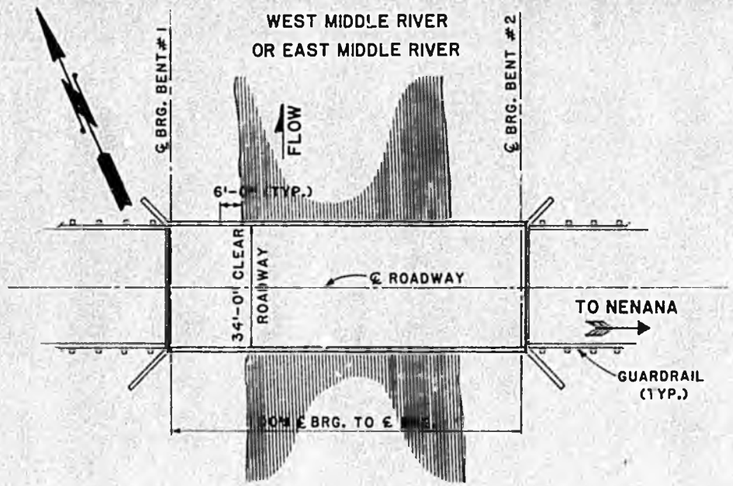
In recognition of the severe lateral forces imposed on the substructure, the railroad would have an identical span arrangement with that of the highway bridge. This is also necessary to avoid impeding the flow of water and ice which would occur if non-aligned piers for the two structures were used. The superstructure would be designed for a Cooper's E-80 loading. It is assumed that the rail line would be a low speed operation and that the structure could be a non-ballasted deck.

The approach grades to the railroad structure would have gradients not exceeding 2% and would be somewhat longer than the roadway approaches.

With some inherent instability of the stream, stabilization of the river banks may be required upstream from the structure. It is not expected to be a major undertaking, but it will be necessary to inspect the upstream banks in the vicinity of the proposed structure to ascertain if any revetments are required.

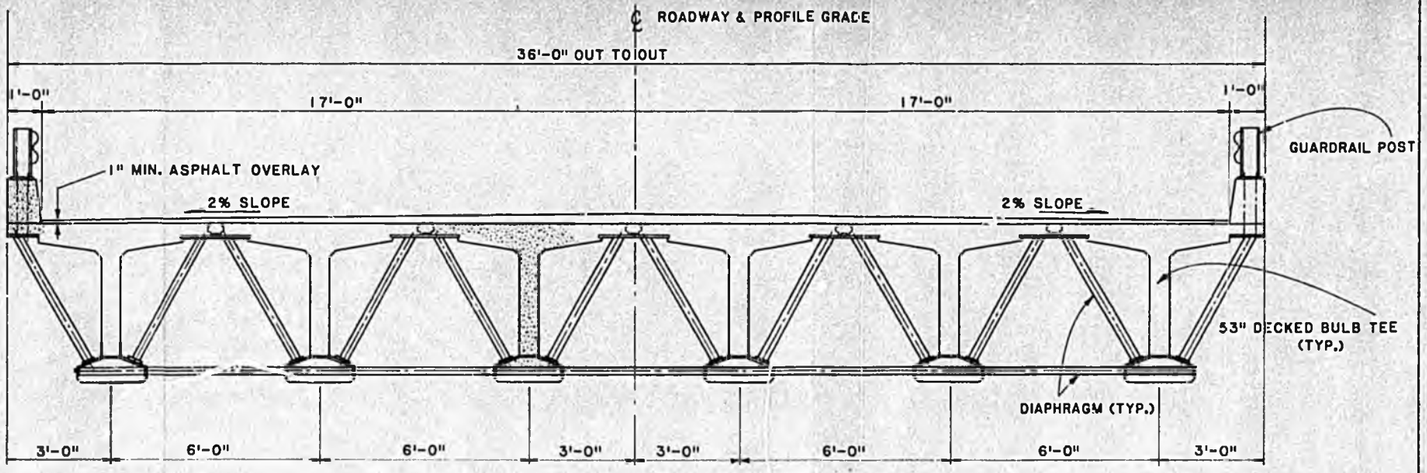
For purposes of development of a concept, a clear span of 100 feet was assumed for the West Middle and East Middle River. (Figure 9) These structures would consist of concrete bulb T superstructures, supported on concrete stub abutment with steel H piles. For the Little Menana River Bridge, it was assumed that a large culvert could be used to contain the flow in this stream.

No site specific information was available in the form of surveys, geological information, or hydrological data, and these concepts for the



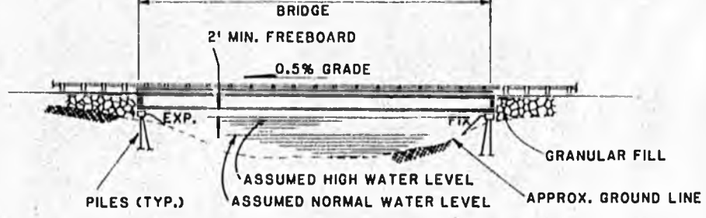
PLAN

SCALE: 1"=20'-0"



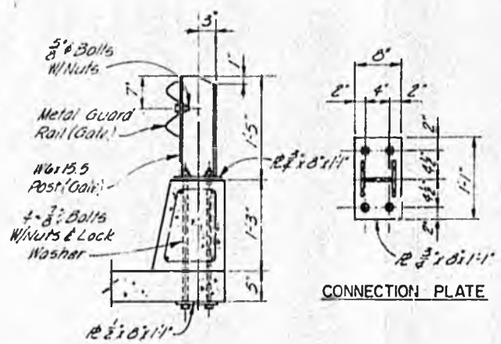
SECTION

SCALE: 1/2"=1'-0"



ELEVATION

SCALE: 1"=20'-0"



GUARD RAIL POST CONNECTION DETAIL

SCALE: 1"=1'-0"

NOTES:

LIVE LOADS: HS20-44
DESIGN SPEED: 60 MPH
STREAM DATA: ASSUMED

FIGURE Nº 9

WEST MIDDLE RIVER BRIDGE EAST MIDDLE RIVER BRIDGE	
SCALE: AS SHOWN	DRAWN BY: SB/MP
DATE: 11/12/80	REVISED:
HDR ALASKA TRANSPORTATION CONSULTANTS, INC.	
	DRAWING NUMBER: 3 OF 3

structures were developed using aerial photographs and other undocumented data. As more specific knowledge is gained, the proposed structures may change in concept and size.

Other minor structures will be required to provide flow for drainage areas lying in the path of the proposed roadway. Presently, it is contemplated that round culverts will be adequate for this purpose.

The following is a list of total costs, including soil exploration, engineering, construction inspection, and construction cost for each of the bridges over Nenana River and its tributaries. Costs related to various items such as right-of-way, utilities, bridge embankments and inflation factors are not included in the estimate. Costs presented are to be reasonable order-of-magnitude costs for work as of Spring 1981.

	NAME	TOTAL COST
A.	Nenana River Bridge	$ 4,040,400
B.	Little Nenana River Bridge	$ 97,500
C.	East Middle River Bridge	$ 608,400
D.	West Middle River Bridge	$ 608,400
	TOTAL	$ 5,354,700

CHAPTER VI
PERMITS

Permits are required from both state and federal agencies. Use of land and environmental concerns will involve the state in all stages of the project; construction stages will also require federal permits. The application process has been divided into four (4) stages, based on anticipated work progress. A separate application for state permits will be made for each of the four (4) stages, which are:

1. Survey and Boring-Bridges
2. Survey and Boring-Road (Phase I)
3. Bridge Construction
4. Road Construction

For state permits, Master Applications will be used (as detailed below); and, the staged application procedure will more effectively identify required state permits. Federal agencies are easier to identify, as fewer are directly involved; however processing time is six (6) months or longer. The federal government is now in the process of making a wetlands determination, the outcome of which would identify the need for any federal permits.

State Permits

A Master Application has been made to the Alaska Permit Information Center in Fairbanks. The Master Application serves as a notice of intent to the state of a proposed project. The Center notifies state agencies (about 200), and they have fifteen (15) days to respond. All responses including necessary individual department permit applications are returned to the center. The process is outlined in the attached Master Application Information Sheet, (See Appendix 2). The applicant is responsible for completion of all applications and payment of fees.

Key state departments are Fish & Game, and the Department of Environmental Conservation (DEC). State Division of Lands will be concerned about right-of-way. Fish & Game is primarily concerned with stream crossing and will issue a Title 16 Permit; first stage boring work will be

subject to Fish & Game requirements. DEC requires Water Qaulity Certification under Section 401 of Public Law 92500. The Master Application process will identify all state agencies requiring permits for the individual stages. Agencies not responding to the Master Application within fifteen (15) days, may not later require a permit.[1]

With the state agencies, as with federal departments, preliminary review of the application prior to submission will expedite approval.

Federal Permits

Application to the Corps of Engineers is the principle step in the federal process. The Corps assures public notice of a proposed project; other agencies then respond to the Corps. Statutes that apply are:

1. "River and Harbor Act of 1899", Section 10.
2. "Clean Water Act", Section 404, covers use of fill material.
3. Permits required for use of areas defined as Wetlands and Floodplains.

A key agency that should review applications prior to filing is the U.S. Department of Fish & Wildlife Service. The Fairbanks office will work closely with the applicant; recommendations will be made so that proposed project will be within Fish & Wildlife guidelines. An important part of the review will be definition of Wetlands, if any in the project area. Time frame for the review will be 3-4 weeks and is now in progress.

The Environmental Protection Agency (EPA) and National Marine Fisheries Service will be concerned; but, individual contact at present does not appear to be needed prior to Corps application. Their reaction and progress concerning the Corps application, should be monitored however.

The Coast Guard grants permits to cross navigable rivers under Section 9 of the "River and Harbor Act of 1899".[2]

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[1] Section 46.35.030, Water, Etc., Conservation (See Appendix 3).

[2] Interview with Mark Millea, Aids to Navigation Section, U.S. Coast Guard, Juneau, Alaska.

The Nenana River is classified in the Advanced Approval Category and requires no permit. The East and West Middle Rivers were determined to be distributaries of the Nenana River, thus being classified in the Advance Approval category as well, (Appendix 4).

No federal permits are required for preliminary survey and geotechnical work along the proposed roadway routing.

Additionally, a permit is needed to cross Alaska Railroad Terminal Reserve on the east bank of the Nenana River. The process to obtain this permit has been initiated though final results are still pending.

CHAPTER VII

LAND ACQUISITION FOR RIGHTS-OF-WAY

There are various methods available to acquire land for the roadway and utility rights-of-way in this project. The most straightforward of these methods is the use of section line easements granted through both state and federal statutes.[1] For the most part, the proposed roadway network follows section lines to take advantage of this easement. Other methods of acquiring land are included in the power of eminent domain. The use of eminent domain and section line easements, project rights-of-way requirements, and recommendations pursuant to the acquisition of those rights-of-way are detailed below.

1. Eminent Domain

According to Title 9, Article 4, Section 9.55.240, the power of eminent domain is available for use in acquiring land for the building of the roads, telephone lines, and power lines in this project. Proceedings instituted under the power of eminent domain are accompanied by a declaration of taking. This declaration must contain items describing the authority under which the property is taken, the public use for which it is taken, a description of the property, an estimate of just compensation, etc.[2] It has been stressed that the most important item to be contained in the declaration of taking is "a statement that the property is taken by necessity for a project located in a manner which is most compatible with the greatest public good and the least private injury."[3]

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[1] Basis for section line easements: Act of July 26, 1866, (RS 2477), (43 CFR 2822, 43 USC 932); Chapter 19 SLA, April 6, 1923; Chapter 123 SLA, March 26, 1951; Chapter 35 SLA, March 21, 1953; Taken from workbook on Section Line Easements put together by Bill Newman, Fairbanks North Star Borough, Planning Department, 1978.

[2] A.S. 09.55.430.

[3] Ibid; Interview with Bill Satterberg, Department of Law, Highways Section, October 28, 1980.

The power of eminent domain could be utilized where section line easements are not already established and in the acquisition of land required beyond that granted in section line easements. This power is granted to both the state and first class cities such as Nenana.[1]

2. Section Line Easements

As detailed in Chapter IV, the roadway network has been laid out to take full advantage of section line easements. Following is a brief outline of the federal and state laws concerning section line easements and a method for determining which laws might apply to a certain piece of property.

(A) History[2]

The Mining Law of 1866 made an offer of free right-of-way over unreserved public land for highway purposes. This offer became effective on April 6, 1923, when the territorial legislature passed Chapter 19. Any lands in Alaska appropriated and patented after April 6, 1923 were subject to an easement along all sections, 4 rods (66 feet) wide.

The section line easements law remained in effect until January 18, 1949. On this date, the legislature accepted the compilation of Alaska law which also repealed all laws not included. The section line easement law was repealed.

On March 26, 1951, the legislature passed an easement law which dedicated a section line easement 100 feet wide along all section lines on land owned by or acquired from the territory. This was modified on March 21, 1953, to include an easement 4 rods wide along all other section lines in the territory.

To have an easement on a section line means that the section line must be surveyed under the normal rectangular system. On large areas such as State or Native selections, only the exterior boundaries are surveyed

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[1]A.S. 09.55.420 (a).

[2]Taken from Workbook on Section Line Easements put together by Bill Newman, 1978.

hence, there are no section line easements in these areas (until further subdivisional surveys are carried out).

Since all federal land is reserved in Alaska at this time and since the section line easement will have any applicability on any finalized D-2 land since the land will be reserved at the time of any survey.

Land surveyed by special survey or mineral survey are not affected by section line easements since such surveys are not a part of the rectangular net.

Section line easements relate solely to highway or road use by the public. They cannot be used for powerlines or restricted private access. The date of survey and appropriation of the land must be considered in determining the presence of a section line easement.

(B) Methodology[1]

Using the date of entry and the date of survey plat approval, an analysis of section line easements would proceed as follows:

A. If date of entry predated survey plat approval there is no easement.

B. If entry predated April 6, 1923 (date of enabling lagislation for section line easements) there is no section line easement.

C. If survey plat approval predated April 6, 1923, but date of entry is after April 6, 1923, but before January 18, 1949, there is a section line easement.

D. If survey plat approval is during the period of January 18, 1949 and March 21, 1953, and date of entry falls within this period, there is no section line easement.

E. If survey plat approval is during the period of January 18, 1949 and March 21, 1953, and date of entry falls after March 21, 1953, there is a section line easement.

F. If the land is in state ownership, there is a section line easement.

G. If the land was disposed of by the state or territory during the period of January 18, 1949 and March 26, 1951, there is no section line easement.

H. United States Surveys (U.S.S. and Number) and Mineral Surveys (M.S. and Number) are not a part of the rectangular new of survey. If the rectangular new is later extended, it is established around these surveys. There are no section lines through a U.S.S. or M.S., therefore, no section line easements can exist on such areas.

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[1]Taken from "Section Line Easement Research Technique" put together by the Fairbanks North Star Borough, Planning Department, 1979.

There may be many other situations which would require evaluation and decision on a case by case basis.

3. Project Right-of-Way Requirements

Figure 4 presents existing land ownership in the project area. Land in the initial phase of the project was chosen because it is state patented. The proposed roadway traverses a township which has been tentatively approved for state patent and a township including both state patent land and private property. The bridge crossing the Nenana River crosses private land along the river's west bank. Property along the east bank is currently classified as railroad terminal reserve. The entire township in which Nenana lies is being claimed for private use under the Alaska Native Claims Act. Thus, rights-of-way will have to be acquired from state, federal, and private ownership.

As discussed in Chapter IV, a right-of-way 200 feet wide is required for the main and collector roads in addition to a 30 foot utility easement on either side of the roadway easement. Within the roadway easement are 32' and 28' of traffic lanes for the main and collector roads respectively; 52-54 feet of ditch on either side of the traffic lanes; and 30-34 feet of space for storage of organic to be used in the building of slopes. Feeder roads require 150 feet of roadway easement with a 30 foot utility easement on either side. (See Figure 6).

4. Conclusions and Recommendations

Acquiring rights-of-way can become a complex issue with the potential to slow-up or even stop a project. In the foregoing sections it was found that the proposed roadway would traverse state, federal and private property. It was also found that required rights-of-way were greater than easements available along section lines. It has been recommended that use of "blanket condemnation" for necessary right-of-way might be a way of avoiding many problems.[1]

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[1]Interview with Bill Satterberg, Department of Law, Highways Section, October 28, 1980.

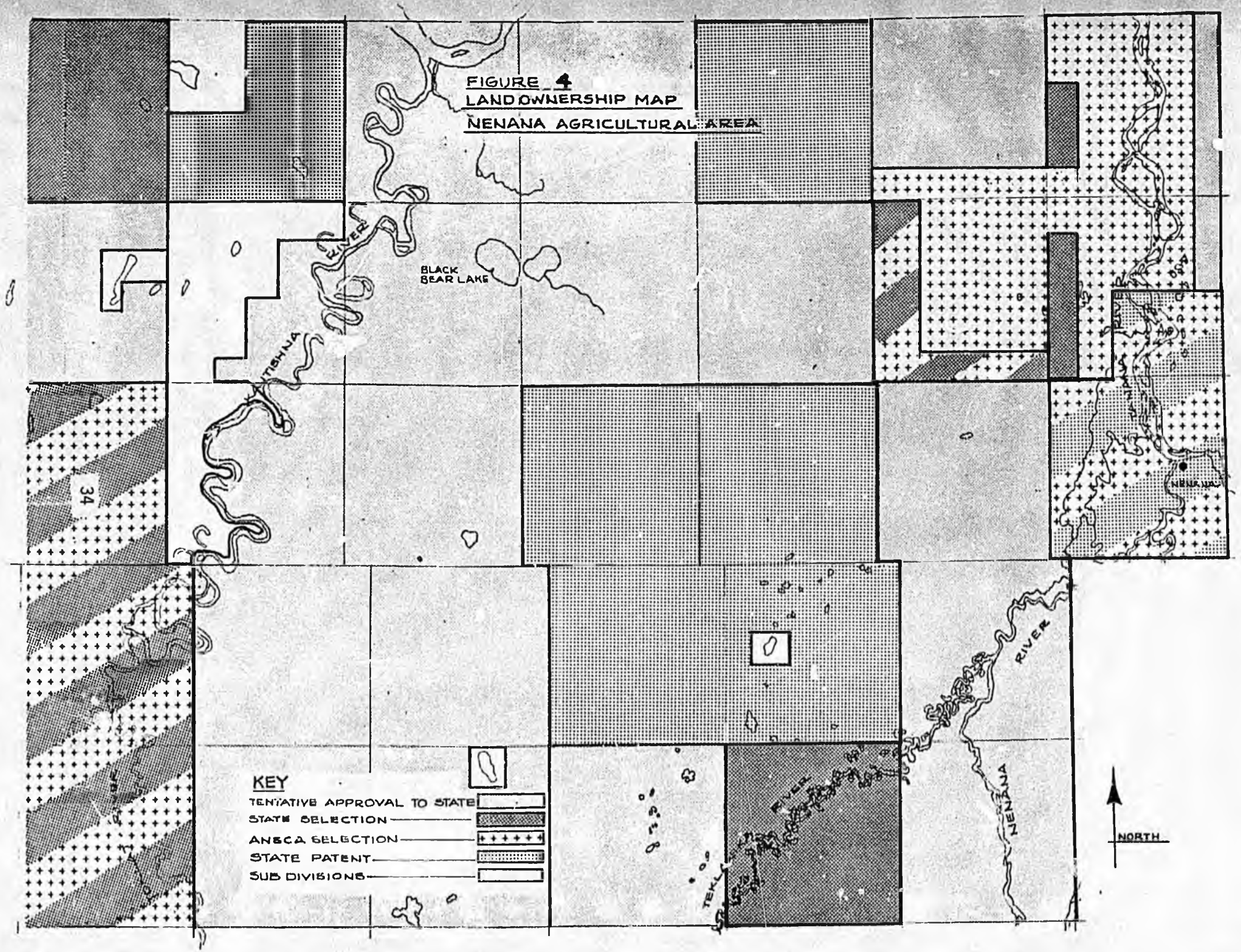
FIGURE 4
LANDOWNERSHIP MAP
NENANA AGRICULTURAL AREA
BLACK BEAR LAKE
KITISHNA RIVER
NENANA RIVER
TEKLANIKA RIVER
34
KEY
TENTATIVE APPROVAL TO STATE
STATE SELECTION
ANSCA SELECTION
STATE PATENT
SUB DIVISIONS
NORTH

Though this is an area which definitely requires legal expertise, current Judicial practice is that an Engineers' expertise will not be substituted for Judiciary opinion if it is clear that the Engineer has exercised his or her judgement in roadway layout.[1] This expertise and many other resources could be made available should the road be built under the umbrella of the Local Service Roads and Trails Act (LSR&T).

Development and construction of the roadway network under LSR&T appears to be the most expedient approach to the acquisition of rights-of-way and many other developmental requirements discussed in this section. Under LSR&T the state can use its mechanisms and powers to acquire necessary right-of-way in accordance with AS 19.05.080-.9.05.120.[2] The current revision of the act would provide funds for purchase of rights-of-way and gravel. However, this revision is yet unsigned by the governor and there remains some controversy in the legislature regarding the specific provisions for the purchase of right-of-way.[3] Until the issue is resolved however, funding for the purchase of right-of-way will have to come through some other legislative vehicle.

Construction of the roads under LSR&T would also guarantee maintenance either through the Department of Transportation and Public Facilities or local government by way of revenue sharing.[4]

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[1]Interview with Bill Satterberg, Department of Law, Highways Section, October 28, 1980.

[2]AS 19.30.171.

[3]Interview with Donovan Ronkin, LSR&T Engineer, Department of Transportation and Public Facilities, November 13, 1980.

[4]AS 19.30.211.

CHAPTER VIII

Cost-Benefit Study of Phase I Access Routes

Two options are availalbe for the access road to Phase I of the Nenana Agricultural Project. Option One is a 22.2 mile route from Nenana to the Center of Phase One that requires four bridges to be built. Option Two is a 34.7 mile route from near the Rex siding that requires one bridge across the Teklanika River. A cost analysis, reduced to a per-year basis, indicates that the Nenana route will cost $1,472,913.12 per year while the Rex route will cost $1,517,365.48 (Tables C - G). User costs are estimated to be $3,218,713.50 for the Nenana route and $9,167,753.50 for the Rex route. These figures indicate that the Nenana route will result in a net savings to the general tax payer of approximately $44,500.00 per year and a net savings to the user of approximately $5,949.000.00 per year for a total savings of $5,993,500.00 per year.

A cursory review indicated that freight costs per metric ton from the center of Phase I to the siding will be $3.66 per ton (utilizing rail from Nenana) for the Nenana route and $4.15 per ton for the Rex route resulting in a net savings of $0.49 per metric ton from the Nenana route.

Table C

Capital Costs Projected to 1981

Estimated project center: 1/4 corner common to sections 13 and 14, T4S, R11W, F.M.

Planned road life - 20 years, structures - 40 years, Right-of-Way - 60 years

Estimated Right-of-Way Costs - $5,000/Acre

Estimated Road Costs - $275,000/mile - Type "RB", $310,000/mile - Type "PB"

Estimated Maintenance Costs - $3,115/mile

Estimated Bridge Costs - Nenana Route - $5,354,700, Rex Route - $608,400

Estimated Interest Rate - 10%

	Nenana Route	Rex Route
	22.2 Miles Gravel 0 Miles Paved	34.7 Miles Gravel 28.9 Miles Paved
Right-of-Way Costs	$1,345,454.55	$2,254,545.46 0
Capital Recovery Cost	134,989.45	226,198.55 0
Construction Costs	$6,140,000.00	$9,542,500.00 0
Capital Recovery Cost	721,204.40	1,120,862.05 0
Bridge Costs	$5,354,700.00	$ 608,400.00 0
Capital Recovery Cost	547,566.27	62,214.38 0
Maintenance Cost/Year	$ 69,153.00	$ 108,090.50[1]
Total Costs/Year	$1,472,913.12	$1,517,365.48 0

[1] Traffic from the Nenana Agricultural Project would approximately double the average daily traffic on the paved section of the George Parks Highway from Rex to Nen-ana. Current maintenance costs are primarily climate-related with negligible traffic-related costs. For this reason it is assumed that project-related traffic would not appreciably affect maintenance costs for this section of highway.

Table D

User Cost: Dollars-Per-Year

	Nenana Route	Rex Route	
	22.2 Miles Gravel	34.7 Miles Gravel	23.9 Miles Paved
Operating Costs:			
76,405/Yr/Mi Gravel	1,696,191	2,651,253.50	
50,940/Yr/Mi Paved			1,472,166
29,100/Yr-1 Stop	29,100	29,100	
Travel Costs:			
25,385/Ry/Mi	563,547	880,859.50	733,626.50
8,155/Yr-1 Stop	8,155	8,155	
Fuel Consumption:			
27,730/Yr/Mi	615,606	962,231	801,397
9,455/Yr-1 Stop	9,455	9,455	
Comfort and Convenience:			
11,635/Yr/Mi Gravel	258,297	403,734.50	
3,880/Yr/Mi Paved			112,132
Accident Costs:			
1,705/Yr/Mi Gravel	38,367.50	59,163.50	
1,044,480/Yr Paved			1,044,480
Sub Total	$3,218,713.50	$5,003,952.00	$4,163,801.50
Total	3,218,713.50	9,167,753.00	

Table E

Roadway Operating Cost Comparisons

A. Operating Costs: Assume level grade - 55 MPH - 1 Stop

$$\frac{(76.23)(1.723)(850)(365)(1.25)}{1000} = \$50,936.96 \text{ use } \$50,940/\text{Yr/Mi (Paved)}$$
gravel (1.5)(50,936.96) = 76,405.44
use 76,405/Yr/Mi

$$\frac{(30.75)(1.627)(850)(365)(1.25)}{1000} = \$19,402.36/\text{Yr use } \$19,400/\text{Yr (Paved)}$$
gravel (1.5)(19,402.36) = 29,103.53
use $29,100/Yr

B. Travel Time:

$$\frac{(850)(365)(3.60 \text{ average wage})(1.25/\text{NF})}{55} = \$25,384.09 \text{ use } \$25,385/\text{Yr/Mi}$$

$$\frac{(5.84)(850)(365)(1)(3.60)(1.25)}{1000} = \$8,153.37 \text{ Use } \$8,155/\text{Yr}$$

C. Fuel Consumption: Assume $1.30/Gal - $1.25 Inflation

$$\frac{(55)(850)(365)(1.30)(1.25)}{1000} = \$27,728.59 \text{ use } \$27,730/\text{Yr/Mi}$$

$$\frac{(18.75)(850)(365)(1.30)(1.25)}{1000} = \$9,452.93 \text{ use } \$9,455/\text{Yr}$$

D. Comfort and Convenience: $.03/vehicle mile for gravel $.01 for pavement

Gravel (.03)(850)(365)(1.25) = 11,634.38 use $11,635/Yr/Mi

Paving (.01)(850)(365)(1.25) = 3,878.13 use $ 3,880/Yr/Mi

Table F

Traffic Data

Accident Data: (Use 13.2 Mile Delta Clearwater Road for similar comparison) DOT/PF monetary equivalents: injury - $9,490; fatality - $260,000.

Gravel Roads

	Fatalities	Injuries	Property Damage/$
1977	0	3	7,775
1978	0	0	2,350
1979	0	1	6,150
3 Year Total	0	4	16,275
Total Costs	0	$37,960	$16,275

Cost/Yr/Mi (37,960+16,275)/(3)(13.25) = 1364.4 x 25% Inflation = $1705.50 use $1705

George Parks Highway Rex to Nenana

	Fatalities	Injuries	Property Damage/$
1977	1	16	90,095
1978	1	8	44,250
1979	1	8	35,350
3 Year Total	3	32	169,695
Total Costs	$780,000	$303,680	$169,695

Cost/Yr (780,000+303,680+169,695)/3 Year = $417,791.67 x 25% Inflation = $522,239.58 x 2 for approximately doubling traffic = $1,044,479.17 use $1,044,480.00

Note:

Design Speed	55 MPH
Volume	850 ADT
Stops	1
Slowdowns and Idling	N/A

Table G

Freight Costs

Projected to 1981: $(.035)^1$(1.25% Inflation) = $0 44/metric ton mile rail
$(.046)^2$(2)(1.25% Inflation) = $.115/metric ton mile

Railroad miles Rex to Nenana	25% (approximate)
Road miles Nenana Railroad to Project	22 (approximate)
Road miles Rex to Project	36.1 (approximate)

Nenana Route		Rex Route
RR	Road	Road
1.13	+ 2.53 - $3.66/ton	$4.15/ton

[1]Rail $035/metric ton mile (based on Delta Barley Project Costs).

[2]Commercial Truck $046/metric ton mile (one-way) (based on Delta Barley Project Costs).

CHAPTER IX

COMMERCIAL VIABILITY OF THE AGRICULTURAL TRANSPORTATION SYSTEM

Commercial viability of a roadway network can be defined as how the system lends itself to an increase in benefits to the primary commercial user. In this case the grain producers will be considered the primary users initially; and it is assumed that, while the other agricultural industries may have different transportation needs, costs and analytical approach would be similar.

As stated in the introduction to this report, transportation is an important aspect in rural development. A commercially viable transport system is a major cog in the success of agricultural development in Alaska. The Final Report of the Rural Transportation Advisory Task Force states that it is vital to assure the efficient movement of agricultural products and farm inputs, "both because of the geographic dispersion of farming, and because of export of agricultural products has become essential to the nation's balance of payments."[1] This statement holds true in Alaska especially when considering the present marketing plans for Alaskan barley and the transportation problems unique to Alaska's emerging agricultural industry.

This section presents an analysis of alternative methods for the transport of grain between the initial project area and Nenana. The purpose of this analysis is to provide a flexible range of options by which the transportation system can be made commercially viable.

A roadway is commercially viable if commercial user costs are low enough to provide for a competitive profit margin. This is accomplished through the design of a system which most effectively reduces costs essential to the transport of a commodity from farm to market.

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[1] "Agricultural Transportation Services: Needs, Problems, Opportunities", The Final Report of the Rural Transportation Advisory Task Force, January, 1980., p. 11.

Four transport schemes were evaluated for transportation of grain from farm to market:

I. Home Storage, farmer hauls to Nenana
II. Home Storage, transfer point other entity transports to Nenana
III. No Home Storage, transfer point
IV. No Home Storage, no transfer point

To analyze the various alternatives for transferring the grain from farm to market, several assumptions of conditions and calculations of costs were made for the initial project area. The following is a brief description of estimated project area activity along with an outline of assumptions used to determine costs of the transportation system.

Project Area Activity

The initial project area is two townships in size lying 13 miles west of the City of Nenana. There are seventeen (17) grain farms and ten (10) smaller farms within the project under proposed parcelization. Additional 5 acre home sites are being recommended to increase the population base in the area. An estimate of grain production is based on a 1/3 fallow system and 42 bushels/acre, average harvest of barley. There are 39, 680 acres within the 17 grain farms. This would put 26,450 acres into barley at any one time. At 42 bushels/acre there would be approximately 1,111,000 bushels per harvest. This grain would be transferred to the railhead in Nenana and shipped from there to port. Additional transportation would be required by commodities originating on the smaller farms.

Assumptions

Several assumptions were applied to the analysis of the grain transport system. These assumptions, which should be modified to fit individual farm situations, were:

1. Average Farm Size: 2560 acre
2. Combine Capacity: 2,000 bushels/day
3. Combine bin capacity: 65 bushels requiring unloading every twenty (20) minutes
4. Truck capacities: 250 bushels, 700 bushels, 1,050 bushels
5. Average Speed of Trucks: 35 mph

6. Ten (10) hour workday
7. Average Harvest on 2560 acres = 71,680 bushels

Following the conclusion of Chapter VIII, it was also assumed that the proposed roadway between the initial project and Nenana would be the road used by the farmers in the initial project area.

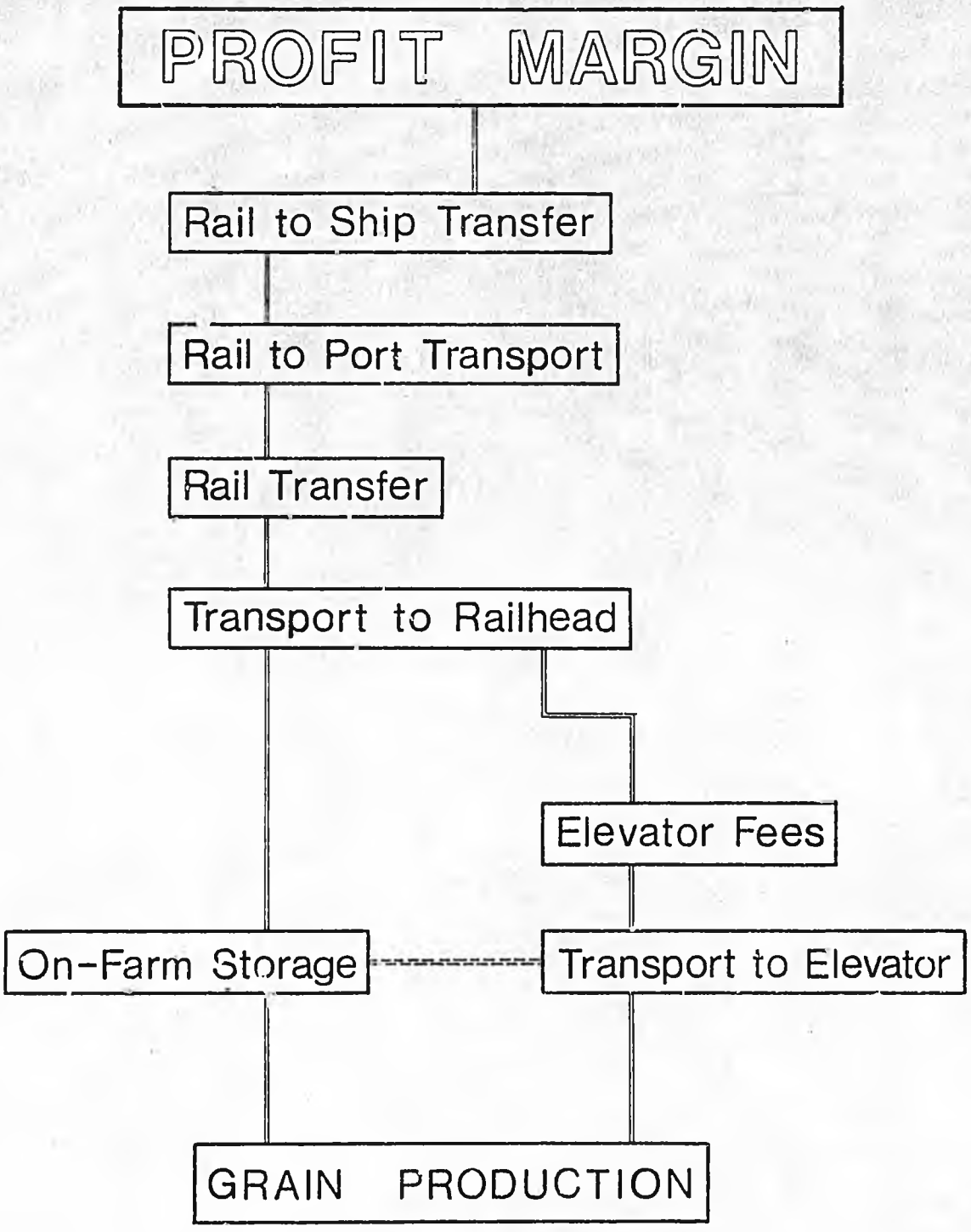
Essential costs for Nenana grain transport were determined to center in the areas outlined in Figure 11. This report focuses on costs involved in transporting grain from on-farm storage to railhead. Roadway quality, location of possible transfer facilities, choice in method of transport are factors which affect essential costs. An examination of the relationship between these factors and essential costs is used in determining a framework for a commercially viable road. These will be discussed following an analysis of the essential cost components.

Essential Cost Components

On-farm storage offers flexibility to the grain producers in a number of ways. First, it allows them to hold their crops until they can sell at the best price. Second, storing the grain on the farm allows the farmer to transfer the grain to the railhead using the mode most economical to him. Third, on-farm storage reduces or eliminates storage costs elsewhere.

It was estimated from experiences in Delta Junction that grain storage in Alaska costs about $0.25/bushel/year.[1] While agriculture is in its developmental stages in Alaska grain receives certain price supports which nullify the advantages of on-farm storage. As Alaskan grain becomes subject to world market prices the advantages of on-farm storage will increase considerably. As a result, it is assumed that the majority of the farmers in the Nenana area will have on-farm storage for a large portion, if not all of their harvest. Costs involved in on-farm storage are made up in

[1]Agricultural Action Council, December 1, 1980.



ESSENTIAL COST COMPONENTS-GRAIN MARKETING

Figure 11

savings resulting from increased flexibility; though the rate of savings depends on distance between farm and elevator, labor costs, elevator fees, etc.

If the farmer does not have on-farm storage, or if the time is right to market the harvest; it is possible that a transfer site could be located between 1 and 7 miles of his farm. One such transfer site would be adequate for the initial project area, though others might be necessary as agriculture expands outward from there. Once the grain is transported to this site it would be loaded onto larger trucks and taken to the railhead in Nenana.

Grain would be transported either from a centralized transfer site or directly from on-farm storage to the railhead in Nenana. Once the grain reached the main elevator there would be additional handling and storage fees.

Evaluation of Alternatives

The alternative transport schemes were analyzed in terms of the costs of their essential components. Thus, Scheme I - home storage of grain, hauled directly to the elevator in Nenana; was evaluated on a cost per bushel basis using the following formula:

H + A + E = Scheme I Costs

H + B + E = Scheme I Costs

H + C + E = Scheme I Costs

where:

H = Home Storage Costs

A = Costs of 300 bushel truck hauling direct to Nenana (Calculated with and without labor)

B = Costs of 700 bushel truck hauling direct to Nenana (Calculated with and without labor)

C = Costs of tractor/semi-trailer (Both commercial costs and with/without labor)

E = Costs of storage and handling at elevator.

Scheme II was evaluated using the following formula:

H + A + T + C + E = II

H + B + T + C + E = II

Where 'T' equals costs of handling at transfer point. Scheme II also compares 2.5 ton truck and 5 ton truck haul costs to transfer point.

Scheme III was evaluated using the following formula:

A + T + C + E = III

B + T + C + E = III

Scheme IV was evaluated using the following formula:

A + E = IV

B + E = IV

C + E = IV

Operating Costs

Costs involved owning and operating the three alternative trucks were obtained from local sources and are presented in Table H. For the 2.5 ton and 5 ton trucks, 25% of the annual fixed costs were assigned to the hauling of grain. As the larger 10 ton truck is not as versatile as the 2 smaller trucks might be, 69% of its fixed costs were assigned to grain hauling. Home storage costs were utilized from a recent study in Washington state.[1] These costs were adjusted for inflation and higher costs in Alaska and were approximated at 13¢/bushel. Elevator handling costs are currently 12¢/bushel in the Delta project the elevator costs and costs at the possible transfer site in the initial project area.

Formulas listed in Figure 12 were utilized in determining the various transport costs of the four alternative schemes. These formulas were obtained from a similar study done in Washington state.[2]

Findings

It was found that while Scheme IV had the lowest costs of all the alternatives, Scheme I offered the most flexibility at the least costs to the

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[1] Hately, Rogers, Casavant. "Evaluating Transportation and Storage Alternatives Available to Whitman County Grain Growers". Washington State University, College of Agricultural Resources Center, May, 1976.

[2] IBID.

Table H

Operating Costs/Mile - Alternative Grain Hauling Vehicles

	A 2.5 Ton (300/Bu)	B Ton (700/Bu)	C 10 Ton Tractor/Semi (1,500/Bu)
Fixed Costs			
Interest on Investment	708	1654	4536
Depreciation	1583	3325	9120
Insurance	600	1050	1350
License and Fees	30	30	240
Total Fixed Costs	2921	6059	15,246
25% assigned to Grain	730.25	1514.75	
65% assigned to Grain——C			9,909.90
Variable Costs			
Gas	0.108	0.185	.29
Repairs	0.131	0.131	.80 (includes tires)
Tires	0.030	0.050	---
Total Variable Costs	0.269	0.366	1.09

- License Costs:
  Alaska Motor Vehicles Dept.
- Insurance:
  Butch Stein, Alaska 100
- Repairs:
  U.S.D.O.T. formula and local interviews
- Gasoline:
  Price/Gal: ÷ MPG

New Cost

Tires:
6 @ 200.00
÷ 40,000 mile

New Cost-35,000
Salvage value 1,750

Alaska Sales
in Anchorage

Tires:
10 @ 200.00
÷ 40,000

New Cost-96,000

Gene Javette, K&W Trucking

Figure 12

Formulas Used to Determine Grain Transport Costs

Fixed Costs/Per Bushel:

$$\frac{\text{Fixed Costs} \times \text{Number of Trucks}}{\text{Total Harvest}}$$

Variable Costs/Per Bushel:

$$\frac{\text{Variable Costs} \times \text{Trip Miles}}{\text{Bushels Per One Trip}}$$

Trips Possible:

$$\text{Hours in Workday} \div \left(\frac{\text{Trip Miles}}{\text{Avg. Speed}} + 20 \text{ Minutes (Loading and Unloading)}\right)$$

Labor Costs/Per Bushel:

$$\frac{12.50 \times \text{Hours in Workday}}{\text{Bushels Hauled/Per Day}}$$

Home storage costs were adjusted for inflation in the following manner:

Cost in 1976 (Washington State) = 8¢/Bu

x1.61 (rate of inflation 1976 - 1980)

12.88¢/Bu or approximately 13¢/Bu in 1980

farmer. It was also determined that use of the 5 ton truck under Scheme I was the most cost effective vehicle, particularly when the farmers' labor replaced hired labor.

Scheme I examined the costs involved in hauling grain direct, farm to elevator. Costs were determined for distances of 14, 18, 22 and 26 miles. Costs of commercial trucking were found to be competitive and were much lower than costs involved in hiring a driver. With the flexibility of home storage and the options of commercial hauling, farmers labor, or hired labor; this scheme offers the most economical and cost effective method in transporting grain from the farm to the mark Table I presents the results of analysis under Scheme I.

Scheme II included a transfer point in the middle of the project. In this instance, costs were determined for the 2.5 and 5 ton trucks for distances of 1, 3, 5 and 7 miles from the transfer point. From that point, the grain would have to be transported 19 miles to the railhead in Nenana. It was determined that, at least initially, commercial trucking would be more cost effective for the 19 mile haul. If, in the future, cooperatively owned trucks could be utilized for activities other than grain hauling; fixed costs assigned to that purpose could be significantly reduced. Overall, Scheme II had drawbacks causing its higher costs. The transfer point offers no real advantage to a farmer with home storage as transportation costs direct to Nenana are still less after paying the additional transport costs and main elevator handling fees. Table J presents the results of analysis under Scheme II.

Scheme III was basically the same as Scheme II but in this instance, there was no home storage. Without home storage several constraints are placed on the farmer. Assuming a combine operating 10 hours per day, 4,000 bushels of grain could be made available for transport. This grain would have to be transported to either the transfer site or the main elevator in Nenana. The farmer would not be able to take advantage of any price fluctuations and would most likely have to hire labor. The results of analysis under Scheme III are presented in Table K.

Scheme IV assumed no home storage and no transfer site. Under these conditions two 2.5 ton trucks would be required to handle the daily harvest.

This would increase both fixed and labor costs if those vehicles were used. At distances of 22 miles for 2.5 ton trucks and 26 miles for one ton trucks, the daily harvest would have to be limited to the trucks daily hauling capacity. Again, while this is the least costly of the alternatives analyzed, it offers no long term economic advantages or flexibility and severely constrains the farmers harvest operations in ways similar to those outlined in Scheme III. The results of analysis under Scheme IV are presented in Table L.

Summary and Conclusions

The analysis of alternative transportation schemes indicated a wide range of methods and equipment handling grain between the field and main elevator in Nenana. It was determined that a 5 ton truck hauling from home storage directly to Nenana, using the farmers own labor most effectively reduced transport costs, while offering the greatest long term economic benefits and flexibility to the farmer. A transfer point in the initial project area was found to be uneconomical and direct haul with home storage was still more cost effective at distances up to 50 miles from the main elevator.

It should be noted that road quality is significant in its affect on vehicle operating costs. AASHTO studies indicate that there is a 30% savings between vehicle operation on pavement and crushed gravel and up to 60% savings between pavement and unsurfaced roads.[1] It is imperative therefore, based on user economics, that a good quality access road be built and maintained in the project area.

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[1]American Association of State Highway and Transit officials, "A Manual on User Benefit Analysis of Highway and Bus-transit Improvements", Washington, D.C., 1960. Assume 0-3 percent grade, 35 mph vehicle running speed.

Table I

Scheme I - Direct Haul: Farm to Elevator

Vehicle	Distance	Trips Per Day	Bushels Hauled/ Day	Fixed Costs	Variable Costs	Labor Costs	Home Storage	Elevator Fee	Total ¢/Bu	Total Without Labor
A	14	9	2700	.01	.025	.046	.13	.12	33.1	28.5
	18	7	2100	.01	.032	.059	.13	.12	35.1	29.2
	22	6	1800	.01	.039	.069	.13	.12	36.	29.9
	26	5	1500	.01	.047	.083	.13	.12	39	30.7
B	14	9	6300	.021	.015	.020	.13	.12	30.6	28.6
	18	7	4900	.021	.019	.025	.13	.12	31.5	29.0
	22	6	4200	.021	.023	.030	.13	.12	32.4	29.4
	26	5	3500	.021	.027	.036	.13	.12	33.4	29.8
C	14	9	9450	.14	.029	.013	.13	.12	43.2	41.9
	18	7	7350	.14	.037	.017	.13	.12	44.4	42.7
	22	6	6300	.14	.046	.020	.13	.12	45.6	43.6
	26	5	5250	.14	.054	.024	.13	.12	46.8	44.4

	Distance	Trips	Bushels	Bush-els/Hr.	Hours/ Harvest	Cost/ Harvest	Cost/ Bu.	Home Storage	Elev.	Total
Commercial	14	7	7350	919	78	4992	.07	.13	.12	32.0
	18	6	6300	788	91	5824	.08	.13	.12	33.1
	22	5	5250	656	109	6976	.097	.13	.12	34.7
	26	4	4200	525	137	8768	.122	.12	.12	37.2

Table J

Scheme II - Home Storage With Transfer Point in Project

Vehicle	Distance to Transfer	Trips	Bushels/ Day	Fixed Costs	Variable Costs	Labor	Home Storage	Transfer	Commercial Haul	Elevator Fee	Total ¢/Bu	Total Without Labor
A	1	25	7,500	.01	.002	.017	.13	.12	.08	.12	47.9	46.2
	3	20	6,000	.01	.005	.021	.13	.12	.08	.12	48.6	46.5
	5	16	4,865	.01	.009	.026	.13	.12	.08	.12	49.6	46.9
	7	13	3,900	.01	.013	.032	.13	.12	.08	.12	50.5	47.3
B	1	25	17,500	.021	.001	.007	.13	.12	.08	.12	47.9	47.2
	3	20	14,000	.021	.003	.009	.13	.12	.08	.12	48.3	47.4
	5	16	11,200	.021	.005	.011	.13	.12	.08	.12	48.7	47.6
	7	13	9,100	.021	.007	.014	.13	.12	.08	.12	49.2	47.8

Table K

Scheme III - No Home Storage. Transfer Point in Project

Vehicle	Distance to Transfer	Trips	Bushels/ Day	Fixed Costs	Variable Costs	Labor Costs	Transfer	Commercial Haul	Elevator	Total ¢/Bu
A	1	13	4000	.01	.002	.016	.12	.08	.12	34.6
	3	13	4000	.01	.005	.02	.12	.08	.12	35.5
	5	13	4000	.01	.009	.025	.12	.08	.12	36.4
	7	13	4000	.01	.013	.03	.12	.08	.12	37.3
B	1	6	4000	.021	.007	.016	.12	.08	.12	36.4
	3	6	4000	.021	.009	.02	.12	.08	.12	37.0
	5	6	4000	.021	.012	.025	.12	.08	.12	37.8
	7	6	4000	.021	.014	.03	.12	.08	.12	38.5

Table L

Scheme IV - No Home Storage, No Transfer

Vehicle	Distance	Trips	Bushels Hauled	Fixed Costs	Variable Costs	Labor Costs	Elevator Fee	Total ¢/Bu
A	14	14	4000	.02	.025	.046	.12	21.1
	18	14	4000	.02	.032	.059	.12	23.1
	22	12	3600	.02	.039	.069	.12	24.8
	26	10	3000	.02	.047	.083	.12	27
B	14	6	4000	.021	.015	.02	.12	17.6
	18	6	4000	.021	.019	.025	.12	18.5
	22	6	4000	.021	.023	.03	.12	19.4
	26	5	3500	.021	.027	.036	.12	20.4
C	14	4	4000	.14	.029	.013	.12	30.2
	18	4	4000	.14	.037	.017	.12	21.4
	22	4	4000	.14	.046	.02	.12	32.6
	26	4	4000	.14	.054	.024	.12	33.8

APPENDIX I

REQUEST FOR PROPOSAL SENT TO VARIOUS ALASKAN PORTS

REQUEST FOR PROPOSAL

FOR

GRAIN EXPORT TERMINAL

The State of Alaska, Special Projects Office, is submitting this request for proposal. Our intention is to construct a permanent facility for the exportation of Alaskan produced grains.

The following information will be required in the proposal for our analysis:

1. Financial committment possibilities
   a. development incentive on real estate taxes
   b. direct complete or partial financing of the facility
   c. bond issuing authority for construction costs
   d. moratorium on interest and other payments until facility becomes economically viable
2. Location
   a. acreage of proposed site
   b. availability
   c. site development cost
   d. expansion area
   e. site accessability
   f. proximity to available dock space
3. Water depth
   a. at dock
   b. in approach channel
4. Wharfage charges

APPENDIX II

MASTER APPLICATION-ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
MASTER APPLICATION - INFORMATION SHEET
Environmental Procedures Act, AS 46.35

GENERAL INFORMATION

The master application serves as a notice of intent to the State of a proposed project by an applicant. This form was designed to include a broad range of State and local government interests, therefore, many of the questions may not apply to your proposed project. Please read this application before completing it. Answer all questions pertaining to your proposed project. Any missing or misleading answers may delay the processing of your application. Complete a site diagram of the project and submit it with your signed application to one of the Permit Information Centers listed below.

Alaska Permit Information Center
Department of Environmental Conservation
437 "E" Street, Second Floor
Anchorage, Alaska 99501
Telephone: (907) 279-0254

Alaska Permit Information Center
Department of Environmental Conservation
675 7th Avenue, P.O. Box 1601
Fairbanks, Alaska 99707
Telephone: (907) 452-2340

Alaska Permit Information Center
Department of Environmental Conservation
Pouch O, 3220 Hospital Drive
Juneau, Alaska 99811
Telephone: (907) 465-2615

GENERAL PROCEDURES FOR PROCESSING APPLICATIONS UNDER AS 46.35

Upon receipt of the master application in a permit center, the following steps are taken:

Master Application

1. Copies of the master application and the site diagram are sent for review to all State departments and any municipality where the project is located. A statement is requested regarding agency jurisdiction and any permits that may be required for the proposed project.

2. These agencies must respond to the permit center within 15 days. If the agencies have any jurisdiction over the project and require a permit, they will submit their individual applications to the permit center with a statement of whether a hearing is required.

Individual State & Local Permit Applications

1. The permit center will send the individual applications to the applicant for completion. Completed applications and required fees should be returned to the permit center.

2. The returned applications and fees will be sent to the proper agencies. The permit center will make the arrangements for a public hearing on the project, if a hearing is required. Within 30 days receipt of the last applications, the permit center will have a notice published once a week for three consecutive weeks. The applicant will be required to pay for the publication of these notices.

3. The public hearing will be held in or near the municipality where the major part of the proposed project is located. This hearing will be held within 20 to 30 days of the last publication of the notice. Members of the public and the applicant may be present. Any State agency that requires a permit for the project shall be represented at the hearing.

4. At the close of the hearing, the chairman will establish a date (within 90 days from the hearing date) for the final decisions on all applications on the project. The final decisions will be submitted to the Department of Environmental Conservation. They will be incorporated into one document and submitted to the applicant personally or by certified mail.

INTERIM MASTER APPLICATION

Permit Information Center
Alaska Department of Environmental Conservation

MASTER APPLICATION

NO. _____

CERTIFICATION

(to be completed by local government)

I hereby certify the project described herein is in compliance with all zoning ordinances and associated comprehensive plans administered by

CITY OF NENANA, ALASKA

_____
(Local Government Official's Signature)

Mayor, City of Nenana
(Title)

_____
(Date)

I hereby certify the property described in Section II is not under the jurisdiction of any zoning ordinance or associated comprehensive plan administered by _____.

_____
(Local Government Official's Signature)

Mayor
(Title)

11-13-80
(Date)

I. Applicant Information

A. Name of Applicant: CITY OF NENANA, ALASKA

Address: _____ _____ _____ _____
(Street Number or R.F.D.) (City) (State) (Zip Code)

Phone Number: 832-5441

B. Consultant or Contact Person: ALASKA TRANSPORTATION CONSULTANTS, INC.

Address: 212 C Wedgewood Drive, Fairbanks, Alaska 99701
(Street Number or R.F.D.) (City) (State) (Zip Code)

Phone Number: 456-1967

II. Activity Location

A. Location of Work (smallest legal subdivision): West of the City of Nenana at the Nenana River, East Middle River, and West Middle River bridge sites.

Within Section 15-23, Township 4 S, Range 8 W.

B. Distance and direction from nearest incorporated town or city:

Four and one-half (4½) W. of City of Nenana

Right-of-way, 200 feet wide to the West Middle River bridge site per project diagram.

III. General Activity Description

A. Beginning Construction Date: January 1, 1981 Completion Date: February 15, 1981

B. Description of Project (describe the project objectives, purpose and need):

Determine alignment of bridges across the three (3) above rivers; also alignment of road between bridge sites.

C. Description of Work (describe the project construction and operation):

Drilling test holes 10-20 feet deep, each one-fourth (¼) mile, along road alignment. Drilling test holes at bridge piling sites, one of which will be at least one hundred (100) feet deep. Survey alignment of road with bridge.

IV. SPECIFIC ACTIVITY DESCRIPTION

A. The construction or operation of this project involves: (check all appropriate boxes).

[ ] Commercial development
[ ] Industrial development
[ ] Institution
[ ] Residential development

Above checked development includes:
[ ] Electrical
[ ] Plumbing
[ ] Elevator
[ ] Mechanical equipment in structures
[ ] Boiler
[ ] Pressure vessels
[ ] Pressure piping
[ ] Prefabricated structures

Sewage disposal:
[ ] Septic tank and drainfield installation or alternative disposal system
[ ] Connection to municipal sewer system
[ ] Develop or connection to nonmunicipal sewer system

[ ] Connection to municipal water system
[ ] Develop or connection to nonmunicipal water system
[ ] School water supply
[ ] Surface mining (including rock quarry, material borrow site, sand and gravel, etc.)
[ ] Underground mining
[ ] Dredging
[ ] Oil and gas drilling and exploration
[ ] Geothermal drilling and exploration
[ ] Well injection
[ ] Well construction
[ ] Firewworks
[ ] Marine facility (access, dock, float, etc.)
[ ] Explosives
[ ] Disposal of surplus mineral resources

Food service facilities:
[ ] Restaurant
[ ] Temporary
[ ] Limited service restaurant
[ ] Commissary
[ ] Food vending machine
[ ] Vending machine
[ ] Mobile unit(s)
[ ] Shellfish distributors
[ ] Shucker packers
[ ] Harvesters

[ ] Swimming pool
[ ] Health facility (hospital, inpatient care, nursing home, etc.)
[ ] Home for aged
[ ] Group care home
[ ] Child care agency
[ ] Day care facility
[ ] Post secondary education facility at a new location
[ ] Junkyard
[ ] Alcohol or alcoholic beverages (industrial, manufacture, wholesale, retail)
[ ] Hydraulic structure
[ ] Irrigation, drainage
[ ] Hydroelectric facilities
[ ] Mobile home park
[ ] Airfield construction or modification
[ ] Advertising signs
[ ] Cultural site development
[ ] Pneumatic conveyance facilities
[ ] Liquid petroleum gas
[ ] Flammable and/or combustible liquids
[ ] Shoreline handling devices
[ ] Excavation
[ ] Land leveling
[ ] Stream bed alteration, movement of material within banks
[ ] Flood control project (stream channelization)
[ ] Agriculture
[ ] Aquaculture
[ ] Bulkhead
[ ] Burning
[ ] Dam construction
[ ] Forest management
[ ] Tree cutting
[ ] Right of way clearing
[ ] Gravel operation
[ ] Road construction
[ ] Solid waste disposal
[ ] Utilities
[ ] Port Development
[ ] Propagation of fish or wildlife
[ ] Landfill
[ ] Tourist facilities (hotel, motel, recreational park, organization camp, picnic park, mass gathering)
[X] Other Preliminary geotechnical and survey.

No

B. [X] [ ] All or a portion of the activity will be located within 200 feet of the or... water mark or within the floodplain of _____, XXXXXXXXX
(name of stream or body of water)

XX NENANA RIVER, EAST MIDDLE RIVER, WEST MIDDLE RIVER; a tributary(s)
(name of stream or body of water)
of the Tanana River.

C. Work will be conducted (include anticipated dates work will take place)

[X] [ ] Over Water JANUARY 1, 1981 --- FEBRUARY 15, 1981
(dates)

[X] [ ] In or under water JANUARY 1, 1981 --- FEBRUARY 15, 1981
(dates)

D. [ ] [X] The proposed work will be vented or will release materials into the air. (explain)

_____

_____

_____

E. [ ] [X] Will the construction or use of the final facility result in the discharge of a pollutant? Into:

[ ] Ground water
[ ] Surface water
[ ] Sewer system

Explain (pollutant): _____

F. [ ] [X] Will your proposal include facilities for the disposal of sewage?

[ ] Septic Tank and Drainfield Installation
[ ] Connection to Municipal sewer system
[ ] Develop a Nonmunicipal (individual) treatment facility

G. [ ] [X] Will construction or operations of the final facility involve the use of ground or surface water?

SOURCE	USE
[ ] Ground water	[ ] Domestic Use
[ ] Surface water	[ ] Commercial/Industrial Use
	[ ] Other _____

Quantity of water use: _____ cfs, or _____ gpm.

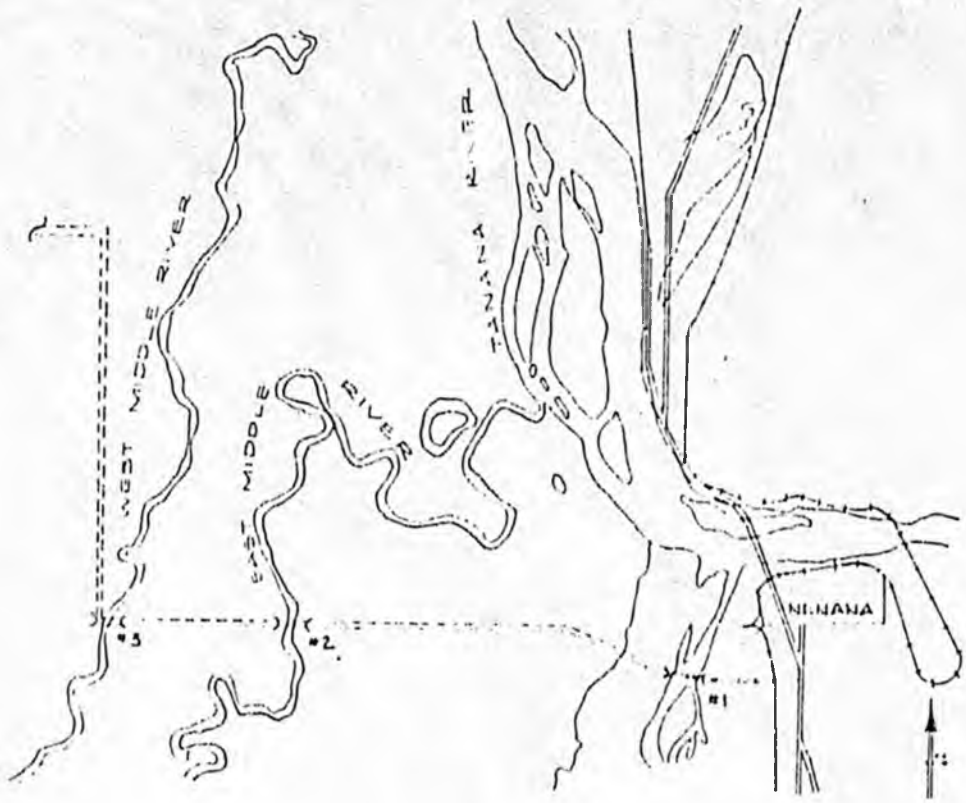
if surface water, name of source: _____,
(stream or body of water)

a tributary of _____.
(name of stream or body of water)

	Yes	No	
H.	[ ]	[X]	Will your proposal include facilities for public water supply? [ ] Connection to Municipal supply system [ ] Develop a Nonmunicipal (individual) supply system
I.	[ ]	[X]	Will your proposal require the construction or modification of a dam for the storage of water? Height of dam: _____ feet. Quantity of water to be stored: _____ acre feet.
J.	[ ]	[X]	Do you plan to dispose of material by burning? [ ] Natural material (organic) [ ] Man-made material (processed)
K.	[ ]	[X]	Do you plan to dump any mill waste or forest debris?
L.	[ ]	[X]	Do you plan to conduct a commercial operation with power driven machinery in dead or down timber?
M.	[ ]	[X]	Do you propose to remove more than 10,000 tons or disturb more than two acres of land in order to remove gravel, clay, coal, stone, sand, metallic ore, or any other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction uses?
N.	[ ]	[X]	Do you plan to conduct any activity on or directly pertaining to forest land and related to growing, harvesting or processing timber including: road and travel construction; timber harvest; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; right-of-way clearing; or brush control?
O.	[ ]	[X]	Do you plan to recover stray logs, other than logs owned by you, from waters of the State?
P.	[ ]	[X]	Does your proposal involve work within, adjacent to, or near a state park?
Q.	[ ]	[X]	Do you have control of the land on which the project is located? Who does? [ ] I own/control the land. [ ] I control the land through a license from a private individual/company. [X] The State owns the land. [ ] Federal land. [X] Locally owned land.

V. PROJECT DIAGRAM

Show the general area involved by the project. Include the proposed project improvements, existing topography, streams or bodies of water, landmarks, property lines, north arrow, scale, etc. (include additional pages if necessary)

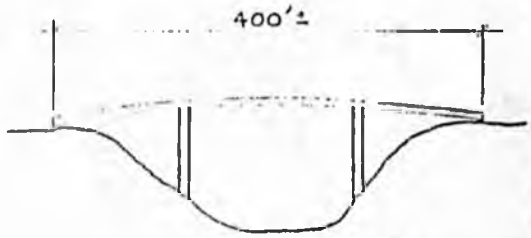


SCALE: 1" = 1 MILE

LOCATION MAP



TYPICAL BRIDGE 2 & 3
N.T.S.



TYPICAL BRIDGE 1
N.T.S

VI. ENVIRONMENTAL IMPACT

	Yes	No	
A.	[ ]	[X]	Have you been asked to complete an "Assessment of Environmental Impact"? (If completed, please attach a copy.)
B.	[ ]	[X]	Has an "Environmental Impact Statement" been requested before you begin your project? (If completed, please attach a copy.)

C. Comments: _____

_____

_____

The information given on this application is complete and accurate to the best of my knowledge and belief.

_____ P.E.
(Applicant's Signature)

11-15-8[illegible]
(date)

APPENDIX III

SECTION 46.35.030-46.35.210 ALASKA STATUTES

Sec. 46.35.030. Master application. (a) A person proposing a project which requires the issuance of one or more permits may submit a master application to the department requesting the issuance of all permits and documents necessary before the construction and operation of the project in the state. The master application shall be on a form established by the department and shall contain sufficient information as to the location and the nature of the project, including discharge of wastes and use of or interference with natural resources of the state.

(b) Upon receipt of a properly completed master application, the department shall immediately forward a copy of the application to all heads of executive departments of the state and the chief elected official of all municipalities in which a portion of the project is proposed to be constructed, together with the date by which the agency shall respond to the master application.

(c) Each agency notified shall respond in writing to the department by the specified date, not exceeding 15 days from receipt, as determined by the department, advising

(1) whether the agency has an interest in the master application;

(2) if the response to (1) of this subsection is affirmative, the permit program under the agency's jurisdiction to which the project described in the master application is pertinent; and

(3) whether, in relation to the master application, a public hearing as provided in §§ 50 and 60 of this chapter would be in the public interest.

(d) Each notified agency which (1) responds within the specified date that it does not have an interest in the master application; or (2) does not respond as required within the specified date may not subsequently require a permit of the applicant for the project described in the master application unless the master application contained false, misleading, or deceptive information, or other information or lack of information which would reasonably lead an agency to misjudge its interest in the master application.

(e) The department shall submit application forms relating to permit programs identified in affirmative responses under (c) of this section to the applicant with a direction to complete and return them to the department within a reasonable time as specified by the department.

(f) When the applications, properly completed, have been returned to the department, each of the applications shall be transmitted to the appropriate state agency for the performance of its responsibilities of decision making in accordance with the procedures of this chapter. (§ 1 ch 60 SLA 1977)

Sec. 46.35.040. Withholding final permit. When it appears that the applicant does not own or control the land or water necessary for the siting of the project in the master application, the department shall continue the proceedings under this chapter but may withhold the final permit until the applicant has obtained ownership or control of the land or water necessary for the site of the project. If the applicant has applied

for land or water necessary for the siting of the project from the state or a municipality of the state, the state agency or municipality shall promptly adjudicate the application for the land or water filed by applicant. (§ 1 ch 60 SLA 1977)

Sec. 46.35.050. Notice of proposed project. (a) The department, within 30 days after transmittal under § 30(f) of this chapter, shall cause a notice to be published at the applicant's expense once each week for three consecutive weeks in a newspaper of general circulation within each municipality in which the project is proposed to be constructed or operated. The notice shall describe the nature of the master application, including, with reasonable specificity, the project proposed, its location, the various permits or documents applied for, and the state agency having jurisdiction over each permit or document. Except as provided in (c) of this section, the notice shall also state the time and place of the public hearing which shall be scheduled not less than 20 or more than 30 days after the date of last publication of the notice. It shall further state that a copy of the master application and a copy of all applications for the project are available for public inspection in the regional office of the department nearest to where the project is proposed to be constructed or operated, as well as at the department office in the capital and any other locations the department may designate in the notice.

(b) If no part of the project is to be constructed or operated in a municipality, or if there is no regularly published newspaper of frequency at least weekly, the public notice shall be published in a newspaper in the judicial district in which the project is proposed.

(c) If the responses received by the department from state agencies under § 30(f) of this chapter unanimously state the position that a public hearing concerning a master application is not necessary in the public interest, and the department, after a careful evaluation, taking into consideration all interests involved, including the opportunity for members of the public to present views, agrees, the provisions of (a) of this section pertaining to the time and place of a public hearing shall not be included in the notice. In that case the notice shall state that members of the public may present their views and supporting materials in writing to the department regarding any of the permits applied for within 30 days after the last date of publication of the notice in a newspaper. (§ 1 ch 60 SLA 1977)

Revisor's note (1977). — AS 46.35.050(a), as it appeared in § 1, ch. 60, SLA 1977 (HCS CSSB 227), contained reference to "(b) of this section." This citation originally appeared in SB 227; however, the subsection (b) referred to in that version became (c) of the final version of the bill as enacted. Consequently, the reference in (a) has been corrected to read "(c) of this section."

Sec. 46.35.060. Public hearing. (a) Except as provided in § 50(c) of this chapter, before a final decision is made on a permit application relating to a project subject to the procedures of this chapter, a public

hearing shall be held in or near the municipality in which all or a major part of the proposed project is to be constructed or operated, or, if the project is not to be constructed or operated in a municipality, the hearing shall be held at a location reasonably convenient to the site of the proposed project. The hearing shall be held in accordance with the notice given under § 50(a) of this chapter. At the hearing the applicant may submit any relevant information and material in support of his applications, and members of the public may present relevant views and supporting materials relating to any or all of the applications being considered.

(b) Each state agency having an application for a permit before it under § 50(a) of this chapter shall be represented at the public hearing by its commissioner or his designee. The commissioner of the department, his designee, or a hearing officer appointed by the governor, shall chair the hearing; however, the representative of any state agency other than the department within whose jurisdiction a specific application lies shall conduct the portion of the hearing pertaining to submission of information, views, and supporting materials which concern that application. The chairman may continue a hearing from time to time and place to place.

(c) No provisions of AS 44.62 apply to the hearing conducted under this section, and the hearing shall be conducted for the purpose of obtaining information for the assistance of state agencies and not as a trial or adversary proceeding.

(d) Federal and local government agencies may be represented at the hearings, at their option, by their chief executive officer or his designee.

(e) The hearing shall be electronically recorded, and copies of the recording shall be made available to state, federal and local agencies upon request. (§ 1 ch 60 SLA 1977)

Cross reference. — See revisor's note to AS 46.35.050.

Sec. 46.35.070. Final decision. (a) Upon completion of the public hearing the chairman, after consultation with the state agency representatives, shall establish the date by which all state agencies shall forward their final decisions on applications before them to the department. The date established shall be within the following 90-day period after the public hearing.

(b) In a situation where a notice is provided under § 50(c) of this chapter, the department shall, 30 days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency as described in the notice as having an application before it. At the same time, the department shall notify each state agency, in writing, of the date by which final decisions on applications shall be forwarded to the department. That date shall be

no later than 90 days after the date of last publication of the notice, but may be extended by the department for reasonable cause.

(c) Each final decision shall state the basis for the conclusion together with a final order denying the application for a permit or granting it, subject to a condition of approval as the deciding agency may have the power to impose. An agency which denies an application shall, with its final decision denying the application, provide a written summary suggesting alternate means of completing the project, or, if no alternative is feasible, the agency shall provide a written summary of its reasons for that conclusion.

(d) As soon as all final decisions are received by the department under (b) and (c) of this section, the department shall incorporate them, without modification, into one document and transmit it to the applicant either personally or by registered mail.

(e) Each state agency having jurisdiction to approve or deny an application for a permit shall have the power vested in it before October 1, 1977 to make such determinations. Nothing in §§ 30 — 70 of this chapter lessens or reduces these powers, and §§ 30 — 70 of this chapter modify only the procedures to be followed in the carrying out of the powers.

(f) A state agency, in the performance of its responsibilities of decision making under this chapter, may request or receive additional information from an applicant and others before or after the public hearing. (§ 1 ch 60 SLA 1977)

Cross reference. — See revisor's note to AS 46.35.050.

Sec. 46.35.080. Withdrawal of agency from participation. (a) A state agency responding affirmatively under § 30(b) of this chapter may withdraw from participation in the processing provided in §§ 30 — 70 of this chapter at any time, by written notification to the department, if it subsequently appears to the state agency that it has no permit programs under its jurisdiction applicable to the project.

(b) A decision by a state agency to withdraw from the proceeding is irreversible, and the state agency may not subsequently require a permit of the applicant for the project described in the master application unless the master application contained false, misleading, or deceptive information, or other information or lack of information which would reasonably lead an agency to misjudge its interest in the master application. (§ 1 ch 60 SLA 1977)

Sec. 46.35.090. Administrative and judicial review. (a) A person aggrieved by a final decision issued under § 70(d) of this chapter may file a notice of appeal with the commissioner requesting an adjudicatory hearing within 30 days of transmittal of the final decision to the person. A failure to file a timely notice of appeal constitutes a waiver of the

person's right to review the final decision, unless the failure was due to circumstances beyond the applicant's control.

(b) The commissioner shall grant a request for an adjudicatory hearing within 20 days of filing of the notice of appeal if he determines that the notice raises a reasonable issue of fact or law material to the final decision.

(c) A hearing officer appointed under AS 44.62.350 shall preside at hearings under this section, rule on the admission and exclusion of evidence, advise the deciding officers on matters of law, and participate in posthearing deliberations.

(d) Appeals shall be heard jointly by the commissioner, or his designee, of each agency which rendered a final decision under § 70 of this chapter for which the person requesting the hearing is aggrieved. The commissioner, or his designee, of each agency shall decide only that portion of the appeal which involves his agency.

(e) The commissioner, after consultation with other state agencies and local governments, shall adopt regulations governing the conduct of adjudicatory hearings under this section. The commissioner may enter into cooperative agreements with local governments and federal agencies for the joint holding of adjudicatory hearings. To the extent feasible, regulations adopted under this section shall conform to adjudicatory hearing procedures for the review of permit decisions under AS 30.25 and AS 46.03. Notwithstanding AS 44.62.330(a)(11), adjudicatory hearing procedures to review permit decisions under this chapter, or under AS 30.25 or AS 46.03, need not conform to the Administrative Procedure Act (AS 44.62.330 et seq).

(f) A person aggrieved by a final decision of the commissioner under this section may appeal the decision to the superior court in the manner provided by AS 44.62.560 — 44.62.570. (§ 1 ch 60 SLA 1977)

Sec. 46.35.100. Time. It is the sense of the legislature that time is of the essence in the processing of applications under this chapter. Whenever a section in this chapter states a time within which an act or a review is to be completed, the legislature has determined that the time allotted is adequate for a responsive state agency or municipality to complete the act or review. If unusual conditions prevent this from happening, it is the sense of the legislature that minimum extensions of the period established in this chapter may be granted upon a determination that the delay occurred beyond the control of the reviewing agency or municipality. (§ 1 ch 60 SLA 1977)

Sec. 46.35.110. Application. Notwithstanding any other provisions of regulation or statute relating to the processing of application for permits, the procedures set out in this chapter are exclusive for applications filed under § 30 of this chapter. The procedures of this chapter are in lieu of any procedures otherwise provided by law or

regulations, and are to be followed by a state agency in ruling upon those applications. (§ 1 ch 60 SLA 1977)

Sec. 46.35.120. Fee schedules. Fee schedules previously established or authorized by law for an application for a permit continue to apply. The department shall collect the fees and forward them to the appropriate state agency. (§ 1 ch 60 SLA 1977)

Sec. 46.35.130. Compliance with local zoning ordinances and plans. (a) No permit for a project filed under § 30 of this chapter may be issued unless the application has provided a certification from the appropriate local government that the project is in compliance with the zoning ordinances and associated comprehensive plans administered by the local government regarding the project. If the local government has no such ordinances or plans, the local government shall certify that fact. A local government may accept applications for certification under this section and shall rule upon them within 30 days. A local government may impose stipulations of performance in its approval, but, upon certification, the local government may not change the zoning ordinances as to the proposed project until the procedures of this chapter, including an appeal, are completed.

(b) Approval of an application for certification as provided in this section shall not eliminate any requirements of ordinances administered by a local government. A ruling by local government denying an application for certification is not appealable under this chapter, except that the denial of an application for certification under (a) of this section does not preclude the applicant from filing an application under a different statute or procedure. (§ 1 ch 60 SLA 1977)

Sec. 46.35.140. Applicability of other laws. Nothing in this chapter modifies in any manner the applicability of a land use law or regulation or local zoning ordinances to land of a state agency. (§ 1 ch 60 SLA 1977)

Sec. 46.35.150. Regulations and authorities. The department may adopt regulations to implement the provisions of this chapter. (§ 1 ch 60 SLA 1977)

Sec. 46.35.160. Permit requirement information centers. (a) The department shall establish permit requirement information centers at the commissioner's office and in all of its regional offices and may enter into an agreement with the governing body of any municipality having a population of more than 1,000 persons to establish and maintain local information centers to provide information to the public, in readily understandable form, regarding the requirements of federal, state, and local governments for permits which must be acquired before initiating projects in this state and to provide assistance in the completion of permit applications.

(b) Each regional office of the department and other offices as the department may establish shall provide a master application to any

person requesting it. The department shall provide informa rms, instructions, and assistance in the completion of a master application under this chapter to a person requesting assistance. (§ 1 ch 60 SLA 1977)

Sec. 46.35.170. Conflicts and compliance with federal requirements. (a) If any part of this chapter is found in conflict with federal requirements regarding the allocation of federal funds to the state, that part of this chapter is inoperative to the extent of the conflict regarding the agencies affected, and the determination shall not affect the operation of the remainder of this chapter.

(b) The department, to the extent necessary to comply with procedural requirements of federal law relating to permit systems operated by the state, may modify the notice, timing, hearing and related procedural matters provided in this chapter. (§ 1 ch 60 SLA 1977)

Sec. 46.35.200. Definitions. In this chapter

(1) "commissioner" means the commissioner of environmental conservation;

(2) "department" means the Department of Environmental Conservation;

(3) "local government" means a city or borough including a municipality unified under AS 29.68.240 — 29.68.110;

(4) "permit" means each of the following licenses, permits or authorizations required to be obtained from a state agency before constructing or operating a project in the state, or any other license, permit or authorization which may be designated by the commissioner:

(A) waste water disposal permit — AS 46.03.100, 18 AAC 72;

(B) solid waste disposal permit — AS 46.03.100, 18 AAC 60;

(C) air emissions permit — AS 46.03.150, 18 AAC 50.120;

(D) pesticides permit — AS 46.03.320, 18 AAC 90;

(E) surface oiling permit — AS 46.03.740, 18 AAC 75;

(F) open burning permit — AS 46.03.020, 18 AAC 50.120;

(G) anadromous fish protection permit — AS 16.05.870, 5 AAC 95.100;

(H) critical habitat area permit — AS 16.20.250 — 16.20.260;

(I) state game refuge land permit — AS 16.20.050 — 16.20.060;

(J) encroachment permit — AS 19.25.200;

(K) utility permit — AS 19.25.010;

(L) driveway permit — AS 19.05.020, 17 AAC 10.020;

(M) state park incompatible use permit — AS 41.20.020, 11 AAC 18.010;

(N) access roads permit — AS 41.20.020, 11 AAC 18.020;

(O) water well permit — AS 31.05.030, 11 AAC 22.140;

(P) brine or other salt water waste disposal permit — AS 31.05.070 [AS 31.05.030], 11 AAC 22.250;

(Q) coal development permit — AS 27.20.010, 11 AAC 46.010;

(R) right-of-way and easement permits — AS 38.05.330, 11 AAC 58.200;

(S) special land use permit — AS 38.05.035, 11 AAC 58.210;

(T) tidelands permit — AS 38.05.320, 11 AAC 62.710;

(U) tidelands right-of-way or easement permit — AS 38.05.320, 11 AAC 62.810;

(V) limited personal use permit — AS 38.05.320, 11 AAC 62.820;

(W) permit to appropriate water — AS 46.15.040, 11 AAC 72.050;

(X) dam construction permit — AS 46.15.040, 11 AAC 72.060;

(Y) preferred use permit — AS 46.15.040, 11 AAC 72.160;

(Z) permit for use of timber or materials — AS 38.05.110, 11 AAC 76.185;

(AA) authorization for tidelands transportation — AS 38.05.110, 11 AAC 76.205;

(BB) special material use permit — AS 38.05.115, 11 AAC 75.510;

(CC) mineral and geothermal prospecting permits — AS 38.05.[illegible];

(DD) tide and submerged lands prospecting permit — AS 38.05.250;

(EE) surface use permit — AS 38.05.255, 11 AAC 86.600;

(FF) burning permit during fire season — AS 41.15.050, 11 AAC 92.010;

(GG) miscellaneous state land use permit — AS 38.05.035, 11 AAC 96.010;

(HH) right-of-way permit — AS 38.05.330;

(5) "person" means an individual, municipal, public, or private corporation, or other entity, and includes a state agency and a local government;

(6) "processing" and "processing of applications" means the entire process followed in relation to the making of decisions on an application for a permit and review of it as provided in §§ 30 — 80 of this chapter;

(7) "project" means any new activity or expansion of or addition to an existing activity, fixed in location, for which permits are required before construction or operation;

(8) "state agency" means a state department, commission, board or other agency of the state; for the purposes of this chapter "state agency" also means a local or regional air pollution control authority established under AS 46.03.210. (§ 1 ch 60 SLA 1977)

Sec. 46.35.210. Short title. This Act may be cited as the Environmental Procedures Coordination Act. (§ 1 ch 60 SLA 1977)

Chapter 40. The Alaska Coastal Management Program.

Article

1. Development of Alaska Coastal Management Program (§§ 46.40.010 — 46.40.090)
2. Coastal Management Programs in the Unorganized Borough (§§ 46.40.110 — 46.40.180)
3. General Provisions (§§ 46.40.190 — 46.40.210)

APPENDIX IV

DATA REQUIRED TO DETERMINE NAVIGABILITY OF A WATERWAY, CORRESPONDENCE RELATING TO U.S. COAST GUARD CLASSIFICATION OF EAST AND WEST MIDDLE RIVERS

DATA REQUIRED TO DETERMINE NAVIGABILITY OF A WATERWAY

1. Name

2. Tributary to

3. Physical characteristics

   (a) Type of waterway (river, bay, slough, estuary)
   (b) Length
   (c) Width
   (d) Depth at Mean High Water
   (e) Drainage area
   (f) Discharge volumes (maximum, minimum, mean)
   (g) Cross-section or profile at proposed crossing
   (h) Fall per mile
   (i) Velocity of flow (maximum, minimum)
   (j) Elevation of water surface at:
       Design High Water (~~25 or 50~~ 100 year flood)
       Mean High Water (mean annual flood)
       Mean Low Water (average low observed during navigation season)
   (k) Extent of tidal influence

4. Past or present use of the waterway by boats, vessels, barges, rafts, canoes, etc.

5. Past or present use of the waterway for interstate commerce

   (a) General types, extent and period of time
   (b) Documentation, if necessary

6. Nature and location of significant obstruction to navigation

7. Length of time the waterway is open for navigation:

   (a) Time of spring break-up
   (b) Time of fall freeze-up

8. Description of any known proposed or completed projects to improve the condition of the waterway for navigation.

9. Pictures of the waterway in the vicinity of the proposed crossing at periods of high and low flow.

10. Pictures of any obstructions to navigation.

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Address reply to:
COMMANDER (oan)
Seventeenth Coast Guard District
P.O. Box 3-5000
Juneau, Alaska 99802
(907) 586-7368

16590
26 NOV 1980

Alaska Transportation Consultants
Attn: Mr. Edward Peebles
212C Wedgewood Manor
Fairbanks, AK 99701

12/3/80

Dear Mr. Peebles

Thank you for your letter of 18 November 1980, with information on the East Middle River and West Middle River.

A further review of the information available shows that both the East Middle River and West Middle River are distributaries of the Nenana River, rather than independent streams. As such, they are also in the category of "Advanced Approval", and no bridge permits are required for these two waterways.

Sincerely,

W. M. MONCRIEF Jr.
Commander, U.S. Coast Guard
Chief, Aids to Navigation Branch
By direction of the District Commander



FUNDING REQUEST: NENANA RIVER BRIDGE

CITY OF NENANA, ALASKA
RESOURCE DEVELOPMENT PROJECT

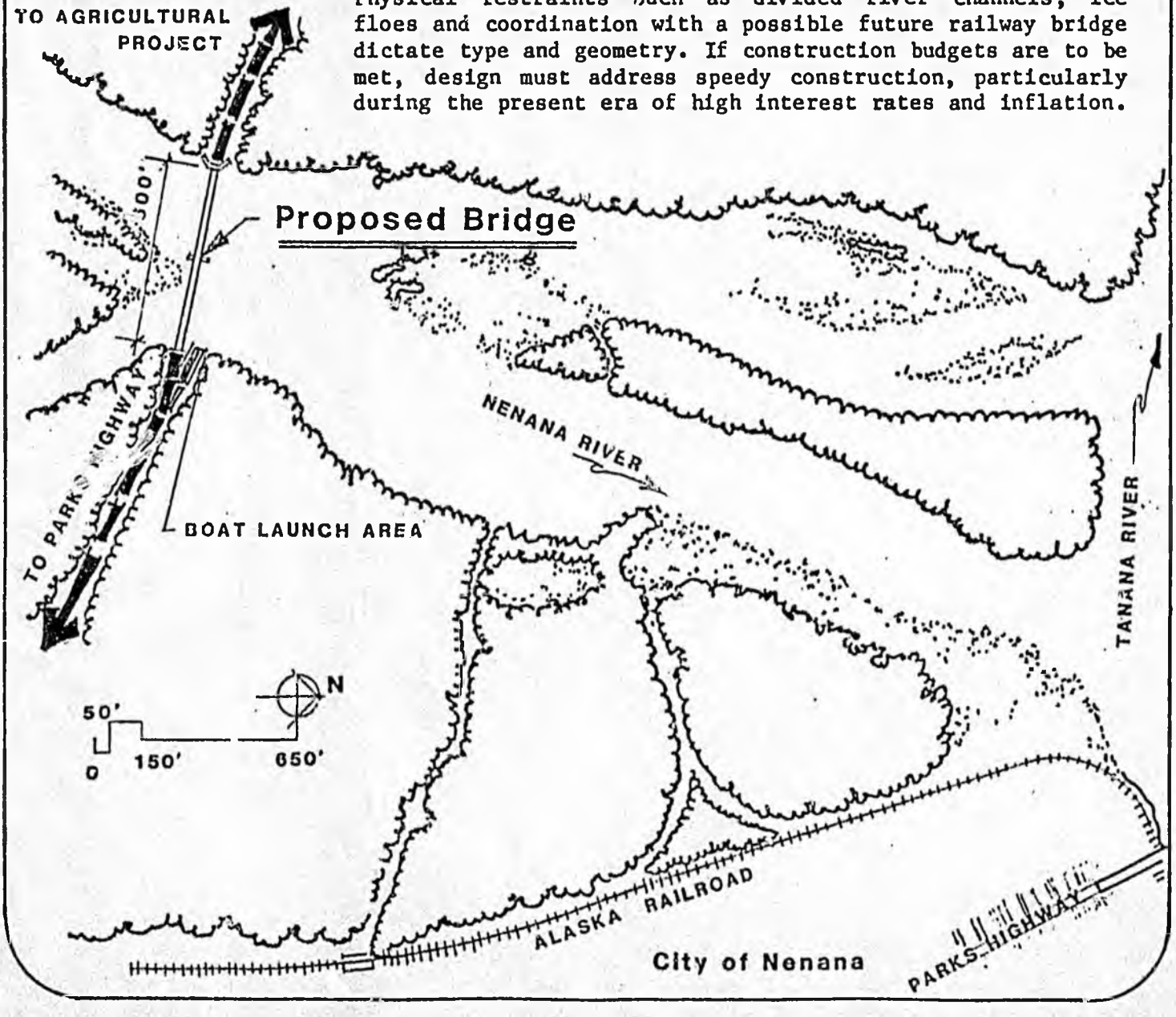
Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants

Funding Request: Nenana River Bridge Crossing

CITY OF NENANA RESOURCE DEVELOPMENT PROJECT

INTRODUCTION

Present access to Nenana Agricultural Development is limited by a bridge crossing required over the Nenana River near Nenana. The Nenana River is over 500 ft. wide at its narrowest point, posing a significant obstacle requiring a coordinated effort to economically bridge. It is at this point that the proposed bridge is to be located. Physical restraints such as divided river channels, ice floes and coordination with a possible future railway bridge dictate type and geometry. If construction budgets are to be met, design must address speedy construction, particularly during the present era of high interest rates and inflation.

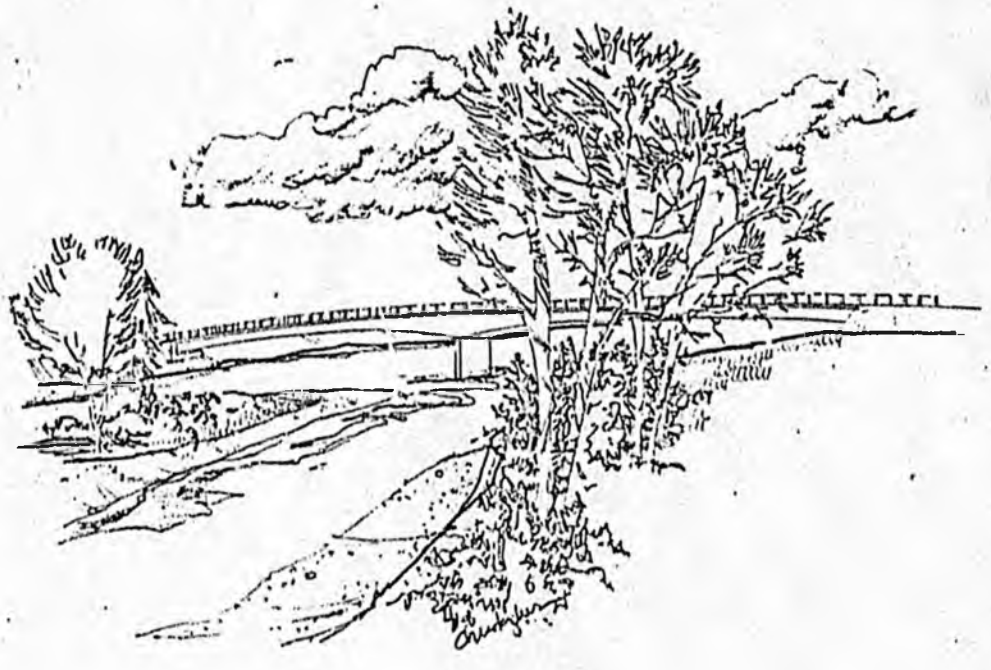


In order to achieve this goal a bridge type was chosen that allows the piers and abutments to be located out of the main river channels. Substructure design also allows the use of readily available materials which will further expedite the project and allow early construction during the winter when river flow is low and over ice access to piers and abutments is more convenient.

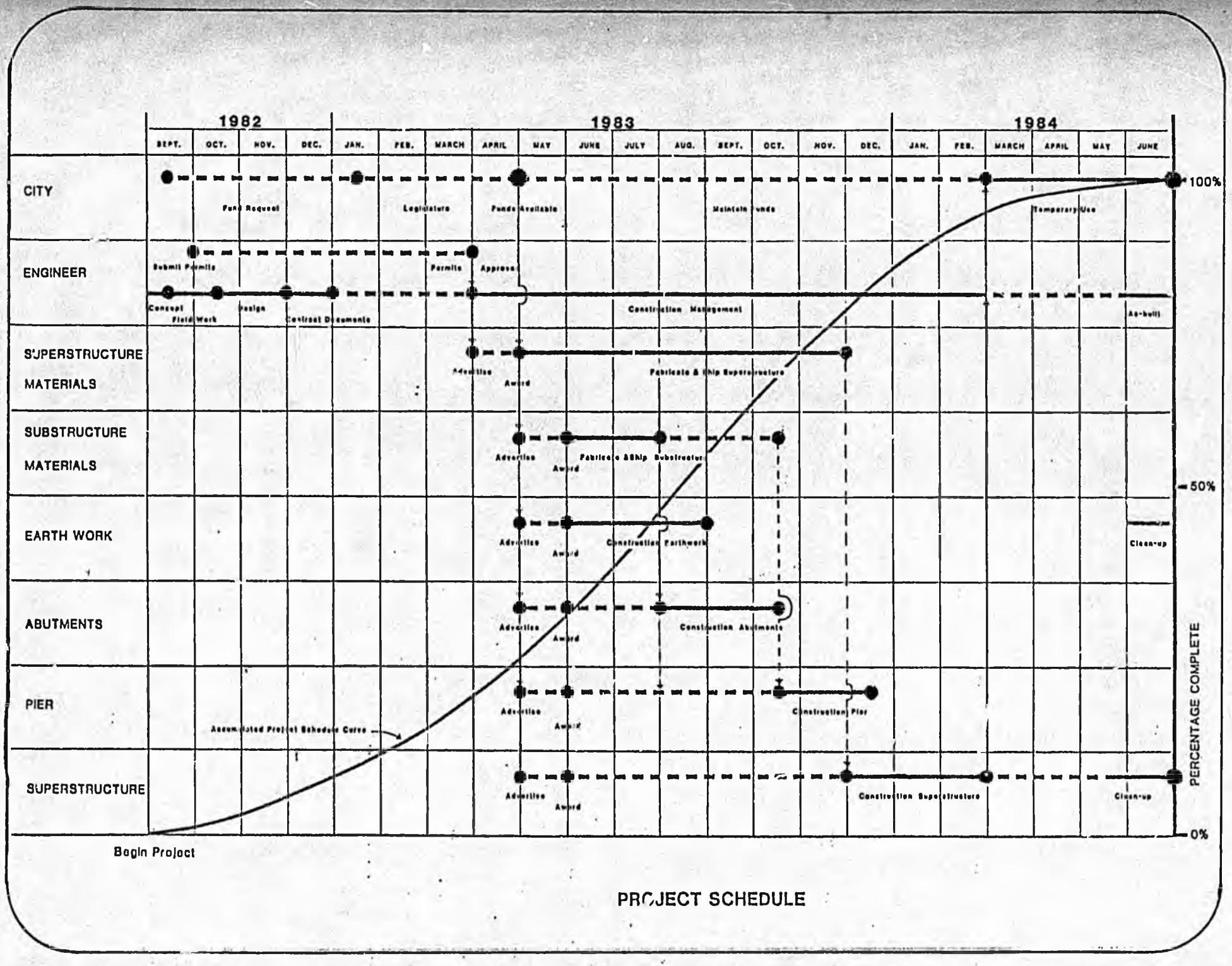
The more expensive superstructure steel must be erected before spring breakup as shown on the construction schedule. If this deadline is to be met and construction costs minimized, the superstructure steel must be ordered as soon as possible.

ECONOMICS AND TIMING

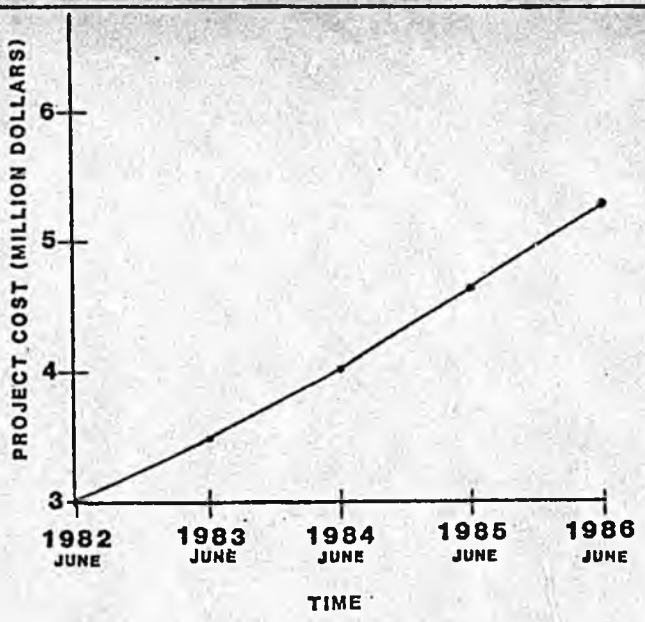
Once started, construction should be completed quickly so that capital outlay time is minimized. This can only be done by using a suitable design and providing the contractor with a proper schedule such as illustrated. A chart has been included to point out the devastating effect of time on a budget, assuming present inflation rates. As indicated, the estimated mid-1982 cost of $3,200,000 for this project can rapidly reach much higher values with time. In view of this, it would be desirable if funds could be made available by April 1983. With construction starting at this time a budget of $3,800,000 is required assuming construction will be completed by mid-1984.



Proposed Nenana River Bridge



PROJECT SCHEDULE



PROJECTED PROJECT COST ESCALATION

COST ESTIMATE

The following cost estimate is for a two span continuous steel box girder bridge with a precast concrete deck for a 30-foot roadway. Substructure units have been minimized as discussed previously. Steel would be unpainted ASTM A588 to eliminate future maintenance. A heavy concrete deck will eliminate a present highway bridge problem whereby weak deck components limit heavy overloads common to developing areas.

ITEM	ESTIMATED COST
Superstructure	$1,400,000
Substructure	500,000
Approach and Riprap	600,000
Contingencies	300,000
Construction Engineering	200,000
Administration	200,000
Mid-1982 COST (If constructed this year)	$3,200,000
Recommended Mid-1984 Completion Project Budget*	$3,800,000

* Assumes administration of construction project by the City of Nenana under Transfer of Responsibilities Agreement "TORA" with DOT/PF and a 20% per year inflation factor.

Introduced: 1/18/83
Referred: Transportation and Finance

Funding Information	
General Fund	$18,500,000
Other Funds	-0-
	$18,500,000

IN THE HOUSE BY SHULTZ

HOUSE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for various construction projects; and providing for an effective date."

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

* Section 1. The sum of $17,100,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the following construction projects in the Totchaket resource area:

Nenana River bridge	$ 3,800,000
bridges across the Little Nenana River	1,900,000
22.8 miles of roadway	10,100,000
triple phase electrical power	1,300,000

Strike from Bill

* Sec. 2. The sum of $1,400,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for construction of a fire fighting center near Nenana to serve the Interior Region of the state.

* Sec. 3. The appropriations made by this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 4. This Act takes effect July 1, 1983.

HB

74

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB74
Title An Act...Nenana for Construction of Dock & Waterfront Facilities
Requested by House State Affairs Committee Date Feb. 3, 1983

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Municipal Grants
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		$2500.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		$2500.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This special appropriation is a grant to the city of Nenana under A.S. 37.05.315.

IV. DATE Feb. 9, 1983 PREPARED BY Kenneth E. Kvale
AGENCY Administration
PHONE 465-2277

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

38-001 (Rev. 12/82)

PORT OF NENANA
PROPOSED BULKHEAD EXPANSION
Estimate and Recommended Budget

Sheetpiles Supply	
2,275,000# @ $.40 =	$ 900,000
Sheetpile Fabrication	
45 "Y" connections @ 2,100# = 143,850# @ $0.60 =	86,300
47 "T" connections @ 1,050#	
Sheetpile Erection	
2,635 LF @ $200 =	527,000
Bull Rail Supply	
1,100 ft. @ 85# = 94,000# $1.00 =	94,000
Bull Rail Erection	
94,000# @ $0.50 =	47,000
Fill	
60,000 CY @ $6 =	360,000
Riprap	
500 CY @ $30 =	15,000
Mobilization and Demobilization =	100,000
	$2,129,300
Construction contingency	150,000
Surveys, soils and permit preparation	20,000
Administration and construction engineering	100,000
Design engineering	100,000
Total Estimated 1983 Project Cost	$2,499,300

Recommended Project Budget = $2.5 Million

332-5441
Incorporated November 17, 1921

City of Nenana

State of Alaska

January 18, 1983

Mark Lewis, Commissioner
Department of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811

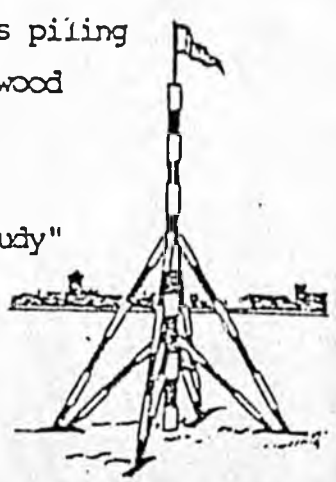
Ref: Correspondence of January 13, 1983

Dear Mr. Lewis,

For the past several years, the City of Nenana has been promoting the development of two major projects which have an impact on the economic development of a large portion of the State. These projects are:

1) Rehabilitation of the dock facilities at Nenana that provide service to the river freight transportation system for the Yukon River and its tributaries. Design and permitting for these improvements was performed in 1981 and 1982. The project was funded during the second session of the 12th Legislature, as part of the "bond bill" which Governor Hammond eventually vetoed.

Reconstruction of the dock is vitally important-especially the replacement of that wood piling installed by the Alaska Railroad circa 1937. this piling is rotted and falling in the river. The City plans on replacing the wood piling with 1,000 l.f. of steel sheetpile bulkhead.



Attached is a copy of the "Port of Nenana-Bulkhead Expansion Study" done by Peratrovich and Nottingham in 1981. A project budget of $2.5 million is recommended.

RESOLUTION C 82-2

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NENANA OR HIS DESIGNATED REPRESENTATIVE TO PURSUE FUNDING REQUESTS AND ENTER INTO AGREEMENTS WITH THE STATE OF ALASKA FOR PURPOSES OF ACCOMPLISHING THE FOLLOWING CAPITAL IMPROVEMENT PROJECTS;

ON A STATEWIDE BASIS:

1. REHABILITATION OF THE TANANA RIVER DOCK AND WATER FRONT FACILITIES AT NENANA THAT PROVIDE SERVICES FOR DELIVERY OF FREIGHT TO ALL VILLAGES ALONG THE YUKON RIVER — 2.5 MILLION

2. DEVELOPMENT OF THE TOTCHAKET RESOURCE AREA, INCLUDING AGRICULTURE, MINERALS, AND TIMBER
   a. NENANA RIVER BRIDGE — 3.8 MILLION
   b. BRIDGES ACROSS LITTLE NENANA RIVER, EAST AND WEST MIDDLE RIVERS — 1.9 MILLION
   c. 22.8 MILES OF ROADWAY — 10.1 MILLION
   d. THREE PHASE ELECTRICAL POWER — 1.3 MILLION

3. CONSTRUCTION OF THE INTERIOR STATE FIRE FIGHTING CENTER — 1.4 MILLION

Adopted by the Municipal Assembly of the City of Nenana, Alaska on this 11th day of November, 1982, by a vote of 5 for and 0 against.

By: _____
John B. Coghill, Mayor
City of Nenana

Introduced: Nov. 11, 1982

Adopted: Nov. 11, 1982

Attested: _____

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants
1506 West 36th Avenue • Suite 101 • Anchorage, Alaska 99503 • 907-277-8633

January 20, 1983 PN&D 81059

Mr. Steve Bainbridge, City Engineer
City of Nenana
P.O. Box 177
Nenana, Alaska 99760

Re: Port of Nenana Bulkhead Expansion

Dear Mr. Bainbridge:

In accordance with your request, we have updated the 1981 preliminary study for the above referenced project. Included in this report are our initial findings and an updated projected budget.

Parts of the original study included a site visit to Nenana, contact with the USGS in Fairbanks regarding river parameters, inspection of Alaska Railroad-owned salvaged sheetpile material in Anchorage, and research of Alaska Railroad files and documents. The cost for the salvaged Railroad-owned sheet piling is no longer competitive.

From this effort, we concluded the following:

1. A 1,000-foot bulkhead extension, as shown on the attached drawing is possible.

2. This extension, properly placed, would create a longer usable dock and avoid riverbed deposition.

3. About 2.5 acres of additional improved marine use uplands would be created, and at least 800 linear feet of usable dock frontage would result.

4. Flood elevations are not expected to be significantly impacted, although this needs to be accurately established through more engineering work.

5. Suitable fill and riprap material is available near Nenana.

6. Riverbed materials are suitable for the type of construction envisioned.

As we noted before, due to an apparent constriction and the potential to raise flood levels, the Corps of Engineers will probably require an accurate analysis to show that flood levels will not increase significantly (usually less than one foot).

We hope this report addresses your needs; and should you have any questions, please contact us at any time.

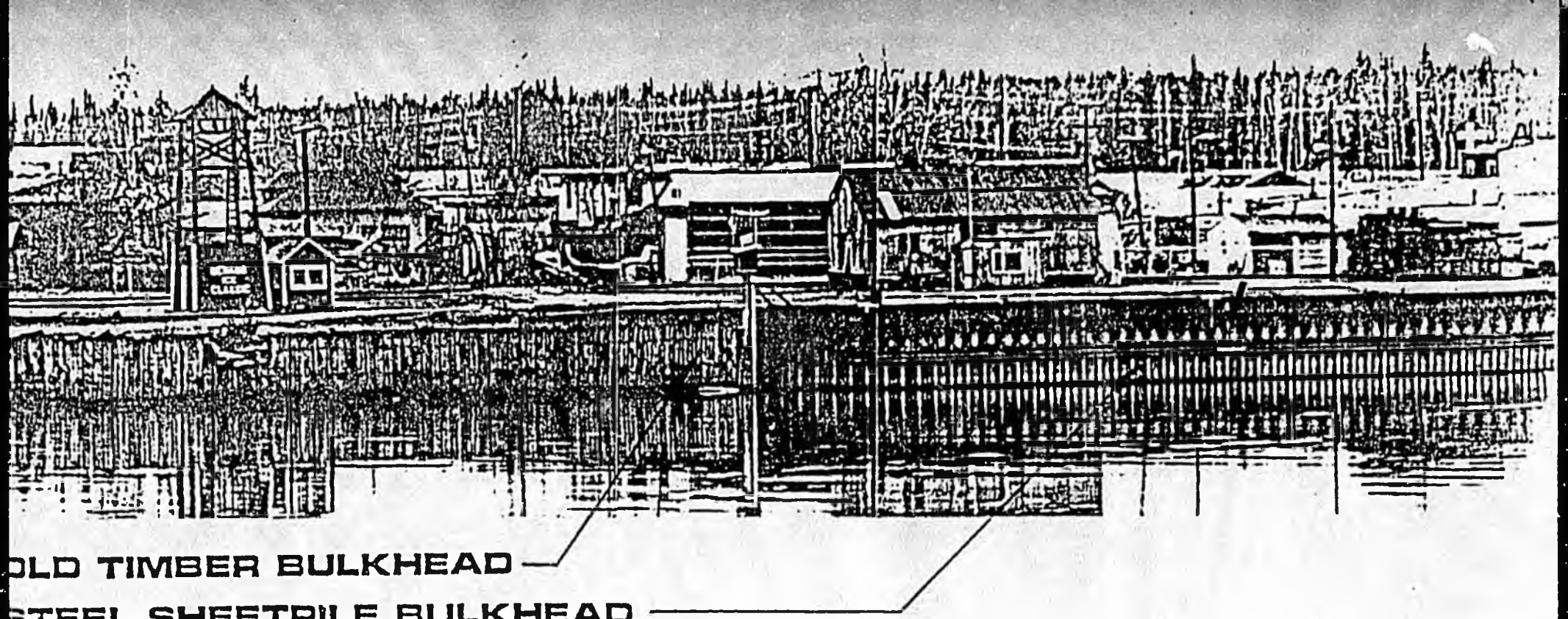
Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.

Roy Peratrovich, Jr., P.E.
Vice President

RP/bm/L2-81080

Enclosures



TYPICAL EXISTING BULKHEAD
PORT OF NENANA

((9)'

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/11/83

Date: 2-17-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 74

An Act making a special appropriation to the City of Nenana for rehabilitation of the Tanana River dock and waterfront facilities; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

Nenana City Port Authority

P.O. Box 177
Nenana, Alaska 99760
(907) 832-5564

NENANA CITY PORT DEVELOPMENT-August 1980 thru February 1982

In July of 1980, the Division of Transportation-Federal Railroad Administration (DOT-FRA) finalized their decision to have the Alaska Railroad (ARR) dispose of their fleet of vessels that provides barge transportation on the Tanana and Yukon Rivers. Department of Transportation indicated that the Alaska Railroad should begin immediately, working thru the General Services Administration (GSA), to consummate the sale and disposal of all government property related to the Yukon-Tanana barge operation.

The City had to intercede quickly to alter the proposed surplusing and GSA sale of the barge and tug fleet. Most any group engaged in "year-round" freight shipping activities could afford to pay a much greater price than a company that would be restricted to recovering their investment with a barge operation that functioned only four months a year-so there was a very real threat that the Railroad's tug and barge fleet could easily be purchased by an outside group if put on the open-bid market.

On the 30th of August, 1980, the City Council of Nenana unanimously approved Resolution 80-10, authorizing the Mayor of Nenana, or his designated representative, to negotiate the purchase and transfer of all the floating stock, related equipment and adjoining lands from the Alaska Railroad to the City of Nenana. A copy of this authorization was delivered to the Alaska Railroad to initiate a proposal for a negotiated sale from the Alaska Railroad to the City of Nenana.

To arrive at a fair market value of the property involved, appraisals of this property were completed. Having arrived at a price for the transaction, a "Letter of Intent to Purchase" between the City of Nenana and the Alaska Railroad was taken to the Alaska Municipal Bond Bank, where a sequence of events was arrived at which would provide for the securing of 2.5 million dollars financed by primary source (general obligation) bonds. Revenue bonds had been considered, but with the prevailing high interest rates. revenue issues were expected to approximate the 30 Utility Index (10.84%), while general obligation bond interest rates would approximate the 20 Bond Index (9.90%). A one percent interest differential applied to 2.5 million dollars could mean the difference between an economically feasible project and one that wouldn't show a positive cash flow.

So structured, the City of Nenana began the proceedures necessary to obtain local voter approval of the issuance of 2.5 million dollars in general obligation bonds. The ordinance authorizing this issuance of general obligation bonds was introduced on January 23, 1981. A public Hearing and adoption of the ordinance was held on February 2, 1981, and on February 24, 1981, the voters approved the bond issuance.

The actual sale of the barges and tug owned by the Alaska Railroad was finalized on June 11, 1981. This transaction included a comprehensive lease of real property owned by the Alaska Railroad, and situated within the City limits of Nenana, that was considered to be vital to the operation of the port facilities.

This included:

197.3 Acres of land within U.S.S. 1138;
27.0 Acres of improved land adjacent to the marine ways;
8.03 Acres of land comprising the main dock area;
1,500 l.f. of steel sheet piling; and
10 smaller parcels of property consisting of approximately 6.42 acres of land.

TOTAL ACREAGE: 238.75 ACRES

With the sale and lease transactions in place, the City of Nenana formed a Port Authority which was charged with administering a charter of the vessels and leases of individual parcels of property, along with establishing a franchise for the operation of the dock facilities. During the 1981 shipping season, river freight service was provided to those communities located along the Yukon River and its tributaries without interuption - This was the main intent behind the City of Nenana's efforts to keep the existing Alaska Railroad river transportation infrastructure in place at Nenana.

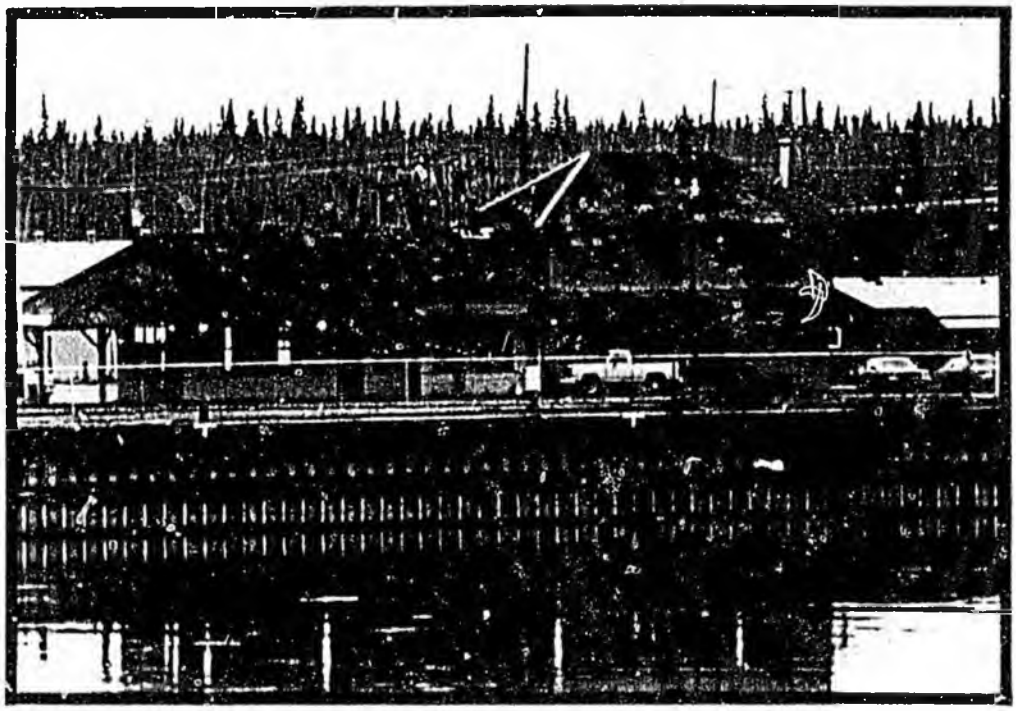
As the Nenana Port Authority embarks on its second season of operation, the most urgent need is to provide more usable dock space. To this need, the Port Authority has moved two older shop buildings off of the dock. The next logical area to develop more usable dock space is along that river bank now shored with wood piling. This wood piling was installed by the Alaska Railroad in approximately 1937. Most of this piling is rotted and highly susceptable to failure and collapse, but the area is still utilized for loading and off loading of heavy equipment and miscellaneous cargo. Given the increased volume of freight across the dock each year, it will not be long before an accident occurs in this area.

Realizing this, the Port Authority retained the engineering design firm of Peratrovich and Nottingham to develop a bulkhead expansion project in this area. Based on this design work, the City of Nenana proposes to provide for an additional 1,000 l.f. of steel sheetpile bulkhead to the east of that existing sheetpile bulkhead installed along the Tanana River by the Alaska Railroad in approximately 1952 (the existing steel sheetpile and tieback system is in excellent condition). The existing wood piling would be left in place, and an estimated 60,000 cubic yards of fill material would be placed in the river, thereby creating an additional 2.5 acres of dock space. MP 101 sheetpile sections would be utilized to provide a steel facing and tieback system for the new dock area. (A supply of surplus MP 101 sections have been located by the City and are available for immediate shipment upon securing of the funding for this project). The total recommended funding for this project is $1.8 Million (see Port of Nenana-Proposed Bulkhead Expansion-

Estimate and Recommended Budget-by Peratrovich & Nottingham, Inc., January 6, 1982)

The City of Nenana is working very closely with the Alaska Railroad during the various phases of this project. Both the City and the Alaska Railroad are assuming a great liability, given the increased utilization of the wooden dock area in its present condition. Furthermore, with the tonnage of river freight increasing every year, current dock facilities in Nenana are, and will continue to be, inadequate for the handling of freight destined for those communities along the Tanana River and Yukon River which depend upon the Nenana port facilities and river transportation system for delivery of freight and petroleum products.

Prepared by: Steve Bainbridge, P.E.
Port Director-City of Nenana
February 26, 1982



PORT OF NENANA
ALASKA

BULKHEAD EXPANSION STUDY

1981

Peratrovich & Nottingham, Inc.
Engineering Consultants

Peratrovich & Nottingham, Inc.
Engineering Consultants
1506 W. 36th Ave. • Suite 101 • Anchorage, Alaska 99503 • 907-272-8491

January 6, 1982 P&N 81080

Mr. Steve Bainbridge, City Engineer
City of Nenana
P.O. Box 177
Nenana, Alaska 99760

Re: Port of Nenana Bulkhead Expansion

Dear Mr. Bainbridge:

In accordance with your authorization, we have completed a preliminary study for the above-referenced project. Included in this report are our initial findings and a projected budget that contains certain cost assumptions, as will be discussed.

Parts of this study included a site visit to Nenana, contact with the USGS in Fairbanks regarding river parameters, inspection of Alaska Railroad-owned salvaged sheetpile material in Anchorage, and research of Alaska Railroad files and documents.

From this effort, we have concluded the following:

1. A 1,000-foot bulkhead extension, as shown on the attached drawing appears possible.

2. This extension, properly placed, would create a longer usable dock and avoid riverbed deposition.

3. Sufficient suitable salvaged sheetpile material exists in Alaska to accomplish the project.

4. About 2.5 acres of additional improved marine use uplands would be created, and at least 800 linear feet of usable dock frontage would result.

5. Flood elevations are not expected to be significantly impacted, although this needs to be accurately established through more engineering work.

6. Suitable fill and riprap is available near Nenana.

7. Riverbed materials are suitable for the type of construction envisioned.

Immediate additional work required, which may impact fall 1982 completion, is permit preparation. Due to an apparent constriction and the potential to raise flood levels, the Corps of Engineers will probably require an accurate analysis to show that flood levels will not increase significantly, usually less than one foot.

The attached cost estimate has been prepared by using some cost assumptions connected with used sheetpiles. However, we feel that it will be an accurate starting point upon which future decisions can be made.

We hope this report addresses your needs; and should you have any questions, please contact us at any time.

Sincerely,

PERATROVICH & NOTTINGHAM, INC.

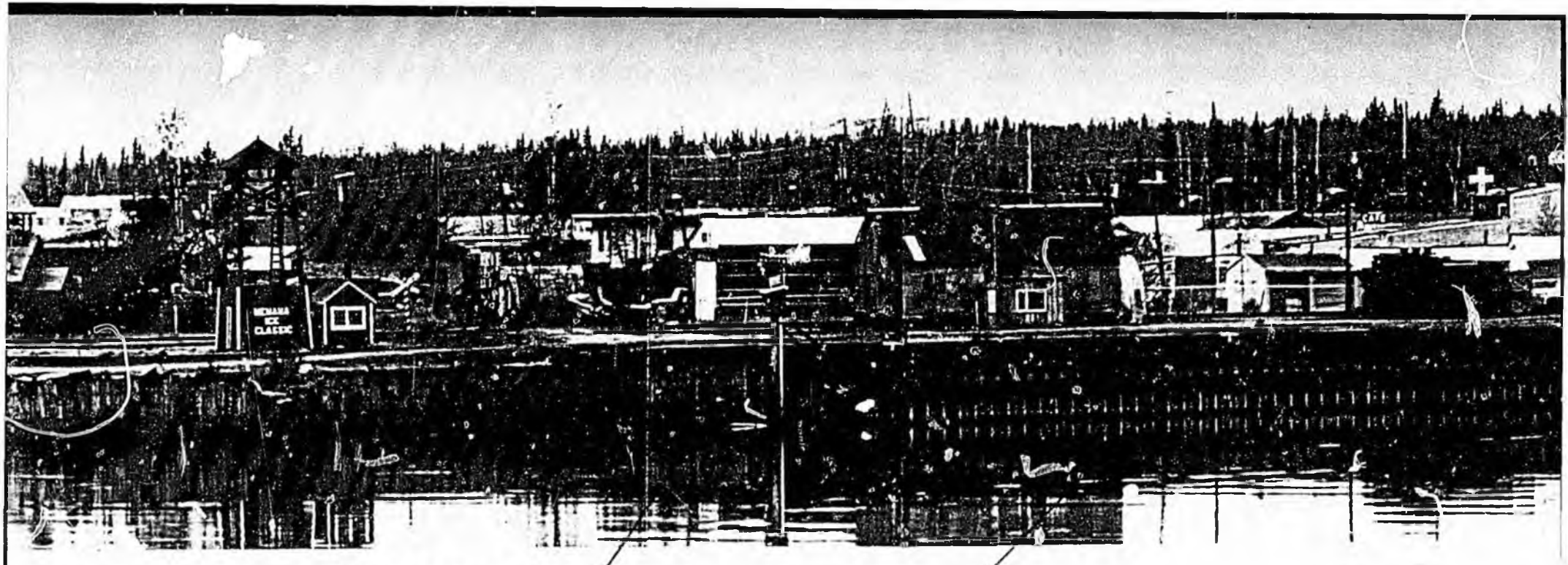
Dennis Nottingham
President

DN/glh/L2-h

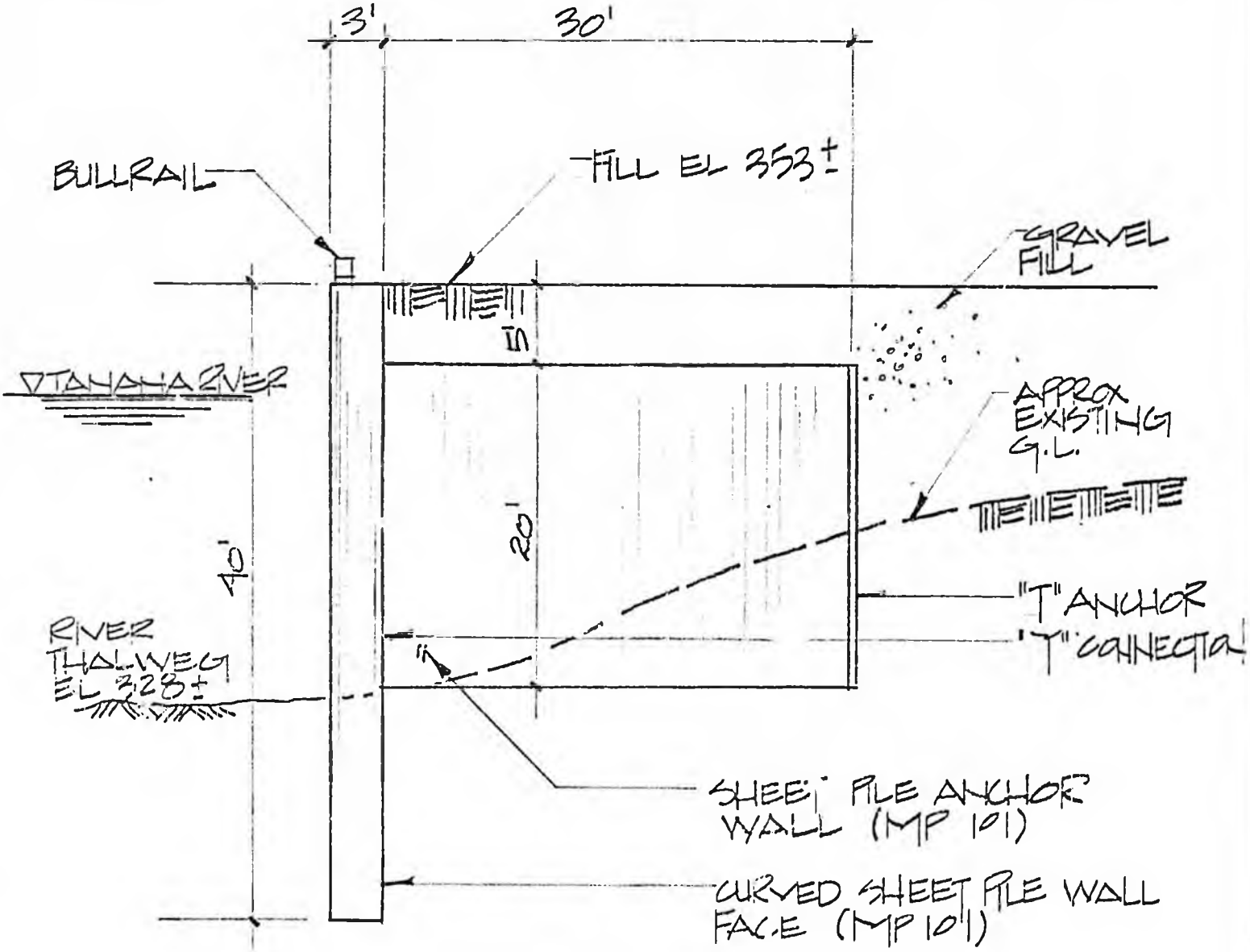
PORT OF NENANA
PROPOSED BULKHEAD EXPANSION
Estimate and Recommended Budget

Sheetpiles Supply	
2,275,000# @ 0.10 = (mainly shipping and handling)	$ 227,500
Sheetpile Fabrication	
45 "Y" connections @ 2,100# = 143,850# @ 0.60 = 47 "T" connections @ 1,050#	86,310
Sheetpile Erection	
2,635 LF @ $230 =	606,050
Bull Rail Supply	
1,100 ft. @ 85# = 94,000# @ $0.10 =	9,400
Bull Rail Erection	
94,000# @ $0.50 =	47,000
Fill	
60,000 CY @ $6 =	360,000
Riprap	
500 CY @ $30 =	15,000
Mobilization and Demobilization =	100,000
	$1,451,260
10% Contingency	145,126
Surveys, soils and permit preparation	20,000
5% Administration and construction engineering	72,563
6% Design engineering	87,076
Total Estimated 1982 Project Cost	$1,776,025

Recommended Project Budget = $1.8 Million



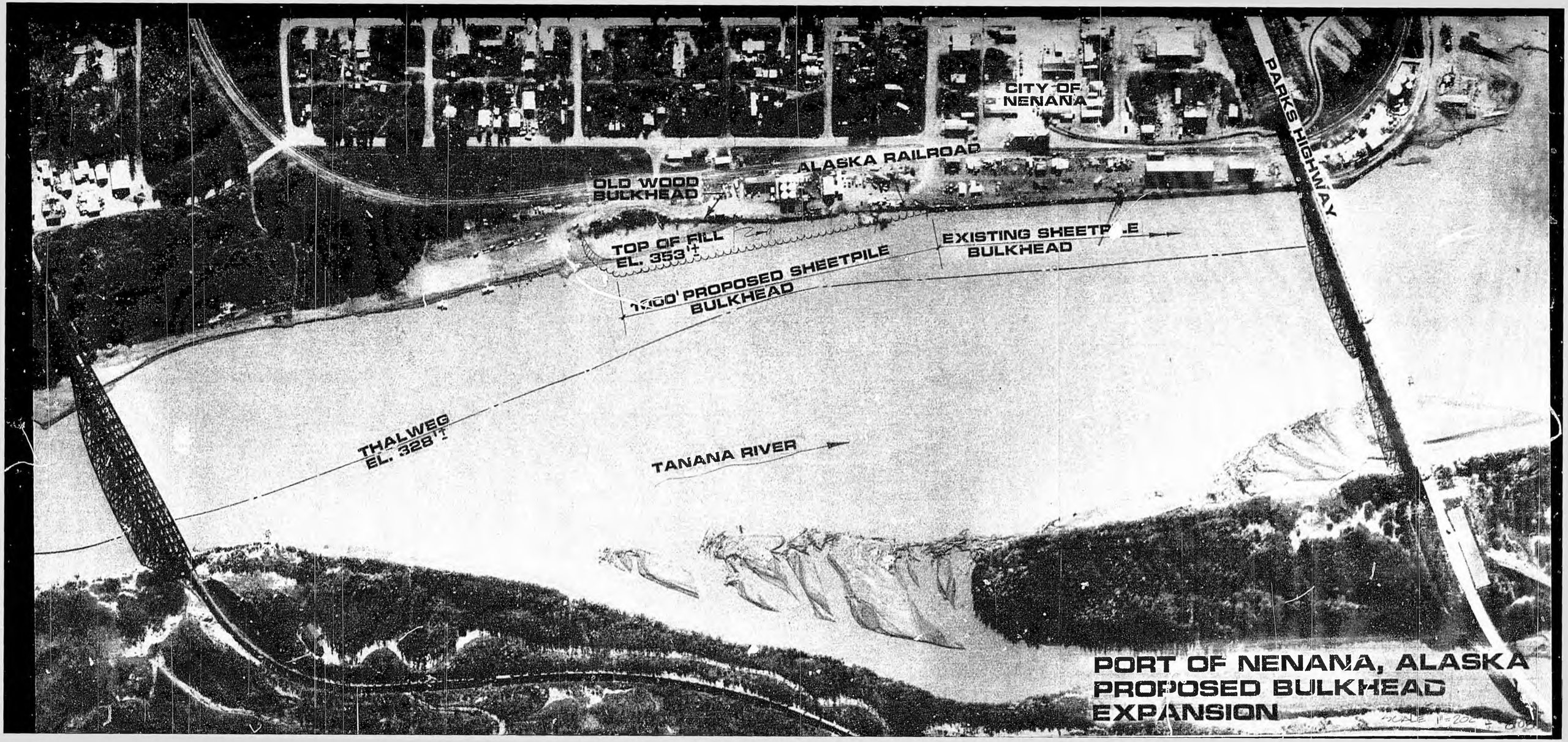
TYPICAL EXISTING BULKHEAD
PORT OF NENANA

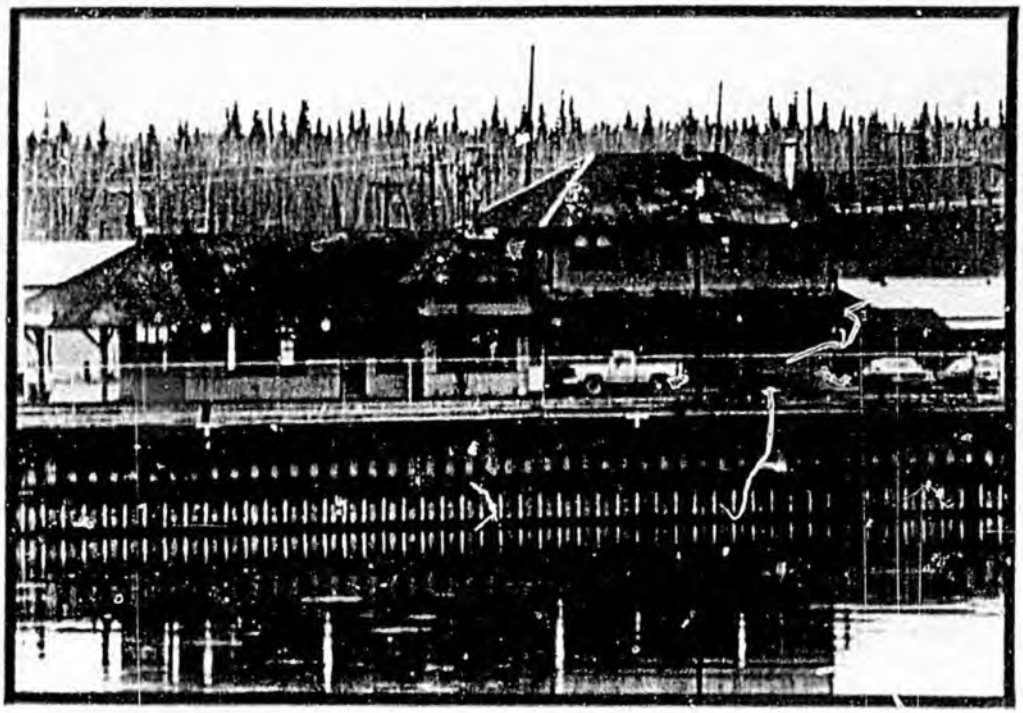


TYPICAL BULKHEAD SECTION

PORT OF NENANA, ALASKA

PROPOSED BULKHEAD EXPANSION


CITY OF NENANA
PARKS HIGHWAY
ALASKA RAILROAD
OLD WOOD BULKHEAD
TOP OF FILL EL. 353'±
EXISTING SHEETPILE BULKHEAD
1000' PROPOSED SHEETPILE BULKHEAD
THALWEG EL. 328'±
TANANA RIVER
PORT OF NENANA, ALASKA
PROPOSED BULKHEAD
EXPANSION
SCALE 1"=200'±



PORT OF NENANA
ALASKA

BULKHEAD EXPANSION STUDY

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants
1506 West 36th Avenue • Suite 101 • Anchorage, Alaska 99503 • 907-277-8633

January 20, 1983 PN&D 81059

Mr. Steve Bainbridge, City Engineer
City of Nenana
P.O. Box 177
Nenana, Alaska 99760

Re: Port of Nenana Bulkhead Expansion

Dear Mr. Bainbridge:

In accordance with your request, we have updated the 1981 preliminary study for the above referenced project. Included in this report are our initial findings and an updated projected budget.

Parts of the original study included a site visit to Nenana, contact with the USGS in Fairbanks regarding river parameters, inspection of Alaska Railroad-owned salvaged sheetpile material in Anchorage, and research of Alaska Railroad files and documents. The cost for the salvaged Railroad-owned sheet piling is no longer competitive.

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4. Flood elevations are not expected to be significantly impacted, although this needs to be accurately established through more engineering work.

5. Suitable fill and riprap material is available near Nenana.

6. Riverbed materials are suitable for the type of construction envisioned.

As we noted before, due to an apparent constriction and the potential to raise flood levels, the Corps of Engineers will probably require an accurate analysis to show that flood levels will not increase significantly (usually less than one foot).

We hope this report addresses your needs; and should you have any questions, please contact us at any time.

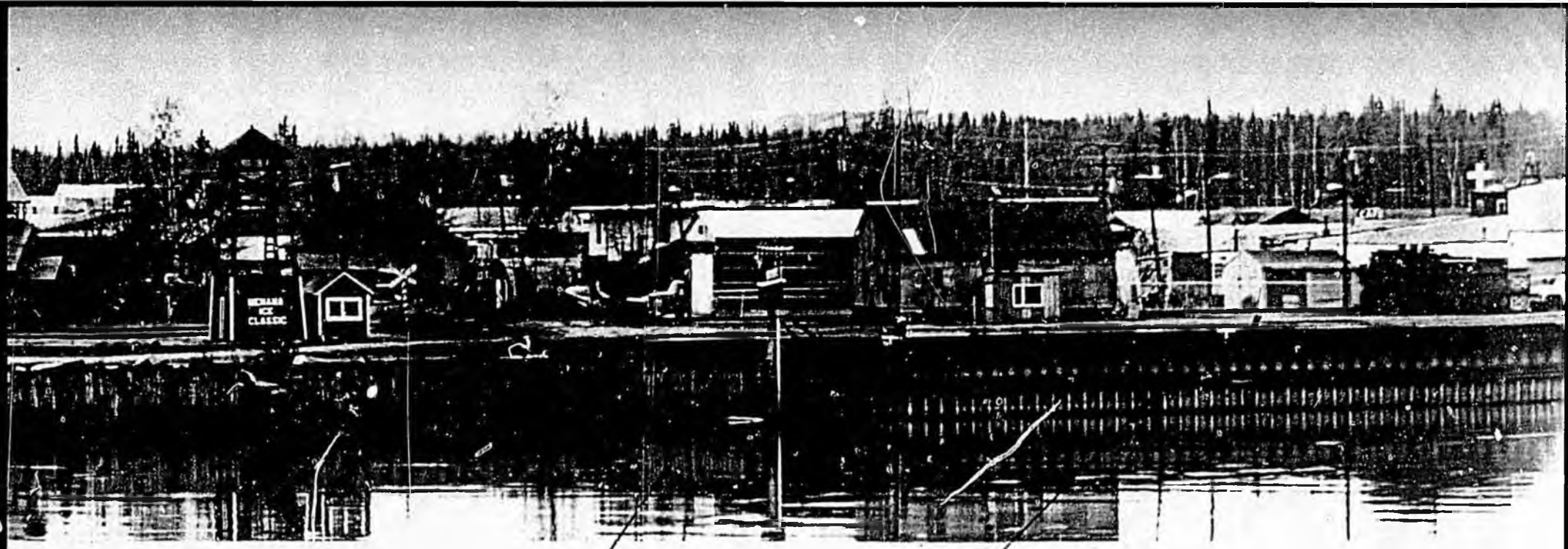
Sincerely,

PERATROVICH, NOTTINGHAM & DRAGE, INC.

Roy Peratrovich, Jr., P.E.
Vice President

RP/bm/L2-81080

Enclosures



TYPICAL EXISTING BULKHEAD
PORT OF NENANA

PORT OF NENANA
PROPOSED BULKHEAD EXPANSION
Estimate and Recommended Budget

Sheetpiles Supply 2,275,000# @ $.40 =	$ 900,000
Sheetpile Fabrication 45 "Y" connections @ 2,100# 47 "T" connections @ 1,050# = 143,850# @ $0.60 =	86,300
Sheetpile Erection 2,635 LF @ $200 =	527,000
Bull Rail Supply 1,100 ft. @ 85# = 94,000# @ $1.00 =	94,000
Bull Rail Erection 94,000# @ $0.50 =	47,000
Fill 60,000 CY @ $6 =	360,000
Riprap 500 CY @ $30 =	15,000
Mobilization and Demobilization =	100,000
	$2,129,300
Construction contingency	150,000
Surveys, soils and permit preparation	20,000
Administration and construction engineering	100,000
Design engineering	100,000
Total Estimated 1983 Project Cost	$2,499,300

Recommended Project Budget = $2.5 Million

HB

98

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/20/83

Date: _____

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 98

An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla junction; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for HB 98 (Transportation) [ ] same title [X] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Michael D. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Michael D. Miller

CHAIRMAN

H 60

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

DATE: February 22, 1983

TO: Dan Casey, Commissioner
Department of Transportation
and Public Facilities

FROM: Bette Cato, Chairman
House Transportation Committee

RE: HB 98

In reference to the above mentioned bill, please provide for the House Transportation Committee alternatives available to the Legislature for the funding of this project.

I understand from conservations with my staff that there are several ways to fund this project. Some of the alternatives that have been suggested are: appropriating the authority to expend and receive federal funds at 95% of the total cost and use 5% match money of the general fund; assigning this project as a high priority and provide matching funds, etc.

Also it may be in the State's best interest to phase fund this project, what would be your estimate of the amount of funding for the first phase of this project.

I understand that your staff doesn't think $39 million would cover the cost of this project, but rather $60 million would be a closer figure. Would you please clarify this matter.

We would appreciate your reply on this matter by Thursday, February 22 for our 8:30 a.m. committee meeting, and invite someone from your staff to be attendance to answer any of the questions the committee may have.

Thank you for your prompt response.

MSG 83-00005087 PRTY 1 01/31/83 18:06:52 ORIG: LHJD IN= 0010 OUT= 0102
FROM: MARY/MATSU TO: JUVENILE INFO
TARGET: LJHL SUBJ: P.O.M.

TO: REPS. [redacted] M M MILLER, FURNACE, SCHULTZ, M W MILLER, VASKA, LARSON, LACHER

FR: ELSIE O'BRYAN
P O BOX 24
HOUSTON 99694

FEB 1 1983

RE: HB 98

I SUPPORT THIS BILL AND URGE YOU TO FAVORABLY PASS OUT OF COMMITTEE. I WOULD, HOWEVER, LIKE CLAIRIFICATION ON WHICH PALMER-WASILLA JUNCTION IS MENTIONED, THE ONE AT THE PARKS HIGHWAY OR THE ONE THAT IS LOCATED BY PALMER CITY LOCATED BY CHARLIE BROWN'S GAS STATION. I WOULD DEFINITELY SUPPORT THE LATTER.

Introduced: 1/20/83
Referred: Transportation
and Finance

Funding Information
General Fund $39,000,000
Other Funds -0-
$39,000,000

IN THE HOUSE BY LACHER, TISCHER AND LARSON

HOUSE BILL NO. 98

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla junction; and providing for an effective date."

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

* Section 1. The sum of $39,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for construction of a four-lane highway extending from Eklutna Flats to the Palmer-Wasilla junction.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

Explain info. to committee
have Bates available to answer questions

HOUSE TRANSPORTATION
STANDING COMMITTEE
February 11, 1983
8:30 a.m.

Members Present: Rep. Cato, Chairman
Rep. M. W. Miller, Vice-Chairman
Rep. Abood
Rep. Davis
Rep. Lacher
Rep. McBride
Rep. Phillips
Rep. Szymanski

Members Absent: Rep. Herrmann

COMMITTEE CALENDAR

HB 98: "An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla junction; and providing for an effective date."

WITNESS REGISTER

John Bates
Deputy Commissioner
Planning and Programming
Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811
Position Statement: Opposed HB 98.

PREVIOUS ACTION

None

ACTION NARRATIVE

TAPE#7, Side 2
Recording
Number 0005

Chairman Cato called the meeting to order. Staff present were Steve Soenksen and Rhonda Cargill. Chairman Cato was quite ill and turned the meeting over to Vice-Chairman M. W. Miller expressing her intent was not to move the bill today since there was no

fiscal note.

Number 0023 — Rep. Lacher expressed that it was impossible to deal with a project of this magnitude with a zero fiscal note even as important as it is to her. She asked if anyone was present from DOT who could answer some questions.

Number 0047 — John Bates, Deputy Commissioner, DOT took the stand.

Number 0050 — Rep. Lacher began her question by explaining that 3 weeks ago her staff had met with DOT's staff and asked if 39 million dollar figure is very close to actual cost and staff said yes. Why do we have a zero fiscal note?

Number 0065 — Mr. Bates explained that at the time the fiscal note was prepared, the instructions were they add and show the additional cost over and above the capital cost request for a particular feature being constructed. In this case, building would take 3 years so there would be no maintenance and operation cost for 3 years. It would be built no earlier than 1987, so no maintenance and operation cost. We were told not to put additional capital cost to construct facility, but to explain this in the back up (which was done).

Discussion by committee on fiscal note procedures.

Number 0187 — Rep. Lacher requested the committee to omit discussion of the fiscal note at this time and consider the merits of constructing the highway.

Number 0214 — Mr. Bates pointed out that at this particular time, since this project is not in the Governor's budget officially, the department does not support the bill; because the department is looking at that type of construction, and when it is stacked up against all the other needs with the State, it's time has not arrived yet. DOT has identified almost 5.2 billion dollars worth of work on existing facilities to be brought back to some relatively modern standard. This project is probably 4-5 years down the road before going to

construction or would request a Professional Engineer on it. Without even state money it would take 3 years to build. It would qualify for federal funds. Even if State funds would design to federal standards and make sure the federal government agreed with procedures and still have other two lanes on federal and highway system. It would be appropriate to take a portion of the Glenn Highway off federal highway system on a major road like that.

Re: Construction cost - when there is an official fiscal note, (it will be the only one recognized by the department). Can do construction cost both ways, if we're looking at a 4-5 year construction time scale. Probably the first year not do whole project; looking at dollars in different years - that's the problem. It's time is not ready yet compared to other projects.

Number 0251 Rep. Phillips asked if DOT would suggest the use of federal funds?

Number 0253 Mr. Bates said that if the department were to program it, they would do so using federal funds. This project has lots of hazards, so would go with federal funds - the federal government rebuilds. A major highway system should remain under federal highway system.

Number 0270 Rep. Phillips asked what the process is for the legislature to get plugged into federal aid?

Number 0281 Mr. Bates explained that two things were needed, but since he had never seen a bill that he can remember he doesn't know how it would be stated. They would need to appropriate the authority to expend and receive at 95% of total cost of fiscal note and 5% match money of general fund, but how you say that in a bill he didn't know. He added that the Legislature would also need to consider if it takes 4 years to build it. If you want to [illegible] DOT looking at it, the figures and ability to appropriate the construction funds, might not be too unrealistic to appropriate professional engineer funds and construction funds at a later date.

PHASE Funding

Number 0294

Rep. Lacher: If programming, would you do in federal funds even if you got x million appropriated, could you then go to work and program for federal funds if the need be and available?

Mr. Bates: Not for federal funds because we have no authority from the Legislature. If appropriate general funds, need not appropriate in federal receipts (authority to ask feds to reimburse) appropriated general funds can't go to the federal.

Number 0313

Rep. Lacher: So, in addition to appropriated x million dollars, we would use language that would allow you to use federal funds or receive federal funds.

Number 0317

Mr. Bates: Or you could just appropriate x million dollar federal receipts and x million in general funds.

Number 0319

Rep. Lacher: Appropriation plus federal funds more quicker?

Number 0326

Mr. Bates: To a clerical person doing the actual work (design, ads, construction, etc.,) he doesn't know what kind of funds it is. If you see federal procedures, no matter if it takes state or federal money, federal probably takes longer than state funds, wouldn't speed up construction. Federal procedures tougher to build to then state procedures.

Number 0337

Rep. Lacher: Reason appropriated for full amount (in this bill) was not only to get the work done sooner, but not to pull federal funds from other needed projects. We were led to believe to give them that option. Never told this would restrict you from applying for federal funds.

Number 0368

Rep. Szymanski: In your presentation you made indication this would be 5-6 years down the road from current scheme of planning.

Number 0370

Mr. Bates: Doesn't appear in 6 year program in Governor's budget, so looking at 5-6 years in budget for design. Three years before construction so 8 years on-line design/construction.

Number 0378

Mr. Bates: That's assuming some sort of

capital outlay for the next 5 years which we have assumed (don't know if oil revenues go up or down). So we assumed constant based on what we had last year on Governor's 6 year program. Since that time we have received 40 million dollars a year more federal funds from Federal Highway Administration from which will be taken into account for next 6 year program and we're receiving a fairly good amount of money in Governor's budget for transportation. So 5-6 years was our planning horizon. Alaska Department of Transportation only 12,000, that road could have had 20,000 easily without a problem. Problem more with intersections 2/4 run into capital problems on main route.

Number 0404

Rep. Szymanski: How do you get into prioritizing what's the criteria?

Number 0409

Mr. Bates: Probably the selection of highway projects is the most sophisticated system.

Start out with general goals the Administration wants and this year starting under Hammond Administration, there was a goal to basically fix and repair existing major highway systems, if not to the modern day standards at least back to the standard they were designed to do and some designed 20 years ago with minor safety work; guard rail work, and maybe flattening out curves and bad corners. That was the priority, basically finishing rehabing the system. We indicated that if any job was in our program for reconstruction within 3 years from when doing our original budget we would not consider for rehab. We would wait for program to re-build it. That was the major criteria we used in selection of projects. That probably was the leading criteria for projects of this type not being in there . There were a number of projects statewide that received very little funding that in previous years had been getting funds right along, because it didn't fit into criteria of rehabing.

We did have a portion of that set aside for construction of program facilities to meet today's and future needs. Because of rehab program it was not funded to magnitude it

has been in last three years.

From that particular place, when you set aside those goals and priorities we have a fairly sophisticated system (which takes into account); we go and look at ruts in roads, cracks, potholes, patching, night ability safety and Alaska Department of Transportation can come up with a number which rules all paved roads statewide. That number is in a percentile of roads that are better. Program doesn't crank in cost.

Number 0456 — Rep. M. W. Miller: The Governor has 5 or 6 years plan out? Could we get a copy? Governor's 5-6 yr. plan?

Number 0461 — Mr. Bates: Usually in budget documents you receive, we have a copy available.

Staff explained documents are different this year than last.

Number 0468 — Rep. Phillips: Do you have needs assessment which sets criteria and identifies needs statewide. needs assessment

Number 0476 — Mr. Bates: That's $5.2 billion - 6 year program tries to take capital projection which would be used for transportation and take those needs and spread over 6 years.

Further discussion of condition of roads.

Number 0524 — Rep. Davis: Is there federal money for rehab?

Discussion continued.

Number 0531 — Discussion of federal aid fund categories safety criteria, what we could possibly get.

Number 0589 — Advised staff to get together with DOT and prepare a Committee Substitute for House Bill No. 98.

Further discussion on how to ask for money for roads.

Number 0661 — Adjourned.

Lear
2/25/83

Original sponsors: Lacher, Tischer
and Larson

Funding Information	
General Fund	$ 240,000
Other Funds	2,760,000
	$3,000,000

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 98 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for design of a four-lane highway from the south end of Eklutna Flats to the Wasilla-Parks Highway junction; and providing for an effective date."

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

* Section 1. The sum of $3,000,000 is appropriated to the Department of Transportation and Public Facilities of which $240,000 is from the general fund and $2,760,000 is from federal receipts for design of a four-lane highway extending from the south end of Eklutna Flats to the Wasilla-Parks Highway junction.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

Lear
2/24/83 ✓

Original sponsors: Lacher, Tischer and Larson

4060

Funding Information
General Fund $240,000
Other Funds ~~$0~~ 2,760,000
~~$240,000~~ 3,000,000

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 98 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities ~~as~~ matching funds for design of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla junction; and providing for an effective date."

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

* Section 1. The sum of ~~$240,000~~ 3,000,000 is appropriated ~~from the general fund~~ to the Department of Transportation and Public Facilities ~~as~~ matching funds of which $240,000 is from the general fund and $2,760,000 is from federal receipts for design of a four-lane highway extending from the south end of Eklutna Flats to the ~~Palmer~~ Parks Hwy - Wasilla Junction.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

- Parks Hwy - Wasilla Junction

CS FOR HOUSE BILL NO. 98 (Transportation)

Please make the following changes in the above referenced bill:

Funding Information

General Fund	$ 240,000
Other Funds	$2,760,000
	3,000,0000

Line 7: Delete "as"

Line 8: Delete "matching funds"

Line 9: Delete: "Palmer-" add "-" after "Wasilla"

Line 10: Insert: "Parks Highway"

Thus the title would read:

"An Act making a special appropriation to the Department of Transportation and Public Facilities for design of a four-lane highway from the south end of Eklutna Flats to the Wasilla-Parks Highway junction; and providing for an effective date."

Line 12: Delete: "$ 240,000" "from the general fund"

Insert: "$3,000,000"

Line 13: Delete: "as matching funds"

Insert: "of which $240,000 is from the general fund and $2,760,000 is from federal receipts"

Line 15 Delete: "Palmer-"

Insert: "-Parks Highway"

Thus section 1 of the bill now reads:

*Section 1. The sum of $3,000,000 is appropriated to the Department of Transportation and Public Facilities of which $240,000 is from the general fund and $2,760,000 is from federal receipts for design of a four-lane highway extending from the south end of Eklutna Flats to the Wasilla-Parks Highway junction.

Lear
2/24/83 ✓

Original sponsors: Lacher, Tischer
and Larson

Funding Information
General Fund $240,000
Other Funds ~~$0~~ 2,760,000
~~$240,000~~ 3,000,000

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 98 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities ~~as~~ matching funds for design of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla-Parks Highway junction; and providing for an effective date."

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

* Section 1. The sum of ~~$240,000~~ 3,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities as matching funds for design of a four-lane highway extending from the south end of Eklutna Flats to the Palmer-Wasilla junction. of which $240,000 is from the general fund and $2,760,000 is from federal receipts Parks Highway

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 96

Title : "...Widen Glenn Highway - Eklutna Flats to Palmer/Wasilla..."

Sponsor : Lacher, Tischer, Larson

Sincerely,

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 98
Title: Widen Glenn Hwy - Eklutna Flats to P/W
Sponsor: Lacher, Tischer, Larson
Requestor: Transportation and Finance
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Design and Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						285.0
CAPITAL	250.0	575.5	334.0	30,000.0	28.971.0	
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	250.0	575.5	334.0	30,000.0	28,971.0	285.0
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	250.0	575.5	334.0	30,000.0	28,971.0	285.0

POSITIONS:

FULL TIME						1
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor of bill

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director Phone: 266-1462
Division: Central Region Planning & Programming Date: 11/30/83

9/14/83

Approved by Commissioner: David W. Haugen Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. Analysis

This analysis includes the construction of: (1) a new south bound 2-lane roadway from Eklutna Flats to the junction of the Parks Highway (8.5 miles); (2) bridges (4500 feet); (3) an interchange at the intersection with the Old Glenn Highway; and (4) an overlay of the existing highway. Estimated construction cost in FY '83 dollars is $38,479,000, including a 10% contingency. This fiscal note assumes: (1) an annual inflation rate of 10%; (2) preliminary engineering (P.E.) contracted out to a consultant; (3) P.E. funding available by July 1983; and (4) the construction contract advertised for bid by February 1987. The estimated P.E. cost in FY '83 dollars is $946,000, which is 3% of the estimated construction cost. The analysis assumes the P.E. costs are spread over 3 years.

A. Impact on Existing Program: Would add additional positions (2) and equipment to maintenance operation.

B. Impact on New Programs and Activities: Unknown.

C. How figures were derived: Based on '83 information inflated at 10% per year for the life of the project.

D. Additional Information: Todate $250.0 is being used from the funding appropriated in chapter 107, SLA 83, (107/83/74/10), Federal Aid Highway Preliminary Engineering authorization for design and environmental studies to initiate this project.

The Department developed a cost estimate for this project of $39,425,000 in constant FY'83 dollars. To adjust this figure over the anticipated life of the project, assumptions were made regarding the amount of time and money needed to complete the preliminary engineering and the actual construction of the project as well as the future inflation rate. These assumptions were as follows:

(1) The project costs were assumed to inflate at 10% per year through the life of the project.

(2) The preliminary engineering was assumed to take approximately three years to complete. Funding would be required in each of these years. The preliminary engineering work was assumed to be contracted out to a consultant. The initial preliminary engineering funding was assumed to be available in FY '84 (October 1983). The original FY '83 constant cost estimate for the preliminary engineering was $946,000 which was 3% of the total construction cost. Inflating this cost at 10% per year, the cost of this phase was assumed to be as follows:

FY'84	$250,000
FY'85	$515,000
FY'86	$334,000

(3) The construction phase of the project was assumed to last two years and to be advertised for bid by February 1987. The FY '83 constant dollar construction cost was estimated at $38,479,000. Assuming an annual inflation rate of 10% per year, the cost of the construction phase was assumed to be as follows:

FY '87	$30,000,000
FY '88	$28,971,000

The total of the above budget estimates from FY'84 through FY'88 is $60,150,000 in dollars adjusted for a 10% annual inflation rate.

The dollar figures given in part one of the fiscal note constitute the total dollars needed for preliminary engineering (State and Federal funds). If 95% of the total cost is federally funded then the State would only need to provide 5% of the total funds needed for preliminary engineering. The cost estimates in this fiscal note are conceptual and have an accuracy range of -25% to +75%. More accurate cost estimates will be available once the preliminary engineering work has been completed.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No.: CSHB 98 Date on Bill: 2/25/83
Title: Design of a 4 lane highway from the south end of Eklutna Flats to the Wasilla-Parks Hwy Junction
Sponsor: Lacher, Tischer & Larson
Requestor: Ronda/House Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				1,000.0	1,000.0	1,000.0		
Operating				-0-	-0-	-0-		
Total				1,000.0	1,000.0	1,000.0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

See attached

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared by: Wayne Weeks Phone: 465-4060
Division: Planning & Programming Date: 3/7/83

Approved by Commissioner: Donna Page for Ron B. Swanson Date: 3-7-83
Department: Transportation & Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

The Department developed a cost estimate for this project of $39,425,000 in constant FY'83 dollars. To adjust this figure over the anticipated life of the project, assumptions where made regarding the amount of time and money needed to complete the preliminary engineering and the actual construction of the project as well as the future inflation rate. These assumptions were as follows:

(1) The project costs were assumed to inflate at 10% per year through the life of the project.

(2) The preliminary engineering was assumed to take approximately three years to complete. Funding would be required in each of these years. The preliminary engineering work was assumed to be contracted out to a consultant. The initial preliminary engineering funding was assumed to be available in FY'84 (July 1983). The original FY'83 constant cost estimate for the preliminary engineering was $3,000,000. Inflating this cost at 10% per year, the cost of this phase was assumed to be as follows:

FY'84	$1,000,000
FY'85	$1,000,000
FY'86	$1,000,000

(3) The construction phase of the project was assumed to last two years and to be advertised for bid by February 1987. The FY'83 constant dollar construction cost was estimated at $38,479,000. Assuming an annual inflation rate of 10% per year, the cost of the construction phase was assumed to be as follows:

FY'87	$30,000,000
FY'88	$28,971,000

The total of the above budget estimates from FY'84 through FY'88 is $60,105,000 in dollars adjusted for a 10% annual inflation rate.

The dollar figures given in part one of the fiscal note constitute the total dollars need for preliminary engineering (State and Federal funds). If 95% of the total cost is federally funded then the state, naturally, would only need to provide 5% of the total funds needed for preliminary engineering.

Back to Transportation

POSITION PAPER

Fiscal propriety demands that the State maintain project monitoring capability to ensure that the grant funds are spent for the project, and are managed according to Borough or Municipal fiscal procedures. Accordingly, a minimal State operating budget impact will be felt with the passage of each special appropriation under AS 37.05.315-37.05.319, such as this specific bill proposes. I should point out at this time that local governments have recognized their similar responsibilities when awarding grants to local social service providers, etc. Municipalities charge an administrative overhead fee of one to three point eight percent per grant. The Department of Administration requests that the specific grant appropriation language acknowledge a State agency overhead factor of up to .5% (one half of one percent) as Department of Administration operating costs for all special appropriations awarded under AS 37.05.315.

The Department questions the historical practice promoted under AS 37.05.315 and wonders if the Department of Community and Regional Affairs might be of better assistance to local governments through its Local Government Assistance program. Whereas the Department of Administration functions as a centralized control agency for all other Executive Branch agencies, the Department of Community and Regional Affairs is specifically charged with the responsibility of assisting local government in maximizing services to citizens.

Robert L. Statucker

Eleanor Andrews

1/0301-01/COMM

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

PLANNING AND PROGRAMMING

POUCH Z
JUNEAU, ALASKA 99811
PHONE:
(907)465-3900

March 8, 1983

MAR 8 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: HB 98

Dear Representative Cato:

This letter is in response to your request for information regarding the funding of HB 98. This bill would provide for expansion of the Glenn Highway to four lanes between Eklutna and the junction of the Parks Highway with the Glenn Highway. I anticipate this project could qualify for federal funding, since the Glenn Highway is on the Federal Interstate System and the improvements identified under this bill would be constructed to federal standards. The current minimum State/Federal match is 5% State and 95% Federal.

Your letter requested a clarification of the difference between the $39,000,000 estimate included in HB 98 and the Department's adjusted estimate of $60,105,000. The Department developed a cost estimate for this project of $39,425,000 in constant FY'83 dollars. To adjust this figure over the anticipated life of the project, assumptions where made regarding the amount of time and money needed to complete the preliminary engineering and the actual construction of the project as well as the future inflation rate. The following assumptions were made:

1. The project costs were assumed to inflate at 10% per year through the life of the project.

2. The preliminary engineering was assumed to take approximately three years to complete. Funding would be required in each of these years. The preliminary engineering work was assumed to be contracted out to a consultant. The initial preliminary engineering funding was assumed to be available in FY'84 (July 1983). The original FY'83 constant cost estimate for the preliminary engineering was $946,000 which was 3% of the total construction cost. Inflating this cost at 10% per year, the cost of the preliminary engineering phase was assumed to be as follows:

FY'84	$400,000
FY'85	$400,000
FY'86	$334,000

3. The construction phase of the project was assumed to last two years and to be advertised for bid by February 1987. The FY'83 constant dollar construction cost was estimated at $38,479,000. Assuming an annual inflation rate of 10% per year, the cost of the construction phase was assumed to be as follows:

FY'87	$30,000,000
FY'88	$28,971,000

The total of the above budget estimates from FY'84 through FY'88 is $60,105,000 in dollars adjusted for a 10% annual inflation rate. During each of the above years, the Department anticipates it will need 8% State funding of the respective fiscal year cost to match the expected 92% federal contribution.

The Department has recently completed a capacity analysis of this road segment. This analysis indicates the traffic volume on this road segment is approaching the existing design capacity of the road and is increasing at a high annual percentage rate. Based on this analysis, the Department is initiating a request to the Federal Highway Administration for approval to include this project as an eligible federal expenditure. Once this approval has been received, the Department will initiate the preliminary engineering work on the project. The Department currently has the budgetary capability to initiate the FY'84 portion of the preliminary engineering work.

In conclusion, please note that adequate funding will be needed to complete the remaining work in future budgets. If you have additional questions on this matter, please contact me.

Sincerely,

John C. Bates
Deputy Commissioner

cc: Emil Narcti
Office of the Governor

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

DATE: bruary 22, 1983

TO: Dan Casey, Commissioner
Department of Transportation
and Public Facilities

FROM: Bette Cato, Chairman
House Transportation Committee

RE: HB 98

In reference to the above mentioned bill, please provide for the House Transportation Committee alternatives available to the Legislature for the funding of this project.

I understand from conservations with my staff that there are several ways to fund this project. Some of the alternatives that have been suggested are: appropriating the authority to expend and receive federal funds at 95% of the total cost and use 5% match money of the general fund; assigning this project as a high priority and provide matching funds, etc.

Also it may be in the State's best interest to phase fund this project, what would be your estimate of the amount of funding for the first phase of this project.

I understand that your staff doesn't think $39 million would cover the cost of this project, but rather $60 million would be a closer figure. Would you please clarify this matter.

We would appreciate your reply on this matter by Thursday, February 22 for our 8:30 a.m. committee meeting, and invite someone from your staff to be attendance to answer any of the questions the committee may have.

Thank you for your prompt response.

Introduced:
Referred: Transportation
and Finance

Funding Information

General Fund	$ 240,000
Other Funds	$2,760,000
	$3,000,000

IN THE HOUSE BY LACHER, TISCHER AND LARSON

CS HOUSE BILL NO. 98

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for design of a four-lane highway from the south end of Eklutna Flats to the Palmer-Wasilla junction; and providing for an effective date."

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

* Section 1. The sum of $3,000,000 is appropriated to the Department of Transportation and Public Facilities of which $240,000 is from the general fund and $2,760,000 is from federal receipts for design of a four-lane highway extending from Eklutna Flats to the Palmer-Wasilla Junction. Bulk H/W

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

1. ap funds
2. plan + Eng.
3.

1987 Constitution

There were over 100 accidents on this road from 1979-1981

HOUSE BILL 98

Background:

The four-lane Glenn Highway, heading north out of Anchorage/Eagle River, narrows to two lanes at Eklutna Bridge.

Going south toward Anchorage/Eagle River, two major highways, the Glenn and the Parks, merge into the two-lane Glenn Highway. The effect is the same--four lanes of major highway narrow into an older, two-lane paved road.

The resulting doubly-bottlenecked stretch of road (see sketch, Attachment A) carries traffic across some of the most exposed, wind-buffetted area in the Matanuska Valley: the Eklutna Flats. Winds gusting across the flats have literally blown vehicles off the road. In the very recent past, a trailer being pulled by a semi was blown across the guard rail over the Matanuska River.

This section of highway also spans three major bridges across the Matanuska and Knik Rivers. Condensation produces heavy fog throughout this area almost daily. Another effect of the moisture present there is a large amount of road ice.

The area also supports a large moose population. The perimeters of the road are unfenced, allowing these animals to cross the roadway at random. The high banks necessary to keep the road from flooding inhibit the driver's ability to spot moose crossing this highly trafficked road.

Add to this already hazardous drive the fact that the Glenn Highway is the primary artery of the substantial commuter population traveling from the Mat-Su Borough to jobs in Anchorage/Eagle River. Forty percent of the Borough's working population is employed outside the Borough.

In addition, many residents shop and do business in the Municipality of Anchorage.

The Mat-Su Valley offers a variety of recreational and tourist pastimes, drawing large numbers from the Anchorage bowl to its lakes, streams, ski trails, and other facilities.

Finally, the Glenn Highway is the only road leading north out of Anchorage, and south into Anchorage, Eagle River, and the Kenai Peninsula.

Statistics and Projections:

According to a 1982 Mat-Su Borough census, the borough has 26,000 residents. From 1970-1982, the Borough has experienced an average annual growth rate of 13.4%. There is solid reason to believe that this growth will continue, and could accelerate, in the future. The population will probably increase if planned construction projects, such as the Healy-Willow Intertie and the Beluga-Anchorage gas pipeline, go forward as scheduled. (See Attachment B.)

Of the 9,000 employed Borough residents, 3,600 work outside the Borough, largely in Anchorage/Eagle River. Although most of these people drive, alone or in car pools, three commuter buses daily accommodate approximately 70 people.

Average daily traffic on the Glenn Highway at the Eklutna Bridge is over 14,000 vehicles (see Attachment C). According to DOT/PF Deputy Commissioner John Bates, traffic is already above average for a two-lane highway.

During peak tourist traffic times, the highway usage more than doubles. On Labor Day, 1982, the Glenn Highway was traveled by 35,560 vehicles (traffic count at Scale House south of Eagle River; no data available for this date at Eklutna Bridge).

Accidents and road repairs which block one or both lanes further complicate smooth traffic flow. Emergency medical services personnel have expressed concern that traffic tangles may one day block passage of ambulances en route to Anchorage.

The Glenn Highway was constructed in 1965-66, when the Borough's population was 6,350, and the population of the Anchorage area was 102,337. The road was upgraded to four lanes from Anchorage to Peters Creek in 1972. The four lane highway was expanded to Eklutna Bridge in 1980.

Conclusions:

The Glenn Highway was adequate to meet traffic demands when it was constructed nearly twenty years ago. However, population in the Mat-Su area has more than quadrupled since that time, and Anchorage population has doubled. Tourism and recreation have become attractive industries for the economies of the Mat-Su and Anchorage areas. The existing road is no longer adequate for the increased demands being put upon it. As population, commuting workforce, and tourism increase, this strain will worsen.

According to John Scribner of DOT/PF, Anchorage, the project to widen the Glenn from Eklutna Bridge to the Parks Highway Junction, if funded this session, would be completed in approximately 1987, when, according to moderate population estimates, the population of the Matanuska Susitna Borough will be over 34,000. (Reference Attachment B.)

Therefore, it is vital to the economic well-being of the Matanuska-Susitna Borough and the Municipality of Anchorage, both its commuter and recreational/tourist travelers, and to the safety of all users of the Glenn Highway to begin construction of a four-lane highway from the south end of Eklutna Flats to the Junction of the Parks Highway.

ATTACHMENT A

HB 98

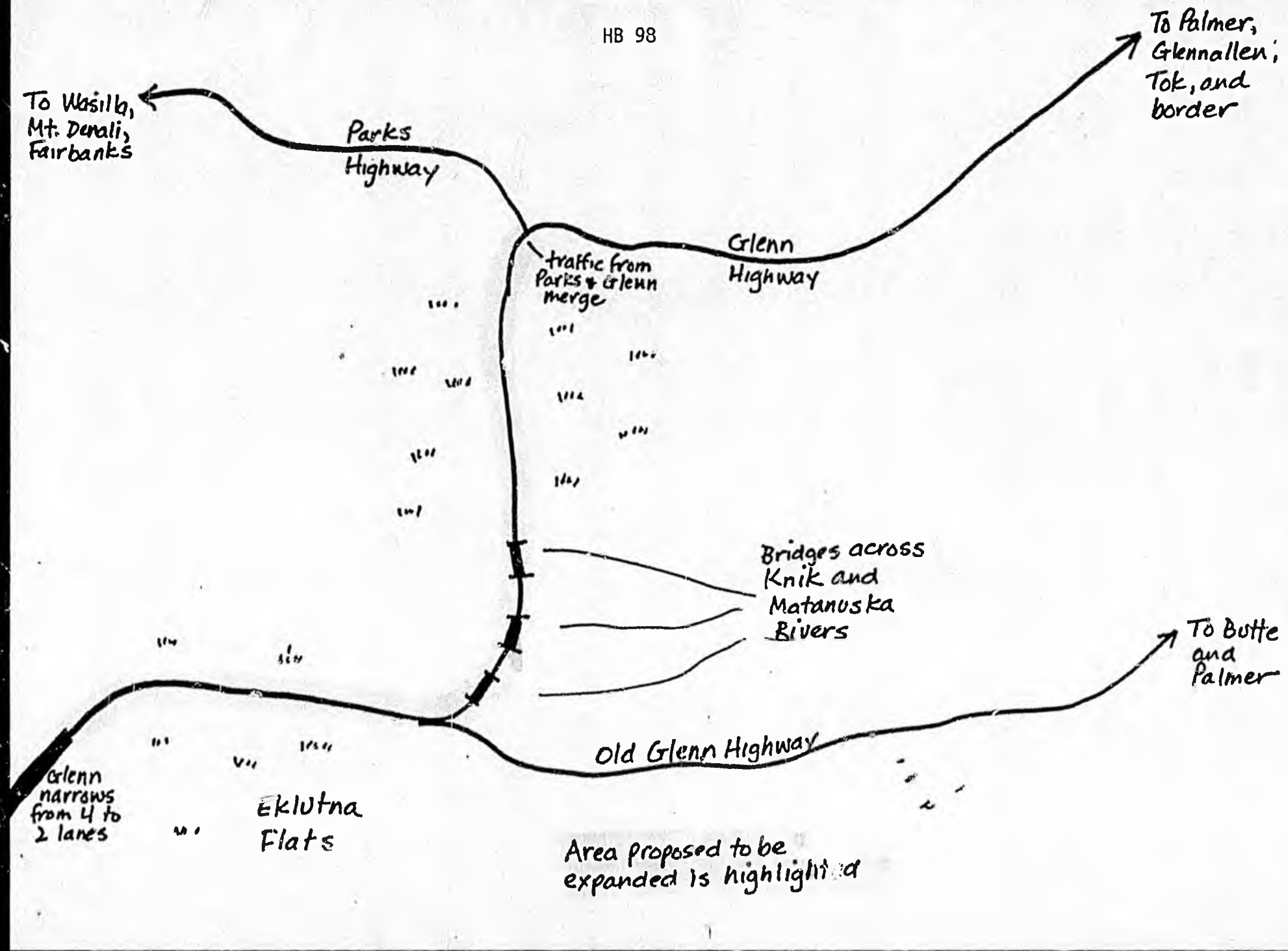


TABLE 4

MATANUSKA-SUSITNA BOROUGH POPULATION PROJECTION

MODERATE SCENARIO

(MID RANGE)

Year	Population	% Increase
1981	22,339	-
1982	23,456	5%
1983	24,761	6%
1984	26,247	6%
1985	28,377	8%
1986	30,942	8%
1987	34,303	10%
1988	39,449	15%
1989	45,430	15%
1990	51,080	12%
1991	57,339	11%
1992	64,723	13%
1993	71,880	11%
1994	79,824	11%
1995	85,620	7%
1996	91,568	7%
1997	97,036	6%
1998	102,213	5%
1999	107,660	5%
2000	113,390	5%
2001	119,414	5%

Source: "GROWTH POTENTIAL, DEVELOPMENT ISSUES, SETTLEMENT PATTERNS" Volume 2 of 2, Matanuska-Susitna Borough Comprehensive Planning Program, May, 1982

ATTACHMENT B

Glenn Highway: Eklutna - Parks Highway Junction

Built In 1965-1966

Normal Traffic: 1981 ADT 7,400-8,000 no winter counts are available on this segment of the road. (ADT - AVERAGE DAILY TRAFFIC)

Variance between morning and evening:

Station		SB		NB		
Eklutna Bridge	AM	3133	(43%)	2226	(31%)	7/14/82
Eklutna Bridge	PM	4103	(57%)	4749	(69%)	7/14/82
Eklutna Bridge	day	7238		6975		7/14/82
Glenn - S. of Parks Hwy.	AM	2566	(42%)	1826	(30%)	7/14/82
"	PM	3481	(58%)	4190	(70%)	7/14/82
"	day	6047		6016		7/14/82

		Both Ways		
Old Glenn Junct.	AM	4306	35%	July (13-15), 1982
	PM	7697	65%	
	day	12157	100%	

above average for 2 lane rd.

Park Traffic: At scale house - no data available for subject segment.

State Fair - Friday 8/20/82
NB 16,021
SB 15,006

Labor Day - Saturday 9/4/82 (Scale house)
SB 16,715 (into town) ANCHORAGE
NB 18,845

Time Road Closed:

one lane - 3 days last summer/repair of bridge
two lanes - 3 days - 3 years ago/repair R.R. crossing

No data available for road closures due to accidents.

Accidents: Should have accident data tomorrow.

ATTACHMENT C

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB98 - Approp. to DOT/PF for construction of a four-lane
Title highway from Eklutna Flats to Palmer-Wasilla junction
Requested by Lacher Tischer, Larson Date 1/20/83

II. FISCAL DETAIL

Agency Affected Dept. of Transportation & Public Facilities
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
MAINTENANCE & OPERATION	-0-	-0-	-0-			
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 2/2/83 PREPARED BY Wayne Weeks
AGENCY DOTPF - Planning & Programming
PHONE 465-4060

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

III. ANALYSIS (cont'd)

This analysis includes the construction of: (1) a new south bound 2 lane roadway from Eklutna Flats to the junction of the Parks Highway (8.5 miles); (2) bridges (4500 feet); (3) an interchange at the intersection with the Old Glenn Highway; and (4) an overlay of the existing highway. Estimated construction cost in FY 83 dollars is $38,479,000., including a 10% contingency. This fiscal note assumes: (1) an annual inflation rate of 10%; (2) preliminary engineering (P.E.) contracted out to a consultant; (3) P.E. funding available by July 1983; and (4) the construction contract advertising for bid by February 1987. The estimated P.E. cost in FY 83 dollars is $946,000., which is 3% of the estimated construction cost. The analysis assumes the P.E. costs are spread over 3 years. On completion of construction, it is estimated that maintenance and operating costs will approximate $7,000 per lane mile. This translates to $119,000 per year. Total construction costs through completion are estimated at $60,105,000 rather than the $39,000,000 contained in HB 98.

1987 Construction

John Bates

1987 New Set of Instructions
On f N s

1. O. M. B. signed
2. Same 3 months from now ?

Planning ? 4 or 5 years to start
8 years
Take 3 years because of Wetlands

New Gov program ?

QUESTIONS TO ASK DOTPF REPRESENTATIVE:

In a conversation staff had with DOT staff ~~in Anchorage~~, DOT was asked if projection of $39-million would be enough money to fund the project. DOT's response at that time (about 3 weeks ago), was that yes this figure would be very close to the actual cost. How does it happen that the original estimate has almost doubled in such a short time?

I believe I was told this by Jon Scribner of Design & Construction in ~~Anchorage~~. (not sure it was Scribner)

Wouldn't this project qualify for approximately 95.9% federal funding?

Why is this not brought out in the fiscal note?

What are DOTPF's priorities for use of the federal funds available to this state? Approximately $147-million will be available for FY84, approximately $155-million will be available the following year, and about $158-million the year after that.

Do DOT's priorities for use of federal funds agree with the legislature's priorities for road construction?

Tom Newnabor, field operations engineer for Federal Highway Administration, projected the following costs for the project:

$500,000 for environmental assessment and location studies

$3-400,000 for design

$35 to 40-million for construction

for a maximum estimated cost of $41 million

HB

150

Folta
3/18/83

Original sponsors: Zharoff, Grussendorf and McBride

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 150 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to motor fuel tax provisions and repeal of the tax on motor fuel used in or on watercraft; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in

the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which the user [HE] has distributed or used during the month.

* Sec. 4. AS 43.40.010(g) is amended to read:

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e)[, (f)] and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate money [FUNDS] from it for expenditure by the Department of Transportation and Public Facilities [PUBLIC WORKS] directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.-10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend money [FUNDS] collected from taxes imposed by AS 43.40 shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not

(a) A person who resells fuel on which the tax under AS 43.40.-010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40.010(1) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

* Sec. 8. AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used [IN AND ON WATERCRAFT FOR ANY PURPOSE, OR] in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government

agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities [, OR];

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department; or

(L) fuel used in and on watercraft for any purpose;

* Sec. 9. AS 43.40.010(f) is repealed.

* Sec. 10. This Act takes effect July 1, 1983.

Introduced: 2/4/83
Referred: Transportation and Finance

IN THE HOUSE BY MARTIN AND GRUSSENDORF

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act decreasing the motor fuel tax to offset tax increase by federal government, repealing motor fuel tax refund provisions; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of three [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. ~~AS 43.40.030, 43.40.035, 43.40.040, 43.40.050, 43.40.060, 43.40.070 and 43.40.080 are repealed.~~

* Sec. 4. This Act takes effect April 1, 1983.

APR 5 1983

March 31, 1983

RE: H BILL-150

Bette M. Cato
Pouch V
Juneau, Alaska 99811

Dear Ms:

I would like to comment on H Bill-150 concerning repeal of the 5 cent per gallon watercraft fuel tax.

The proceeds of the watercraft fuel tax should be used to assure proper maintenance of State boat harbors. Additionally any remaining funds should be used to improve and upgrade existing boat harbors.

Though I understand that the Alaska Constitution prohibits designating revenues, the watercraft fuel tax (WCFT) has traditionally been used to fund small boat harbor improvements statewide. With the advent of large oil tax revenues the purpose and legislative intent of this "users tax" has been lost in translation.

Current CIP funding legislation does not adequately distribute this revenue to the regions in which it is collected.

I petition you to continue to collect this tax and also to adequately fund harbor maintenance and improvement projects.

Sincerely,

Harold Moeser

Harold Moeser
789-0703

KODIAK AREA CHAMBER OF COMMERCE

KACC

March 1, 1981

Representative Fred Zharoff
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Fred,

At its meeting on February 23, 1981, the Board of Directors of the Kodiak Area Chamber of Commerce passed a motion unanimously supporting House Bill 101 repealing the tax on motor fuel used in or on watercraft.

We are pleased that you are a co-sponsor of this bill and trust that you will see that our support is passed on to appropriate legislators.

As you know, the Chamber represents the vast majority of Kodiak businesses thereby reflecting the position of the Kodiak economic community.

Sincerely,

KODIAK AREA CHAMBER OF COMMERCE

Hazel E. Hogan
President

HEH:fp

cc: Don Mickey
State Chamber of Commerce

Introduced: 1/31/83
Referred: Transportation, Resources
and Finance

IN THE HOUSE BY ZHAROFF AND GRUSSENDORF

HOUSE BILL NO. 150

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon, added and

deleted
[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon, and added

deleted
[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.010(g) is amended to read:

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e)[, (f)] and (j) of this section, shall be

deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate money [FUNDS] from it for expenditure by the Department of Transportation and Public Facilities [PUBLIC WORKS] directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.-10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend money [FUNDS] collected from taxes imposed by AS 43.40 shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of Transportation and Public Facilities [PUBLIC WORKS] may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

* Sec. 4. AS 43.40.030(a)(2) is amended to read:

(2) the motor fuel is not aviation fuel [, OR MOTOR FUEL USED IN OR ON WATERCRAFT]; and

* Sec. 5. AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used [IN AND ON WATERCRAFT FOR ANY PURPOSE, OR] in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor;

"motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities [, OR];

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department; or

(L) fuel used in and on watercraft for any purpose;

* Sec. 6. AS 43.40.010(f) is repealed.

* Sec. 7. This Act takes effect July 1, 1983.

Motor Fuel Tax (decreasing & repealing refund provis.)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55, by Reps. Martin and Grussendorf. Lowers motor fuel tax to three cents per gallon, as did original (see p. 46), and repeals motor fuel tax refund provisions contained in the following statutes:

--AS 43.40.030, "Refund for Nonhighway Use," allows six-cent-per-gallon refund of any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country.

--AS 43.40.035, "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax.

--AS 43.40.050, "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue.

--AS 43.40.060, "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim.

--AS 43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim.

--AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine the validity of a claim for a refund.

Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.)

Effective April 1, 1983.

Introduced February 4 and referred to Transportation and Finance.

Appropriation (special) (Tununak seawall)

HOUSE BILL NO. 149, by Rep. Vaska. Would appropriate $905,000 for a grant to the City of Tununak to construct a seawall for the prevention of soil erosion. Tununak is on the western side of Nelson Island on the Bering Sea. Provides appropriation be disbursed in accordance with laws governing state grants (AS 37.05.315 - 319). Effective immediately.

Introduced January 31 and referred to Community & Regional Affairs and Finance.

Motor Fuel Tax/Water-Craft (repealing)

HOUSE BILL NO. 150, by Zharoff, Grussendorf and McBride. Would repeal the five cent per gallon tax on motor fuel used in or on watercraft (AS 43.40.010(a)(2) and (b)(2)). Effective July 1, 1983.

HB 150 (cont'd)

Introduced January 31 and referred to Transportation, Resources and Finance.

Appropriation (special) (House of Wickersham)

HOUSE BILL NO. 151, by Reps. Hayes, M.M. Miller, Duncan, Cowdery, Fritz, Bettisworth, Cato, Clocksin, Davis, Flood, Furnace, Goll, Kohonen, Larson, Liska, Martin, McBride, M.W. Miller, Pestinger, Szymanski, Tischer, Uehling, Wendte and Zharoff. Would appropriate $1 million to the Dept. of Natural Resources, Division of Parks, for the acquisition of the House of Wickersham in Juneau and the historical collections and artifacts contained in the house and for the development of the acquisition as an historic site. Appropriation lapses on June 30, 1984. Effective July 1, 1983. Identical to SB 31, page 10.

Introduced January 31 and referred to State Affairs and Finance.

Appropriation (supplemental) (revenue sharing)

HOUSE BILL NO. 152, by the Community & Regional Affairs Committee. Would make a $3.5 million supplemental appropriation to the miscellaneous services account (AS 29.89.080) for AS 29.89 (Misc. State Aid to Municipalities) for distribution to local governments and other recipients for the fiscal year ending June 30, 1983. AS 29.89 provides for state aid for roads, health facilities and hospitals, volunteer fire departments in the unorganized borough, and aid to Native Village governments. Appropriation lapses June 30, 1984. Effective immediately.

Introduced February 2 and referred to Community & Regional Affairs and Finance.

Appropriation (supplemental) (Municipal Assistance Fund)

HOUSE BILL NO. 153, by the Community & Regional Affairs Committee. Would make a $25.1 million supplemental appropriation to the Dept. of Revenue for the Municipal Assistance Fund (AS 43.20.016(a)) for distribution to municipalities for the fiscal year ending June 30, 1983. Lapses on June 30, 1984. Effective immediately.

Identical to SB 17, as amended by Senate CRRA Committee, and identical to HB 136 p. 99, except for lapse date.

Introduced February 2 and referred to Community & Regional Affairs and Finance.

Minimum Train Crews (repealing law)

HOUSE BILL NO. 154, by the Rules Committee by request of the Governor. Would repeal law establishing minimum train crews in Alaska (AS 23.10.420). See Governor's letter, below.

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced February 2 and referred to Labor & Commerce and Transportation.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

(2) $4 for each 1,000 holes or fraction in each board with more than 2,000 holes. (§ 1 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.110. Power to issue regulations. The department may issue orders and regulations necessary to carry out §§ 100—150 of this chapter. (§ 3 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.120. Manner of paying tax. The tax shall be paid by purchasing stamps from the office of the Department of Revenue. The stamps shall be affixed to the punchboard before it is placed in use, and the operator of the punchboard shall endorse upon the stamp the serial number of the punchboard. (§ 2 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.130. Refund to local governments. The department shall refund 75 per cent of the tax collected from sales of punchboards in an organized borough or city of the first, second, or third class to the local government. The balance shall be deposited in the general fund. (§ 6 ch 116 SLA 1949; am § 1 ch 53 SLA 1951; am § 3 ch 155 SLA 1962)

Sec. 43.35.140. Gambling not legalized. Sections 100—150 of this chapter do not legalize gambling. (§ 4 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Cross reference. — As to limitations on authorized gaming activities, see AS 05.15.180.

Sec. 43.35.150. Violations and penalties. (a) It is unlawful for a person to (1) distribute in the state a punchboard for which the license tax provided in §§ 100—150 of this chapter is not paid; or (2) maintain for use, or permit the use of, in a place or premises occupied by the person a punchboard upon which the license stamp is not affixed.

(b) A person violating a provision of §§ 100—150 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500. (§ 5 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Chapter 40. Motor Fuel Tax.

Article
1. General Tax Levy on Transfers or Consumption of Motor Fuel (§§ 43.40.010 — 43.40.100)
2. Additional Tax Levy on Transfers or Consumption of Motor Fuel (Repealed)

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. Penalty for violation
30. Refund for nonhighway use
40. Applications and permits for refund

Section
50. Refund claim by affidavit
60. Separate invoices
70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
90. Criminal violation
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f), and (i) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money

for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10—100 of this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10—100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1—3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1—3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1—3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977)

Cross reference. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1976 amendment repealed subsection (d), which provided for an additional amount to be added to the tax for failure to file a return and remit the tax within the time prescribed by law or prescribed by the department pursuant to law, due to wilful neglect.

The 1977 amendment rewrote paragraph (2) of subsection (a) and paragraph (2) of subsection (b).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "Intent. The intent of this Act is to provide funds for trail stak[e]s and shelter construction and mai[n]t[enance] projects in sparsely populated ar[eas] [w]here the interests of safety requir[e] establishment for the protection of traveling citizens of the state."

Purpose of subsection (g). — The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

Amendment of 1957 effected no change in dedication. — The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

Civil Air Patrol exempt. — The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government. 1961 Op. Att'y Gen., No. 26.

But volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Am. Jur. and C.J.S. references. — 51 Am. Jur., Taxation, §§ 1260 to 1279.

53 C.J.S. Licenses § 30.

Sec. 43.40.020. Penalty for violation. (a) A person who violates a provision of §§ 10—100 of this chapter upon conviction is punishable for each violation by a fine of not less than $50 nor more than $5,000, or by imprisonment for not more than one year, or by both. Each day's violation is a separate offense.

(b) Repealed by § 3 ch 116 SLA 1977. (§ 48-5-3 ACLA 1949; am § 4 ch 153 SLA 1972; am § 3 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment repealed subsection (b), which read "A person who claims the nonpropulsion use fuel tax exemption under § 10 (a) (2) or § 10 (b) (2) of this chapter and who uses a portion of the amount of the exempted fuel for another purpose is guilty of a misdemeanor, and is punishable by a fine of not more than $5,000."

C.J.S. reference. — 53 C.J.S. Licenses § 62.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in § 10 (j) of this chapter, a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by §§ 10—100 of this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for nonhighway use in a foreign country.

(c) The Department of Revenue shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "or on watercraft" for "an engine to propel a boat or watercraft, including motor fuel which may be used for heating and cooking aboard boats and watercraft" in paragraph (2) of subsection (a).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "**Intent.** The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the projection of traveling citizens of the state."

Sec. 43.40.040. Applications and permits for refund. A person who desires to claim a refund shall obtain an annual permit from the Department of Revenue by application on a form prescribed by the department. The application shall contain the name, address, and occupation of the applicant, the nature of the business, and a sufficient description for identification of the machines or equipment in which the motor fuel is to be used for which refund may be claimed under the permit. The permit shall be obtained no later than the time that the first application for refund is made under §§ 10—100 of this chapter. The permit expires at midnight of June 30 following the date it is issued. (§ 3 ch 47 SLA 1955; am § 4 ch 131 SLA 1962)

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund as provided in §§ 10—100 of this chapter shall present his claim to the commissioner of revenue by affidavit upon a form provided by the commissioner with the information the commissioner requires. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel is purchased. The commissioner may require any additional information which he considers necessary for the administration of §§ 10—100 of this chapter.

(b) A claim for refund shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the Department of Revenue. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960)

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax [illegible] in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale, or

(E) fuel used by charitable institutions;

(3) "user" means a person consuming or using motor fuel, who either purchases the fuel out of the state and ships it into the state for his own use within the state or manufactures the fuel in the state. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977)

Cross reference. — See editor's note to AS 08.04.380.

Effect of amendment. — The 1977 amendment in paragraph (2), added the subparagraph designations, substituted "or aircraft, and fuel used in and on watercraft for any purpose" for "aircraft, boat or watercraft", "run" for "propelled", and "motor fuel does not include" for "except on consignments of motor" in the introductory paragraph, substituted "consigned" for "oil" in present subparagraph (A), substituted "fuel sold" for "except motor fuel oil sold" in present subparagraph (B), deleted "and except" preceding "fuel used" and "or" following "general public" in present subparagraph (C), and inserted "fuel used" at the beginning of present subparagraphs (D) and (E).

Article 2. Additional Tax Levy on Transfers or Consumption of Motor Fuel.

Section
110—120. [Repealed]

Secs. 43.40.110—43.40.120.

Repealed by § 8 ch 158 SLA 1970.

Editor's note. — The repealed sections derived from chs. 62, 63, SLA 1960; ch. 52, SLA 1961; ch. 131, SLA 1962.

Chapter 43. Disaster Taxes.

Article
1. Disaster Relief Tax (Repealed)
2. Disaster Severance Tax (Repealed)

Article 1. Disaster Relief Tax.

Section
10—60. [Repealed]

Secs. 43.43.010 —43.43.060.

Repealed by § 1 ch 48 SLA 1969.

Editor's note. — The repealed article derived from § 1, ch. 27, FSSLA 1967.

HB 107

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 28, 1982

THE HONORABLE
FRED F ZHARCFF
ALASKA STATE HCUSE
OF REPRESENTATIVES
PCUCH V
JUNEAU AK 99811

I am enclosing a copy of a monthly report prepared by the Alaska Department of Revenue concerning tax collections and interest income.

The statement entitled "Cumulative Summary of Revenue Collected July 1, 1981 through December 30, 1981" discloses gross receipts, refunds, net receipts, estimated total year collections, and percent of estimate realized. It covers receipts of all taxes and licenses administered by the Department of Revenue and interest income accounted for on a cash basis. It does not cover all items of state revenue.

The estimated total year collections have been adjusted to coincide with FY 1982 revenue estimate appearing in the publication entitled "Revenue Sources FY 1981-1984 - January 1982.

The net collections of taxes and license fees, exclusive of interest income, collected by the Department of Revenue for December, 1981, was $284,124,783.39. This is an increase of 2.85 percent as compared to $292,226,315.70 collected in December, 1980.

For the first six months of the current fiscal year, total collections of net taxes and license fees, exclusive of interest income, amounted to $1,207,183,497.34, compared to $934,629,065.01 collected during the first six months of the previous year, an increase of 29.16 percent.

Sincerely,

Thomas K. Williams
Commissioner

Enclosures

CUMULATIVE SUMMARY OF REVENUE
COLLECTED 07/01/81 THRU 12/31/[illegible]
6/12 OR 50%

CODE NO	TYPE OF TAX	GROSS RECEIPTS	REFUNDS	NET RECEIPTS	ESTIMATE	NET RECEIPTS % OF ESTIMATE
001	OIL & GAS PROPERTY TAX	$ 2,082,902.54	$ 480,165.89	$ 1,602,736.65	$ 155,000,000.00	1.03
016	ALCOHOLIC BEVEERAGE EXCISE TAX	4,818,854.57	0.00	4,818,854.57	8,500,000.00	56.69
017	CIGARETTE TAX (GF)	975,647.49	13.84	975,633.65	1,800,000.00	54.20
018	CIGARETTE TAX (SF)	1,626,079.05	0.00	1,626,079.05	3,000,000.00	54.20
020	ELECTRIC & TELEPHONE	2,897.00	0.00	2,897.00	1,100,000.00	.26
021	HIGHWAY MOTOR FUEL TAX	15,562,246.54	3,879,455.56	11,682,790.98	18,000,000.00	64.90
022	AVIATION MOTOR FUEL TAX	2,546,418.37	0.00	2,546,418.37	4,300,000.00	59.22
023	MARINE MOTOR FUEL TAX	2,486,787.95	0.00	2,486,787.95	3,600,000.00	69.08
036	INDIVIDUAL INCOME TAX	847,160.05	278,531.39	568,628.66	0.00	0.00
037	FIDUCIARY INCOME TAX	9.00	5,332.00	(5,323.00)	0.00	0.00
038	CORPORATION INCOME TAX	18,721,679.38	8,666,881.00	10,054,798.38	31,000,000.00	32.43
039	OIL & GAS CORP. INCOME TAX	350,951,352.00	660,794.00	350,290,558.00	713,000,000.00	49.13
046	BUSINESS LICENSE	1,399,855.00	217.10	1,399,637.90	5,500,000.00	25.45
052	ESTATE TAX	219,356.10	3,588.00	215,768.10	500,000.00	43.15
057	SCHOOL TAX	1,464.99	0.00	1,464.99	0.00	0.00
060	SALMON ENHANCEMENT TAX	2,122,259.55	84.20	2,122,175.35	2,000,000.00	106.11
061	MINES & MINING TAX	128,498.00	0.00	128,498.00	200,000.00	64.25
062	SALMON CANNERY-SHORE BASED TAX	629,921.08	0.00	629,921.08	6,200,000.00	10.16
063	SHORE-BASED FISHERIES TAX	930,566.24	21,051.00	909,515.24	11,200,000.00	8.12
064	FLOATING FISHERIES TAX	942,261.47	7,112.00	935,149.47	4,000,000.00	23.38
065	OIL PRODUCTION TAX	802,746,021.61	5,605.84	802,740,415.77	1,708,400,000.00	46.99
066	OIL & GAS CONSERVATION	471,044.41	0.00	471,044.41	700,000.00	67.29
067	GAS FLARING PENALTY	0.00	0.00	0.00	0.00	0.00
068	GAS PRODUCTION TAX	6,371,370.63	0.00	6,371,370.63	9,600,000.00	66.37
096	PREPAID TAX	5,042.00	0.00	5,042.00	0.00	0.00
106	LIQUOR LICENSE APPLICATION	32,350.00	0.00	32,350.00	150,000.00	21.57
107	PUB LIQUOR LICENSE	0.00	0.00	0.00	6[illegible].00	0.00
108	BREWERY LICENSE	0.00	0.00	0.00	0.00	0.00
109	DISTILLERY LICENSE	0.00	0.00	0.00	0.00	0.00
110	BEVERAGE DISPENSARY LICENSE	256,525.00	2,450.00	[illegible]54,075.00	775,000.00	32.78
111	CLUB LICENSE	12,000.00	0.00	12,000.00	34,200.00	35.09
112	COMMON CARRIER LICENSE	14,175.00	0.00	14,175.00	28,000.00	50.63
113	RESTAURANT LICENSE	23,700.00	400.00	23,300.00	65,000.00	35.85
114	ROAD HOUSE LICENSE	0.00	0.00	0.00	0.00	0.00
115	RETAIL LICENSE	141,000.00	1,700.00	139,300.00	330,000.00	42.21
116	RETAIL STOCK SALE LICENSE	0.00	0.00	0.00	0.00	0.00
117	WHOLESALE GENERAL LICENSE	10,000.00	0.00	10,000.00	145,000.00	6.90
118	WHOLESALE MALT BEV. LICENSE	800.00	0.00	800.00	14,000.00	5.71
119	MISC. LIQUOR LICENSE	19,306.00	0.00	19,306.00	32,000.00	60.33
145	COIN OPER. AMUSE. / GAM. DVC. TAX	16,306.11	40.21	16,265.90	75,000.00	21.69
146	GAMES OF CHANCE & SKILL FEES	5,689.42	0.00	5,689.42	42,000.00	135.46
402	MISCELLANEOUS REVENUE	3,227.20	259.00	2,968.20	0.00	0.00
692	REDISTRIBUTED REVENUE	0.00	0.00	0.00	0.00	0.00
	TOTAL	$1,217,124,773.75	$14,013,681.03	$1,203,111,092.72	$2,689,290,800.00	44.73
843	VESSELS & GEAR	$ 0.00	$ 0.00	$ 0.00	$ 0.00	0.00
137-844	COMM. FISH LIC.-RES.	86,680.85	20.00	86,660.85	161,000.00	53.83
138-845	COMM. FISH LIC.-N-RES.	172,632.52	660.00	171,972.52	257,000.00	67.17
140	COMMER. FISH. EXT. FEE	2,835.00	0.00	2,835.00	2,500.00	113.40
120-230	SPORT FISH., HUNT & TRAP LIC.	3,817,528.21	6,591.96	3,810,936.25	5,095,600.00	74.79
	SUB-TOTAL	$ 4,079,676.58	$ 7,271.96	$ 4,072,404.62	$ 5,516,100.00	73.83
	TOTAL TAXES	$1,221,204,450.33	$14,020,952.99	$1,207,183,497.34	$2,694,805,900.00	44.80
	INTEREST					
575	INTEREST ON LOANS	$ 1,020,621.48	$ 0.00	$ 1,020,621.48	$ 3,000,000.00	34.02
576	INTEREST ON INVESTMENTS	108,425,529.11	0.00	108,425,529.11	200,000,000.00	54.21
	TOTAL INTEREST	$ 109,446,150.59	$ 0.00	$ [illegible]9,446,150.59	$ 203,000,000.00	53.91
	TOTAL REVENUE	$1,330,650,600.92	$14,020,952.99	$1,316,629,647.93	$2,897,806,900.00	45.44

COLLECTED 7/1/79 THRU 2/29/80
8/12 or 66.67%

CODE NO.	TYPE OF TAX	GROSS RECEIPTS	REFUNDS	NET RECEIPTS	ESTIMATE	NET RECEIPTS % OF ESTIMATE
001	Property	$ 1,901,275.54	$ 645,399.56	$ 1,255,875.98	$ 175,000,000.00	.72
016	Alcohol	5,437,537.01		5,437,537.01	7,700,000.00	70.62
017	Cigarette Tax - CF	1,103,028.24	5,015.84	1,098,012.40	1,700,000.00	64.59
018	Cigarette Tax - SF	1,838,379.76		1,838,379.76	2,800,000.00	65.66
020	Electric & Telephone	235,218.67		235,218.67	2,000,000.00	11.76
021	Highway Fuel	17,677,047.72	5,407,799.15	12,269,248.57	18,400,000.00	66.68
022	Aviation Fuel	2,960,869.95		2,960,869.95	3,600,000.00	82.25
023	Marine Fuel	2,491,773.99		2,491,773.99	3,100,000.00	80.38
036	Individual Income	115,157,292.75	7,140,971.28	108,016,321.47	122,000,000.00	88.54
037	Fiduciary Income	38,198.23	27,205.46	10,992.77	100,000.00	10.99
038	Corporation Income	12,010,132.03	10,257,249.83	1,752,882.20	15,000,000.00	11.69
039	Oil & Gas Corp Income	242,799,956.47	945,162.00	241,854,794.47	402,000,000.00	60.16
046	Business License	1,873,061.28	296,758.28	1,576,303.00	4,000,000.00	39.41
052	Estate	154,416.69	5,838.48	148,578.21	200,000.00	74.29
057	School	925,577.70		925,577.70	2,500,000.00	37.02
061	Mines & Mining	119,938.00	506.10	119,431.90	100,000.00	119.43
062	Raw Fish	5,740.35	9,071.13	(3,330.78)	8,600,000.00	Ø
063	Cold Storage	213,971.44	1,222.21	212,749.23	8,700,000.00	2.45
064	Freezer Ship	184,585.24	28,590.07	155,995.17	3,600,000.00	4.33
065	Oil Production	227,713,983.85	5,414.96	227,708,568.89	420,590,000.00	54.14
066	Oil & Gas Conservation	190,247.31		190,247.31	600,000.00	31.71
067	Gas Flaring	1,333.49		1,333.49	10,000.00	33.33
068	Gas Production	7,083,912.92		7,083,912.92	11,700,000.00	60.55
096	Prepaid Tax (102)	(239,048.33)	5,143.00	(244,191.33)	Ø	Ø
106	Liquor Lic. Application	61,500.00		61,500.00	80,000.00	76.88
107	Pub Liquor License	142.34		142.34	600.00	23.72
108	Brewery	Ø	Ø	Ø	100.00	Ø
109	Distillery	Ø	Ø	Ø	Ø	Ø
110	Beverage Dispensary	405,150.00	3,800.00	401,350.00	480,000.00	83.61
111	Club License	21,400.00	200.00	21,200.00	23,400.00	90.60
112	Common Carrier	11,500.00		11,500.00	15,900.00	72.33
113	Restaurant	35,350.00		35,350.00	43,000.00	82.21
114	Roadhouse	2,700.00		2,700.00	6,400.00	42.19
115	Retail	226,300.00	6,000.00	220,300.00	270,400.00	81.47
116	Retail Stock Sale	Ø	Ø	Ø	Ø	Ø
117	Wholesale General	23,000.00	500.00	22,500.00	79,000.00	28.48
118	Wholesale Malt Beverage	4,700.00		4,700.00	14,100.00	33.33
119	Misc. License	12,765.50		12,765.50	18,000.00	70.92
145	Amusement & Gaming	58,719.52	192.00	58,527.52	85,000.00	68.86
146	Lottery Permits	27,725.43		27,725.43	20,000.00	138.63
402	Misc. Revenues	9,503.80		9,503.80	Ø	Ø
692	Redistributed Revenue	Ø	Ø	Ø	Ø	Ø
	TOTAL	$642,778,886.89	$24,792,039.35	$617,986,847.54	$1,215,135,900.00	50.86
126	Vessels & Gear	$ Ø	$ Ø	$ Ø	$ Ø	Ø
137-844	Comm. Fish Resident	85,995.28		85,995.28	151,000.00	56.95
138-845	Comm. Fish Nonresident	139,397.27		139,397.27	217,000.00	64.24
140	Comm Fish Ent Fee	1,129.00		1,129.00	Ø	Ø
120-218	Sport Fish & Hunt	3,676,681.76		3,676,681.76	4,385,000.00	83.85
	SUB-TOTAL	$ 3,903,199.31	Ø	$ 3,903,199.31	$ 4,753,000.00	82.12
	TOTAL	$646,682,086.20	$24,792,039.35	$621,890,046.85	$1,219,888,900.00	50.98
	INTEREST					
575	Interest on Loans	$ 1,876,501.42	$ Ø	$ 1,876,501.42	$ 2,628,000.00	71.40
576	Interest on Investments	50,796,660.04	Ø	50,796,660.04	64,160,000.00	79.17
577	Interest on Deposits	16,205.89	Ø	16,205.89	3,212,000.00	.50
	TOTAL INTEREST	$ 52,689,367.35	$ Ø	$ 52,689,367.35	$ 70,000,000.00	75.27
	TOTAL REVENUE	$699,371,453.55	$24,792,039.35	$674,579,414.20	$1,289,888,900.00	52.30

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heating a private residence.

2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.

3. Require only an annual certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (K) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to $100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

Tax To Be Remitted	Commission
$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to $100)

The maximum amount of $100 would provide remuneration for the dealers extra work and yet would not be costly to the state. There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1, would provide for the above recommendations; the changes could very well be incorporated into Senate Bill 117 (By the Rules Committee by Request of the Governor) which is "An Act making technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

AS 43.40.100 IS AMENDED TO INCLUDE:

(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises;

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 4, 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: Motor Fuel Special Tax Accounts -
Your Request of Mr. Robert Kessel

Dear Representative Cato:

You requested certain information from Mr. Kessel during the March 2, 1983 hearing relating to various motor fuel bills. The information has been somewhat difficult to compile but I hope what I present herein is adequate. If not, please feel free to call me and we will make additional efforts.

Our qualified conclusion is that even though specific accounts are provided for in the motor fuel statutes (AS 43.40.010), the legislature does not, in fact, correlate appropriations to the amount in the accounts. In other words, appropriations for water and harbor facilities, maintenance of highways, etc. are not limited to the amounts accumulated in the special accounts. As will be demonstrated, monies appropriated come partly from the special accounts and partly from other General Fund monies.

Our contacts during this mini-project have been the Finance Section of the Department of Administration and the Finance Section of the Department of Transportation.

REVENUES - FUEL TAX ACCOUNTS

Gross receipts deposited as unrestricted revenues in the General Fund, and designated as unreserved special accounts in the General Fund (thousands of dollars) are as follows:

	Actual FY 81	Actual FY 82	Estimated FY 83	Three Year Total
Fuel Taxes - Aviation	$ 4,100	$ 6,300	$ 5,100	$15,500
Fuel Taxes - Highway	15,600	20,300	21,000	56.900
Fuel Taxes - Marine	3,600	3,700	3,800	11,100

04-D2LH

APPROPRIATIONS - FUEL TAX ACCOUNTS

Included within the General Fund appropriations for the operating and capital expenses of the state government were the following amounts from the above unreserved special accounts (thousands of dollars):

	Actual FY 81	Actual FY 82	Actual FY 83	Three Yr Total
Aviation Fuel Tax Acct.	$ 3,700	$ 4,300	$ 4,500	$13,500
Highway Fuel Tax Acct.	19,000	20,200	18,500	57,700
Watercraft Fuel Tax Acct.	3,200	3,300	3,800	10,300

The amounts shown for the highway fuel tax and the aviation fuel tax accounts were included in the appropriations from the General Fund for the Operating Budget. The amounts shown for the watercraft fuel tax account were included in the appropriations from the General Fund for the capital budget for water and harbor facilities. The original capital budget for FY 1983 for ports and harbors appropriated from the General Fund was $4,707,000. Included in this is the $3,800,000 from the watercraft fuel tax account.

EXPENDITURES FROM FUEL TAX ACCOUNTS

The General Fund summary of expenditures and encumbrances compared with appropriations for the operating programs of the Department of Tranportation and Public Facilities supports the previous statement made in this memo regarding lack of correlation. Example: The line item amount for Highway Design & Construction expenditures and encumbrances for FY 1982 was $39,577,000. Included in this would be the $20,200,000 appropriated from the highway fuel tax account in the General Fund. The balance of this line item expenditure apparently came from other General Fund monies.

The General Fund summary of expenditures and encumbrances compared with appropriations for the capital outlay projects of the Department of Transportation & Public Facilities further supports our statement. Example: The total expenditures for capital outlay projects for the Department of Transportation & Public Facilities for FY 1982 was $46,742,000. Included in this was the $3,300,000 appropriated from the watercraft fuel tax account. The balance of the expenditure came from other General Fund monies.

CONCLUSION

It would require many hours of work to match the actual expenditures for highway, airport, and port & harbor facilities against the appropriations from the unreserved highway, aviation and watercraft fuel tax accounts in the General Fund. Since these funds are not restricted in the General Fund or

set aside in a Special Revenue Fund, they are always included in the general appropriations made from the General Fund for airports, highways, and port & harbors operating and capital budgets.

QUALIFICATION

Please bear in mind that the above is from the limited perspective of this Department. If the Committee has more specific questions pertaining to federal matching funds, the Department of Revenue would defer to the Departments of Transportation, or the Office of Management and Budget for a more comprehensive explanation of the funding formulas.

Sincerely,

Robert D. Heath
Commissioner of Revenue

RDH/RRK/gb

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 150 Date on Bill: 1/31/83
Title: [illegible] act repealing the tax on motor fuel used in or on watercraft
Sponsor: Zharoff and Grussendorf
Requestor: House Transportation

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue			-0-	(3.2 mill.)	(4.2 mill.)			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The above figures are a loss of revenues in the General Fund.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Mary Rehfeld Phone: 465-2300
Division: Commissioner Office Date: 2/24/83

Approved by Commissioner: Robert D Heath Date:
Department: Revenue

Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Motor Fuel Tax (decreasing & repealing refund provis.)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 55, by Reps. Martin and Grussendorf. Lowers motor fuel tax to three cents per gallon, as did original (see p. 46), and repeals motor fuel tax refund provisions contained in the following statutes:

--AS 43.40.030, "Refund for Nonhighway Use," allows six-cent-per-gallon refund of any tax paid for fuel used for a vehicle which is not operated on highways in the state (does not apply to aviation fuel and watercraft fuel). Allows total refund on that part of the fuel sold for non-highway use in a foreign country.

--AS 43.40.035, "Other Refunds and Credits," which allows a person who resells fuel on which the motor fuel tax was previously paid to receive a refund of the tax.

--AS 43.40.050, "Refund Claim by Affidavit," containing procedure for claiming refund of motor fuel tax by filing an affidavit with the Dept. of Revenue.

--AS 43.40.060, "Separate Invoices," which allows the Dept. of Revenue to require separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim.

--AS 43.40.070, "Refund Warrants," directs the Dept. of Revenue, upon approval of a refund claim, to issue a warrant drawn on the Highway Fuel Tax Account in favor of the applicant in the amount of the claim.

--AS 43.40.080, "Examination of Books and Records," allows the Dept. of Revenue to examine a claimant's books and records to determine the validity of a claim for a refund.

Note: bill also includes repealer for AS 43.40.040, "Applications and Permits for Refund," however this section was repealed in 1980 by Sec. 45 of Ch. 113, SLA 1980. (Required person seeking refund to obtain a permit from the Dept. of Revenue.)

Effective April 1, 1983.

Introduced February 4 and referred to Transportation and Finance.

Appropriation (special) (Tununak seawall)

HOUSE BILL NO. 149, by Rep. Vaska. Would appropriate $905,000 for a grant to the City of Tununak to construct a seawall for the prevention of soil erosion. Tununak is on the western side of Nelson Island on the Bering Sea. Provides appropriation be disbursed in accordance with laws governing state grants (AS 37.05.315 - 319). Effective immediately.

Introduced January 31 and referred to Community & Regional Affairs and Finance.

Motor Fuel Tax/Water-Craft (repealing)

HOUSE BILL NO. 150, by Zharoff, Grussendorf and McBride. Would repeal the five cent per gallon tax on motor fuel used in or on watercraft (AS 43.40.010(a)(2) and (b)(2)). Effective July 1, 1983.

HB 150 (cont'd)

Introduced January 31 and referred to Transportation, Resources and Finance.

Appropriation (special) (House of Wickersham)

HOUSE BILL NO. 151, by Reps. Hayes, M.M. Miller, Duncan, Cowdery, Fritz, Bettisworth, Cato, Clocksin, Davis, Flood, Furnace, Goll, Koponen, Larson, Liska, Martin, McBride, M.W. Miller, Pestinger, Szymanski, Tischer, Uehling, Wendte and Zharoff. Would appropriate $1 million to the Dept. of Natural Resources, Division of Parks, for the acquisition of the House of Wickersham in Juneau and the historical collections and artifacts contained in the house and for the development of the acquisition as an historic site. Appropriation lapses on June 30, 1984. Effective July 1, 1983. Identical to SB 31, page 10.

Introduced January 31 and referred to State Affairs and Finance.

Appropriation (supplemental) (revenue sharing)

HOUSE BILL NO. 152, by the Community & Regional Affairs Committee. Would make a $3.5 million supplemental appropriation to the miscellaneous services account (AS 29.89.080) for AS 29.89 (Misc. State Aid to Municipalities) for distribution to local governments and other recipients for the fiscal year ending June 30, 1983. AS 29.89 provides for state aid for roads, health facilities and hospitals, volunteer fire departments in the unorganized borough, and aid to Native Village governments. Appropriation lapses June 30, 1984. Effective immediately.

Introduced February 2 and referred to Community & Regional Affairs and Finance.

Appropriation (supplemental) (Municipal Assistance Fund)

HOUSE BILL NO. 153, by the Community & Regional Affairs Committee. Would make a $25.1 million supplemental appropriation to the Dept. of Revenue for the Municipal Assistance Fund (AS 43.20.016(a)) for distribution to municipalities for the fiscal year ending June 30, 1983. Lapses on June 30, 1984. Effective immediately.

Identical to SB 17, as amended by Senate C&RA Committee, and identical to HB 136 p. 99, except for lapse date.

Introduced February 2 and referred to Community & Regional Affairs and Finance.

Minimum Train Crews (repealing law)

HOUSE BILL NO. 154, by the Rules Committee by request of the Governor. Would repeal law establishing minimum train crews in Alaska (AS 23.10.420). See Governor's letter, below.

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced February 2 and referred to Labor & Commerce and Transportation.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

(2) $4 for each 1,000 holes or fraction in each board with more than 2,000 holes. (§ 1 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.110. Power to issue regulations. The department may issue orders and regulations necessary to carry out §§ 100—150 of this chapter. (§ 3 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.120. Manner of paying tax. The tax shall be paid by purchasing stamps from the office of the Department of Revenue. The stamps shall be affixed to the punchboard before it is placed in use, and the operator of the punchboard shall endorse upon the stamp the serial number of the punchboard. (§ 2 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.130. Refund to local governments. The department shall refund 75 per cent of the tax collected from sales of punchboards in an organized borough or city of the first, second, or third class to the local government. The balance shall be deposited in the general fund. (§ 6 ch 116 SLA 1949; am § 1 ch 53 SLA 1951; am § 3 ch 155 SLA 1962)

Sec. 43.35.140. Gambling not legalized. Sections 100—150 of this chapter do not legalize gambling. (§ 4 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Cross reference. — As to limitations on authorized gaming activities, see AS 05.15.180.

Sec. 43.35.150. Violations and penalties. (a) It is unlawful for a person to (1) distribute in the state a punchboard for which the license tax provided in §§ 100—150 of this chapter is not paid; or (2) maintain for use, or permit the use of, in a place or premises occupied by the person a punchboard upon which the license stamp is not affixed.

(b) A person violating a provision of §§ 100—150 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500. (§ 5 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Chapter 40. Motor Fuel Tax.

Article
1. General Tax Levy on Transfers or Consumption of Motor Fuel (§§ 43.40.010 — 43.40.100)
2. Additional Tax Levy on Transfers or Consumption of Motor Fuel (Repealed)

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. Penalty for violation
30. Refund for nonhighway use
40. Applications and permits for refund

Section
50. Refund claim by affidavit
60. Separate invoices
70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
90. Criminal violation
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money

for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10—100 of this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10—100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1—3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1—3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1—3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977)

Cross reference. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1976 amendment repealed subsection (d), which provided for an additional amount to be added to the tax for failure to file a return and remit the tax within the time prescribed by law or prescribed by the department pursuant to law, due to wilful neglect.

The 1977 amendment rewrote paragraph (2) of subsection (a) and paragraph (2) of subsection (b).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "Intent. The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the protection of traveling citizens of the state."

Purpose of subsection (g). — The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

Amendment of 1957 effected no change in dedication. — The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

Civil Air Patrol exempt. — The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government. 1961 Op. Att'y Gen., No. 26.

But volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Am. Jur. and C.J.S. references. — 51 Am. Jur., Taxation, §§ 1260 to 1270.

53 C.J.S. Licenses § 30.

Sec. 43.40.020. Penalty for violation. (a) A person who violates a provision of §§ 10—100 of this chapter upon conviction is punishable for each violation by a fine of not less than $50 nor more than $5,000, or by imprisonment for not more than one year, or by both. Each day's violation is a separate offense.

(b) Repealed by § 3 ch 116 SLA 1977. (§ 48-5-3 ACLA 1949, am § 4 ch 153 SLA 1972; am § 3 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment repealed subsection (b), which read "A person who claims the nonpropulsion use fuel tax exemption under § 10 (a) (2) or § 10 (b) (2) of this chapter and who uses a portion of the amount of the exempted fuel for another purpose is guilty of a misdemeanor, and is punishable by a fine of not more than $5,000."

C.J.S. reference. — 53 C.J.S. Licenses § 62.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in § 10 (j) of this chapter, a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by §§ 10—100 of this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for nonhighway use in a foreign country.

(c) The Department of Revenue shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "or on watercraft" for "an engine to propel a boat or watercraft, including motor fuel which may be used for heating and cooking aboard boats and watercraft" in paragraph (2) of subsection (a).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "Intent. The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the projection of traveling citizens of the state."

Sec. 43.40.040. Applications and permits for refund. A person who desires to claim a refund shall obtain an annual permit from the Department of Revenue by application on a form prescribed by the department. The application shall contain the name, address, and occupation of the applicant, the nature of the business, and a sufficient description for identification of the machines or equipment in which the motor fuel is to be used for which refund may be claimed under the permit. The permit shall be obtained no later than the time that the first application for refund is made under §§ 10—100 of this chapter. The permit expires at midnight of June 30 following the date it is issued. (§ 3 ch 47 SLA 1955; am § 4 ch 131 SLA 1962)

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund as provided in §§ 10—100 of this chapter shall present his claim to the commissioner of revenue by affidavit upon a form provided by the commissioner with the information the commissioner requires. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel is purchased. The commissioner may require any additional information which he considers necessary for the administration of §§ 10—100 of this chapter.

(b) A claim for refund shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the Department of Revenue. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960)

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale, or

(E) fuel used by charitable institutions;

(3) "user" means a person consuming or using motor fuel, who either purchases the fuel out of the state and ships it into the state for his own use within the state or manufactures the fuel in the state. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977)

Cross reference.—See editor's note to AS 08.04.380.

Effect of amendment. — The 1977 amendment in paragraph (2), added the subparagraph designations, substituted "or aircraft, and fuel used in and on watercraft for any purpose" for "aircraft, boat or watercraft", "run" for "propelled", and "motor fuel does not include" for "except on consignments of motor" in the introductory paragraph, substituted "consigned" for "oil" in present subparagraph (A), substituted "fuel sold" for "except motor fuel oil sold" in present subparagraph (B), deleted "and except" preceding "fuel used" and "or" following "general public" in present subparagraph (C), and inserted "fuel used" at the beginning of present subparagraphs (D) and (E).

Article 2. Additional Tax Levy on Transfers or Consumption of Motor Fuel.

Section
110—120. [Repealed]

Secs. 43.40.110—43.40.120.

Repealed by § 8 ch 158 SLA 1970.

Editor's note. — The repealed sections derived from chs. 62, 63, SLA 1960; ch. 52, SLA 1961; ch. 131, SLA 1962.

Chapter 43. Disaster Taxes.

Article
1. Disaster Relief Tax (Repealed)
2. Disaster Severance Tax (Repealed)

Article 1. Disaster Relief Tax.

Section
10—60. [Repealed]

Secs. 43.43.010 —43.43.060.

Repealed by § 1 ch 48 SLA 1969.

Editor's note. — The repealed article derived from § 1, ch. 27, FSSLA 1967.

Alaska State Legislature

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House of Representatives

DISTRICT 14:

Bellsflats
Chiniak
Kodiak
Ouzinkie

SECTIONAL ANALYSIS

HB 101 - Repeal Marine Fuel Tax

Sec. 1. Repeals tax on dealer who sells or transfers marine fuel

Sec. 2. Repeals tax on consumer

Sec. 3. Technical amendments

Sec. 4. Technical amendments

Sec. 5. This excludes fuel used by watercraft from the defination of "motor fuel".

Sec. 6. Repeals watercraft fuel tax account from the general fund.

Sec. 7. Effentive date clause of July 1, 1981

Introduced: 2/4/81
Referred: Resources and Finance

IN THE HOUSE

BY ZHAROFF, GRUSSENDORF AND BETTISWORTH

HOUSE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.010(g) is amended to read:

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e) [, (f),] and (j) of this section, shall be deposited in a special highway fuel tax account in the state general

fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities [PUBLIC WORKS] directly or as matched with available federal-aid-highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter [AS 43.40.010 - 43.40.100] shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of Transportation and Public Facilities [PUBLIC WORKS] may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

* Sec. 4. AS 43.40.030(a)(2) is amended to read:

(2) the motor fuel is not aviation fuel [, OR MOTOR FUEL USED IN OR ON WATERCRAFT]; and

* Sec. 5. AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used [IN AND ON WATERCRAFT FOR ANY PURPOSE, OR] in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale,

(E) fuel used by charitable institutions, [OR]

(F) fuel which is at least 10 percent alcohol by volume, or

(G) fuel used in and on watercraft for any purpose; [.]

* Sec. 6. AS 43.40.010(f) is repealed.

* Sec. 7. This Act takes effect July 1, 1981.

Rec. ~~FEB~~ 1981

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 101
Title An Act repealing the tax on motor fuel used in or on watercraft.
Requested by House Resources Committee Date Feb. 7, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars) - NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill will repeal the marine motor fuel tax. It will have no effect on the administrative costs of this division.

IV. DATE February 12, 1981 PREPARED BY Cary L. Jenkins
AGENCY Division of Audit
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill #101
Title Act repealing the tax on motor fuel used in or on watercraft
Requested by House Resources Committee Date 2/9/81

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, sep... e line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND	-0-	(3.6)	(3.8)	(4.0)	(4.2)	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The above estimates are based on the Department of Revenue's forecasting model.

IV. DATE 2/9/81 PREPARED BY Bill Yankee
AGENCY Revenue Research
PHONE 465-2173

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

Alaska State Legislature

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House of Representatives

DISTRICT 14:

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KODIAK
OUZINKIE

A recap of the following pages from the Department of Revenue's Source Book publications shows the amount of Marine Fuel Tax collected for the past few years and the estimated tax for FY 81 and FY 82.

Fiscal Year	Actual	Estimate
1977	1,400	
1978	2,100	
1979	2,600	
1980	3,200	
1981		3,400
1982		3,600

The proceeds from the Marine Fuel Tax are deposited in the Watercraft Fuel Tax Account in the general fund and may be appropriated for water and harbor facilities. However, this account is not tracked by municipalities, so it is impossible to compare the amount paid into the account by a municipality to what that municipality receives back for their water and harbor facilities.

General Fund Unrestricted Revenues

In Thousands of Current Dollars

	FY 1980 Actual	FY 1981 Revised Estimate	FY 1982 Estimate
Taxes			
Income			
Corporate - General	17,900	35,000	36,000
Corporate - Petroleum	547,500	770,000	882,900
Fiduciary(1)	100	-0-	-0-
Individual(1)	100,500	-0-	-0-
Gross Receipts			
Alaska Business License	4,200	5,300	3,200
Fish - Canned Salmon(2)	4,300	12,100(3)	6,600
Fish - Shorebased(2)	7,600	10,400(3)	7,800
Fish - Floating(2)	2,700	4,000(3)	3,100
Salmon Enhancement(4)	-0-	-0-	1,500
Insurance Companies	10,400	11,300	12,500
Other	2,100	2,600	2,900
Severance			
Gravel, Timber, etc.	1,600	1,300	1,000
Oil & Gas Production(5)	506,200	1,178,200	1,700,100
Oil & Gas Conservation	300	600	600
Property			
Oil & Gas	168,900	170,000	170,000
Vehicle Registration	100	200	200
Sale/Use			
Alcoholic Beverages	7,400	7,900	8,200
Fuel Taxes - Aviation	4,000	4,100	4,300
Fuel Taxes - Highway	18,900	18,500	20,900
Fuel Taxes - Marine	3,200	3,400	3,600
Tobacco Products	1,600	1,700	1,800
Other			
Estate	200	200	200
School(6)	2,600	-0-	-0-
Total Taxes	1,412,300	2,236,800	2,916,400
Licenses & Permits			
Business	8,100	8,300	9,700
Non-Business	10,700	12,000	12,500
Total Licenses & Permits	18,800	20,300	22,200
Intergovernmental Receipts			
Federal Shared Revenues(5) (7)	4,800	19,400(8)	8,000
State Resource Revenue			
Sale/Use			
Bonus Sales	342,400(7) (9)	6,400(10)(11)(12)	-0-(11)

Unrestricted Revenues

In Thousands of Current Dollars

TAXES	FY 79 ACTUAL	FY 80 REVISED ESTIMATE	FY 81 ESTIMATE
INCOME			
Corporate - General	24,800	15,000	28,000
Corporate - Petroleum(1)	232,600(2)	402,000	558,000
Fiduciary	100	100	100
Individual	117,200	122,000	161,000
GROSS RECEIPTS			
Alaska Business License(3)	28,200	4,000	3,000
Raw Fish(4)	6,700	8,600	13,800
Cold Storage(4)	3,300	8,700	12,600
Freezer Ship(4)	1,900	3,600	4,900
Insurance Companies	10,800	12,400	14,300
Other	1,900	2,000	2,300
SEVERANCE			
Gravel, Timber, etc.	1,700	1,500	1,200
Oil and Gas Production(5)	173,800	432,900	1,045,200
PROPERTY			
Oil and Gas	163,400	175,000	178,000
Vehicle Registration	200	100	200
SALE/USE			
Alcoholic Beverages	7,400	7,700	8,000
Fuel Taxes-Aviation	3,400	3,600	3,700
Fuel Taxes-Highway	16,300	18,400	19,000
Fuel Taxes-Marine	2,600	3,100	3,200
Tobacco Products	1,700	1,700	1,800
OTHER			
Estate	100	200	200
School	2,500	2,500	2,700
TOTAL TAXES	800,600	1,225,100	2,061,200
LICENSES AND PERMITS			
BUSINESS	7,500	8,500	8,500
NON-BUSINESS	12,300	11,300	12,400
TOTAL LICENSES & PERMITS	19,800	19,800	20,900
INTERGOVERNMENTAL RECEIPTS			
FEDERAL SHARED REVENUES(6)	4,100	4,000	4,000

STATE RESOURCES REVENUE

SALE/USE			
Bonus Sales (6)	-0-	-0-	-0-
Investment Earnings	44,200	42,000	45,000
Rents (6)	2,300	2,800	2,500
Royalties (6)	149,600	223,200	270,200
Sale of State Property	1,900	1,800	4,200
FACILITIES RELATED CHARGES			
Airports	800	400	500
Ferry System (7)	15,600	19,600	23,100
All Other	4,000	3,600	4,000
SERVICE RELATED CHARGES			
Court System	2,800	2,900	3,100
All Other	1,700	1,600	300
TOTAL STATE RESOURCES REVENUE	222,900	297,900	352,900
MISCELLANEOUS REVENUE			
Returns, etc.	3,900	3,900	3,900
TOTAL UNRESTRICTED REVENUES	787,300	1,071,700	1,134,400
Less: Native Claims Payments	22,400	41,600	50,800
TOTAL TO THE STATE	764,900	1,030,100	1,083,600

(1) Ch. 110 SLA 1978 Effective July 9, 1978.

(2) Sec. 3 of Ch. 144 SLA 1978 Effective January 1, 1979 amended AS 43.60.030 to remove the gross receipts levy on all businesses with the exception of the net income tax for banks, trust companies and savings and loan associations and the business license fee itself.

(3)

COMMERCIAL FISH TAXES	1978	1979	1980
Raw Fish	5,500	6,800	6,700
Cold Storage	2,300	2,700	2,700
Freezer Ship	500	1,000	800
TOTAL	8,300	10,500	10,200

(4) Reserves tax credit applied.

(5)

FUEL TAXES	1978	1979	1980
Aviation	3,300	3,400	3,500
Highway	17,900	22,100	23,400
Marine	2,100	2,300	2,400
TOTAL	23,300	27,800	29,300

(6) Net of 25% Permanent Fund contribution.

(7)

FERRY SYSTEM	1978	1979	1980
Southeast	14,000	17,500	20,900
Southwest	1,600	2,100	2,200
TOTAL	15,600	19,600	23,100

	1977	1978		1979
	ACTUAL	BUDGET ESTIMATE	REVISED ESTIMATE	ESTIMATE
TAXES				
INCOME				
Corporate	35,772.1	53,440.0	44,600.0	65,600.0
Fiduciary	92.4	55.0	101.6	111.7
Individual	210,378.3	93,403.4	135,000.0	145,000.0
GROSS RECEIPTS				
Alaska Business License	23,252.2	17,422.5	21,800.0	20,400.0
Commercial Fish	6,203.1	3,896.0	7,830.5	8,489.7
Insurance Companies	8,063.2	6,750.0	8,200.0	8,500.0
Public Utilities	1,192.7	975.0	1,392.8	1,532.0
Other	65.2	50.0	71.7	78.8
SEVERANCE				
Gravel, Timber, Land, etc.	1,002.4	807.0	546.5	578.6
Oil and Gas Production (1)	23,758.4	113,469.0	113,500.0	176,000.0
PROPERTY				
Oil and Gas	139,140.7	168,300.0	168,300.0	170,600.0
Reserves (2)	270,626.5	-0-	-0-	-0-
Vehicle Registration (3)	-0-	198.4	198.6	202.4
SALE/USE				
Alcoholic Beverages	7,977.7	7,170.0	6,800.0	6,700.0
Fuel Taxes-Aviation	2,503.7	2,940.0	2,300.0	2,300.0
Fuel Taxes-Highway	16,745.2	18,113.7	13,200.0	12,800.0
Fuel Taxes-Marine	1,358.2 ✓	1,460.0	1,900.0	1,800.0
Tobacco Products	1,817.7	1,562.6	1,600.0	1,500.0
OTHER				
Death and Gift	193.1	125.0	213.0	234.3
School	2,588.6	2,511.0	2,100.0	2,100.0
TOTAL TAXES	752,731.4	492,948.6	529,654.7	624,527.5
LICENSES AND PERMITS				
BUSINESS				
Alcoholic Beverages	949.3	992.3	988.2	1,007.6
Amusements	107.3	85.6	118.0	129.7
Commercial Fishing (4)	836.1	694.2	1,157.3	1,081.9
General Corporation	1,126.1	1,010.8	1,165.7	1,225.0
Professional and Occupational	672.4	779.0	779.0	721.1
Regulatory	1,729.8	1,743.5	1,747.4	1,769.2
Other	43.2	39.9	41.1	43.5
NON-BUSINESS				
Fish and Game	48.9	66.7	47.9	49.5
Motor Vehicle-Operators	584.0	531.5	534.6	550.6
Motor Vehicle-Titles/Registration	10,020.4	12,251.2	11,505.0	11,350.1
Other	2.0	6.9	7.0	6.3
TOTAL LICENCES AND PERMITS	16,119.5	18,201.6	18,091.2	17,934.5
INTERGOVERNMENTAL RECEIPTS				
FEDERAL SHARED REVENUE				
Lands	511.0	564.0	3,520.0	3,255.2
Mineral Rents and Royalties (5)	1,985.6	3,054.2	1,450.8	1,381.9
Other	2.2	2.5	2.5	2.5
TOTAL INTERGOVERNMENTAL RECEIPTS	2,498.8	3,620.7	4,973.3	4,639.6

(2) $4 for each 1,000 holes or fraction in each board with more than 2,000 holes. (§ 1 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.110. Power to issue regulations. The department may issue orders and regulations necessary to carry out §§ 100—150 of this chapter. (§ 3 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.120. Manner of paying tax. The tax shall be paid by purchasing stamps from the office of the Department of Revenue. The stamps shall be affixed to the punchboard before it is placed in use, and the operator of the punchboard shall endorse upon the stamp the serial number of the punchboard. (§ 2 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Sec. 43.35.130. Refund to local governments. The department shall refund 75 per cent of the tax collected from sales of punchboards in an organized borough or city of the first, second, or third class to the local government. The balance shall be deposited in the general fund. (§ 6 ch 116 SLA 1949; am § 1 ch 53 SLA 1951; am § 3 ch 155 SLA 1962)

Sec. 43.35.140. Gambling not legalized. Sections 100—150 of this chapter do not legalize gambling. (§ 4 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Cross reference. — As to limitations on authorized gaming activities, see AS 05.15.180.

Sec. 43.35.150. Violations and penalties. (a) It is unlawful for a person to (1) distribute in the state a punchboard for which the license tax provided in §§ 100—150 of this chapter is not paid; or (2) maintain for use, or permit the use of, in a place or premises occupied by the person a punchboard upon which the license stamp is not affixed.

(b) A person violating a provision of §§ 100—150 of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500. (§ 5 ch 116 SLA 1949; am § 1 ch 53 SLA 1951)

Chapter 40. Motor Fuel Tax.

Article
1. General Tax Levy on Transfers or Consumption of Motor Fuel (§§ 43.40.010 — 43.40.100)
2. Additional Tax Levy on Transfers or Consumption of Motor Fuel (Repealed)

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. Penalty for violation
30. Refund for nonhighway use
40. Applications and permits for refund

Section
50. Refund claim by affidavit
60. Separate invoices
70. Refund warrants
80. Examination of books and records
85. Preservation of books and records
90. Criminal violation
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money

for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10—100 of this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10—100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1—3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1—3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1—3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977)

Cross reference. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1976 amendment repealed subsection (d), which provided for an additional amount to be added to the tax for failure to file a return and remit the tax within the time prescribed by law or prescribed by the department pursuant to law, due to wilful neglect.

The 1977 amendment rewrote paragraph (2) of subsection (a) and paragraph (2) of subsection (b).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "Intent. The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the protection of traveling citizens of the state."

Purpose of subsection (g). — The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

Amendment of 1957 effected no change in dedication. — The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

Civil Air Patrol exempt. — The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government. 1961 Op. Att'y Gen., No. 26.

but volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen. No. 26.

Am. Jur. and C.J.S. references. — 51 Am. Jur., Taxation, §§ 1260 to 1279.

53 C.J.S. Licenses § 30.

Sec. 43.40.020. Penalty for violation. (a) A person who violates a provision of §§ 10—100 of this chapter upon conviction is punishable for each violation by a fine of not less than $50 nor more than $5,000, or by imprisonment for not more than one year, or by both. Each day's violation is a separate offense.

(b) Repealed by § 3 ch 116 SLA 1977. (§ 48-5-3 ACLA 1949; am § 4 ch 153 SLA 1972; am § 3 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment repealed subsection (b), which read "A person who claims the nonpropulsion use fuel tax exemption under § 10 (a) (2) or § 10 (b) (2) of this chapter and who uses a portion of the amount of the exempted fuel for another purpose is guilty of a misdemeanor, and is punishable by a fine of not more than $5,000."

C.J.S. reference. — 53 C.J.S. Licenses § 62.

Sec. 43.40.030. Refund for nonhighway use. (a) Except as specified in § 10 (j) of this chapter, a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by §§ 10—100 of this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for nonhighway use in a foreign country.

(c) The Department of Revenue shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "or on watercraft" for "an engine to propel a boat or watercraft, including motor fuel which may be used for heating and cooking aboard boats and watercraft" in paragraph (2) of subsection (a).

Editor's note. — Section 1, ch. 125, SLA 1971, provides: "Intent. The intent of this Act is to provide funds for trail staking and shelter construction and maintenance projects in sparsely populated areas where the interests of safety require their establishment for the projection of traveling citizens of the state."

Sec. 43.40.040. Applications and permits for refund. A person who desires to claim a refund shall obtain an annual permit from the Department of Revenue by application on a form prescribed by the department. The application shall contain the name, address, and occupation of the applicant, the nature of the business, and a sufficient description for identification of the machines or equipment in which the motor fuel is to be used for which refund may be claimed under the permit. The permit shall be obtained no later than the time that the first application for refund is made under §§ 10—100 of this chapter. The permit expires at midnight of June 30 following the date it is issued. (§ 3 ch 47 SLA 1955; am § 4 ch 131 SLA 1962)

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund as provided in §§ 10—100 of this chapter shall present his claim to the commissioner of revenue by affidavit upon a form provided by the commissioner with the information the commissioner requires. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel is purchased. The commissioner may require any additional information which he considers necessary for the administration of §§ 10—100 of this chapter.

(b) A claim for refund shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the Department of Revenue. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960)

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale, or

(E) fuel used by charitable institutions;

(3) "user" means a person consuming or using motor fuel, who either purchases the fuel out of the state and ships it into the state for his own use within the state or manufactures the fuel in the state. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977)

Cross reference. — See editor's note to AS 08.04.380.

Effect of amendment. — The 1977 amendment in paragraph (2), added the subparagraph designations, substituted "or aircraft, and fuel used in and on watercraft for any purpose" for "aircraft, boat or watercraft", "run" for "propelled", and "motor fuel does not include" for "except on consignments of motor" in the introductory paragraph, substituted "consigned" for "oil" in present subparagraph (A), substituted "fuel sold" for "except motor fuel oil sold" in present subparagraph (B), deleted "and except" preceding "fuel used" and "or" following "general public" in present subparagraph (C), and inserted "fuel used" at the beginning of present subparagraphs (D) and (E).

Article 2. Additional Tax Levy on Transfers or Consumption of Motor Fuel.

Section
110—120. [Repealed]

Secs. 43.40.110—43.40.120.

Repealed by § 8 ch 158 SLA 1970.

Editor's note. — The repealed sections derived from chs. 62, 63, SLA 1960; ch. 52, SLA 1961; ch. 131, SLA 1962.

Chapter 43. Disaster Taxes.

Article
1. Disaster Relief Tax (Repealed)
2. Disaster Severance Tax (Repealed)

Article 1. Disaster Relief Tax.

Section
10—60. [Repealed]

Secs. 43.43.010 —43.43.060.

Repealed by § 1 ch 48 SLA 1969.

Editor's note. — The repealed article derived from § 1, ch. 27, FSSLA 1967.

Secs. 43.31.360 — 43.31.390.

Repealed by § 46 ch 113 SLA 1980.

Cross reference. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's note. — The repealed sections derived from § 3, ch. 24, SLA 1970.

Chapter 35. Coin-Operated Devices and Punchboards.

Article 1. Coin-Operated Amusement and Gaming Devices.

Section
80. [Repealed]

Sec. 43.35.080. Penalties.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220. For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's note. — The repealed section derived from § 48-3-3 ACLA 1949; § 3, ch. 142, SLA 1960; § 2, ch. 58, SLA 1971.

Chapter 40. Motor Fuel Tax.

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section
20. [Repealed]
30. Refund for nonhighway use
40. [Repealed]
50. Refund claim by affidavit
80. Examination of books and records
90. [Repealed]
100. Definitions

Sec. 43.40.020. Penalty for violation.

Repealed by § 46 ch 113 SLA 1980.

Cross reference. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's note. — The repealed section derived from § 48-5-3, ACLA 1949; § 4, ch. 153, SLA 1972; § 3, ch. 116, SLA 1977.

Sec. 43.40.030. Refund for nonhighway use.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which duty is paid when the fuel is sold and delivered in the state for nonhighway use in a foreign country.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid.

(am §§ 35, 36 ch 113 SLA 1980)

Effect of amendment.

The 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1980, substituted "this chapter" for "AS 43.40.010 — 43.40.100" in subsection (b), and added subsection (d).

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — Section 52, ch. 113, SLA 1980, effective June 21, 1980, makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.040. Applications and permits for refund.

Repealed by § 35 ch 113 SLA 1980.

Cross reference. — For present provisions concerning contents of applications for refunds, see AS 43.40.050(a).

Editor's note. — The repealed section derived from § 3, ch. 87, SLA 1955; § 4, ch. 131, SLA 1962.

Section 52, ch. 113, SLA 1980, effective June 21, 1980, makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund as provided in this chapter shall present his claim to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used. The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which he considers necessary for the administration of this chapter.

(am § 37 ch 113 SLA 1980)

Effect of amendment. — The 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1980, in subsection (a), substituted "this chapter" for "AS 43.40.010 — 43.40.100" at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. Section 52, ch. 113, SLA 1980, effective June 21, 1980, makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) Repealed by § 46 ch 113 SLA 1980. (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendment. — The 1980 amendment, effective June 21, 1980, repealed subsection (b).

Sec. 43.40.090. Criminal violation.

Repealed by § 46 ch 113 SLA 1980.

Cross reference. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's note. — The repealed section derived from § 11, ch. 47, SLA 1955; § 4, ch. 27, SLA 1957.

Sec. 43.40.100. Definitions. In AS 43.40.010 — 43.40.100

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale,

(E) fuel used by charitable institutions, or

(F) [Effective January 1, 1981] fuel which is at least 10 percent alcohol by volume.

(am § 10 ch 83 SLA 1980)

Effect of amendment. — The 1980 amendment, effective January 1, 1981, added subparagraph (F) in paragraph (2).

As the rest of the section was not affected by the amendment, it is not set out.

Chapter 45. School Tax.

Section

10—60. [Repealed]

Editor's note. — The repealed chapter derived from §§ 37-4-3 — 37-4-6, ACLA 1949; § 1, ch. 41, SLA 1957; § 1, ch. 175, SLA 1957; § 1, ch. 149, SLA 1959; §§ 1—5, ch. 179, SLA 1960; § 111, ch. 127, SLA 1974.

Section 3, ch. 64, SLA 1980, effective June 13, 1980, makes the repeal of this chapter applicable to tax years beginning after December 31, 1979.

Section 4, ch. 64, SLA 1980, effective June 13, 1980, provides: "The Department

Alaska State Legislature

House of Representatives

Committee on Resources

Terry Gardiner, Co-Chairman
Fred F. Zharoff, Co-Chairman
465-3715

Pouch V
State Capitol
Juneau, Alaska 99811

SYNOPSIS OF TELECONFERENCED TESTIMONY GIVEN ON H.B. 101
FEBRUARY 20, 1981

Kodiak: Alvin Burch of the Alaska Drag Net Association testified in favor of the bill. He felt the legislation would mainly benefit local alaskan boats which use from 12,000 - 25,000 gallons of fuel a year. The larger outside boats use up to 100,000 gallons of fuel a year and usually fuel up in outside waters. Mr. Burch stated that repeal of the tax would mean a savings of about $5,100 on the two boats that he and his brother operate together.

Jeff Stephan of the United Fishermen's Marketing Association also testified in favor of the legislation. He pointed out that one of the reasons tanner crab fishermen have been on strike for the past month is because of rising operating costs due in part to fuel. Fuel prices have gone from 51¢ a gallon in 1977 to the present $1.10 a gallon.

Blake Kinnear, a year around vessel operator, felt that the revenues saved by the tax repeal would be a help toward making up some of the money lost to foreign fleets fishing on alaskan grounds.

Paul Soper testified that his vessel the Tidings used about 30,000 gallons of fuel a year and that saving 5¢ a gallon would be very helpful.

Dillingham: Joe McGill, representing the Western Alaska Cooperative Marketing Association, stated that his organization represented 360 resident fishermen who were in favor of the bill. He felt that the state has plenty of oil revenues at present and that repealing the motor fuel tax would help ease the financial burden Bristol Bay fishermen are under at this time.

Kay Larsen spoke for the Bristol Bay Native Association. She testified that the decrease in fish prices and the rise in operating expenses were putting a real hardship on people in her area. She favored the legislation.

WESTERN ALASKA FISHERIES, INC.

P.O. BOX 2367 • KODIAK, ALASKA 99615

PHONE (907) 486-4112
TELEX 090-25-288

Represenative Fred F. Zharoff
Pouch V
Juneau, Alaska 99811

February 26, 1981

Dear Represenative Zharoff,

This letter is to let you know Western Alaska Fisheries and myself, support the total repeal of the Moter Marine Fuel Tax, and we support the Terror Lake Hyro-electric Project.

We feel that even this might not be enough. The rate that fuel and electric costs are increasing is scary. If this trend continues we may find that our Fisheries Industry may be on - should be on the Endandgered Species List. We only have to look back a few decades to when Alaska had many cod fish salters, whaling stations and salmon canneries. Economic conditions changed and these processing sites today are only remembered because some rotting piling is still visible. In the short term these rising costs will directly affect crewshares on the boats and wages in the plants.

In our own case during the 1980 King Crab season the electricity and fuel bills combined were higher than our direct wages. At least in King Crab we have a chance to pass these costs on. In the fledgling Bottom Fish industry where world markets are firm, we are really in trouble. We are inexperienced in the processing techniques.Our labor costs are high, and our foriegn competition is subsidized.

In summary, all fisheries market prices are pretty well established. As these utility costs increase, labor and fish prices will have to decrease if the industry is to survive. But our workers and fishermen are faced with the same increasing costs. We all have to survive together, if one segment fails we all fail.

We support solid long term investments of our States' Oil wealth. Such examples are Terror Lake Hydro-electric, Dog Bay Boatharbor, Shelikof Avenue paving. Tax reductions, or elimination are good but are small by comparision. If we are not careful now, the state may find its oil revenue supply dried up, an ocean full of fish being processed by foriegn fleets, and no domestic fisheries industry to tax.

Thank you

Kenneth M. Allread

Kenneth M. Allread
General Manager

MARINE FUEL TAX

The following points were made in discussion with Don Statter 3/19/80:

The revenue accumulated from the Marine Fuel Tax this past year will not be indicated as such in this years' budget because the small budget items which were requested under this funding source, were lost in Budget and Management while they were working on the over-all Harbor Design and Construction budget. This money will not have a label, but will be included in the general fund.

The Marine Fuel Tax revenue estimated for 1980 was made this last September in the amount of $2,800,000.

The Marine Fuel Tax revenue estimated for 1981 is $3,200,000.

Last year was the first time any of the Marine Fuel Tax was used for projects other than docks and harbors. A portion was used for dams and other non-harbor type projects.

In the past the D.O.T. has contained their requests within the boundaries of the anticipated revenue, and the legislature would appropriate additional monies as they saw fit. This year is the first year D.O.T Div. of Harbor Design and Construction (actually the whole Dept.) has not had to budget within the boundaries of the estimated revenue in planning their budget request.

Marine Fuel Tax is used not only for the actual capital improvements, but also for administrative costs and office rent, etc.

In regards to House Bill 745, Statter commented that back when prices for fuel were 35¢ a gallon, the 5¢ tax was significan. In this day and age, he says that it not quite so significant because the fuel prices are escallating at 10¢ or so every time they are raised. He says that if the budget remains at the current inflated level, repealing the Marine Fuel Tax would not hurt, but if we are to return to the previous limitation, the tax should not be repealed.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FEB 10 1982

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 101 (Finance)
Title Act repealing marine fuel tax
Requested by House Rules Committee Date 2/3/82

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		(3,800)	(4,000)	(4,200)		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The above figures are derived from the Department of Revenue's forecasting model, and represent the loss to the General Fund if CSHB 101 (Finance) is enacted.

Robert W. Elliott

IV. DATE 2/3/82 PREPARED BY Robert W. Elliott
AGENCY Department of Revenue
PHONE 465-2173

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 101 (Finance)
Title An Act repealing the tax on motor fuel used in or on watercraft
Requested by ~~xxxxxxxxxx~~ Date 2-8-82
Requested by: Finance Committee

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
RRU, Program, Or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		22.0	23.5	25.0	27.0	29.5
200 TRAVEL		1.6	1.8	2.0	2.2	2.4
300 CONTRACTUAL						
400 COMMODITIES		.5				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		24.1	25.3	27.0	29.2	31.9

FUNDING (Thousands of Dollars)

GENERAL FUND		24.1	25.3	27.0	29.2	31.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill would remove fuel used in or on watercraft from the motor fuel tax. See attached copy of memo to R. D. Stevenson.

IV. DATE February ~~11~~ 8, 1982 PREPARED BY Robert R. Kessel
AGENCY Department of Revenue - Audit
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska
Department of Revenue

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: February 8, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel RK
Director, Audit Division

SUBJECT: CSHB 101 (Finance)

CSHB 101 would restructure the motor fuel law to remove fuel used in a watercraft from the definition of motor fuel.

HB 101, along with SB 182, was introduced during the 1981 session and provided substantially the same changes as CSHB 101. Gary Jenkins, previous Audit Director, determined that there would be no fiscal impact for either HB 101 or SB 182. The Division now believes that there would be a fiscal impact.

If the motor fuel tax is removed from water craft, an enforcement problem could develop for the remaining motor fuel tax law. That is simply because the various fuels used in watercraft, i.e. diesel, kerosene and gasoline, can be used in other taxable manners. The elimination of fuel tax from watercraft would then provide another possible avenue for avoidance of the fuel tax unless the Revenue Department were able to provide stringent enforcement policies via additional manpower.

The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions are deposited in a special watercraft fuel tax account in the general fund and may be appropriated for water and harbor facilities. Therefore, there would apparently be some impact on such facilities if this bill became law. The extent of that impact cannot be ventured by the Audit Division.

RRK/gb

Original sponsors: Zharoff, Grussendorf and Bettisworth

Offered: 1/29/82
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 101 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act repealing the tax on motor fuel used in or on watercraft; and providing for an effective date."

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

* Section 1. AS 43.40.010(a) is amended to read:

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 2. AS 43.40.010(b) is amended to read:

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon, and

[(2) THE TAX ON MOTOR FUEL USED IN AND ON WATERCRAFT OF ALL DESCRIPTIONS IS FIVE CENTS A GALLON, AND]

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

* Sec. 3. AS 43.40.010(g) is amended to read:

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e) [, (f),] and (j) of this section, shall be deposited in a special highway fuel tax account in the state general

fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities [PUBLIC WORKS] directly or as matched with available federal-aid-highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter [AS 43.40.010 - 43.40.100] shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of Transportation and Public Facilities [PUBLIC WORKS] may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

* Sec. 4. AS 43.40.030(a)(2) is amended to read:

(2) the motor fuel is not aviation fuel [, OR MOTOR FUEL USED IN OR ON WATERCRAFT]; and

* Sec. 5. AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used [IN AND ON WATERCRAFT FOR ANY PURPOSE, OR] in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries,

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale,

(E) fuel used by charitable institutions, [OR]

(F) fuel which is at least 10 percent alcohol by volume, or

(G) fuel used in and on watercraft for any purpose; [.]

* Sec. 6. AS 43.40.010(f) is repealed.

* Sec. 7. This Act takes effect July 1, 1982.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 745
Title An Act repealing the motor fuel tax on motor fuel used in watercraft.
Requested by House Resources & Finance Committees Date 2/19/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Fiscal Services
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affect[illegible]arate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE February 19, 1980 PREPARED BY [signature]
AGENCY Department of Revenue, Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 745
Title An Act repealing the motor fuel tax on fuel used in watercraft
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected _____
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND	-0-	($3.2)	($3.3)	($3.4)	($3.5)	($3.6)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The bill proposes to repeal the motor fuel tax presently imposed on motor fuel used in watercraft. If passed the repeal would become effective immediately.

The above estimate is based on the general assumptions contained in the department's long range estimating model.

IV. DATE 2/20/80 PREPARED BY Barbara Sorensen
AGENCY REVENUE
PHONE 2174

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

REPORT OF MOTOR FUEL DISTRIBUTED OR SOLD IN ALASKA DURING June 1976

	TOTAL GALLONS	EXEMPT GALLONS	DIVISION I	DIVISION II	DIVISION III	DIVISION IV	TAXABLE GALLONS	ACCUMULATIVE TOTAL from July 1975 to June 30, 1976
viation-Jet	25,217,826	16,243,677	480,436	121,620	7,443	926,752	8,974,149	96,495,305
tion-Gas	1,631,666	136,616	202,842	89,647	722,988	479,573	1,495,050	13,266,181
(non-taxable) viation-Bonded	3,307,371	3,307,371	-0-	-0-	3,307,371	-0-	~~3,307,371~~ -0-	21,362,024
s-Highway	18,345,936	442,084	1,752,422	341,505	11,434,791	4,375,134	17,903,852	179,697,007
esel-Highway	20,237,262	5,940,651	1,125,275	4,581,829	5,296,474	3,293,033	14,296,611	148,690,620
s-Marine	1,203,804	31,054	386,499	1,193	680,078	104,980	1,172,750	5,644,629
esel-Marine	3,363,654	507,197	822,163	8,367	1,957,486	68,441	2,856,457	23,675,425
(non-taxable) rine Non-opulsion	1,031,366	1,031,366	227,678	-0-	803,688	-0-	~~1,031,366~~ -0-	9,664,494
her Type Fuel	258,619	18,236	141	239,697	215	330	240,383	1,084,094

REPORT OF MOTOR FUEL DISTRIBUTED OR SOLD IN ALASKA DURING JUNE 1977

	TOTAL GALLONS	EXEMPT GALLONS	DIVISION I	DIVISION II	DIVISION III	DIVISION IV	TAXABLE GALLONS	ACCUMULATIVE TOTAL TAXABLE GALLONS from 7/1/76 to 6/30/77
Aviation-Jet	21,942,474	12,3.7,786	460,825	80,221	8,106,778	976,864	9,624,688	96,217,874
Aviation-Gas	2,006,857	151,515	215,282	157,262	795,632	687,166	1,855,342	14,410,305
Aviation-Bonded (non-taxable)	3,328,439	3,328,439	-0-	-0-	-0-	-0-	-0-	-0-
Gas-Highway	17,797,282	388,613	1,412,850	411,411	11,661,604	3,922,804	17,408,669	182,313,174
Diesel-Highway	15,797,825	5,565,524	771,907	2,526,414	4,714,107	2,219,873	10,232,301	122,319,720
Gas-Marine	1,623,510	347,913	363,646	57,280	581,335	273,336	1,275,597	5,894,272
Diesel-Marine	3,545,296	237,143	747,468	29,107	2,418,705	112,873	3,308,153	36,975,208
Marine Non-Propulsion (non-taxable)	1,264,140	1,264,140	-0-	-0-	-0-	-0-	-0-	-0-
Other Type Fuel	79,897	-0-	1,881	49,324	24,193	4,499	79,897	534,963

Revised 2/28/78

REPORT OF MOTOR FUEL DISTRIBUTED OR SOLD IN ALASKA DURING _____

UEL TYPE	TOTAL GALLONS	EXEMPT GALLONS	TAXABLE GALLONS BY DIVISION				TOTAL TAXABLE GALLONS	ACCUMULATIVE TOTAL TAXABLE GALLONS from 7-1-77 to 6-30-78
			DIVISION I	DIVISION II	DIVISION III	DIVISION IV		
viation-Jet	31,332,685	20,010,912	496,809	124,355	9,899,220	801,389	11,321,773	110,893,476
viation-Gas	1,933,070	(16,611)	211,017	144,242	997,193	597,229	1,949,681	15,057,178
(Non-taxable) viation-Bonded	3,672,077	3,672,077						
as-Highway	19,113,589	345,764	1,558,317	328,407	13,418,705	3,462,396	18,767,825	178,220,245
iesel-Highway	14,985,130	6,985,267	652,075	15,075	4,520,449	2,812,264	7,999,863	121,212,765
as-Marine	1,628,220	294,961	344,571	86,571	661,956	240,161	1,333,259	6,283,606
iesel-Marine	4,669,467	454,561	1,048,906	31,419	3,050,223	84,358	4,214,906	37,924,119
ther ype Fuel	3,603,276	-0-	2,724	111	48,095	3,552,346	3,603,276	7,708,796
rand otals	80,937,514	31,746,931	4,314,419	730,180	32,595,841	11,550,143	49,190,583	477,300,205

Revised 8/15/78

04-547

From Dept. Rev.

CUMULATIVE SUMMARY OF REVENUE
COLLECTED 7/1/79 THRU 2/29/80
8/12 or 66.67%

CODE NO.	TYPE OF TAX	GROSS RECEIPTS	REFUNDS	NET RECEIPTS	ESTIMATE	NET RECEIPTS % OF ESTIMATE
001	Property	$ 1,901,275.54	$ 645,399.56	$ 1,255,875.98	$ 175,000,000.00	.72
016	Alcohol	5,437,537.01		5,437,537.01	7,700,000.00	70.62
017	Cigarette Tax - GF	1,103,028.24	5,015.84	1,098,012.40	1,700,000.00	64.59
018	Cigarette Tax - SF	1,838,379.76		1,838,379.76	2,800,000.00	65.66
020	Electric & Telephone	235,218.67		235,218.67	2,000,000.00	11.76
021	Highway Fuel	17,677,047.72	5,407,799.15	12,269,248.57	18,400,000.00	66.68
022	Aviation Fuel	2,960,869.95		2,960,869.95	3,600,000.00	82.25
023	Marine Fuels	2,491,773.99		2,491,773.99	3,100,000.00	80.38
036	Individual Income	115,157,292.75	7,140,971.28	108,016,321.47	122,000,000.00	88.54
037	Fiduciary Income	38,198.23	27,205.46	10,992.77	100,000.00	10.99
038	Corporation Income	12,010,132.03	10,257,249.83	1,752,882.20	15,000,000.00	11.69
039	Oil & Gas Corp Income	242,799,956.47	945,162.00	241,854,794.47	402,000,000.00	60.16
046	Business License	1,873,061.28	296,758.28	1,576,303.00	4,000,000.00	39.41
052	Estate	154,416.69	5,838.48	148,578.21	200,000.00	74.29
057	Alcohol	925,577.70		925,577.70	2,500,000.00	37.02
061	Mines & Mining	119,938.00	506.10	119,431.90	100,000.00	119.43
062	Raw Fish	5,740.35	9,071.13	(3,330.78)	8,600,000.00	Ø
063	Cold Storage	213,971.44	1,222.21	212,749.23	8,700,000.00	2.45
064	Freezer Ship	184,585.24	28,990.07	155,995.17	3,600,000.00	4.33
065	Oil Production	327,713,9[illegible].85	5,414.96	227,708,568.89	420,590,000.00	54.14
066	Oil & Gas Conservation	190,2[illegible].31		190,247.31	600,000.00	31.71
067	Gas Flaring	1,[illegible]3.49		1,333.49	10,000.00	33.33
068	Gas Production	7,083,912.92		7,083,912.92	11,700,000.00	60.55
096	Prepaid Tax (102)	(239,048.33)	5,143.00	(244,191.33)	Ø	Ø
106	Liquor Lic. Application	61,500.00		61,500.00	80,000.00	76.88
107	Pub Liquor License	142.34		142.34	600.00	23.72
108	Brewery	Ø	Ø	Ø	100.00	Ø
109	Distillery	Ø	Ø	Ø	Ø	Ø
110	Beverage Dispensary	405,150.00	3,800.00	401,350.00	480,000.00	83.61
111	Club License	21,400.00	200.00	21,200.00	23,400.00	90.60
112	Common Carrier	11,500.00		11,500.00	15,900.00	72.33
113	Restaurant	35,350.00		35,350.00	43,000.00	82.21
114	Roadhouse	2,700.00		2,700.00	6,400.00	42.19
115	Retail	226,300.00	6,000.00	220,300.00	270,400.00	81.47
116	Retail Stock Sale	Ø	Ø	Ø	Ø	Ø
117	Wholesale General	23,000.00	500.00	22,500.00	79,000.00	28.48
118	Wholesale Malt Beverage	4,700.00		4,700.00	14,100.00	33.33
119	Misc. License	12,765.50		12,765.50	18,000.00	70.92
145	Amusement & Gaming	58,719.52	192.00	58,527.52	85,000.00	68.86
146	Lottery Permits	27,725.43		27,725.43	20,000.00	138.63
402	Misc. Revenues	9,503.80		9,503.80	Ø	Ø
693	Redistributed Revenue	Ø	Ø	Ø	Ø	Ø
	TOTAL	$642,778,886.89	$24,792,039.35	$617,986,847.54	$1,215,135,900.00	50.86
126	Vessels & Gear	$ Ø	$ Ø	$ Ø	$ Ø	Ø
137-844	Comm. Fish Resident	85,995.28		85,995.28	151,000.00	56.95
138-845	Comm. Fish Nonresident	139,397.27		139,397.27	217,000.00	64.24
147	Comm Fish Ext Fee	1,129.00		1,129.00	Ø	Ø
120-218	Sport Fish & Hunt	3,676,681.76		3,676,681.76	4,385,000.00	83.85
	SUB-TOTAL	$ 3,903,199.31	Ø	$ 3,903,199.31	$ 4,753,000.00	82.12
	TOTAL	$646,682,086.20	$24,792,039.35	$621,890,046.85	$1,219,888,900.00	50.98
	INTEREST					
575	Interest on Loans	$ 1,876,501.42	$ Ø	$ 1,876,501.42	$ 2,628,000.00	71.40
576	Interest on Investments	50,796,660.04	Ø	50,796,660.04	64,160,000.00	79.17
577	Interest on Deposits	16,205.89	Ø	16,205.89	3,212,000.00	.50
	TOTAL INTEREST	$ 52,689,367.35	$ Ø	$ 52,689,367.35	$ 70,000,000.00	75.27
	TOTAL REVENUE	$699,371,453.55	$24,792,039.35	$674,579,414.20	$1,289,888,900.00	52.30

KODIAK AREA CHAMBER OF COMMERCE



March 1, 1981

Representative Fred Zharoff
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Fred,

At its meeting on February 23, 1981, the Board of Directors of the Kodiak Area Chamber of Commerce passed a motion unanimously supporting House Bill 101 repealing the tax on motor fuel used in or on watercraft.

We are pleased that you are a co-sponsor of this bill and trust that you will see that our support is passed on to appropriate legislators.

As you know, the Chamber represents the vast majority of Kodiak businesses thereby reflecting the position of the Kodiak economic community.

Sincerely,

KODIAK AREA CHAMBER OF COMMERCE

Hazel E. Hogan
President

HEH:fp

cc: Don Mickey
State Chamber of Commerce

REPORT OF MOTOR FUEL SOLD OR DISTRIBUTED IN ALASKA DURING CALENDAR YEAR

GALLONS BY DIVISION

TAXABLE FUEL

Fuel Type	Total Gallons	Division I	Division II	Division III	Division IV	Accumulative Total Gallons From 7-1-78 To 6-30-79
Aviation Jet	12,910,717	624,348	204,117	8,898,285	3,183,967	112,228,872
Aviation Gas	2,101,199	212,817	216,369	1,183,427	488,586	15,767,888
Highway Diesel	4,620,769	851,822	1,137,951	1,834,129	796,867	78,221,778
Highway Gas	19,616,487	1,256,925	525,481	14,326,881	3,507,200	180,542,151
Highway Other	7,187,902	136	42	162	7,187,562	59,740,023
Marine Diesel	6,489,323	1,217,855	55,481	5,128,423	87,564	47,706,166
Marine Gas	1,460,117	350,647	113,483	820,238	175,749	7,671,593
Marine Other	30,359	770	10,739	5,844	13,006	607,345
Taxable Total	54,416,873	4,515,320	2,263,663	32,197,389	15,440,501	502,485,816

EXEMPT FUEL

Fuel Type	Total Gallons	Division I	Division II	Division III	Division IV	Accumulative Total Gallons From 7-1-78 To 6-30-79
Aviation Jet	30,868,996	24,414	16,620	25,015,616	5,812,346	223,166,036
Aviation Gas	75,531	-0-	212	37,269	38,050	558,882
Aviation Bonded	3,604,049	-0-	-0-	3,604,049	-0-	58,402,138
Highway Diesel	11,203,703	678,200	732,782	9,653,516	139,203	53,385,455
Highway Gas	6,976,703	51,596	34,812	6,690,118	200,177	14,677,171
Off-Highway Diesel	8,443,685	1,415,531	1,288,468	4,108,219	1,631,467	84,942,755
Marine Diesel	485,005	59,473	-0-	425,532	-0-	7,145,930
Marine Gas	1,460,117	350,647	113,483	820,238	175,749	1,798,817
Exempt Total	63,117,787	2,579,861	2,186,377	50,354,557	7,996,992	444,077,184

Grand Total	117,534,660	7,095,181	4,450,040	82,551,946	23,437,493	946,563,000

04-547
(3/79)

For Information Phone: Alaska Department of Revenue (907) 465-2372

HB

154

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

3/11/83

Date: 3-22-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 154

An Act relating to train crew size.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible] Do Pass	Barbara [illegible] No Rec.
M. W. Miller Do Pass	Mike [illegible] No Rec.
Adelheid Herrmann, Do Pass	
Bette Cato	

Bette Cato
CHAIRMAN

H 60

MPT

8:00 AM, 3/22/83
Capitol, Room 108

HOUSE TRANSPORTATION COMMITTEE

CHAIR PERSON	BETTE CATO	D-VALDEZ
VICE-CHAIR PERSON	MIKE MILLER	
MEMBER	MITCH ABOOD	R
"	RANDY PHILLIPS	R
"	BARBARA LACHER	R
"	ALDERHEID HERRMANN	D
"	MIKE SZYMANSKI	D
"	JACK McBRIDE	D
"	MIKE DAVIS	D

I am M. P. Taylor, Manager, Rail & Alaska Operations, resident of Skagway, for the 20 mile narrow gauge. RR

After 85 years - Now in a non-competitive position

73 " - of successful operation without this legislation.

Only railroad in the 50 states - should not apply to international RR.

Applies to only 20 miles - ARR not effected, Law stems back to turn of the century steam days. ARR only 3-Person Crews

Top speed on grades in the 20 miles this law regulates, is 15 MPH, with all bridges, walls etc, reduced to 10 MPH

Belongs on bargaining table. Law does not allow free flexibility in union-management negotiations.

This law was not born out of safety. The F.L.R.A. ADM Governs Safety It was thoroughly studied by two federal governments, namely:

3 Three United States Presidential Commissions

1 One Canadian Royal Commission

(Alaska Human Rights Commission - Cantrell)

Today the RR industry on the Eastern seaboard is making a remarkable comeback because they are permitted to be competitive. Such consist rules are freely negotiated between management and labor. Two men, No caboose, 15 Cars.

(DISPLAY & QUOTE "MODERN RAILROADS

We are inspected and regulated by the US Federal Railroad Administration, and the Canadian Transport Commission. We must comply with the same safety and operating regulations as any standard gauge transcontinental RR. The only difference being, we only, still have to comply with the law under discussion. I hasten to point out that the FRA & CTC regulations now reflect reduced consist crew size is left strictly to management-labor negotiations.

Our RR is 110 miles long. In this 110 miles we are regulated by eight jurisdictional bodies - one for each 14 miles. In Alaska it is one for each 5 miles. A very difficult task to say the least.

We have management-labor negotiated crew consist on the Canadian portion of the RR. It is working successfully and is now a fact of life.

We have hauled passengers for 85 years without a fatality. In recent years in excess of 50 thousand annually and they still want to come - in fact they are calling every day expressing disappointment that the trip is not available for '83.

(Last fatality to a T&E was in 1947)

(F.E.L.A.)

Our earnings, except for most of our passenger business, are all in Canadian dollars. With the exchange rate we must earn $1.23 Canadian for every dollar paid out in Alaska. This in itself is burden enough.

When a management-labor issue is regarded as a State issue, questions are inevitable. Crew consist should be a management-labor issue. We have a drain here with no ultimate plug. We need jointly (management-labor) to return to a competitive position and at the same time put a stopper in the drain. It just won't work any other way.

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Last year the law was amended to permit a 3 man yard crew. Nothing has changed on the property because there has been no management-labor negotiation.

A short while ago I recall one of our State airlines asked the State for assistance in determining crew consist. They were turned down and that is the way it should be.

With today's technology the continental RR's all, without exception, operate without STATE laws governing crew consist. Look at the changes taking place daily on the flight decks of our largest aircrafts in respect crew consist.

Frankly, we are no longer competitive. We have been a good Corporate citizen in Skagway - our objective is to get our 156 furloughed Skagway employees back to work at the earliest possible time. But we need your help.

*

We must have a window - a window of Hope - if we are to return to a competitive position. Our employees need the same window.

Honorable members of the Committee, I ask you to help provide a small portion of this window of Hope by lifting this unnecessary burden from our shoulders by repealing this law.

I would be pleased to answer any questions to the best of my ability.

* Simply put, the RR will not re-open until a number of things happen, and repeal of this law is one of those things. The RR has been losing money for years — 4 m back in '79 we're just not competitive under the present structure

Financial status of 3

Corporate no longer has a position to help

*...Financing conditions of our 3 operating companies; Railroad goes through 3 jurisdictions. Are all in trouble and that's not to say that the corporate wouldn't permit the rail to operate at some loss or at break even point, cause it is a link in all the rest of our corporate operations. But the corporate is no longer in a position to finance the losses of the rail operation.

I think we are a progressive company; we've proven that through the years.

Reason for shutdown is basically because of mining operations are shutdown? (asked by Rep. Miller).

Mr. Taylor: That is one of several reasons

HOUSE FLOOR SESSION
HB 154
4/12/83

Hayes — HB 154 before us in 2nd reading

Goll — Move this amendment and ask unanimous consent.

Hayes — There is objection.

Goll — This bill that addresses 5 man crew law has been considered by committees of this body. During that time been approached by numerous representatives of the community of Skagway, notably those employed by the White Pass RR requesting some modifications be made to protect the health and safety of those employees. Historically, these laws of this kind have received some criticism and rightly so, in mandating the labor-mgmt relations between railroads and for this reason I support the intent of the legislation, specifically, the AK legislature may find itself in possession of AK RR and this RR is exempt from the 5 man crew law because it is a federal RR , but upon transfer to AK, it becomes subject to that restriction, which I don't feel is appropriate and would urge passage of this bill. However, in Skagway, we have a different situation, a narrow gauge RR there which traverses some difficult mountain passes there and presents threat and danger to health and safety because of nature of the track. The tressels are dilapidated but more important, they don't have walkways between them, and on the RR it is sometimes difficult or impossible for the crews to move freely between the cars to deal with certain instances with passengers or operations of the train itself. The union has stated most emphatically, and it should be noted that the union is protected by contract with regard to the crew and there would not be any change in relations between labor and mgmt at this time of the White Pass RR. Nonetheless, what the people who work on the trains are looking for are increased modification of the track to provide for access in case of emergency across or along the edges of these tressels and barring that, some sort of protection which will provide for crew members in various parts of the train in case of emergency. I have been assured by the unions involved and the individual employees on variety of occaisons that at such time as health and safety needs are met, by improvement of the track or walkway adjacent there to, that the union itself would take action to see that the rest of this law was repealed. With regards to the amendment specifically, it seems rather wordy, all it really is is a reproduction of the existing statute, with the addition of the word narrow gauge. This would provide

for all RR in AK to have absolutely free reign in determining their crew size with the exception of the narrow gauge RR which in my opinion and opinions of the employees and many residents of Skagway, require special treatment at this time. I hope you will support this amendment for the sake of the life and safety concerns of the people who operate the White Pass and upon doing so I would then urge your passage of the entire bill. Thank you very much.

Furnace — As this party is aware of, the Labor and Commerce Committee did hold hearings on this particular piece of legislation and we did invite mgmt and labor to come in and they did support passage of the legislation as presented here today for discussion. One of the central reasons for that is strongly felt that this is indeed a labor relation matter- one that should be solved at the table and it appears to me reading through the amendment, although there may be some merit here, it has a tendency to defeat the purpose of the bill as it has been discussed to the committee, and that is to put this responsibility back in the hands of labor and mgmt and let them collectively resolve the issue. Support of this amendment would again defeat the purpose of the bill as we have it today. I'm sure that there are additional members on this floor that have more information than I have on it. I would simply urge the body not to support the amendment however.

Duncan — As I interpret the amendment, I may be wrong, it does not defeat the intent of the bill. The amendment speaks only to narrow gauge RR. It does, as the Rep from Haines explained, does allow the AK RR or any other RR to have whatever size crew determined at the bargaining table. This amendment would say that for narrow gauge RR there shall be 5 member crew and as far as I know that is only one RR and that is in the Skagway area. So, I don't think it defeats the intent of the legislation at all.

Phillips — Really didn't want to get into the debate here but I'll try to give a summation of our meeting with White Pass and the Yukon RR officials in Whitehorse. We had met with Tom King and other man from Skagway, counterpart-on American side, and they were in opinion that they must have, one of their bottom lines for survival of the RR, was to have this law changed from a 5 man crew to 3 man crew and as I understand it, the 5 man crew also applies in the yards itself and not just along the track. But this was one of their bottom line recommendations in order for the survival of the RR as a whole in the near future. Of course, we have the Cyprus Anvil mine being closed there and if that reopens that will solve quite a bit of the problem with the RR but that's just only one of the problems, this other

thing the crew size is another problem that needs to be solved in order for RR to reopen. Now it was reemphasized that this alone, the crew size will not save the RR but it will help and we have asked numerous questions and this was one of their bottom lines in order to fulfill the reopening of the RR.

Uehling — Question through the chair to the sponsor of the amendment. Basically, why are we giving this particular group, the narrow gauge RR a special exemption over other RR in the state?

Goll — Let me answer the questions raised in reverse order. First, with regards to the appearance of special exemption, we are not exempting this particular company or anything of that sort, it is my belief and belief of those who work the RR that what we have here is very winding tracks that go around the mountain passes and is very treacherous. The conditions of the tressels and facilities have not been upgraded for many years and there have been alot of near misses and the last thing I would like to do is contribute to creating fewer personnel on a RR where emergency situations are not unheard of. If you drove on flat ground, all have to do is stop train, but you have a situation on these tracks it is considered to be very dangerous by the people involved. This law would provide a professional person on the train for such emergencies. To try to stress the point would like to refer to comments of first speaker from Anchorage, it is important to recognize that it is very valid to free up the ability of surface transport industry to make its own contract determinations, this particular case is that of life and safety protection, at least that is my view of the matter, and for that reason, I support this amendment, not in order to hamstring mgmt or labor in its negotiating process, but to insure that where necessary ,we have adequate safety standards on these railroads. With the regards to comments from Rep from Eagle River, its all very well for Canadian mgmt to state that they can not operate under these circumstances, not withstanding that, they have been successfully operating under these circumstances for many years, reason that the White Pass RR is closed is because mines in Yukon Territory are closed. 85% White Pass's business is based on transport of mineral materials. It's not appropriate and not correct to imply that by reducing the crews by 2 men that the RR will somehow overcome an 85% loss of revenue nor is it correct to assert that if they were to overcome those revenues they would be unable to operate with this crew size. I have great respect for the needs of mgmt and owners of RR, or trucks or property of any sort, but here we have the safety of the workers in question and a long history of successful operation under the existing law and don't think its correct to assert that this will create such difficulties for the

White Pass and I'd like to refer you to line 3 of the amendment which states specifically that this only deals with operation outside of the yards, in the case of the RR, impacted is essentially on these mountains outside of town and that's the rationale behind this amendment.

Hurlbert — Support the amendment. Urge the body to give courtesy to the member from area that deals with that.

Szymanski — I raise in support of the amendment also and I think that the knowledge that the Rep from Southeastern has concerning The White Pass RR is evident. The amendment does narrowly define the application of the law to the narrow gauge RR and there is only one in existence and possibly the only one in the future. I think public safety is one of the charges that we have here as the body to protect and I don't see any harm to continue the language and supporting the language of the narrow gauge RR service protection as outlined in the amendment and would urge all members to consider it before they dismiss it out of hand. Haven't heard any testimony in committee indicating that there would be any significant advantage at all to repeal the language.

Uehling — Basically, I oppose the amendment and I believe that the Rep from Haines did answer some of my questions. I think that by adding this amendment we will be giving certain exemption to this particular Railway and basically, don't think its fair to put a crew size of 5 people in that particular situation and not allow other situations through out the state. And considering the fact that it goes into Canada and it a Canadian RR.

Barnes — Discuss a moment the relevancy of this amendment to the bill. My understanding and discussion of White Pass RR was that one of the reasons the RR was not running was exactly what is encompassed in the amendment that is presently before us. And it is my feeling that if the amendment is adopted, we simply have no reason to pass the bill because we are back at the starting point, where we were when we initially began and it would be my opinion then that since we would have no need for the bill, that we would at that point return it to rules.

Goll — Did discuss amendment with office of the sponsor and it was understood that was of particular concern was that the AK RR not be impacted by this sort of restriction. That it be free to set its crew sizes appropriate to its needs. The way the law is written in so far as there are not any other operating RR in the state, that would now occur with the transfer of the AK RR to the state. It was my hope to protect the health and safety of the employees and and the passengers and believe this particular RR or any RR

of its type requires these sorts of safeguards and that was the sole intent of the amendment. My feeling is that due to the circumstances upcoming with the AK RR it still is very valid that we pass this bill amended.

McBride — I was at the Whitehorse conference and heard the gentlemen that runs the RR. We need to understand that he is a very good manager and does his job well and he would like to accomplish as much as he can while the RR is shut down. Foolish to think that because there is 2 people that he thinks may or may not need to be on that RR to think that is the reason it isn't operating. There was quite a bit of discussion on that earlier when RR was talking about shutting down and when they did shut down and it just absolutely doesn't have anything to do with it; what matters is that the mines are not running and while they are not operating and he is going to get as much as he can in every segment of that, including negotiating with the mine etc also. It is in the matter of labor negotiation as this just sets a minimum crew size and the labor and mgmt could very well decide to have 10 men run that crew. Our interest here is just to protect the public safety and we have to realize that the most treacherous part of the trip on that RR is on the AK side and therefore that is the thing that we should be considering today, if the public safety is well addressed w/o a minimum crew law on that particular RR and I believe it should.

Duncan — Speak in support of amendment introduced by Rep from Haines. Been some statements made that this amendment is going to cause the RR to be closed down indefinitely and the reason it did close down and one of the reasons as because of the requirement of 5 crew members. That is not true and I think that the Rep from Haines indicated very clearly that that wasn't the case. The real reason why the White Pass is not running now is because 85% of its revenues are gone because of the closure of the mines, not because of the size of the crew they are required to operate with on passenger service. That full crew law did not force the closure of the White Pass RR. That law only applies to passenger service. There are only 2 crews that operate on the passenger end of that operation. What we are really talking about is 4 jobs, difference between the 5 member crew and 3 member crew on 2 crews - that's 4 positions. The requirement that they put those 4 people on or 2 members on each crew in order to maintain safety is not going to cause the RR to stay closed down. The real point is the safety of the passengers and the crew and not the normal RR operation that you are running across miles of prairie. You are running up in the mountains of some winding passes, tressels and if something happened on that train, it is very important to have crew men there who can handle it. Seems to me we should rely on the information that the individual

from Haines has. He has worked very diligently over past few weeks with White Pass trying to resolve the problem there and I am confident that if he felt that reduction to a 3 member crew was going to get that RR going again, then he would support that. On the other hand, he does feel that safety is a very high requirement on the RR. And a 5 member crew meets that. Again, the reason for that closure was not because of the full crew law but because of the fact that 85% of the revenues are gone. Also remind some of the members that have been here for some years, at least for the past 5 or 6 years we have fought this same battle. This proposal has been before us for the past 5-6 years. There has been attempts to reduce the size of the crews on the passenger service for White Pass and Yukon. And they didn't close down because they didn't get that reduction. White Pass-Yukon continued to operate.They only closed this past year when the mines closed and the revenues dropped considerably. All we are talking about are 4 positions, 4 members of the crew. That difference will not cause the White Pass-Yukon to close down. I think we should rely on information from Rep from Haines has and has worked closely with them, most knowledgable on this floor as far as White Pass-Yukon RR goes and we should accept his advice and support his amendment.

Miller — Correct one statement. Mentioned that full crew law applied even in the yard. The amendment of Rep. of Haines specifically lowers the 5 crew down to 3 person crew while in the yard (sec 2). Another indication of the correctness of this amendment. Urge my colleagues to vote yes.

Grussendorf — Some concern in relation to negotiation between mgmt and labor on the operation of the RR. I would like to remind this body that we are talking about a foreign owned RR that is doing commerce in the US with AK. It is not uncommon for the US or a state to demand a certain level of standards that the mgmt would have to comply with for the safety and general commerce actions that are going to occur. And this says something that I think we are overlooking, we have been comparing it to the other RR throughout the state of AK which we don't have that many, but its a different thing, we don't have the handle on it as much as we don't have a handle on Panamanian ships and how they handle crews and passengers. You can see that if there was an emergency on the RR (for those who have ridden it or driven alongside it) , it would be nice to have 5 crew members because you would want someone at both ends as well as in the middle to tell the passengers to stay on or where to get off. Would be important from a safety point of view and therefore I support the amendment.

Bettisworth — Rarely do I have a chance to agree with my colleague in Juneau, but basically, everything he said is correct.

But there is another approach to this situation: This amendment is not necessary primarily because it is not the prerogative of the State of AK or any other state to dictate by law to any organization how many people they should or should not use to perform a function. That is the prerogative of negotiations between labor and mgmt if those negotiation exist. Certainly, safety is a factor and should be a factor. All you are quite familiar with the Teamsters Union 959 in the State of AK who is the rep. bargaining agent for that RR. And in bargaining sessions, it is established between labor and mgmt that they need 10 people to operate that train, certainly it will be in their agreement. However, if they determine it takes 3-4 people they cannot do it because the State of AK has interfered with their right as mgmt and labor to negotiate an agreement. Therein is the problem with this amendment. It doesn't necessarily have anything to do with whether the RR will or will not operate that's correct, if this amendent should pass and certainly we should all vote against the bill, because the object of this whole legislation is to remove an archaic law that was put on the books over 40yrs ago when RR were converting to coal fire to oil fire engines and was a move to preserve jobs by organized labor and nothing else. This is the last state in the union to fail to remove that archaic law from books. This is our opportunity to do it and we ought to do it. The amendment completely defeats the purpose of the bill.

Goll — Repeat once again. Agree completely with previous speaker that in most cases and particularly in the case of the AK RR we do not wish to have these sort of constraints. This law is devoted to this particular RR. This narrow gauge RR has a real need for this size crew, simply for the life and safety reasons that have stated. It is important that the law, the original bill do pass, in order that the AK RR be free from unnecessary regulations. I am not a supporter of unnecessary regulation and I do feel that in this case, just as in other life and safety issues, the State of AK has obligation to protect its citizens and would like to see this amendment passed on the White Pass RR.

Abood — For the edification of this body, there is only one operating narrow gauge RR. They have many crew members on it and that's in Disney Land. Very peculiar, you've got 15% of the narrow gauge RR when it's operating again will be devoted to passenger service. Right now the RR isn't running and its costing them a great deal of money to keep the things sitting the way it is. I don't think this amendment is good because it doesn't do a thing. All the rest of the US have elected the 5 man crew is not in the best interests of the state. I have to agree with the Rep from Fairbanks, we are trying to pull it down, make it less costly. I would urge the body against the amendment and if the amendment passes I personally vote against the bill.

Wendte — Agree with the gold miner from Flat lands to the extent that we are not talking about labor-mgmt issue, not talking the existence of the RR for financial reasons, but point out that the 40's was probably when the same cars, track and whole same set up has changed very little on that RR. Wonder how many of you on this floor has ridden that RR as I have and would hope that before you leave SE you would do that and in doing that I would hope that there be 5 crew members so that you would be back next year. The concern is one of safety and I don't think...I don't care to leave it up to labor to tell me that we can get by with one person for a crew of a 747 for example. I think in areas of public safety the record is very clear to the extent that we have a responsibility to provide safety for our citizens. I think the arguments on this floor clearly revolve around the issue of safety for the operation of one particular RR. That has been one that has been there, it is archaic, it needs additional concern for safety than do other RR or "the" RR in this state and I would support the amendment and think it is our responsibility to provide for the safety of travelers on that RR and hope we would adopt that today.

Hayes — Further debate? Are you ready for the question? The question is Shall the House adopt amendment number 1 to HB 154?

Clerk — Roll: 17 yeas, 20 nays

Hayes — House has failed to adopt amendment number 1. Does the Clerk have further amendments?

Clerk — No

Hayes — HB 154 before us in 2nd reading. Any amendments?

Clerk — No

Barnes — Move and ask unanimous consent that HB 154 be considered engrossed, advanced to 3rd reading and placed on final passage.

Hayes — No objections, so ordered. Clerk please read bill for 3rd time

Clerk — Reads bill

Haye — Debate? Ready for the question? Question is Shall HB 154...

Ducan — Just a couple points more based on discussion during second reading when amendment offered. A couple points made by members who voted against the amendment that they didn't feel we should become involved in a labor-mgmt dispute, the legislature should stay out of that, something

that should be done at the table, point out that by not adopting the amendment, we did get the legislature involved in a labor-mgmt dispute only we took mgmt's side. It's mgmt that didn't want the 5 crew, full crew law; labor supports that, so contrary to the arguments that we should stay out of it and therefore not adopt the amendment, we involved ourselves directly in it, however the Legislature took mgmt's side. Which of course, I don't think is any better than taking labor's side. We should have left it as was. It was also mentioned that this law has been on books for 40 yrs. That is incorrect. The information I have is that it was probably about 12 yrs ago that this law was actually adopted by legislature. Wanted to make those points and urge the legislature to defeat the bill at this time.

Hayes — Further debate? Ready with question? Question is Shall HB 154 pass the House? Rep Lindauer changed vote from yes to no

Clerk — Roll: 24 yeas 12 nays

Hayes — HB 154 has passed the House

Goll — Would like to give notice of reconsideration on vote for HB 154

Hayes — Notice has been given

HOUSE FLOOR SESSION
HB 154
4/18/84

Hayes	Unfinished business before body
Goll	Bring up reconsideration of HB 154
Hayes	Rep Goll has brought up reconsideration of HB 154. Clerk please read bill.
Clerk	HB 154 by Rules Committe by request of the Governor. An Act relating to train crew size
Hayes	HB 154 before us in 3rd reading under reconsideration. Is there debate?
Goll	Like to return it to 2nd reading for purposes of introducing a specific amendment.
Hayes	There is objection. Clerk please read amendment.
Clerk	I don't have amendment.
Goll	Same amendment introduced last week. Exempts narrow gauge RR from repeal of crew law in order to provide adequate health and safety for the crew and passengers on narrow gauge RR.
Hayes	We have motion to return HB 154 to 2nd reading for purpose of specific amendment. The amendment has been previously submitted. Clerk please give page reference. There was objection to your motion Rep Goll to return to 2nd reading. Is there debate?
Goll	No, Mr. Speaker we have probably covered the arguments pretty well and I would be ready for the question.
Wendte	Urge body to recall my statements in bringing their conscience back to consistency last week when discussing deregulating the TV's and urge you develop that consistency as in our discussion that time of public convenience and you chose to regulate partially, deregulate at that time and to continue partial regulation. I would note in regard of the specific amendment being requested, that in this instance and I remind you we are talking safety and I consider in terms of the partial deregulation which is the effect of the amendment that safety is a much more justifiable reason to do it than just public convenience as you chose to do last week. I urge passage of the motion and adoption of amendment when it is before us. Remind us, as those of us involved in business since this did get a mgmt

versus labor, I hope the body would keep in mind that they would not consider it more important for the mgmt of a foreign corporation as opposed to Alaska w[illegible]rs, in this instance; particularly among those who ma[illegible] visited Skagway-a community of 80% unemployed wh[illegible]ry job counts. Primarily, I urge your adoption o[illegible] because of the safety factor.

Bettisworth — Fail to see the parallel between TV and RR. Certainly, there is no worry that someone will put a parallel RR along the White Pass and Yukon. I would remind members and strongly urge you to vote against the amendment that under current law if determined by labor and management that they need 10 people on the RR they can do it. But if determined only need 4 people on it, they cannot. Decision needs to be worked out. Safety factor has been overworked on this subject and certainly we are all concerned, but we should also be concerned whether the train will be able to operate or not. Strongly urge you to vote against this amendment.

Pestinger — Understand the train is not operating now and there are no plans to operate it because of economics of mining in the region. If that is so, safety is not a factor, it's a moot factor. I respectfully submit that economics of mining in the territory may have a bigger issue than what we are debating.

Hurlburt — Rise in support of amendment and going back to 2nd reading. Safety is a factor. Think they are trying to get the most they can out of the White Pass RR being closed now. I support going back to 2nd reading.

Hayes — Further debate? Ready for the question? Question is Shall HB 154 before us on reconsideration be returned to 2nd reading for purpose of a specific amendment. Proceed to vote.

Clerk — Roll: 18 Yeas 21 Nays

Hayes — Motion to return to 2nd reading failed. Is there debate? Question is Shall HB 154 before us on reconsideration pass the House?

Clerk — Roll: 26 Yeas 13 Nays

Hayes — HB 154 has passed the House on reconsideration

this chapter committed within a period of two years after a previous conviction for a violation of §§ 405—415 of this chapter. Other convictions are first convictions. Each day's violation of the provisions of §§ 405—415 of this chapter is a separate offense. (§ 43-2-3 ACLA 1949)

Sec. 23.10.420. Train crews. (a) No person operating an Interstate Commerce Commission-regulated railroad offering passenger service in this state may operate a train or engine, outside of yard limits, regardless of the form of energy used for propulsion, unless it meets the following requirements:

(1) a passenger train shall have at least a minimum passenger crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), one conductor, one brakeman, and one flagman;

(2) a freight train shall have at least a minimum freight crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), one conductor, and two brakemen;

(3) a light engine without cars shall have at least a minimum light engine crew, which shall consist of one locomotive engineer, one locomotive fireman (or helper), and one conductor.

(b) Except for hostling movements and duties as negotiated for each railroad company, no person operating an Interstate Commerce Commission-regulated railroad offering passenger service in this state may operate an engine or locomotive, regardless of the form of energy used for propulsion, for switching cars or in transfer movements, unless every engine or locomotive is manned by a minimum crew consisting of one locomotive engineer, one locomotive fireman (or helper), one conductor, and two helpers.

(c) In this section "engine" includes connected, multiple units under single control.

(d) A person who violates a provision of this section may be fined up to $500 upon conviction. Each violation constitutes a separate offense. (§ 1 ch. 150 SLA 1970)

Legislative committee report.—For report on ch. 150, SLA 1970 (CSHB 666 am S), see 1970 House Journal, p. 604.

HB 154 TITLE & SPONSOR SUMMARY 11:43 2/20/84 PAGE 1
AMENDED TITLE:
AN ACT RELATING TO TRAIN CREW SIZE

PRIME SPONSOR: HOUSE RULES COMMITTEE.
CO-SPONSORS.
CURRENT STATUS: 7/01/83 CHAPTER 0040 SLA 83

HB 154 HOUSE ACTION 11:44 2/20/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/02/83	01	0158	FIRST READING -- COMMITTEE REPORTS
02/02/83	02	0159	F/NOTE EQUALS ZERO/ANALYSIS
02/02/83	03	0159	GOV TRANSMITTAL LETTER
03/11/83	04	0452	L&C -- DP03, NR02
03/23/83	05	0592	TRAN -- DP04, NR03
04/12/83	06	0825	SECOND READING
04/12/83	07	0827	AM01 NOT ADOPTED BY DIV 17-20-03
04/12/83	08	0827	ADVANCED TO 3RD READING BY UNAN CONSENT
04/12/83	09	0827	THIRD READING
04/12/83	10	0827	PASSED BY DIV 24-12-04
04/12/83	11	0827	NOTICE OF RECONSIDERATION GIVEN
04/13/83	12	0849	POSTPONED UNTIL 04/18/83 BY UNAN CONSENT
04/18/83	13	0906	FAILD TO RETN 2ND READNG BY DIV 18-[illegible]
04/18/83	14	0907	PASSED ON RECONSIDERATN BY DIV 26-[illegible]
06/[illegible]/83	25	2131	TRANSMITTED TO GOVERNOR
07/01/83	26	2126	SIGNED BY GOVERNOR-CH0040, EFF 09/29/83

HB 154 SENATE ACTION 11:44 2/20/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/[illegible]/83	15	0746	FIRST READING -- COMMITTEE REPORTS
06/21/83	16	1103	TRAN -- DP03, NR01
06/22/83	17	1150	L&C -- DP02, NR02
06/24/83	18	1182	RLS --
			TAKEN UP IMMEDIATELY
06/24/83	19	1184	SECOND READING
06/24/83	20	1184	ADVANCED TO 3RD READING BY UNAN CONSENT
06/24/83	21	1185	THIRD READING
06/24/83	22	1185	PASSED BY DIV 18-04-00

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

February 24, 1984

Maurice Byblow
Yukon Legislative Assembly
PO Box 2[illegible]
Whitehorse, Yukon Y1A 2C6

Dear Mr. Byblow:

Enclosed please find the information you requested on the White Pass-Yukon Railroad when visiting Juneau. In addition to the bill HB 154, "An Act relating to train crew size", the following information is contained in this packet:

- The Alaska Statute on Train Crews
- A letter from Governor Sheffield to the Speaker of the House concerning his position on the bill
- The minutes for the House Floor Sessions on the bill and the minutes of the Committees that heard the bills
- Copies of all Committee tapes and House and Senate Floor Session tapes on HB 154
- Senate Bill 849,"An Act relating to minimum crew requirements for the operation of railroad trains and engines; and providing for an effective date".
- The United Transportation Union's position on on SB 849
- Committee minutes on SB 849

I hope this information will be sufficient for your needs. Please let me know if I can offer you any other assistance.

I truly enjoyed meeting with you and you delegation from the Yukon Territory and hope we may have the chance to do so again.

Sincerely,

Bette

Representative Bette Cato
Chairman, House Transportation Committee

FEB 28 1984

FEB 28 1984

united transportation union

February 24, 1984

Representative Bette Cato
Box 775
Valdez, Alaska 99686

Dear Representative Cato:

Enclosed are copies of various articles from the Whitehorse Star, as well as Senator Stevens' entry into the Congressional Record January 26, 1984, and also an article from the Seattle Post Intelligencer, August 7, 1977. This organization strongly asks for similar type of action or statements from your respective position in the Legislature.

At this time this organization still stands opposed to the year around opening of the Klondike Highway that would impact the White Pass Railroad as well as the tourist industry. You are well aware of the constant bleating of these foreign corporations putting all their woes on labor in general, and American labor here in Skagway in particular.

Sincerely,

Larry Jacquot

Larry Jacquot
General Chairman
United Transportation Union
Local 1787

LJ:jb

Enclo:

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

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Senate

THURSDAY, JANUARY 26, 1984

(Legislative day of Monday, January 23, 1984)

ALASKANS ARE UNITED TO SAVE SKAGWAY

Mr. STEVENS. Mr. President, on December 15, 1983, the Canadian Transport Commission (CTC) completed an exhaustive inquiry into the transportation requirements of the Yukon and issued a draft report for comment by affected Canadian and Alaska interests. The formal comment period does not conclude until February 15. But public comment on certain findings and recommendations of the Commission is necessary and appropriate at this time.

It is possible that certain major shippers in the private sector will make fundamental transport decisions—perhaps as early as next week—which will profoundly affect Alaska. Those decisions should not be made without a full understanding of the probable consequences.

BACKGROUND

Mr. President, the city of Skagway is the closest year-round tidewater port for the Yukon Territory. For the past 84 years, the principal transportation system serving the Yukon has been the White Pass & Yukon Railway, providing passenger and freight service between Skagway and the territorial capital of Whitehorse. Of the total railway length, 59.1 miles are located in Yukon, 30.9 miles in the Province of British Columbia, and 20.4 miles in the State of Alaska.

As a private sector business enterprise, the railway, to say the least, is unique. It is owned and operated by the White Pass & Yukon Corp. Ltd., and the railway business in Alaska is carried on by a U.S. subsidiary, the Pacific & Arctic Railway & Navigation Co. (PARN). The PARN operates under a certificate of public convenience and necessity issued by the ICC. The Canadian operations are certificated by the CTC. Operations in Canada, of course, are governed by Canadian transport law.

The conflicting regulatory requirements of the United States and Canadian Governments have never been a serious problem. The challenges have been overcome by good-faith negotiations, and relations between the United States and Canada remain most harmonious in respect to the international railway system which serves vital interests in both countries.

Although owned by Canadian interests, the railroad's principal employment base is in Skagway. The maintenance shops are located in Skagway. The majority of the operating personnel are Alaskans. Alaskans for four generations have served the transport requirements of Yukon through the facilities at Skagway.

Unfortunately, Mr. President, railway operations between Whitehorse and Skagway were suspended following the closure of the Cyprus Anvil Mining Corp.'s (CAMC) open pit lead/zinc/silver mine and mill near Faro, Yukon Territory, in June 1982.

As noted in the CTC draft report—

(T)he main difficulty faced by the WPY Rail Division is that it is essentially a captive railway—captive to CAMC. Without CAMC traffic, it does not have the economic power to operate. Some believe it should op-

erate even without the high volume bulk freight but that would be impractical, for the fair rate to cover costs would be astronomical. (CTC draft report, p. 81).

Under controlling Canadian law, according to the CTC, the—

WPY Rail Division is a regulated mainline rail carrier and as such * * * it cannot set rates which are less than the compensatory rate (that is the rate must cover the long run variable cost of operation). (Id.)

In the last full year of operations prior to the closing of CAMC—

More than 29,800 tons of freight, 44,500 tons of petroleum products, 416,000 tons of (CAMC) mineral concentrate and approximately 55,000 passengers were carried by the railway. (Id., p. 26).

The Skagway employees, for the most part, have been without jobs since June 1982. The situation these employees now face is quite simple: if the CAMC resumes operations and converts to trucking rather than rail service for its ore concentrate transportation requirements, the White Pass & Yukon Railway, after all these years, will probably be abandoned under controlling Canadian law. Of course, PARN cannot operate a viable railroad from Skagway to a point on the Canadian border—so PARN will be abandoned as well.

The city of Skagway, under those circumstances, will have had a glorious past—but no future.

THE ALASKAN PUBLIC INTEREST

Mr. President, I am pleased and gratified to note that the Alaskan public interest was considered by the CTC inquiry officers in the preparation of their report. The CTC met with State and local officials, and made the following observation:

The Alaskan Government realizes the historic role which the port of Skagway has played in the development of Yukon. A commonality is viewed between the region about Skagway and Yukon in terms of remoteness and reliance on the transportation industry. If the WPY railway is abandoned, there is serious concern about the continued existence of Skagway. *There is also doubt that Skagway could survive solely on the basis of seasonal tourism.* Even if the WPY railway was abandoned and trucking was permitted on the Alaskan portion of the South Klondike highway, the railway jobs would not be replaced in number by jobs in trucking—*most trucking jobs would go to Canadians.* As well, if major trucking to Haines or elsewhere was adopted and the WPY railway was abandoned and there was no trucking on the South Klondike Highway, *that would be the beginning of the end for Skagway.* (Emphasis supplied). Id., p. 47.

The American employees of the railway, rail and longshore units are represented by General Teamsters Local 959, State of Alaska. Railway trainmen and engineers in Alaska are represented by the United Transportation Union (UTU) Local 1757. And Teamsters Local 213 represents all Canadian employees of the White Pass and Yukon.

According to the draft report, "every attempt was made to meet with the Union representatives and spokesmen for the employees" of the railroad. In addition the CTC met with the United for Skagway Committee, a group composed of municipal officers and community leaders, as well as the Teamsters Union and the UTU.

The Alaskan public interest, therefore, was taken into consideration in the development of the CTC report, along with, obviously, the interests of Canada in general, and the Yukon in particular.

THE CAMC POSITION

The CAMC is not only the dominant and controlling shipper on the White Pass and Yukon, it is also the dominant industrial enterprise in the Yukon Territory. Accordingly, in order to facilitate the reopening of mining operations on the initial target date of June 1983, the Canadian Federal Government and the Yukon Territorial government extended approximately $25 million in aid to CAMC. The mine and mill, however, remain closed. According to the draft CTC Report.—

CAMC requires 6 months lead time, after a decision to reopen the mill is made, in order to finalize marketing, to staff operations, to make capital expenditures and to secure supply contracts. CAMC will not start up the mill during the winter due to the harsh Yukon climate. Consequently, the earliest time for mill start up would be late 1984, and the decision to do so would have to be made in or before April 1984 * * *. *In this context all transportation arrangements including trucking approvals (if necessary) must be in place by mid-March 1984 or it will be unlikely that the mill would reopen and that shipments would resume prior to the fall of 1985.*" (Italic supplied). (Id., p. 7).

Mr. President, CAMC informed the CTC that—

Trucking either to Skagway or Haines results in CAMC costs being reduced, and that the preferred route for trucking will be Faro to Skagway. In the event the Skagway road is not open to traffic, CAMC would pursue trucking to Haines. (Id., p.14)

With respect to the prospective Faro-Skagway trucking operation, CAMC stated that there are no physical restrictions which would require limiting the gross vehicle weight to levels below 134,500 lbs, and that operations would be based on—

70 foot, 7-axle B-train trucks with facility to handle loaded and empty ore containers and loaded bac[illegible]inaul containers for such items as coal, in combination with lime, soda ash, fuel, rods and balls, and general freight * * *.

And with respect to the alternative Faro-Haines route, CAMC stated:

The Haines route is not restricted * * * and appears capable of facilitating 134,500 lb. loads. (Id., p. 14).

The final CAMC position was characterized by CTC as follows:

If the 134,500 lb. load is not permitted on the Alaska sections of either the Skagway or the Haines alternative, a shuttle operation (i.e., the splitting of B-train configurations to a single trailer operation in order to meet Alaskan road weight limits) was recognized by CAMC to be a possible requirement. (Id., p. 15.)

Mr. President, the best evidence available to me indicates that CAMC will reopen its mining and mill operations at Faro later this year. Thus, CAMC must decide in the immediate future whether to pursue its trucking option. I am informed that meetings will be held in Whitehorse next week, involving railroad management, CAMC, the Canadian Federal Government, and the Yukon Territorial government. Alaskan interests, I am further informed, will not participate in those meetings.

I wish to stress, therefore, the intolerable burdens that Alaska and the United States will bear if the decision is made by CAMC, for whatever reason, to pursue the trucking option for transportation from the Faro mining facility to tidewater Alaskan ports.

THE ALASKA BURDENS OF CAMC'S TRUCKING OPTION

First, the conversion to trucking—if successfully implemented—will mean the forced abandonment of the White Pass & Yukon Railway in the United States and Canada.

Second, the conversion to trucking will mean the elimination of the Skagway employment base, and the export of most of the available jobs from Alaska to Canada.

Third, the tourism industry in southeastern Alaska will suffer irreparable harm. Not only will the scenic railway trip be eliminated permanently as an attraction for up to 55,000 visitors annually, but if the South Klondike Highway is used for ore concentrate trucking and backhaul, the scenic value of that highway system will be lost to virtually uninterrupted movements of B-train trucks 7 days a week, 24-hours per day. One estimate is that these trucks would pass a point on the highway every 15 minutes, round the clock. If B-train trucks were split at the border, every 7½ minutes, around the clock.

Fourth, the Federal-aid primary route from Skagway to the U.S. border, now closed between October 15 and May 1, will require upgrading to meet the transportation requirments of the mine. These costs, of course, will be borne by U.S. Federal and Alaska State taxpayers. After upgrading, according to the CTC draft report, the increased annual maintenance cost for the Alaska section of the highway will be $375,000.

Fifth, if the alternative Faro-Haines route is selected by CAMC, in addition to upgrading of the highway, the incremental increased maintenance cost in Alaska, on an annual basis, will be at least $420,000.

Sixth, U.S. Customs apparently will be required to man a post at the border, 7 days per week, 24-hours per day, in order to accommodate the traffic orginating at the Canadian mine. This extraordinary cost will be borne entirely by U.S. Federal taxpayers.

Seventh, the U.S. Federal Government and the State government will be required to bear the social costs of

massive long-term unemployment in southeastern Alaska caused by the elimination of the railroad as a viable trasnportation component and the destruction of the underlying economic base of Skagway.

Mr. President, Alaskans have the capability, as a practical matter, to protect themselves against these massive losses as a result of an inappropriate decision by one major private sector shipper. Alaskans, after all, control the configurations of the vehicles that travel on their Federal-aid primary highways. That is part of the police power inherent in every State and nation.

CONCLUSION

Mr. President, the CTC draft report recognizes that CAMC has grossly understated the actual costs, and the indirect social costs, of converting to highway transportation operations when the mine is reopened later this year.

The CTC recognizes, as Alaskans do, that the White Pass & Yukon Railway is a national treasure which Canada and the United States cannot afford to lose. I have met with representatives of railway management; they are determined to reopen the railroad and serve all shippers at rates that are fair and compensatory. I have discussed the problems with representatives of the railroad's employees; they are committed to reopening the railroad, as are the community leaders of Skagway and other vitally affected interests in southeastern Alaska.

There have been differences between labor and management on the railroad in the past—now those differences must be resolved in good-faith negotiations. I believe they will be resolved.

Mr. President, in view of these facts, I believe that the citizens of Alaska have every right to resist the abandonment of the White Pass & Yukon Railway. I believe they have every right to resist the use of their roads—at massive Federal and State cost—by an endless stream of B-train combination trucks from the mining operations in Yukon. I shall join them in this effort. The financial costs to the U.S. Treasury, to the Alaska State treasury, and to the community of Skagway are too great if the trucking option is pursued by CAMC when mining operations resume.

Most important of all, Mr. President, the human and social costs of the trucking option are intolerable to Alaska and to the U.S. interests.

If a decision is made in the coming days or weeks by CAMC regarding its future transportation requirements, I hope that my views, which are shared by virtually all affected Alaskan citizens, are taken into consideration.

Thank you, Mr. President.

Move rail shops, coun. Toews asks

By MASSEY PADGHAM
Staff Reporter

The White Pass railway should be paid to move its maintenance and repair yards from Skagway to Whitehorse, a Whitehorse councilor says.

Coun. Vern Toews was successful in getting council approval Monday for that position and several others as the city's response to the draft report on transportation by a Canadian Transport Commission study group.

While the novelty of the proposal (no one else has made it to the commission) raised a few eyebrows, council appeared to agree with the "what-have-we-got-to-lose" comment from city chief administrator Ron Gourley.

"It's a different approach," he admitted. "I just wanted to shake people up."

He also says train crews should run all the way from Whitehorse to Skagway rather than having Canadian and Americans switch at Bennett, B.C.

"This council has committed itself to economic development," Toews said. He said he analyzed the commission report to see what would bring the most jobs to Whitehorse. The answer, he said, was re-opening the railway and bringing more of its operations to Whitehorse.



VERN TOEWS
Shake em up.

"It will cause a lot of screams by our friends in Skagway," Toews admitted. "They'll still have the longshoremen, they'll still have the train engineers and they will still have the required inspectors."

He said the railway has a problem getting Canadian government help because most of its employees are American. If the federal government agreed to pay the estimated $10-million cost of the move, it would mean a major Canadian rail operation and 40 to 70 news jobs in Whitehorse, he said.

"Why not relocate, so we have the economic development in the Yukon and Canada," he said.

But the idea simply isn't economic, White Pass president Tom King responded yesterday. He said White Pass needs 10 of the 13 locomotives in Skagway to haul trains up the tortuous hill to the White Pass.

"We need the majority of the power at the other end because that's where the hill is."

By law, locomotives have to be inspected daily, so having the yards in Whitehorse would simply mean an extra 200 kilometres or more of dead running on the engines, he said in an interview yesterday. Even if, as Toews suggested, inspectors were left in Skagway, having the yards in Whitehorse would mean extra running for regular maintenance purposes.

Toews said one advantage of moving the maintenance facilities was that Canadian wages are lower on the railway than for the American rail workers.

Toews said the White Pass shops in Skagway are getting old and would need major work soon anyway.

King did say some maintenance could be done here. He said White Pass believes it might be a good idea to extend its rail lines in the Marwell Industrial area over to its truck maintenance complex to allow maintenance of some rail equipment here.

But King liked other parts of Toews suggestions and said he is pleased the city had publicly recognized the railway's importance to the city.

King said White Pass hopes to run crews the entire length of the track, rather than having Canadians and Americans switch off in Bennett. Closing the Bennett yards would save about $500,000 a year, Toews said.



TOM KING
Needed in Skagway.

Toews also said any money the government might consider using to upgrade the highway for trucks should be spent on the railway, thus cutting rail costs.

He said a better road is, in effect, a subsidy to the truckers, while the railway gets no such help.

"I recommend a (rail) subsidy equivalent to what the trucking industry gets," Toews said. White Pass has taken a similar position.

For example, upgrading the South Klondike Highway would cost about $20 million, he said. If it was given to White Pass for improvements, such as lowering steep hills, it would put White Pass in a position to compete with trucks, he said.

9,000 Commute Across Border To U.S. Jobs

BUFFALO — (AP) — United States unemployment is above 7 per cent, but some 9,000 Canadians are crossing the border each day to work in jobs ranging from skilled laborer to management specialist.

The total is more than 20 times the number of Americans allowed to go to work in Canada, where the jobless rate is 8 per cent, and some labor leaders here object to the presence of the Canadian commuters.

"I think maybe we are too lax. We've been the nice guy. There's too many out of work now," said George Wessel, president of the Buffalo Council of the AFL-CIO.

Buffalo, with an 8 per cent jobless rate, is described by a U.S. Immigration and Naturalization Service (INS) officer as the area along the northern border most affected by foreign commuters.

About 9,000 Canadians hold permits to work south of the border, according to the INS. The Department of Manpower and Immigration in Ottawa reports 408 U.S. citizens hold permits to commute to work in Canada.

Other economic observers here are not so upset over the 1,033 Canadians who come to work in this area every day.

THE WHITEHORSE STAR, Monday, January 30, 1984

U.S. Senator blasts Anvil trucking

By MASSEY PADGHAM
Staff Reporter

A senior American senator says Cyprus Anvil Mining Corporation will place an intolerable strain on employment and finances in Alaska if it is allowed to go ahead with its plan to truck ore concentrates to Skagway or Haines.

Thursday, Alaska Senator Ted Stevens unleashed a strong attack in the U.S. Senate in Washington on Anvil's plans, on the grounds it would lead to the permanent closure of the White Pass and Yukon railway, which has its key operating base in Skagway.

"The city of Skagway, under these circumstances, will have had a glorious past — but no future."

Stevens, who is the influential assistant majority leader in the Senate, described the railway as a national treasure that neither Canada nor the United States can afford to lose.

It was a strong message that Alaskan interests are not prepared to allow streams of over-weight ore trucks to run to Alaskan port regardless of how much money Cyprus Anvil believes trucking will save. Anvil has told a Canadian Transport Commission study group that trucking will save $10 million to $15 million a year.

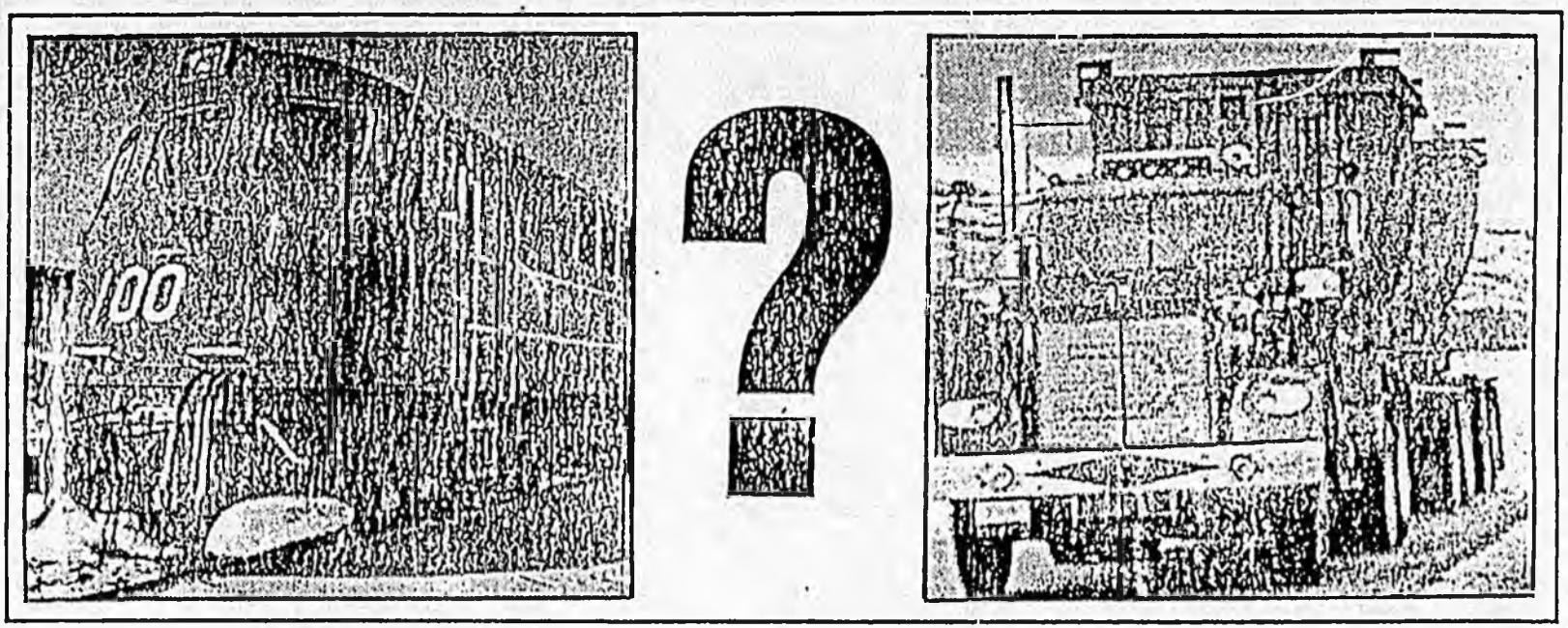
"The human and social costs of the trucking option are intolerable to Alaska and to the U.S. interests," he said. "If the White Pass and Yukon railway is abandoned, there is serious concern about the continued existence of Skagway."

The Anvil lead-zinc-silver mine in Faro closed 19 months ago. Stevens said he was responding to the commission's draft report, which said the rail line is dependent on the large mining company.

The report noted Alaska's concern, saying abandonment of the railway "would be the beginning of the end for Skagway."

"The railway jobs would not be replaced in number by jobs in

Cont'd on P. 3



Stevens

Cont'd from front

trucking — all trucking jobs would go to Canadians."

In effect, he said the loss of the railway through continued closure of the Anvil mine is the same thing to Alaskans as the loss of the railway by an opened mine trucking ore. He urged Alaskans to fight the trucking option.

Quoting liberally from the Commission report, Stevens told the Senate that Anvil assumes it would be able to operate in Alaska with seven-axle two-trailer units weighing a total of 134,500 pounds (61,000 kilograms). If not, a more expensive shuttle service between the U.S.-Canada border and a port hauling one trailer at time would be needed.

Stevens said if trucking was allowed the route between Skagway and the U.S. border, a federal aid route, would have to be upgraded and would still cost another $375,000 a year to maintain. That would be borne by U.S. federal and Alaska state taxpayers, he said. Extra maintenance costs on the Haines road would be $420,000, he said.

Another cost to the U.S. federal government, an expenditure Stevens could use his influence to stop, would be 24-hour-a-day, seven-day-a-week customs operations.

In addition, "the U.S. federal government and the state government will be required to bear the social costs of massive long-term employment in southeastern Alaska caused by the elimination of the railroad as a viable transportation component and the destruction of the underlying economic base of Skagway," he said.

"Mr. President, Alaskans have the capability, as a practical matter, to protect themselves against these massive losses as the result of an inappropriate decision by one major private sector shipper," he added. "Alaskans, after all, control the configurations of the vehicles that travel on their Federal-aid primary highway. That is part of the police power inherent in every State and nation."

Stevens said he believes the differences between the railway and its unions will soon be resolved.

Stevens also said the closure of the railway would mean the loss of the 55,000 tourists who travelled on it each year and opening of the South Klondike highway to truck traffic would drive away other tourists having to compete with trucks.

"I believe the citizens of Alaska have every right to resist the abandonment of the White Pass and Yukon railway," Stevens said.

"I believe they have every right to resist the use of their roads — at massive federal and state cost — by an endless stream of trucks from the mining operations in the Yukon. I shall join them in the effort."

united transportation union

March 15, 1982

U.T.U. Brief on Senate Bill Number AS 23.10.420(a)

Background Information

The White Pass & Yukon Route Railroad, a Canadian-owned corporation with home offices in White Horse, Yukon Territory, is the last operating common carrier three-foot wide narrow gauge railroad in North America. Built at the height of the Klondike Gold Rush in 1898, it runs 110 miles from tidewater at Skagway, Alaska, to Whitehorse in the Yukon Territory. Since 1970, American crews (who used to operate all trains on the railroad) run the 41 miles to Lake Bennett, B.C., the division point, and Canadian crews take the trains the balance of the distance to Whitehorse.

Though "modern" in some respects, such as diesel locomotives and a containerized freight handling system, the WP&YR contends with some of the worst terrain and climate conditions in the world. The Canadian side from Bennett to Whitehorse is flat with only a few grades; the U.S. division is the "trickiest part of the road".

Alaskan crews must drag their trains up 21 miles of 3.9% grade to reach the summit, and then contend with another pass and two short (but equally steep) grades before reaching Bennett. The return to Skagway presents the problem of controlling 60-car trains of lead-zinc ore concentrates on the steepest railroad grade in America.

The railroad is interspaced with high wooden trestles and cliff-like retaining walls which perch the track a thousand feet above the canyon floor for miles. Blizzards have dumped over four hundred inches on the summit of White Pass, and though there are "good" years, the railroad has been blockaded sometimes for weeks on end. The worst storm shut down the road for 21 days.

The geography and weather create more than just management problems; they compound the dangers of railroading to the highest extent. Even on a well-maintained railroad, pursing safe operational standards is critical. Here it is very literally a matter of life and death. Avalanches and rock slides periodically wipe cars over the side, and derailments (which occur very frequently) could mean disaster at many locations. Such a disaster would even be environmental in its scope, since the prospect of tons of lead and zinc dumped into the Skagway River would certainly affect life in the water, and down to the sea.

Train crews have learned to take safety as more than just the title page in the rule book. After all, we're the ones out there in the middle of it. Five-man crews on the WP&YR exist primarily for safety, in spite of management's stand on this bill. Here are a few examples:

1. Ice building up between the wheels and the brake shoes can cause winter brake failures. The Company has refused to upgrade their equipment, and this leaves the crew to deal with problems out on the road.

2. Bridges and trestles on the road are not equipped with walkways. A train which is stretched across a bridge leaves no walking (or climbing) room at the edge. Therefore, a brakeman cannot walk from one end of the train to the other, and a second brakeman is needed to walk the other end in emergencies. This can be critical.

3. In winter months it often takes the combined strength of two men to set a good safe handbrake on a car, and the same force of two men to "knock-down" or remove the brake. On older cars with faulty handbrakes this applies all year, even with brake clubs.

4. The "sophisticated communications systems" (two-way radios) in use are continually in for repair and are prone to failure. The crews do not rely on them because of this safety hazard, and hand signals are regularly used in switching moves.

5. The primary job of the crew while underway is to watch for any hint of trouble on or around the train. The railroad is twisted like a piece of spaghetti with 16 to 24° curves, and there are documented cases of the fireman, riding on the left-hand side of the locomotive, spotting danger which was out of the engineer's line of sight and stopping the train. Similarly, brakemen ride at both ends and watch over the train for hotboxes, loads shifting or breaking loose, broken axles or wheels, downed brake rigging, derailed cars, broken rails, fires, washouts, etc. Thus, the manning positions at the head-end with the engineer and fireman watching the track from the lead unit, a brakeman riding the "rear" or trailing unit watching over the train behind, and a conductor and rear-brakeman overseeing the train ahead of the caboose (and the track behind for signs of dragging brake rigging or derailed equipment) have been established for the safe opera-

tion of the train while underway. Dozens of documented cases exist of crew men at their positions spotting trouble which would have gone unseen by other crew members, and thus saving the Company thousands of dollars in repairs and wreck clean-up operations.

6. Most important to the crew members in the light of safety on the road is the grim fact that besides dealing with faulty locomotives, antiquated equipment, and track and bridge maintenance which barely meets the job at hand, employees have to deal with snowslides and cliffs over which a train's plunge would mean certain injury or death. The spector of a passenger train loaded with 400 tourists going through a rotten trestle, or derailing high above "Dead Horse Gulch", or being hit by a rock slide (on top of the 1900-era wood-roofed parlor cars with their old oil stoves) brings shudders to the men who actually are on board as well as to management. Crew members to deal with such accidents are essential. Even more frightening in the winter season are the snowslides. There has been an increase in winter passenger traffic over the last few years, and thus the crew is faced with the added burden of protecting travelers as well as themselves.

[illegible]

1. White Pass and Yukon Ltd. of Vancouver is owned by Federal Industries, Ltd. of Winnepeg. The Canadian management is on an over-all cost-cutting spree at this time, and are trying to tighten up their operation. Part of this has included the postponement of track repairs--a major rail replacement program was knocked out to save money--and an attitude of "beat it 'til it dies" toward their locomotives, some of which are now 28 years old and in critical need of replacement or complete long-term overhaul. Because traffic is so heavy at this time, the Company can't take their engines out of service much more than stop-gap, repairs on the worst problems. Engine failures or malfunctions are a common occurance on the railroad. It is also worth noting that the average train length in 1969 was 30 cars, operated by five men. Today the same five men have to run trains that can be 100 cars long out of White Pass. This is actually more work for each man involved, with more weight to contend with, more cars to watch (and to walk when checking the train, or in emergencies), and definitely more hazardous.

2. Remarkable but true in light of the terrain and operational hazards on the WP&YR is the fact that White Pass does not legally have to comply with Federal laws concerning safety and operation. The reason: White Pass is "narrow gauge" instead of "standard gauge" (4' 8½" wide track), and as such the Company can usually sneak by under requirements and regulations which would close down a standard gauge road "outside". This appears to be an oversight by the Federal Railroad Administration, but is understandable since the little known and obscure White Pass is the last narrow gauge common carrier left in the U.S. Also, it is generally viewed as a Canadian company. The 21 miles within Alaska under jurisdiction of American law, usually slide by unnoticed.

3. Much of the freight equipment, passenger equipment and airbrake equipment is antiquated and of museum vintage. Crews must deal with this as well as other problems, adding to operational hazards.

4. Because of all the previous factors, it is little wonder that the White Pass accident and safety record is atrocious. Summer travel has increased each year, and with it the number of accident reports. Employees must be extra alert at all times to prevent injury or death from faulty equipment, dangerous operational procedures, or management decisions affecting train movement. White Pass enjoys saying that they have "never lost a passenger's life" in their 80-year history. The men who ride the trains can only count the number of dead employees over the years, and knock on wood. The Company is playing Russian Roulette with human lives, and their own odds get worse by reducing the number of men on board a train who are available to deal with the expected--and unexpected--hazards of mountain railroading under the most extreme conditions.

Statement of Position by the United Transportation Union

We of the United Transportation Union, Local 1787 in Skagway, are adamently opposed to Senate Bill 849, a bill which will aid a non-resident Canadian corporation by eliminating Alaskan jobs on U.S. soil. This is by itself a dangerous international precedent, worthy of close attention--particularly in light of the proposed Alcan gasoline project.

Few people even know that there is a railroad in Southeast Alaska. Instead of repealing the present law, we propose a rider should be added that would exempt state owned Railroads.

Lastly, very few individuals are aware of the delicate balance that exists in Skagway between labor and management. We feel that the introduction of this bill is an attempt by the Company to further drain our union treasury attending a battery of hearings in Juneau. The last time we had to testify it involved long hours and much expense--somthing which the Company can easily afford.

Given this situation, our membership has nothing except the present State law to protect us from the whims of a foreign corporation. Our only defense at present lies in "An Act relating to train crews" as set forth in State law. It would thus seem beyond comprehension for our own lawmakers--our own elected representatives--to vote to repeal the only security which we in Skagway have in these difficult days.

Corrigan L. Gates
Legislative Representative
United Transportation Union
Local 1787
Skagway, Alaska 99840

Commissioner Robison of Dept. of Labor will testify

Left 2 messages for Bill Miles, lobbyist White Pass & Yukon RR — regarding this bill

Alaska State Legislature

House of Representatives

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

Tuesday, March 22

HB 154: An Act relating to train crew size

BY: The Rules Committee by Request of the Governor

Would repeal law establishing minimum train crews in Alaska (AS 23.10.420). See Governor's letter.

Does not provide for an effective date (effective 90 days after Governor's signature)

Reported back to the House on March 11 by Labor & Commerce with the committee recommending as follows: Furnace (Chairman), Cowdery, Ringstad recommended do pass; Koponen and Malone had no recommendation.

Materials in folder —
HB 154
Gov Sheffield's transmittal letter
Fiscal Note
United Transportation Union Brief

BILL SHEFFIELD
GOVERNOR

cc

HB 154

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 1, 1983

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing the existing law requiring train crews of certain minimum sizes. The existing law requires that passenger and freight trains have crews of no less than five persons, that a light engine without cars have a crew of at least three persons, and that a switch engine have a crew of at least three persons.

The repeal may allow railroads within the state to determine crew size based on economic and operational concerns. However, this repeal does not relieve a railroad of its existing obligation to operate with customary due care and high regard for the safety of its passengers, freight, and employees. The repeal is not intended to make any pronouncement on what is or is not an appropriate subject for collective bargaining.

I urge you to approve this bill.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

HB154

cc

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 154

Title "An Act relating to train crew size."

Requested by Rules - Committee Date 1/21/83

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Commissioner's Office

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY86	FY87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	0	0			

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No Fiscal Impact.

IV. DATE January 27, 1983 PREPARED BY for Judy Knight Judy Knight

AGENCY Labor

PHONE 465-2700

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

HB

169

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 169 Date on Bill: 2/7/83
Title: Approp. to DOTPF..allocations..local service roads and trails.
Sponsor: Herrmann, Koponen, Zharoff, Cato and McBride
Requestor: House Transportation Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			10,000.0					
Operating								
Total			10,000.0					

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Sponsor did not identify source.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It d
not represent the policy of the Sheffield Administration or the final estimate of fi
impact.

Prepared By: Wayne Weeks Phone: 465-4060
Division: Planning & Programming Date: 2/14/83

Approved by Commissioner: [signature] Date: 2/19/83
Department: Transportation and Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

CSSB 438 (L&C), (cont'd)

the board to fill out the term to which the member was appointed, regardless of new sections added by this bill. Provides Act takes effect immediately.

Sections of the Senate-passed version are taken out by House L&C, and they include 1) an amendment to current law that would have allowed for one public member on the board; 2) a registrant requesting renewal of a certificate to give evidence of the registrant's continued competence as a professional architect, engineer, or land surveyor; and 3) section allowing existing board members to serve out their term, regardless of appointment of a public member.

Appropriation (local service rds. & trls.)

HOUSE BILL NO. 169, (see pages 150;189, 1983 report). Reported back to the House April 6 by Finance recommending it be replaced with a Finance substitute and as follows: Bettisworth (V-Chair), Grussendorf, Zharoff, Hurlbert, Ward and Fritz recommend it do pass. Martin, Furnace and Duncan had no recommendation. A letter of intent was attached. To Rules. The letter states:

> "It is the intent of the House Finance Committee that the Local Service Roads and Trails (LSR&T), program not be discontinued as recommended by the previous Commissioner of the Department of Transportation and Public Facilities, (DOT/PF).
>
> The LSR&T program is vital to local governments and provides very important benefits to communities in the rural and urban areas of Alaska.
>
> The House Finance Committee intends that the Department of Transportation and Public Facilities support continued operation of this vital program and request continued funding for its operations in subsequent fiscal years."

The Finance substitute appropriates $6.5 million to the Dept. of Transportation and Public Facilities for allocations for local service roads and trails. Provides Act takes effect immediately.

History: Introduced 2/7/83 by Reps. Herrmann, Koponen, Zharoff, Cato and McBride, and appropriated $10 million to the Dept. of Transportation and Public Facilities for the local service roads and trails program (identical to SB 7). Reported out of Transportation 2/14 with a do pass recommendation and a letter of intent:

> It is the intent of the House Transportation Committee that the Local Service Roads and Trails (LSR&T), program not be discontinued as recommended by the previous Commissioner of the Department of Transportation and Public Facilities, (DOT/PF).
>
> The LSR&T program is vital to local governments and provides very important benefits to communities in the rural and urban areas of Alaska.
>
> The House Transportation Committee intends the DOT/PF support continued operation of this vital program and request continued funding for it's operations in subsequent fiscal years.

TESTIMONY OF

SENATOR FRANK R. FERGUSON

ON SENATE BILL 7 BEFORE THE

SENATE TRANSPORTATION COMMITTEE

SENATE BILL 7 PROVIDES FOR A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR $10 MILLION FOR THE LOCAL SERVICE ROADS AND TRAILS (LSR&T) PROGRAM.

THE LSR & T PROGRAM IS A PROGRAM OF VITAL IMPORTANCE TO BOTH URBAN AND RURAL COMMUNITIES. THE PROGRAM OFFERS FUNDING FOR CONSTRUCTION OF LOCAL ROADS AND TRAILS THAT ARE NOT ELIGIBLE TO RECEIVE FEDERAL HIGHWAY FUNDING.

LAST YEAR, THE HAMMOND ADMINISTRATION BEGAN A PHASE-OUT OF THE LSR & T PROGRAM. THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES HAS STATED PUBLICLY THE REASONS FOR THE LSR & T PHASE-OUT IS DUE TO THE MUNICIPAL GRANT PROGRAM AND LINE ITEM APPROPRIATIONS. THIS EXPLANATION IS LACKING IN SUBSTANCE.

FIRST, LINE ITEM APPROPRIATIONS AND MUNICIPAL GRANTS ARE, IN

MOST CASES, THE SAME THING. WHEN MAKING A LINE ITEM APPROPRIATION TO A COMMUNITY, THE LEGISLATURE DESIGNATES IT AS A MUNICIPAL GRANT. THE MUNICIPAL GRANT PROGRAM IS NOT A PROGRAM FUNDED BY THE LEGISLATURE BUT RATHER A PROCEDURE ALLOWING THE STATE TO CONTRACT WITH LOCAL COMMUNITIES.

SECOND, APPROPRIATIONS TO LOCAL COMMUNITIES BY THE LEGISLATURE HAVE NEVER BEEN SUFFICIENT TO MEET THE EXISTING TRANSPORTATION NEEDS. THE LSR & T PROGRAM HAS ALWAYS BEEN LOOKED UPON BY THE LEGISLATURE AS A WAY TO FUND PROJECTS THE ADMINISTRATION AND LEGISLATURE WERE NOT ABLE TO CONSIDER DUE TO TIME CONSTRAINTS BUT WERE IN NEED OF CONSTRUCTION OR REPAIR IMMEDIATELY.

THE $10 MILLION SUPPLEMENTAL WILL ALLOW THE DEPARTMENT TO ENTER INTO AGREEMENTS WITH LOCAL COMMUNITIES FOR PROJECTS THAT HAVE BEEN IDENTIFIED AS IN NEED OF FUNDING. BECAUSE OF THE PHASE-OUT, THE DEPARTMENT HAS BEEN TRYING TO CLOSE OUT PROJECTS AND NOT ENTERING INTO CONTRACTS FOR PROJECTS THEY KNOW NEED FUNDING. THE MEMORANDUM IN YOUR PACKETS FROM

SENATOR MOSS INDICATES THAT APPROXIMATELY $2,818,000 IS AVAILABLE FOR FUNDING THROUGH THE END OF THE FISCAL YEAR. ACTUALLY, THE $2,818,000 IS COMMITTED BUT NOT UNDER AGREEMENT.

IN THE PAST, DOT HAS RECEIVED $10 MILLION DOLLARS TO COVER A TWO-YEAR PERIOD FOR THE LSR & T PROGRAM. SINCE THE LSR & T PROGRAM DID NOT RECEIVE FUNDING THIS FISCAL YEAR, THE $10 MILLION WILL ALLOW THE DEPARTMENT TO ENTER INTO AGREEMENTS FOR NEW PROJECTS THIS CONSTRUCTION SEASON, AND CONTINUE OPERATIONS INTO THE NEXT FISCAL YEAR.

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

DATE: 27 MARCH

TO: AL ADAMS, CHAIRMAN
HOUSE FINANCE COMMITTEE

FROM: Bette Cato, Chairman
House Transportation Committee

RE: HB 169 - appropriations bill for Local Service Roads and Trails

Per our phone conversation this morning, the House Transportation Committee requests that House Bill 169 be moved out of the House Finance Committee with a reduced appropriation of $6.5 million.

Please find enclosed back-up material addressing HB 169 and recent correspondence from the Department of Transportation regarding LSR&T allocations for FY 1985.

Thanks so much for your time and assistance.

Enclosure

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

LETTER OF INTENT
TO ACCOMPANY
HOUSE BILL 169

It is the intent of the House Transportation Committee that the Local Service Roads and Trails (LSR&T), program not be discontinued as recommended by the previous Commissioner of the Department of Transportation and Public Facilities, (DOT/PF).

The LSR&T program is vital to local governments and provides very important benefits to communities in the rural and urban areas of Alaska.

The House Transportation Committee intends the DOT/PF support continued operation of this vital program and request continued funding for it's operations in subsequent fiscal years.

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: C.D. Karella
State LSR&T Engineer
Juneau

DATE: November 15, 1982

FILE NO:

TELEPHONE NO:

FROM: D.S. Ronken
LSR&T Engineer
Fairbanks

SUBJECT: LSR&T Program

In response to our telephone conversation of 11/5/82, I have informed J. Chandler at Nome to supply you with the information you requested regarding the LSR&T Program in the bush communities.

I have been in contact with the local governments and the comments received from them regarding the LSR&T Program are as follows:

Since local roads and streets are always in need of improvement the local governments would like all the funds they can possibly obtain for roadway construction.

The local governments without road powers feel that the DOT/PF has too much control over the funds. They object to some of the conditions stated in Section "C" of the project agreement.

The local governments however, do like the flexibility of the Program, i.e.:

1) Various types of construction that can be funded

2) Project funding can be changed to cover overruns, providing funds remain in their allocations

3) LSR&T Construction Program submitted (priority list) can be changed, if for some reason the local needs change

Some local governments in the Fairbanks area feel that the manner in which funds are allocated based on population by the latest federal census should be changed. With the population in the Fairbanks area increasing every year and the allocation based on the latest census of 1980 which has been questioned by the local government, they feel the present system leaves much to be desired.

In summary, the local governments like the program and would like to see it refunded. The funds obtained through the LSR&T Program are not sufficient to cover the road improvement needs, but all funds that can be obtained to improve the local transportation system will be accepted by the local governments providing the conditions for its acceptance do not change.

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: John J. Simpson, Director
Standards and Technical Services
Division

DATE: March 14, 1984

FILE NO: 2519

TELEPHONE NO: 789-6237

FROM: Charles D. Karella
Statewide LSR&T Engineer
DC & M Standards

SUBJECT: LSR&T Allocation
F.Y. 1985

The LSR&T Program was allocated $7 million to re-establish the program. I was assured by the LBRC last spring, that this funding reflected on on-going program and that future funding would not be a problem.

During the House Transportation Committee hearing on SB 332, March 7, 1984, I suggested that it was not necessary to seek other sources of funding beyond the CIP, such as, SB 332. It would be simpler to manage the program at a solid level of funding. I told the Committee that the Governor's office assured me that they would not cut the LSR&T Program from the CIP budget and the Department would continue to have an adequately funded program in the future.

Since we are involved with all local governments and the legislature, I believe in all fairness, that the $6 million annual funding level is bare bones and to drop below that will only jeopardize the integrity of the program but increase the cost of management per project constructed.

I feel if the DOT&PF does not want to chance the loss of the little rapport it now has with the legislature, we should leave the five million intact or even increase it.

I believe we will not only lose face with the legislature but also with the local governments who have been going in circles since January 1982 because of the following:

1. We began to phase out the program.
2. Then we established the LSR&T Program as a viable continuous program at a funding level of $7 million per year.
3. Then we reduced the funds to bare bones level of $6 million per year.
4. Now we have reduced the funding an additional 30%.

The attached comments from the Regions reflect an additional $6 million that could be used in unorganized boroughs alone. A like amount could easily be utilized for additional local government projects which were requested, but were beyond our funding level of $6 million per year.

If requested during the hearing tomorrow on HB 558, I will give the Committee a copy of this memo. (With your concurrence of course).

Attachment

mdh

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: C. D. Karella
Statewide LSR&T Engineer

DATE: March 13, 1984

FILE NO:

TELEPHONE NO: 364-4222

FROM: Ole Bartness
LSR&T Manager
Southeast Region

SUBJECT: Funding LSR&T Projects
FY 85 and Future

In regard to your question regarding the effect on the Southeast Region LSR&T Program with funding in the amount of 3.5 million dollars statewide, I offer the following:

Historically, the Southeast Region has received approximately 10 percent of the statewide appropriation. Based on that percentage, this would amount to $350,000 for this region. Of this amount, approximately $150,000 would be for the unorganized borough and could fund three to six projects, depending upon how tight we pull the drawstrings.

At the present time, there is an unencumbered balance of $100,000 remaining for the unorganized borough in Southeast, and there would have been a zero balance long ago if the home rule cities were still included in the unorganized borough.

In what remains in the unorganized borough of the Southeast Region, some immediate future project priorities have been identified as follows:

Location	Description	Estimated Cost
Metlakatla	Roads & Parking	140,000
Elfin Cove	Boardwalk Repair	50,000
Kupreanof	Trail & Boardwalk	30,000
Angoon	Road to Emergency Helipad	90,000
Clark Bay	Road or Boardwalk	Unknown
Port Protection	Boardwalk/Trail	Unknown
Hyder	Roads	30,000
Edna Bay	Trails/Boardwalks	30,000
Tenakee	Trails, Bridges	Unknown
Hollis	Road Renovation	Unknown

Although there are some unknowns, it would not be out of line to estimate the above projects at a total cost of $500,000.

Communities we have never heard from before are now contacting us for assistance. This appears to be a result of the State Land Lotteries which designated road and trail easements, but no access or minimal access was provided. In any event, these communities have needs, but we could furnish very little support with a $3.5 million LSR&T appropriation.

`B:hn

MEMORANDUM State of Alaska

TO: Charles Karella
Design Construction & Maintenance
Standards - Juneau

DATE: March 13, 1984

FILE NO:

TELEPHONE NO:

SUBJECT: Project Funding Requests, LSR&T Program

FROM: Robert L. Haneline RLH
Central Regional
LSR&T Engineer

This memo will iterate information on project requests presently in abeyance, awaiting a source of funding approval which was relayed to your office by telephone last week.

UNORGANIZED BOROUGH IV (South)

1. Chignik Bay - $600,000

   Construction of 4,500 l.f. of 14 foot-wide gravel roadway and a single lane, single span, 50 foot-long vehicle bridge. Provide access to proposed new HUD houses. Road to serve dual purpose as a protective dike (seawall).

2. Egegik - $60,000

   Construction of 600 l.f. of 16 foot-wide gravel roadway and approximately 3,000 l.f. of four foot-wide gravel path. Provide roadway access to existing HUD houses and replacement of existing boardwalks with a gravel pathway.

3. Eek - $410,000

   Construction of 2,700 l.f. of 14 foot-wide gravel roadway between the village proper and the airplane landing strip and 2,700 l.f. of eight foot-wide boardwalk needed to provide access between the village and the cemetary.

4. Manokotak - $3,000,000

   Construction of eleven miles of 14 foot-wide gravel roadway. The road is needed to provide City access to a proposed new garbage dump site, HUD housing site and the proposed Snake River Port Access Site. Funding needs are beyond the scope of the LSR&T program. This is a community planned development with a high community priority.

UNORGANIZED BOROUGH I

1. Whittier - $1,000,000

   Construction of 1.4 miles of 26' to 36' wide paved streets, including 5,250 l.f. of sidewalk, 10,000 l.f. of curb and gutter and miscellaneous storm drains ($700,000). The project also is to include the paving of the boat harbor parking area ($300,000).

This office has also received verbal requests for LSR&T funding involvement from the communities of Mekoryuk and St. Paul. The information received is sketchy, at best. We lack the information needed to properly determine the project scope, cost, or feasibility; only know that the monies needed are anticipated to exceed $1,000,000 per project.

For what it's worth:

A common sense approach to the functionability of any State funded, intelligently planned program requires that the certainty of future funding availability be known, as the ordinary business of any program centers around a fixed budget. Provisions for limited program adjustments to the seasonal ebb and flow of available funds exists to a small degree in the form of project deletion or construction delay.

To promulgate a five-year LSR&T construction program based on the anticipated availability of six million dollars per year and then to cut back the amount of funds available to the extent being proposed is controversial to say the least.

If nothing else, we have a main purpose at this time of convincing the money appropriating bodies of the importance of maintaining the State's credibility.

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Charles D. Karella
State LSR&T Engineer
Standards & Technical Services
Juneau

DATE: March 8, 1984

FILE NO:

TELEPHONE NO: 443-5266

FROM: Jeffrey S. Chandler JSC
LSR&T Manager
Northern Region, Western District
Nome

SUBJECT: LSR&T Funding Allocations, Unorganized Borough/Western

Per your request, here is a brief description of our fiscal outlook for the LSR&T Program in the Western District unorganized borough.

Generally, under present law, the proposed funding level of $6.0 million for the Statewide annual LSR&T program should be adequate to meet the Western District's 5 Year Plan for the unorganized borough. The major exception is the need for a one time infusion of $500,000 which would be used as follows :

St. Michael Local Roads		300,000
Western LSR&T Equipment		200,000
	Total	$500,000

The St. Michael project is presently programmed for FY86, however there will be insufficient funding to plan and complete the entire project as requested unless LSR&T or the village can provide the additional funding by 1985.

The Western District LSR&T equipment fleets were substantially reduced during the period we were in phase-out status. We presently have one small fleet in reasonably good shape capable of handling typical LSR&T local hire projects, but one old bulldozer and two old trucks are in need of replacement. This would assure that the fleet will remain operationally effective for the next several years.

Upgrading the existing fleet would result in a level of reliability that would allow us to split it between two projects in seasons when we are administering supplemental grant projects in villages which have a limited assortment of equipment on site. This approach reduces mobilization costs and improves the effective utilization of locally available municipal equipment.

In the event that the present proposed funding level were further increased either Statewide or for the unorganized borough, then we would advance the schedule of projects in our 5 Year Plan accordingly.

Introduced: 2/7/83
Referred: Transportation
and Finance

Funding Information

General Fund	$10,000,000
Other Funds	-0-
	$10,000,000

BY HERRMANN, KOPONEN, ZHAROFF, CATO AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 169

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making an appropriation to the Department of Transportation and Public Facilities for allocations for local service roads and trails; and providing for an effective date."

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

* Section 1. The sum of $10,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for allocations for local service roads and trails authorized by AS 19.30.111 - 19.30.251.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Bette:

This bill is identical to Sen. Ferguson's bill. As this is an appropriations bill, it is not possible to amend the Statute (AS 19.30.111) in it.

The transportation Committee may wish to offer a committee bill after hearing this bill to change the formula to allow a greater porportion of L.S.R.& T. funds to go to the rural areas, (non-Anchorage-Fairbanks-Juneau) The problem would be in gathering the support necessary for passage. Mike Scott in Senator Ferguson's office thought that it would be more possible to accomplish this originating in the House, specifically, the transportation committee. So.. would you like to pursue this or bring it up in committee and discuss possibilities with DOT? Personally, that would be my suggestion. This way the committee would hear the discussion and possibly support such a change in the L.S.R.&T. program.

I await further direction.

Steve

HB 169 TITLE & SPONSOR SUMMARY 15:43 7/27/83 PAGE 1 OF 2

AMENDED TITLE:
AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES FOR ALLOCATIONS FOR
LOCAL SERVICE ROADS AND TRAILS; AND PROVIDING FOR AN EFFECTIVE
DATE

GENERAL DOLLARS: $10,000,000 (APPROP)

PRIME SPONSOR: HERRMANN.

OTHER DOLLARS: $0

CO-SPONSORS: KOPONEN, ZHAROFF, [redacted] MCBRIDE.

CURRENT STATUS: 2/14/83 IN (H) FINANCE

HB 169 HOUSE ACTION 15:44 7/27/83 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/07/83	01	0193	FIRST READING -- COMMITTEE REPORTS
02/14/83	02	0244	TRAN -- DP07, NR02
02/14/83	03	0244	TRANSP CMTE LETTER OF INTENT
02/14/83	04	0244	F/NOTE HSE SUPPL #8
			FINANCE
			RULES

Canada 4/10
CT. Rm-132

SB 7 ⟷ HB 169
SENATE TRANSPORTATION COMMITTEE, THURS., 2-10-83

MEMBERS PRESENT: SEN. MOSS, KERTULLA, GILLMAN, FAHRENKAMP, FAIKS, HALFORD

SEN. FERGUSON, PRIME SPONSOR — FORMAL TESTIMONY

SEN. KERTULLA - BRIEF HISTORY - EARLY 70's a logical system developed LSRT as a response to Farm to Market Road program - system based on geography + population; funding goes directly into area for this program
problem comes with maintenance funds
w/upgrading LSRT should continue based on local input

Gene Wright - Bike PATH alongside RICHARDSON Hwy - missing section in middle
Historical Goat trail to Canteeshna Canyon
Support bill

JOHN BATES
Gilman: Reluctance from DOT to take over additional - roads for maintenance?

Bates - From start tried to get local gov't to maintain program

Gilman: Some local gov't. haven't the authority to maintain. Example: 2nd Class borough

If bill passes, if borough can't get agreement w/DOT to bring roads into system, can't ~~[illegible]~~

utilize funds to bring into secondary maintenance system

Roads identified by local gov't - reach project agreement - bring into State maintenance

No Rec. — Gilman
Do Pass — Fahrenkamp
Faiks

As of 12-31-82

LSR&T PROGRAM FACT SHEET

FUNDING

		$
FIRST ALLOCATION	1971	6 MILLION
LAST ALLOCATION	1980	10 MILLION
TOTAL ALLOCATION		50.8 MILLION

PROJECTS (DOLLARS)

	$
COMPLETED OR UNDER AGREEMENT	50 MILLION
REIMBURSEMENTS REMAINING	8 MILLION

ANNUAL PROGRAM

150 ACTIVE PROJECTS
50 ROAD PROJECTS COMPLETED
50 MILES OF ROAD COMPLETED
2000 MILES OF WINTER TRAIL STAKING
SEVERAL MILES OF BOARDWALK, FOOTTRAILS & BIKE PATHS,

PROGRAM PHASE OUT

Phase out of the LSR&T Program began Jan 5, 1982

EQUIPMENT FLEETS

Upgrade of the two construction fleets is necessary to retain the programs mobility in remote areas.

The LSR&T Program, initiated in 1971, has been used to fund a variety of projects in almost every community in the Panhandle. Cost has ranged from a drainage project in Haines, costing $1,300, to major street construction in Ketchikan, costing $245,000.

Types of projects constructed include footbridges in Kasaan; housing access roads in Yakutat, Hydaburg and Klawock; trails in Metlakatla, Hoonah, Tenakee, Kasaan and Elfin Cove; road construction and reconstruction in just about every town; sidewalks, parking areas, boardwalks, drainage projects, paving, signing, stairways, and a boat launching ramp.

The LSR&T program has been flexible enough to answer the needs of the people in regard to getting them out of the mud, which was the original concept of LSR&T. Costs were kept down and the dollar stretched to the extent possible by using local labor, material and equipment whenever possible. Money was brought into the economy of the towns, jobs were created where none existed, and the people involved developed a sense of pride in their accomplishments.

Some of the projects constructed which have meant a great deal to the communities and the traveling public are listed below:

1. Kasaan Bridges and Boardwalk. Reconstructed to provide access from the harbor to town. Existing structures were completely rotten and the community had no funds.

2. Pelican Landfill Access. A road constructed by the city to meet EPA requirements.

3. Kake Totem Park. A road and parking area to the site of the world's tallest totem pole.

4. Hydaburg Townsite Road. A new road to provide access to a new municipal building and housing for senior citizens.

5. Elfin Cove Boardwalk and Trail. Replacement and reconstruction of the boardwalk and trail around the cove, including material for future maintenance.

6. Port Alexander. A boardwalk to replace a washed out trail connecting the inner and outer harbors.

7. Craig Cold Storage Road. A 30' roadway to provide access to a new city shop and site of proposed highway maintenance shop.

8. Haines Trail. A year-round trail for hiking, skiing, horseback riding, snowshoeing, etc.

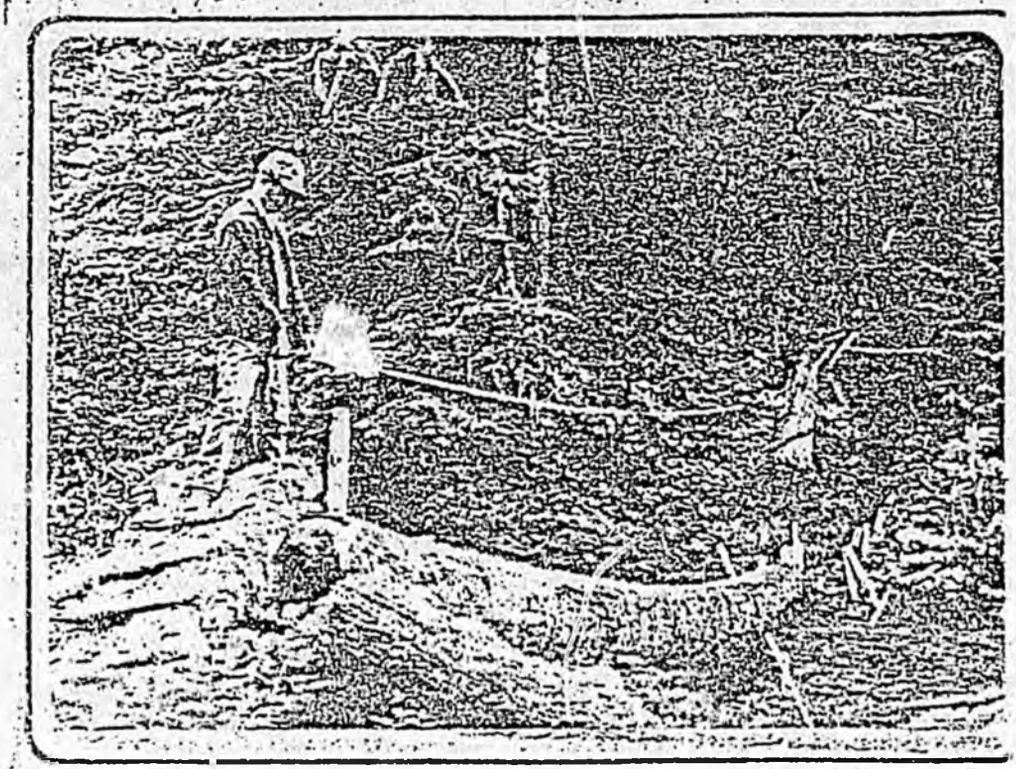
9. Wrangell - Outer Drive. Construction of roadway embankment, drainage and sidewalks which access new municipal building to downtown.

10. Petersburg. Replaced Birch Street Trestle along Hammar Slough, and constructed several new access roads.

11. Juneau. Sidewalks, drainage, paving of local streets, including Evergreen Bowl Access, Trinity Drive, Memorial Drive and Riverside Drive.

These are only a few of the projects constructed under the program in the past ten years. As can be expected, each project is unique and in the villages sometimes innovation is the key to success.

Attached are excerpts from the April 1976 issue of The New Alaskan which had several interesting LSR&T projects featured.

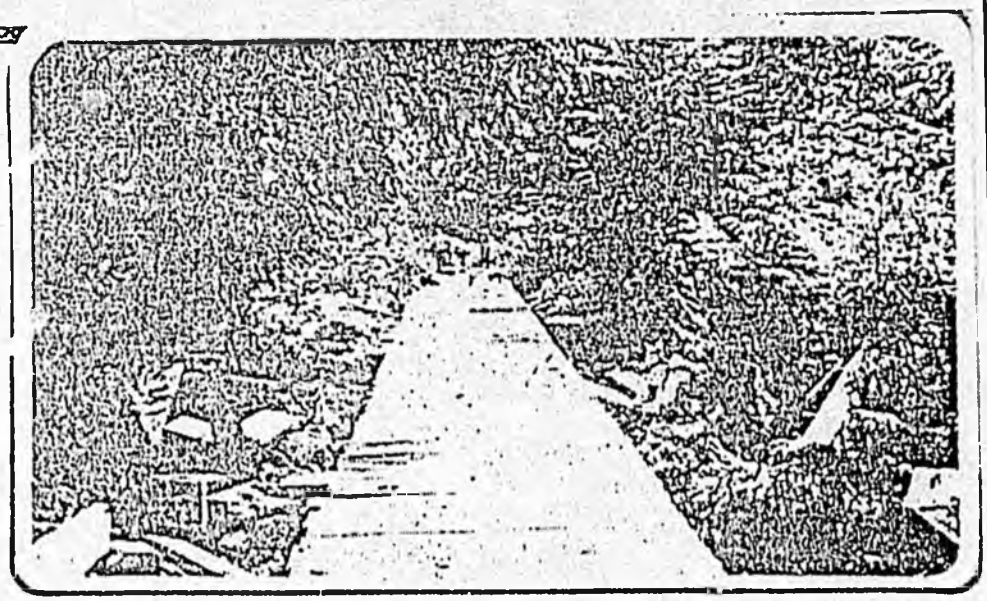


TENAKEE-INDIAN RIVER BRIDGE

The log spanning the Indian River, about one mile east of Tenakee collapsed in the spring of 1975. This crossing provided access to hunting and fishing areas for residents and outdoorsmen from southeast, and also access for home owners at Sunny Cove, Columbia, Superior, Harley Creek and Coffee Cove. Old bridge was placed by Loyal H. Clark in the spring of 1957. The tree came from the east side of Kadashan Bay, about 1/2 mile back from the beach in an area Bill Torsgard logged. He used a TD-14 International Tractor to yard the log out and towed it across the inlet. The job was done by Mr. Clark alone, and took about 10 days. He rafted the tractor across the inlet and back, which he says was very time consuming.

The Department agreed to assist Tenakee in replacing this bridge, and arrangements were made to begin work directly after the Thanksgiving weekend last fall. Supplies were delivered to the site by Channel Flying of Juneau on November 28, 1975. The following day the temperature dropped sharply and it began to snow. It was decided to delay the project until the weather improved. Plans were made recently to begin work March 1, but once again the weather didn't coop erate.

The replacement bridge will be placed several hundred feet downstream and will consist of 2 logs placed side by side, cabled together and planked to provide a walking surface. The east Tenakee trail will also be improved at the same time. The forman for construction of the bridge will be Thomas Jack, of Hoonah, who resided in Tenakee previousiy. Don McGee will be forman for the remaining work. All work will be done using local labor. Mayor of Tenakee, Bob Pegues, initiated the project.



Kasaan Boardwalk

The purpose of this project was to connect the Village of Kasaan to the boat harbor and airplane float, a distance of approximately 1,000 feet. The existing boardwalk was completely rotten, and injuries had been caused due to people falling through the walk.

It was agreed that the lumber would be purchased from Mr. B.G. Morrison who has a small sawmill on the beach at Kasaan, and that the labor would be performed by local residents.

Work was started August 5th and proceeded by fits and starts until November, when a lack of material halted the project. A lack of lumber halted the project several times, as the mill had a habit of eating up its engines and Mr. Morrison was kept busy looking for replacements. The project lacks about 300 feet of being completed. The remaining material is being acquired from Ketchikan, and the project should be completed soon.

A unique aspect of this project is that the village had no monies available, and the project could not be set up on a reimbursement basis. A bank account was established for the project by the Department so weekly payroll could be handled, and materials purchased. The checks require the signature of a village representative and the Local Service Roads and Trails Engineer. This arrangement has been used several times with satisfactory results.

Hoonah — Spasski Trail

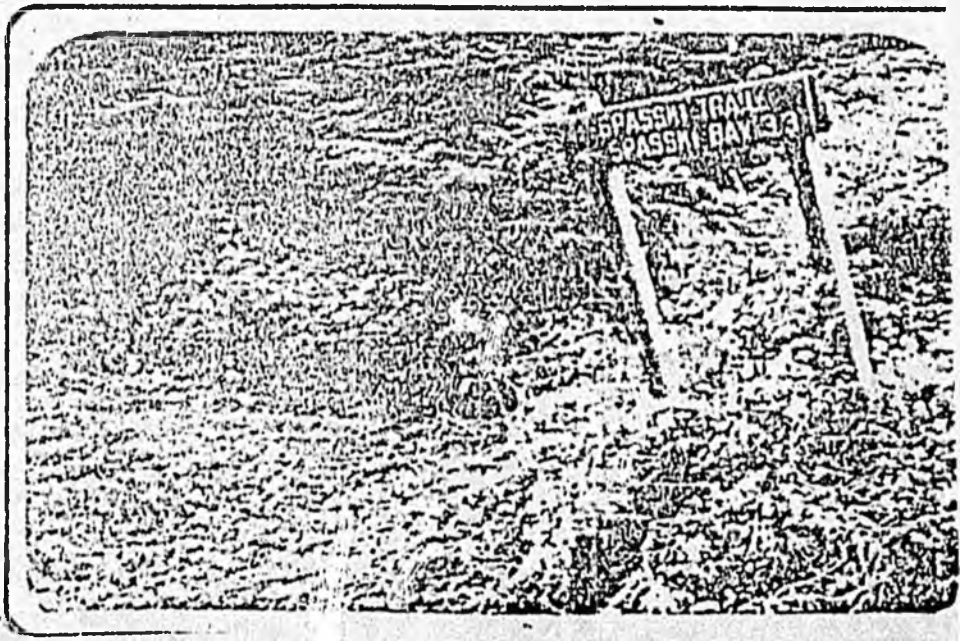
The Spasski Trail was originally upgraded by the Forest Service 1938 and 1939, and probably maintained by the Forest Service u some time in the 1960's. The trail connects Hoonah to Spasski Bay distance of approximately 3½ miles. The trail was heavily overgro and several gullys and muskeg areas required crossings. The trail w usable, but just barely.

It was agreed to upgrade the trail to make it usable for recreatio purposes such as hiking, hunting, snowshoeing, etc. Work was beg on September 8, 1975, with Thomas Jack as foreman. The size of t crew was usually about eight men, all la[illegible] was local.

One of the cost items in the project was ri[illegible] shells, as the brown bea in the area also liked to use ths trail. Dogs were usually kept with t crews to help keep the bears away.

Thee trail was completed to Spasski Bay the first week in Octobe

Also, as part of the project, it was agreed to construct a stairw down "Jackass Pass" which is a portion of undeveloped roadw between Hill Street and Hemlock Avenue. This is a very steep ar which was utilized by a number of people, including older residents a shortcut to town. According to Mayor Miles Murphy, it wasn't rea any shorter, but people seemed to use it anyway. The same crew did t work on this project and it was completed in early November.



HOONAH BULKHEAD
Project G-30182

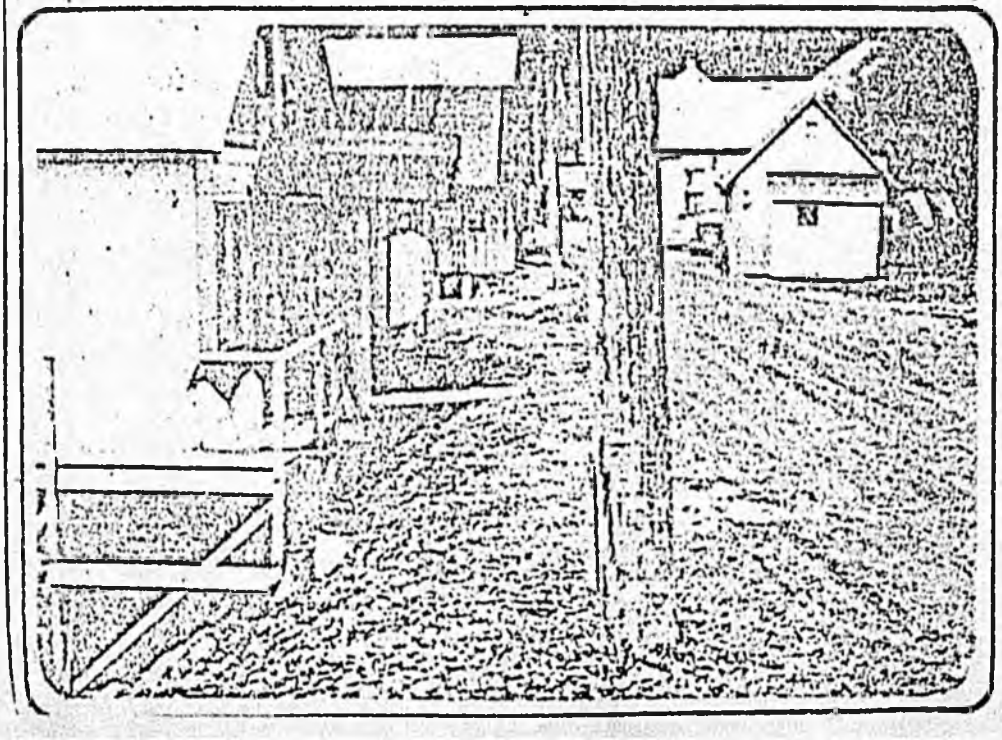
The purpose of this project was twofold. First to reinforce the log bulkhead along Front Street in Hoonah, and secondly to afford a measure of shore protection in areas where there was no bulkhead.

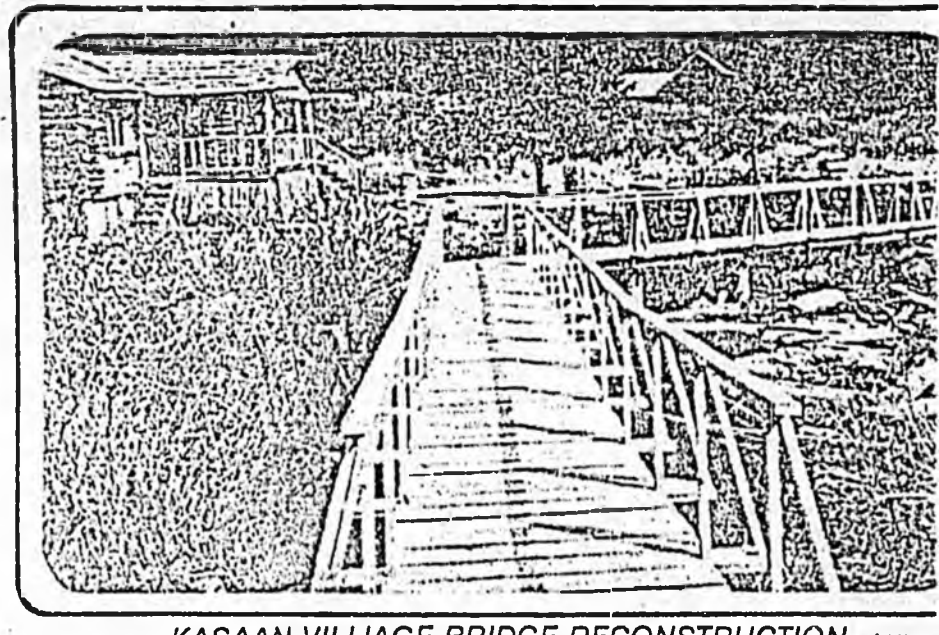
The project was initially designed and advertised by the Department of Highways, but the bids received were considerably over the engineers estimate, and were rejected. It was subsequently agreed between the Department and the City of Hoonah that the City would provide the labor and equipment on a reimbursable basis, and highways would supervise the work.

The work force consisted of Millard Carteetl, Charles Bennett and Frank Wright, St. The LSR&T Superintendent was Roger Polley.

Work started in November, 1972, and consisted of building demolition and carpentry work until winter shutdown. Work commenced on the project in April, under supervision of Kelly St. Clair, of Hoonah. He was appointed by Mayor Frank See and approved and hired by the Department.

Rock was obtained from the Bureau of Indian Affairs quarry and the project was completed on May 22, 1973.





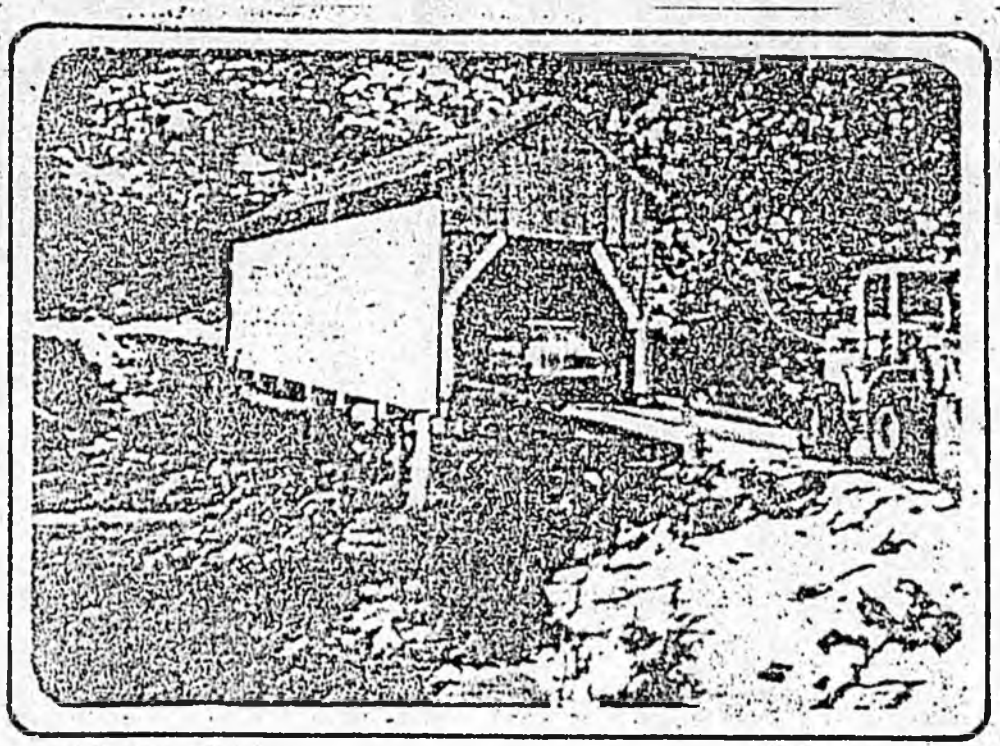
KASAAN VILLIAGE-BRIDGE RECONSTRUCTION

The objective of this project was to reconstruct the Tinkum Cr Bridge, and to redeck the Linkum Creek Bridge. The Tinkum Cr Bridge was constructed under L.S.R. & T. Project C-30019, and v completed on the 29th of September at a cost of $2,237.23.

The above referenced bridge was destroyed on January 19, 1 when attacked by drifting logs carried by storm sea wave's genera by 70 mile per hour winds during an 18.5 foot high tide.

A field inspection indicated that the bridge would require reloca above the tidal area, to prevent a reoccurring damage. This was ap rent by the presents of log strewn beaches adjacent to the bridge s Most of the existing bridge lumber could be salvaged and reused in new structure. The new bridge was relocated 45 feet up stream a paralleling the preceding site.

The grant of right of way easement and petition was signed on 23rd of February. Construction began on March 25, with the arriva Dale Henkins, project supervisor, in Kasaan. Alton McAllister, Da Peele and Dan Wallace were hired and work began on the proj The lumber was picked up and delivered to Ketchikan Transporta Company, by Ketchikan maintenance forces. The lumber was inadv tantly loaded and shipped to Klawock by the Ketchikan Transporta Company. Klawock Maintenance Forman, Louis Seltzer transpor the lumber to Hollis, placing the lumber on the beach. Dale Henk chartered the seine boat, Glenda Joe, to pick up the lumber in Hollis a delivered it to the Kasaan project. The project was completed on the of April at a cost of $4,820.00



HYDER — TEXAS CREEK BRIDGE

The Texas Creek Bridge, located 7½ miles north of Hyder, is said to be the last remaining covered bridge in Alaska, and is sought by tourists utilizing the Stewart, B.C. road connection.

The bridge was constructed by the Territorial Road Commission in 1928, and provides the only access to the west bank of the creek.

The winters of 1970 and 1971 badly damaged the main support members of the bridge, and without repairs it was doubtful the bridge could hold up under heavy wind and snow loads of another winter.

At a public meeting held in Hyder in September of 1972, it was agreed to make repairs to the bridge utilizing LSR&T funds. The various companies in Hyder having suitable equipment to perform the work were contacted and requested to furnish rental prices on equipment. Mr. Glen Wilkes of G.W. Logging submitted acceptable prices and was awarded the work.

Temporary repairs took eight days to accomplish. The repairs consisted of placing a 60 foot stringer under the damaged chord and installing three bents. These were reinforced with large boulders and river run from the creek, which also cleared the channel area to allow freer flow. Four sets of cross braces were installed inside the bridge, completing the job.

According to a report from Lawrence Marx, Highway Maintenance Foreman in Hyder, this strengthened the bridge to a point where traffic could utilize the bridge once again.

Alaska State Legislature

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4384

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4921

State Senate

MEMORANDUM

Date: February 9, 1983

Subject: Some DOT/PF Correspondence Concerning the Local Service Roads and Trails Program

To: Committee Members
Senate Transportation Committee

From: Senator H. Pappy Moss, Chairman,
Senate Transportation Committee

HPM

Please find attached three pieces of correspondence included to provide some documentation on the position of DOT/PF regarding the LSRT program.

The first letter, dated November 24, 1982, is included to illustrate the response given by DOT/PF to local communities requesting funding under the LSRT program. The bracketed portion is highlighted as the relevant text concerning DOT/PF's philosophy toward the program.

The second letter, dated April 16, 1982, is included to provide an example of a local community's response to DOT/PF's attitude toward the LSRT program.

The third piece of correspondence is included to show the positive attitude of DOT/PF field managers toward the program.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Division of Planning and Programming, Interior/Western Region

University Plaza - West, Suite D
600 University Avenue
Fairbanks, Alaska 99701
(907) 479-4284

November 29, 1982

Robert L. Brean
Executive Director
Upper Tanana Development Corporation
P.O. Box 459
Tok, AK 99780

Dear Mr. Brean:

RE: Tok Homesite Tract Road

We are responding to your letter of November 1, 1982 to Mr. Don Ronken, Regional Local Service Roads and Trails Engineer, regarding an access road to Homesite Tract ASL Survey #77-164.

The Department has not requested funding for continuance of the Local Service Roads and Trails Program in recent budget requests, since the functions of this program have been largely supplanted in recent years by the Municipal Grant Program and by line item appropriations added by the legislature to our Departmental request. Determination of projects to be added as grants or line item insertions is a prerogative of the legislature.

This policy has enabled the Department to concentrate its resources on the urgent needs of the regional transportation system, from reconstruction and rehabilitation of the existing major roads and bridges to upgrading essential rural airport runways and lighting systems.

Our statewide transportation needs assessment already includes in excess of four billion dollars worth of needed improvements to the existing system. This tremendous backlog of identified projects coupled with the reduced state revenues now being projected makes it increasingly difficult to include in our budget our priorities for the facility improvements required for inter-community transportation, and certainly precludes us from budgeting for new facilities to service strictly local needs.

While your request is relatively small and for good purposes, there are far too many local needs of this type in our region for us to make an exception to our policies for your particular request.

We would be happy to provide technical assistance, in terms of engineering expertise and cost estimates, but are unable to include an actual funding request in our annual Capital Improvement Program.

Given these situations in relationship to your immediate need, it is suggested that you contact your local legislative contingent to ascertain if they might be willing to include a grant or appropriation for the access road during the coming session. We will be forwarding a copy of your letter to Senator Moss with a cost estimate.

Sincerely,

Robert R. Venusti
Director

cc: Senator H. "Pappy" Moss✓

fairbanks north star borough
p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

April 16, 1982

Commissioner Bob Ward
State of Alaska
Department of Transportation
Pouch Z
Juneau AK 99811

Dear Commissioner Ward:

I am responding to your March 12 letter in which you expressed your plans to phase out the Local Service Roads and Trails program.

I regret that you feel the need for this action, since the LSR&T Program provides a real and an essential service to people in this area. I do understand the impact of this program on your department and the problems which can arise--and have done so--in this regard. I would ask, however, that we first attempt to safeguard these services to the public and attempt to prevent the negative consequences which an abrupt elimination of the program would generate.

Your letter makes several statements with which I cannot concur, at least in regard to the comments on local government.

I think we are all aware that the state capital projects funding to local governments, as well as to state agencies, is being drastically reduced this year because of declining revenues to the State of Alaska. The special capital project funds we have received in the last two years have been for one-time activities and were specifically designed not to involve the Borough in expanded program operations.

Consequently, I can assure you that we do not have special funds in reserve which could be called upon to fund phased-out LSR&T activities. I would ask that, in view of the serious consequences which could flow from the elimination of this program, that DOT officials contact

their appropriate Borough counterparts to discuss ways and means by which a mutually beneficial arrangement might be reached, without first taking action that might later result in some harm to the public at large.

Sincerely,

JOHN A. CARLSON
Borough Mayor

/sek

TO Charles D. Karella
State LSR&T Engineer
DOT/PF
Headquarters/Juneau

DATE November 24, 1982

FILE NO

TELEPHONE NO. 443-5266

FROM Jeffrey S. Chandler JSC
Acting LSR&T Manager
DOT/PF
Interior Region/Nome Residency

SUBJECT: LSR&T Program In Rural Communities

In response to your enquiry regarding the involvement of the Local Service Roads and Trails Program in rural communities of Western Alaska, and the attitudes held by the rural communities towards the Program, I offer the following information.

The LSR&T Program generally has been highly regarded and supported by the bush communities. The underlying reasons for this are as follows:

I. LOCAL PRIORITIES

The City Council of each community sets the priorities for local service projects needed in that community.

This process insures the Program's responsiveness to local needs. Within the limits of available funding, a community may designate access roads, local streets, bridges, boardwalks, or trail repairs for inclusion under the Program. Since LSR&T is primarily a reimbursement program, the local governing body may start construction as soon as a Project Agreement is approved and materials or equipment available, and is then reimbursed periodically for expenses. For larger heavy construction projects utilizing State equipment or a private contractor, costs are generally paid directly by the State.

II. LOCAL INVOLVEMENT

The local community has direct input into all phases of each project, from planning through construction.

The scope of the project selected is determined by the City Council, within the limits of sound engineering principles. For locally constructed projects, flexibility is preserved through the construction phase, allowing alterations to accommodate local concerns which may not have been anticipated initially. Although LSR&T administers the project, it is basically a community enterprise in which the community shares responsibility. Through cooperative effort the State provides a helping hand rather than a hand-out. A completed project becomes a source of pride for residents of a rural community because they were integrally involved in creating the end product.

III. LOCAL HIRE

Locally hired crews are employed to construct most rural LSR&T projects.

With labor intensive projects such as boardwalks and trail construction, the crew is hired locally by the local governing body which also appoints a local foreman.

Day to day operations of small scale heavy construction projects involving local equipment are also handled by a local foreman. On larger heavy construction projects involving State equipment, LSR&T may provide a foreman and/or a heavy-duty mechanic, while the construction crew is hired locally. In the event the local labor pool is exhausted, workers are generally sought from neighboring villages. The primary exception to this procedure occurs when a project has been let to contract, where hiring is done by a contractor whose policies generally tend to be more restrictive than those of local managers.

IV. LOCAL TRAINING

Training of local residents in new skills is necessary for most remote LSR&T road projects.

It is unusual to find the required number of qualified equipment operators and truck drivers locally available for the typical local road construction project. Training is therefore provided by an LSR&T representative or designated foreman and mechanic. Emphasis is placed on proper equipment care and usage, not only for safety reasons, but also to avoid unnecessary downtime. Safety awareness is encouraged through the life of a project in order to reduce the chances for injury or accident. This policy of training employees allows a greater proportion of local residents to obtain jobs than is the case with contractors, who generally require skilled workers for available positions. It also results in an added benefit outlasting the life of the project: a pool of trained workers who may be able to later obtain jobs for which they were previously unqualified.

V. LOCAL EQUIPMENT

Local equipment, public or private, is utilized for heavy construction projects whenever available.

For local road projects, LSR&T encourages the use of locally available equipment: from the local governing body, from DOT/PF, or from other public or private sources, in any combination necessary to perform the work. This practice results in substantial cost savings and production increases for the project, by avoiding the extra costs of mobilizing equipment from outside the community. LSR&T also has its own construction fleet, which is generally moved from project to project on an annual basis to supplement local equipment. In the event that adequate equipment is not available either locally or from LSR&T, and when private enterprize is available, then a project is generally put to contract with a contractor who is preferably already mobilized on site. It should be noted here that due to age and the phase-out of the LSR&T Program, most of the LSR&T equipment fleet will have been excessed by the end of the year.

VI. REGION WIDE PROJECTS

All local communities in the Nome Residency area are eligible for participation in LSR&T's region-wide projects.

Winter Trail Staking and Shelter Cabins are two projects in which most rural communities participate annually. Although a limited amount of funds are available, these are distributed among local communities to help defray the costs of marking trails each winter, and the costs of putting up shelter cabins on the most heavily used trails for the use of the traveling public. A limited number of permanent trail markers are installed each year during Trail Staking. Permanent trail markers could be installed on the 1,400 miles of primary overland

trails in the Nome Residency area within two years, if current funding levels were doubled.

VII. PROFESSIONAL SUPPORT

Technical support services are provided to each project in proportion to the demands of the project and the needs of the community.

Engineering, supervisory, mechanical expertise, and expediting services are available for each LSR&T administered project. Where sufficient local initiative, labor, and expertise is available, periodic visits of the LSR&T Engineer is all that is required, resulting in lower administrative charges to the project. For small scale heavy construction projects, LSR&T provides a highly qualified roving heavy-duty mechanic, who periodically visits each project as needed to assist the local foreman in handling complex emergency mechanical repairs. For larger scale projects, the LSR&T Engineer or designated representative may direct the project and provide experienced foreman and qualified heavy-duty mechanic for the duration of the work. The key to this approach is flexibility: the fewer the resources of a local community, and/or the more complex the nature of the project, the greater the level of direct assistance provided, and vice-versa.

VIII. ADMINISTRATIVE SUPPORT

Most rural communities need some administrative support to keep their projects from bogging down.

This applies to a majority of local development projects involving local administration, whether funded through LSR&T, special legislative appropriations expended through LSR&T, or direct legislative grants to the villages. This need can be met by consulting engineering firms and contractors where funds are sufficient. However, for smaller projects a little common sense advice and direction is frequently all that is required, rather than a costly and lengthy study which doesn't help the local governing body with the day to day problems associated with doing its own construction projects. Although not mandated to do so, LSR&T has been providing technical information, quantity and cost estimates, and alternative recommendations to villages seeking guidance for the application of their direct grants for new construction equipment, new equipment storage buildings, and local transportation-related construction projects. The Nome office has handled seventeen such calls from different villages in the last five months.

IX. SUMMARY

Given the limits of available funding for rural areas, the LSR&T Program has made some substantial contributions in helping local communities to meet their own transportation needs. By and large, remote communities have not requested advanced development projects. Basic projects have been the rule, providing boardwalks, access roads, or streets for the community, frequently for the first time. Additionally, the Program has received strong support from the Bering Straits and NANA Regional Native Corporations, in the form of streamlined permit procedures, free use materials, and expedited right-of-way reconveyance agreements. Finally, the LSR&T Program has retained the flexibility to fund those projects requested by villages which have not been addressed through the legislative process under line-item appropriations or specific grants. Hopefully this information will assist in the evaluation of the LSR&T Program as it has functioned in the Nome Residency, and contribute to the formation of a policy or program through which rural communities may continue to receive State support in alleviating their transportation problems.

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

February 10, 1983

Representative Cato, Chairman
House Transportation Committee
Pouch V
Juneau, AK 99811

Dear Representative Cato:

I am writing in support of HB 169 which provides funds for the continuation of the Local Service Roads and Trails Program.

This program has been of great benefit to our borough. Utilizing local labor and construction equipment already in the area, the program gets more out of the state's money than other grant programs. The personnel at Local Serv[illegible] Roads and Trails are accustomed to working with [illegible]dents from rural Alaska, understand the conditions [illegible]ich exist there, and work closely to see that all funds are accounted for and used efficiently. Many projects of varying size have been funded in this way, improving conditions in Alaska and contributing to a sense of accomplishment by local residents.

I hope your committee will consider this legislation favorably so the LSR&T program can continue to exist.

Sincerely,

Don Penner
Administrative Assistant

/DP

BRISTOL BAY NATIVE ASSOCIATION

P.O. BOX 189

DILLINGHAM, ALASKA 99576
by Executive Committee

Bristol Bay Native Association
Resoultion in Support of the
Department of Transportation and
Public Facilities Local Service -
Roads and Trails (LSR&T) Program

Resolution No. 83 - 03

WHEREAS, the LSR&T program has been very effective in developing village roads in the Bristol Bay Area; and

WHEREAS, the LSR&T program has schedule projects to provide access roads in support of the Bristol Bay Housing Authority (BBHA) Low Income HUD Housing construction in several villages in the Bristol Bay Region; and

WHEREAS, the Bristol Bay Housing Authority has awarded contracts for the construction of houses at Aleknagik, Egegik, Levelock and Port Heiden; and

WHEREAS, the Bristol Bay Housing Authority has scheduled a housing program for 1984 and 1985 at the villages of Iliamna, Igiugig, Kokhanok, Newhalen, and Nondalton and will require access road construction in each village; and

WHEREAS, additional road construction is needed to improve or provide access to townsite lots within village townsites; and

WHEREAS, each village is in need of a Dump Site with access road.

NOW THEREFORE BE IT RESOLVED, that the Department of Transportation and Public Facilities reactivate there very successful Local Service Roads and Trails program which is the very foundation of municipal sewer, water and sanitary waste disposal systems; and

BE IT FURTHER RESOLVED, that all of the projects scheduled herein be incorporated within the reactivited Local Service Roads and Trails program.

SIGNED William P. Johns
PRESIDENT

CERTIFICATION:

I, the undersigned secretary of said Association, do hereby certify that the Executive Committee is composed of ten (10) members, of whom 8 were present at a meeting this 20 day of January, 1983, and that the foregoing resolution was adopted by the affirmative vote of 8 members.

SIGNED Ida Apokedak
SECRETARY

TWIN HILLS VILLAGE COUNCIL

GENERAL DELIVERY
TWIN HILLS, ALASKA 99576-2
(907) 972-8001

December 7,1982

Adelheid Herrmann
P.O. Box 63
Naknek, AK 99633

Dear Adelheid:

On behalf of the Village Council and Community of Twin Hills, I would like to congratulate you to represent our district. With all our prayers and best wishes to your success at work.

I would like to know whether or not the legislator is planning on dissolving the DOT programs for villages that need state assistance in building their roads? I was told that these road construction firm companies are pushing to end state appropriation monies be contracted out to DOT.

We the Village Council of Twin Hills oppose the idea of having another private owned companies bringing in their own workers and build our roads. I think the program that DOT provides should not be dissolved. Because they hire local residents and at the same time the people who work, get experience in operating heavy equipments.

We also have two(2) new council members and all the council members terms will end October 1984. They are as follow:

Arthur W. Sharp.....President
Roger Wassillie.....Vice President
John W. Sharp.....Sec./Treasure
John C. Mark.....Member
Christopher Sharp, Sr....Member

Thank you and congratulations again.

Sincerely,

Arthur W. Sharp

Arthur W. Sharp
President

cc: Twin Hills Village Council

City of Akutan

Coastal Resource Service Area

There has been some thought given to forming a Coastal Resource Service Area in the Aleutians west of Unimak Pass. I am enclosing a copy of a letter I recently received from Murray Walsh to Mayor Bill Fisher of Unalaska. In the letter, Mr. Walsh refers to a meeting that was held in Anchorage on November 16, 1982. In addition to the representatives from the Aleutians there were also people there from St. Paul and St. George. A resolution was passed by the participants at that meeting that the Alaska Coastal Management Act needs to be amended to provide for participation by all the communities of the region. We would appreciate it if you could look at the issue and work on the drafting of such legislation or taking other steps necessary. As things stand now, if a district were to be formed in the western Aleutians, at least five of the six seats would go to Unalaska, with the villages having one seat among the three communities, if we were lucky. The present law does not allow for the inclusion of the Pribilofs in an Aleutian district because of the link between the CRSA boundaries and the REAA boundaries. We are not sure if the Pribilofs would even be interested in being included in an Aleutian district, but one of the attractive features of that configuration would be the dispersal of power among more than one large community. It is a relatively complex issue and one that looks as if it will come to a head in the coming months. We would appreciate any help you can give us.

Local Service Roads and Trails

A second issue is that of the elimination of the Local Service Roads and Trails program by the Alaska Department of Transportation. This program is relatively small, but it does good things for rural communites. DOT/PF thinks that it will be able to meet the diverse needs of rural communities through its regular program. We in Akutan have dealt with both parts of DOT and truly feel that the LSR & T program more adequately meets the rural need. Our LSR & T project is almost completed so it wouldn't really make that much difference to Akutan, but it is a program that has done good things for us. We would like to see other communities have the same opportunity.

Service Delivery in Rural Alaska

I am also enclosing a copy of a plan I have for coordination of service delivery by state agencies in rural Alaska. I mentioned it to you when we met. I have also sent a copy to Representative Jack McBride but he and I have not discussed it

KOLIGANEK VILLAGE COUNCIL
KOLIGANEK, ALASKA 99576 - VILLAGE TELEPHONE (907) 596-8001

De ber 28, 1982

Senator Nels Anderson, Jr.
Dillingham, Alaska 99576

Dear Nels:

I am now in receipt of your letter dated December 7th, requesting our list of five capitol project priorities. Before I list them, let me say that it would be appreciated if you would request that Rep. Herman, and Sen Mulcahy, have their offices insure that mail addressed to the village council is addressed as follows, in order to facilitate prompt responses on our part.

Koliganek Village Council
attn: C.T. Seidl, Admin.
Koliganek, Alaska 99576

As to our priorities we held a meeting this afternoon, and developed the following list:

1) It is imperitive that we have the airport moved away from the village. This is far and above any other priority. You may recall the problem we have been having in the orderly expansion and growth of Koliganek, due to the Airport cutting us off. Representive Herman should also be aware of this situation as I went over it in detail during her campaign. Jack Moore's of BBNA, and Tom Hawkins are both very knowledgable in the mechanics of such a land trade off and indicate that there are precedents for such action: we have already discussed it.

2) Additional funding for our LSR&T project. The equipment is here in Koliganek, and we are awaiting spring for the continuation of our project, but could really use more funding to increase the length of our local roads.

3) The upgrading of water and sewer. Realizing that funding may not be available for such a large project as the excavating of ground and laying of pipe mains, it might be that two wells could be dug, with insulated pump houses that are equipped with self-draining, freeze proof water outlets. One each placed on either end of the village, so that we can pack cleaner water that is in the river, and the chore would be safer, than treading out on the ice, particuarily for the younger children.

LSR & T . . . this is a road?

Some Facts About The LSR & T Program

Local Service Roads and Trails, as enacted by the legislature of the State of Alaska, is for the purpose of providing for the construction of roads and trails which are not included in the approved federal - aid primary or secondary systems which are eligible for federal-state matching funds.

The system is 100% state funded through bond issues approved by the people of Alaska. The State is divided into five allocation districts, by a formula which is based on area and population. The funds are then further allocated to the boroughs and home rule Cities. Any funds not allocated to a local government are allocated to the unorganized borough and administered by the Department of Highways.

The program first went into effect in July of 1971 with total funding in the amount of $5,000,000.00 of which $629,000.00 was allocated to southeastern. A subsequent bond issue provided an additional $838,000.00 for southeastern.

Boroughs and home-rule Cities with the capability of engineering and supervising roadway and/or trail construction enter into agreement with the Department of Highways regarding the scope of a project. The Department approves design plans, authorizes advertising and award of contracts, and approves the completed project.

Within the unorganized borough the projects are handled in a variety of ways to realize the most out of the funds and to serve the best public interest. This could be by preparation of plans and advertising by the Department, by use of the local labor force, through a reimbursable agreement with another agency or a combination of the above.

Since this program was initiated in 1971, 42 projects have been completed, 11 projects are under construction, and 7 additional projects are in the planning stages, for southeastern Alaska.

Active projects include a boardwalk between the inner and outer harbors at Port Alexander, clearing of Anchorage Street in Klawock, a complete year around trail facility in Haines, reconstruction of the boardwalk in Elfin Cove, street surfacing in Yakutat and construction of 4th Street in Craig.

A few of the major projects completed within the organized boroughs and home rule Cities include the Carlanna Lake Road extension in Ketchikan, Outer Drive in Wrangell, and paving and grading of Davis Avenue in Juneau.

In the planning stages are projects in Sitka, Petersburg, Wrangell, Skagway, Angoon, Pelican and others.

In the scheme of road building things, there are roads that are Federal Aid Primary and their are roads that are Federal Aid Secondary. Both types are eligible for federal-state matching funds.

And then there are those roads that aren't funded at all, or at least they weren't until the Alaska State Legislature some years ago came up with approval for a bonding issue on a periodic basis to create wanted roads where no funding sources were available.

The result was LSR&T, otherwise known as Local Service Roads and Trails, and it works in this manner:

—Bond funds are allocated among the five districts under an area/population formula.

—Home rule cities and organized boroughs within the districts are given their pro-rated share.

—Unorganized boroughs have funds earmarked for their use, to be administered by the Department of Highways.

—Home rule cities and organized boroughs select their own projects with Highways acting only as an approval agency.

—Unorganized borough funds are handled in several ways, but the local village has project selection power.

Planned expenditures in 1976 for the LSR&T program total slightly over $5 million, with nearly a half a million dollars of that amount to be spent in Southeast Alaska. Fifteen projects will be undertaken in Southeast, while the statewide total is 75.

LSR&T is road building in its basic form. There is a minimum of red tape, a maximum of local involvement, and for every dollar spent there is a visible result.

On January 19, 1973, a storm with 70 mile-an-hour winds pushed logs along on an 18.5 foot high tide and destroyed the Tinkum Creek bridge at Kasaan Village. The structure was a bridge in the sense that it crossed water, but not a bridge in the sense of a span carrying cars, trucks or trains. It carried people, and perhaps bikes. But no cars. It was a boardwalk, and certainly not eligible for federal-state matching funds.

Enter LSR&T.

On March 25 three local men were signed up to work, a project supervisor was on hand and needed materials were ordered from Ketchikan to augment the salvaged bridge lumber from the old structure. As the initial stages were underway onsite, the Ketchikan materials were inadvertently sent to Klawock. The Highway Department Maintenance Foreman there took the timbers to Hollis and placed them on the beach. The Kasaan project supervisor chartered a boat, got the lumber off the beach, and delivered it to Kasaan. On April 4 the new Tinkum Creek Bridge was finished....and relocated some 45 feet upstream where it would be safer from big storms.

Total cost.....$4,820.00.

In the spring of 1975, a huge log serving as a bridge across Indian River near Tenakee collapsed. It had been placed there in 1957 by Loyal Clark during a ten-day period that required the use of a raft, of an International tractor and of much musclepower. The log bridge was used by residents and outdoorsmen throughout the Indian river-Sunny Cove - Columbia - Superior - Harley Creek - Coffee Cove area. It was sorely needed.

LSR&T again to the rescue.

Immediately following the Thanksgiving weekend in 1975, a

crew was hired and supplies were brought in by a Juneau flight service. Unhappily, the weather changed and snow delayed the project. It was rescheduled for March 1, 1976, but the winter's accumulation of snow forced another postponement.

But the work will be done under the terms of LSR&T, and when it is completed, Tenakee residents will have a double-log bridge, cabled together, and a planked walking surface. The trail which the bridge serves will also be improved.

Kasaan came in for another unique project that started in 1975 when an old boardwalk, connecting the village to the boat harbor and airplane float finally gave up the fight and surrendered to rot. When it came to the point that residents were falling through the rotting wood and being injured, a call for LSR&T was made.

Local labor was signed up, and lumber was to be supplied by the local sawmill. Work was started on August 5, but because the small mill kept chewing up engines...and the owner/operator was forced to scurry about Southeast in search of replacements...the project moved in fits and starts rather than leaps and bounds. When winter shut things down, about 300 feet of boardwalk remained to be completed after spring startup.

This project was unique in that Kasaan had no money available, so no reimbursable services agreement could be entered into. To solve this problem, the Department of Highways set up a bank account so the weekly payroll could be handled and materials purchased. Checks were counter-signed by a village representative and by the LSR&T engineer. This arrangement has been used satisfactorily several times during the life of the LSR&T program.

Strange things do happen on LSR&T projects. One Hoonah job invoice included the cost of rifle shells...certainly no ordinary item for a highway project. But in this case, the project was the clearing of a trail and the rifle shells were needed to keep the bears at bay! And even the dogs sometimes get into the act, as was the case with that same Hoonah job. They, like the rifle sheels, were used to help convince the bears that this was to be a people trail, not a bear trail.

Local labor, local material and even local dogs, all are a part of LSR&T. Money is brought into the closed loop of a village economy....jobs are created where none exist...and roads are built where they are most needed, and least affordable. LSR&T is basic people-to-people roadwork.

In defining "road", Webster says nothing about cars, trucks and trains. Those terms have been added in our minds through usage. Webster merely says that a road is "a public way for traveling upon". If your village is 1,500 feet of muck and mire away from the village boat harbor, a boardwalk is just as surely a road as is the finest stretch of eight lane superhighway in the world .... and a planked log spanning a 20 feet wide stream can be just as important as is the Golden Gate Bridge.

And that's what LSR&T is all about.

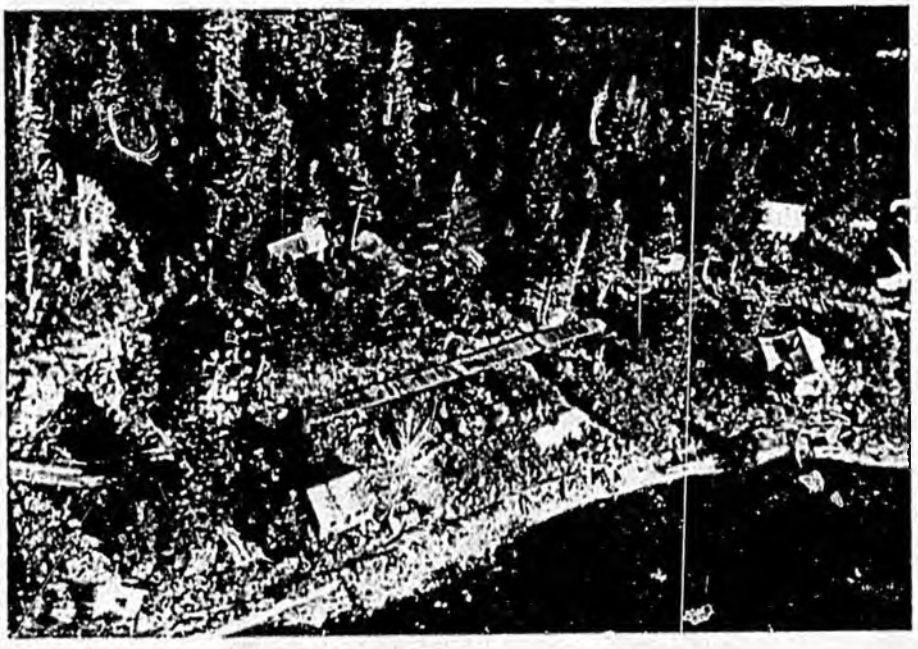
Port Alexander Boardwalk
Project G-30399

Port Alexander is a small fishing community located on the southern tip of Baranof Island. Facilities for docking are located on what is known as the Inner Harbor and the Outer Harbor, located about 1/4 mile apart. The trail between harbors is along the edge of the inlet connecting the harbors. Due to storms, tidal action and other factors, the bulkhead along the trail, and the trail itself are almost obliterated in some areas.

It was requested that LSR & T fund a trail and/or boardwalk between harbors to provide public access. As the Division of Harbors and Waters was active in the area, and helped initiate the project, it was agreed they would supervise the project and a reimburseable agreement was prepared in November, 1973 in the amount of $34,000.00

Work commenced in the spring of 1974 under the supervision of Richard Cleaver, a local resident. Due to unavailability of gravel, the trail portion was converted to a boardwalk and an additional $10,000.00 authorized for the project.

Completion was in June, 1976.



Alaska State Legislature

House of Representatives

Committee on Transportation

Lacker
2 attachments

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

Rep. Bette Cato, Chairman

TRANSPORTATION PHONE: Phone 465-4858/4859
Meets: Capitol 112, M-F, 8:30 a.m.

REVISION

Wednesday, February 9, 1983

HCR 2: ...travel by senior citizens aboard vessels of State Marine Highway

Commissioner Casey/DOT/PF Overview

FEB 8 1983

(9)

2/14

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: 2/14/83

2/7/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 169

An act making an appropriation to the Department of Transportation and Public Facilities for allocations for local service roads and trails; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

(b) The commissioner shall, upon request of a local government, transfer funds allocated under AS 19.30.131 to any local government which has assumed local road powers for project cost amounts and contract award amounts submitted to the commissioner.

(c) Nothing in AS 19.30.111 — 19.30.241 prohibits a local government from participating financially in the acquisition and construction of a local service road or trail. (§ 2 ch 84 SLA 1971; am Executive Order No. 39, § 11 (1977); am §§ 2, 3 ch 158 SLA 1980; am § 4 ch 38 SLA 1981)

Effect of amendments. — The 1977 amendment substituted a reference to the Department of Transportation and Public Facilities for a reference to the Department of Highways in the first sentence of subsection (a).

The 1980 amendment deleted the former second sentence in subsection (a), which read: "A local government which has assumed road powers before May 20, 1971, may not be required to hold an election as provided by this section", and rewrote subsection (b).

The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction" in subsection (c).

Sec. 19.30.161. Design standards, rights-of-way and widths. Design standards, rights-of-way and widths for each local service road and trail project shall have the prior approval of the commissioner, unless the project is under the supervision of a local government that has assumed local road powers. If the project is under the supervision of a local government that has assumed road powers, design standards, rights-of-way and widths shall be established by the local government. (§ 2 ch 84 SLA 1971; am § 4 ch 158 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "rights-of-way and widths" at the beginning of the section, and added the material at the end of the section following, "approval of the commissioner" and beginning, "unless the project is."

Sec. 19.30.171. Acquisition and conveyance of rights-of-way. (a) The local government shall acquire all rights-of-way required for local service road and trail construction. However, if the local government is unable to acquire the necessary right-of-way, the commissioner is authorized to acquire it in accordance with AS 19.05.080 — 19.05.120. The commissioner may convey to the local government, by appropriate instrument executed in the name of the state, any land or interest in land which has been acquired by the state for the construction of local service roads or trails.

(b) The costs incurred by the commissioner in acquiring this land or interest in land includes all costs and any fees incidental to acquisition. All costs incurred in connection with the acquisition of the land or interest in land for local governments that have assumed local road powers shall be charged to the project allocation for which the land or interest in land is acquired. Right-of-way acquisition costs incurred by the commissioner for local governments without local road powers

under AS 19.30.151(a) shall be charged to the project allocation for the local government for which the land or interest in land is acquired.

(c) When rights-of-way for local service roads are acquired over land or interest in land owned by the state, the commissioner may make such arrangements with the department having jurisdiction over the land as may be necessary to give the local government adequate rights-of-way, and any such department is directed to transfer the jurisdiction of the land to the commissioner. (§ 2 ch 84 SLA 1971; am § 17 ch 71 SLA 1972; am § 5 ch 158 SLA 1980; am § 5 ch 38 SLA 1981)

Effect of amendments. — The 1980 amendment deleted "including relocation assistance and payments in accordance with AS 34.60" following "to acquisition" at the end of the first sentence of subsection (b), deleted "by the commissioner" following "All costs incurred" near the beginning of the second sentence of subsection (b), inserted "for local governments that have assumed local road powers" near the middle of the second sentence of subsection (b), and added the present third sentence of subsection (b).

The 1981 amendment, effective July 1, 1981, substituted "charged to the project allocation" for "paid by the local government" in the second sentence of subsection (b).

Sec. 19.30.181. Project agreements. A local government which has assumed local road powers may enter into a formal project agreement with the commissioner for the acquisition and construction of a specific project. (§ 2 ch 84 SLA 1971; am § 6 ch 158 SLA 1980; am § 6 ch 38 SLA 1981)

Effect of amendments. — The 1980 amendment rewrote the section.

The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction of."

Sec. 19.30.191. Letting of contracts. (a) Repealed by § 15 ch 158 SLA 1980.

(b) Contracts entered into by a local government that has assumed local road powers for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility.

(c) All contracts by a local government that has not assumed local road powers must have the prior concurrence of the commissioner. The commissioner may delegate the power to approve contracts to a local government that has assumed local road powers for the acquisition and construction of local service roads and trails.

(d) Except as provided in (b) and (c) of this section and in AS 44.33.300, construction of each project shall be administered by the department in accordance with guidelines established by the commissioner by regulation. (§ 2 ch 84 SLA 1971; am § 4 ch 277 SLA 1976; am §§ 7 — 9, 15 ch 158 SLA 1980; §§ 7, 8 ch 38 SLA 1981)

portation and Public Facilities if constructed outside local government units which have zoning ordinances. If these roads are constructed within the boundaries of local government units which have zoning ordinances, the width shall conform to subdivision control ordinances of the local government units. Contracts for the work shall be awarded to the lowest responsible bidder qualified to contract with the state. (§ 1 ch 122 SLA 1961; am § 3 ch 7 SLA 1964; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted the reference to the Department of Transportation and Public Facilities in the third sentence for a reference to the Department of Highways.

Article 3. Local Service Roads and Trails.

Section
111. Purpose
131. Allocation of funds
141. Acquisition and construction programs
151. Local government participation
161. Design standards, rights-of-way and widths
171. Acquisition and conveyance of rights-of-way
181. Project agreements
191. Letting of contracts
201. Construction
211. Maintenance
221. Availability of allocated sums
231. [Repealed]
233. Reports
241. Definitions

Sec. 19.30.111. Purpose. It is the purpose of AS 19.30.111 — 19.30.251 to provide for the acquisition and construction of local service roads and trails which are not included in the approved federal-aid primary highway systems eligible for federal-state matching funds. (§ 2 ch 84 SLA 1971; am § 1 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, added "acquisition and" preceding "construction of local service roads" and deleted "or secondary" preceding "highway systems."

Sec. 19.30.131. Allocation of funds. (a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for that fiscal year among the five allocation districts in the following manner: one-half in the ratio which the area of each allocation district bears to the total area of the state and one-half in the ratio which the population of each allocation district bears to the total population of the state as shown by the latest available federal census.

(b) The commissioner shall also further allocate the sums in each allocation district to the boroughs within each allocation district in the following manner: one-half in the ratio which the area of each organized borough (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio

trict bears to the total population of the allocation district as shown by the latest available federal census.

(c) The commissioner shall also further allocate portions of the sum allocated to any borough, either organized or unorganized, and to any home rule or first class city within the borough in the following manner:

(1) one-half in the ratio which the area of each home rule or first class city bears to the total area of the borough excluding salt water areas; and

(2) one-half in the ratio which the population of each home rule or first class city bears to the total population of the borough as shown by the latest available federal census.

(d) The sums not allocated within each district to a local government under (b) and (c) of this section shall be allocated to the unorganized borough and administered by the department. (§ 2 ch 84 SLA 1971; am § 2 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, added "or first class" following "home rule" in three places in subsection (c). Also in subsection (c), the amendment added the paragraph designations (1) and (2).

Sec. 19.30.141. Acquisition and construction programs. Before October 1 of each fiscal year each local government eligible for allocation of funds under AS 19.30.131 shall submit to the commissioner for approval a five-year plan for the acquisition and construction of local service roads and trails. Before December 1 of each fiscal year the commissioner shall submit to the governor a five-year plan for the acquisition and construction of local service roads and trails, including the approved local government programs. An organized borough shall include in its five-year plan local service road acquisition and construction programs for all cities other than home rule and first class cities within the boundaries of the borough. The commissioner shall include in his five-year plan local service road and trail acquisition and construction within the unorganized borough. (§ 2 ch 84 SLA 1971; am § 3 ch 38 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 1, 1981, substituted "five-year plan" for "long-range program" in four places, added "acquisition and" preceding "construction" in four places and added "and first class" preceding "cities within the boundaries" in the next to the last sentence.

Sec. 19.30.151. Local government participation. (a) Upon application by a local government, local service roads and trails constructed under the provisions of AS 19.30.111 — 19.30.241 and located within the jurisdictional boundaries of a local government, as defined in AS 19.30.241(3), may be transferred to that local government upon

MEMORANDUM State of Alaska

TO: Charles Karella
State LSR&T Engineer
Highways Design and Construction

DATE: November 23, 1982

FILE NO: 245C-2519

TELEPHONE NO: 266-1542

FROM: Robert L. Haneline RLH
Central Regional
LSR&T Engineer

SUBJECT: LSR&T Program Justification & Impacts

In presenting an overview of the existing LSR&T program and its possible future direction the following is offered for consideration.

There is a subtle but potentially significant change underway in the thinking regarding the pending phase-out of the LSR&T program. Many people are increasingly considering as realistic the possibility that the proposed phase-out of the LSR&T program might take place. This was apparent at a number of meetings just completed in Anchorage (State Planners Meeting), Fairbanks (Municipal Leagues Meeting), Kotzebue (Traditional Council Presidents Meeting) and Bethel (Traditional Council Presidents Meeting) where the attitude was one of apprehension and concern.

As the realities of the program possibly being abandoned come closer, it is apparent there is a need to address some of the significant impacts of the program not being available.

It has become increasingly apparent, and properly so, that a lot of the "bush" needs cannot be addressed by the State C.I.P. program. Smaller projects are required to compete with larger projects for available funding resources on a regional basis, severely limiting their chances for funding. The mechanisums of a lot of the smaller communities to supply the necessary expertise are limited due to isolated conditions and communication problems. Most "bush" communities do not have the internal resources to help themselves, and often lack the technical background to effectively determine if they are getting what they pay for. Even if given direct grants, use of the monies may not be maximized due to the lack of knowledge on how to best utilize existing resources to efficiently accomplish set goals. This is nourishing doubt as to the direction being taken and is evident to the obvious appeal the LSR&T Program has to a broad popular support.

As the State has a sizable responsibility to "bush" communities, it seems appropriate that the State give some attention to identifying ways in which this commitment to smaller communities will reap the highest return.

A productive example of effective channeling of State funds into "bush" communities is the LSR&T Program. There are many ways in which the State and "bush" communities, alike, have benefited from the creation of the LSR&T Program, where the attitude toward community improvements is that of participation and self-help rather than that of being subsidized at someone else's expense, something not to be considered as the primary purpose or intent of the program, but only mentioned here as it serves to reflect on another positive factor to be contemplated when evaluating the importance of the LSR&T program.

The LSR&T Program may not represent the total solution to providing for the needs of the "bush" communities, but it is certainly a step that provides economics of scale where other programs cannot provide the same end results for the dollars available. Admittedly, there are some problems with the program, but no one can deny the great benefits of the program. What the LSR&T Program expresses and provides is a sensitivity to "bush" needs, an opportunity for "bush" communities to recognize and fulfill the responsibilities of their communities and to directly contribute to the construction of their transportation needs. This direct involvement instills a sense of community pride in the work accomplished, which normally results in greater care being exercised in the general treatment of the finished construction product. The LSR&T Program provides the necessary link between the State's investment in terms of monies spent and in terms of meeting "bush" transportation needs that might not otherwise be met.

It is felt the LSR&T Program, being the small State Section that it is, accomplishes positive results for the State for a minimal investment compared to larger programs with higher overhead costs.

The present portfolio of the LSR&T Section of the Department of Transportation and Public Facilities consists of hundreds of projects totaling millions of dollars. These projects vary in scope from simple boardwalk and footbridge projects to massive, multilane, arterial highway systems. This project versitility is a reflection of the flexibility developed by members of the LSR&T staff which, balanced against the "bush" needs, succeeds in effectively accomplishing set goals.

None of this is to suggest the LSR&T Program is beyond reproach. But only to say that a great deal of energy and money have been invested in the development of the LSR&T Program, resulting in the efficient workable program it is today. To abandon a program that fills needs that otherwise may not be met seems contrary to the best interest of the State. It is plain that awareness and open minds are required in the final decision making process.

RLH:jc

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: C.D. Karella
State LSR&T Engineer
Juneau

DATE: November 15, 1982

FILE NO:

TELEPHONE NO:

FROM: D.S. Ronken
LSR&T Engineer
Fairbanks

SUBJECT: LSR&T Program

In response to our telephone conversation of 11/5/82, I have informed J. Chandler at Nome to supply you with the information you requested regarding the LSR&T Program in the bush communities.

I have been in contact with the local governments and the comments received from them regarding the LSR&T Program are as follows:

Since local roads and streets are always in need of improvement the local governments would like all the funds they can possibly obtain for roadway construction.

The local governments without road powers feel that the DOT/PF has too much control over the funds. They object to some of the conditions stated in Section "C" of the project agreement.

The local governments however, do like the flexibility of the Program, i.e.:

1) Various types of construction that can be funded

2) Project funding can be changed to cover overrun, providing funds remain in their allocations

3) LSR&T Construction Program submitted (priority list) can be changed, if for some reason the local needs change

Some local governments in the Fairbanks area feel that the manner in which funds are allocated based on population by the latest federal census should be changed. With the population in the Fairbanks area increasing every year and the allocation based on the latest census of 1980 which has been questioned by the local government, they feel the present system leaves much to be desired.

In summary, the local governments like the program and would like to see it refunded. The funds obtained through the LSR&T Program are not sufficient to cover the road improvement needs, but all funds that can be obtained to improve the local transportation system will be accepted by the local governments providing the conditions for its acceptance do not change.

STATE
of ALASKA

MEMORANDUM

TO: Charles D. Karella
State LSR&T Engineer
DOT/PF
Headquarters/Juneau

DATE: November 24, 1982

FILE NO.

TELEPHONE NO: 443-5266

FROM: Jeffrey S. Chandler JSC
Acting LSR&T Manager
DOT/PF
Interior Region/Nome Residency

SUBJECT: LSR&T Program In Rural Communities

In response to your enquiry regarding the involvement of the Local Service Roads and Trails Program in rural communities of Western Alaska, and the attitudes held by the rural communities towards the Program, I offer the following information.

The LSR&T Program generally has been highly regarded and supported by the bush communities. The underlying reasons for this are as follows:

I. LOCAL PRIORITIES

The City Council of each community sets the priorities for local service projects needed in that community.

This process insures the Program's responsiveness to local needs. Within the limits of available funding, a community may designate access roads, local streets, bridges, boardwalks, or trail repairs for inclusion under the Program. Since LSR&T is primarily a reimbursement program, the local governing body may start construction as soon as a Project Agreement is approved and materials or equipment available, and is then reimbursed periodically for expenses. For larger heavy construction projects utilizing State equipment or a private contractor, costs are generally paid directly by the State.

II. LOCAL INVOLVEMENT

The local community has direct input into all phases of each project, from planning through construction.

The scope of the project selected is determined by the City Council, within the limits of sound engineering principles. For locally constructed projects, flexibility is preserved through the construction phase, allowing alterations to accommodate local concerns which may not have been anticipated initially. Although LSR&T administers the project, it is basically a community enterprise in which the community shares responsibility. Through cooperative effort the State provides a helping hand rather than a hand-out. A completed project becomes a source of pride for residents of a rural community because they were integrally involved in creating the end product.

III. LOCAL HIRE

Locally hired crews are employed to construct most rural LSR&T projects.

With labor intensive projects such as boardwalks and trail construction, the crew is hired locally by the local governing body which also appoints a local foreman.

Day to day operations of small scale heavy construction projects involving local equipment are also handled by a local foreman. On larger heavy construction projects involving State equipment, LSR&T may provide a foreman and/or a heavy-duty mechanic, while the construction crew is hired locally. In the event the local labor pool is exhausted, workers are generally sought from neighboring villages. The primary exception to this procedure occurs when a project has been let to contract, where hiring is done by a contractor whose policies generally tend to be more restrictive than those of local managers.

IV. LOCAL TRAINING

Training of local residents in new skills is necessary for most remote LSR&T road projects.

It is unusual to find the required number of qualified equipment operators and truck drivers locally available for the typical local road construction project. Training is therefore provided by an LSR&T representative or designated foreman and mechanic. Emphasis is placed on proper equipment care and usage, not only for safety reasons, but also to avoid unnecessary downtime. Safety awareness is encouraged through the life of a project in order to reduce the chances for injury or accident. This policy of training employees allows a greater proportion of local residents to obtain jobs than is the case with contractors, who generally require skilled workers for available positions. It also results in an added benefit outlasting the life of the project: a pool of trained workers who may be able to later obtain jobs for which they were previously unqualified.

V. LOCAL EQUIPMENT

Local equipment, public or private, is utilized for heavy construction projects whenever available.

For local road projects, LSR&T encourages the use of locally available equipment: from the local governing body, from DOT/PF, or from other public or private sources, in any combination necessary to perform the work. This practice results in substantial cost savings and production increases for the project, by avoiding the extra costs of mobilizing equipment from outside the community. LSR&T also has its own construction fleet, which is generally moved from project to project on an annual basis to supplement local equipment. In the event that adequate equipment is not available either locally or from LSR&T, and when private enterprize is available, then a project is generally put to contract with a contractor who is preferably already mobilized on site. It should be noted here that due to age and the phase-out of the LSR&T Program, most of the LSR&T equipment fleet will have been excessed by the end of the year.

VI. REGION WIDE PROJECTS

All local communities in the Nome Residency area are eligible for participation in LSR&T's region-wide projects.

Winter Trail Staking and Shelter Cabins are two projects in which most rural communities participate annually. Although a limited amount of funds are available, these are distributed among local communities to help defray the costs of marking trails each winter, and the costs of putting up shelter cabins on the most heavily used trails for the use of the traveling public. A limited number of permanent trail markers are installed each year during Trail Staking. Permanent trail markers could be installed on the 1,400 miles of primary overland

trails in the Nome Residency area within two years, if current funding levels were doubled.

VII. PROFESSIONAL SUPPORT

Technical support services are provided to each project in proportion to the demands of the project and the needs of the community.

Engineering, supervisory, mechanical expertise, and expediting services are available for each LSR&T administered project. Where sufficient local initiative, labor, and expertise is available, periodic visits of the LSR&T Engineer is all that is required, resulting in lower administrative charges to the project. For small scale heavy construction projects, LSR&T provides a highly qualified roving heavy-duty mechanic, who periodically visits each project as needed to assist the local foreman in handling complex emergency mechanical repairs. For larger scale projects, the LSR&T Engineer or designated representative may direct the project and provide experienced foreman and qualified heavy-duty mechanic for the duration of the work. The key to this approach is flexibility: the fewer the resources of a local community, and/or the more complex the nature of the project, the greater the level of direct assistance provided, and vice-versa.

VIII. ADMINISTRATIVE SUPPORT

Most rural communities need some administrative support to keep their projects from bogging down.

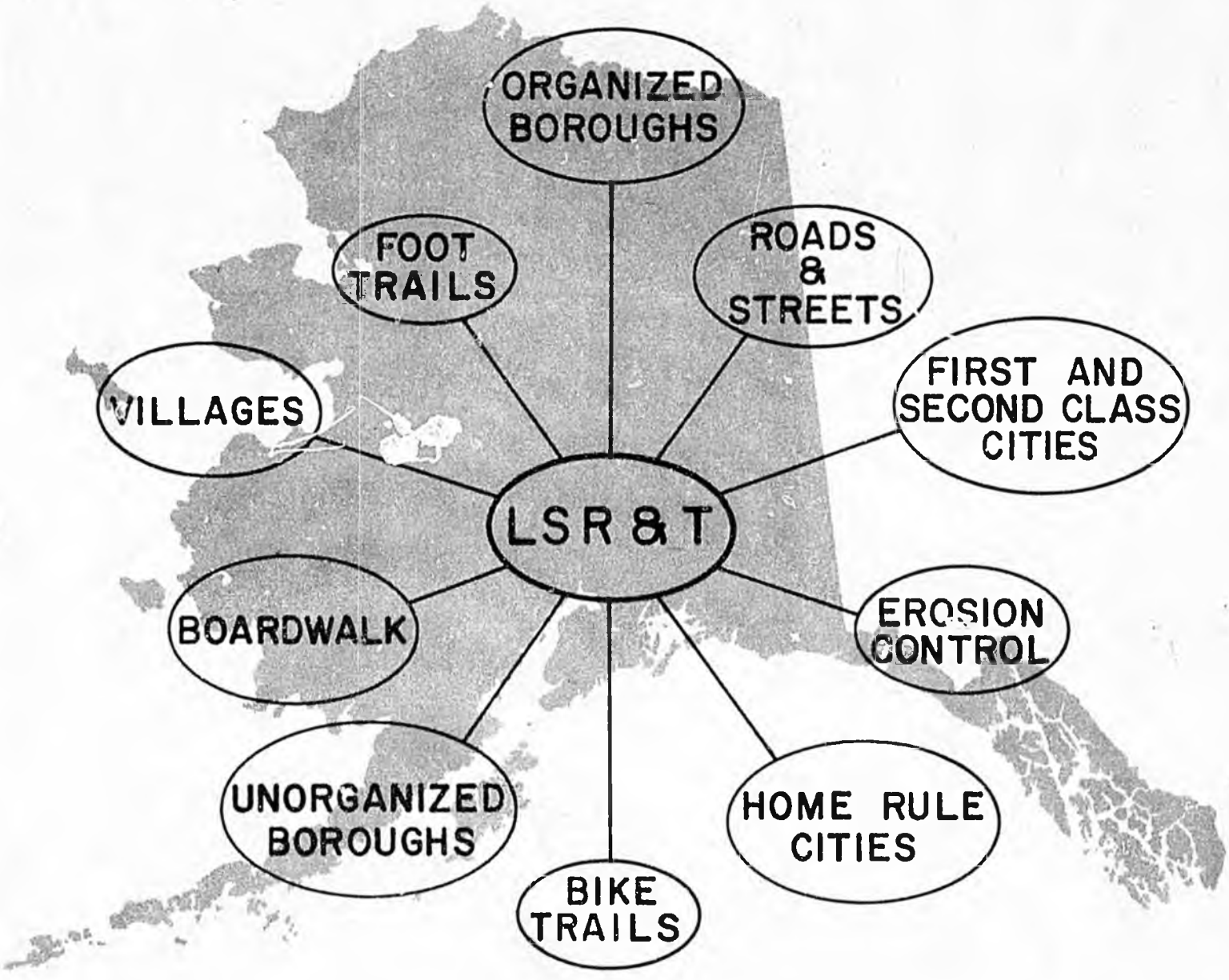
This applies to a majority of local development projects involving local administration, whether funded through LSR&T, special legislative appropriations expended through LSR&T, or direct legislative grants to the villages. This need can be met by consulting engineering firms and contractors where funds are sufficient. However, for smaller projects a little common sense advice and direction is frequently all that is required, rather than a costly and lengthy study which doesn't help the local governing body with the day to day problems associated with doing its own construction projects. Although not mandated to do so, LSR&T has been providing technical information, quantity and cost estimates, and alternative recommendations to villages seeking guidance for the application of their direct grants for new construction equipment, new equipment storage buildings, and local transportation-related construction projects. The Nome office has handled seventeen such calls from different villages in the last five months.

IX. SUMMARY

Given the limits of available funding for rural areas, the LSR&T Program has made some substantial contributions in helping local communities to meet their own transportation needs. By and large, remote communities have not requested advanced development projects. Basic projects have been the rule, providing boardwalks, access roads, or streets for the community, frequently for the first time. Additionally, the Program has received strong support from the Bering Straits and NANA Regional Native Corporations, in the form of streamlined permit procedures, free use materials, and expedited right-of-way reconveyance agreements. Finally, the LSR&T Program has retained the flexibility to fund those projects requested by villages which have not been addressed through the legislative process under line-item appropriations or specific grants. Hopefully this information will assist in the evaluation of the LSR&T Program as it has functioned in the Nome Residency, and contribute to the formation of a policy or program through which rural communities may continue to receive State support in alleviating their transportation problems.

THREE YEAR LOCAL SERVICE ROADS AND TRAILS PROGRAM

1981 1982 1983



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 1, 1981

Fellow Alaskans:

This document outlines the 1981, 1982 and 1983 Local Service Roads and Trails Program. Included are project locations, descriptions and estimated costs.

It should be noted this is a planning document of the Department of Transportation and Public Facilities and as with all plans, changing conditions may require modification of the plans in the later years.

All of these projects are in conformance with requests by local governments. Nearly all projects in last year's program for 1980 are complete.

Your extraordinary support of local service roads and trails gives me great pleasure as I submit this, your Three Year Local Service Roads and Trails Progam.

Sincerely,

Jay S. Hammond
Governor

NARRATIVE

LOCAL SERVICE ROADS & TRAILS PROGRAM

The Local Service Roads and Trails Program provides for construction of local roads and trails which are not included in the federal-aid highway system.

Under the Local Service Roads & Trails Act, funds for home rule cities, municipalities and organized boroughs are allocated by strict formula. These local governments then establish their own project scheduling; therefore, this publication is merely a listing of their individual programs as submitted. Project priorities and scheduling in the unorganized boroughs are based primarily on requests and recommendations of village councils and residents. Personal contact with the villages is established by LSR&T representatives from the Department's regional offices. Village needs are thus determined first-hand, along with approximate costs. Since the cost of requested projects usually exceeds the funds available, the priorities must be established based on need. Local governments often participate in projects costs with their own funds.

Local residents and equipment are utilized wherever practical in the construction of these projects. Not only is this beneficial to the economy of the villages, but it normally reduces the overall cost of the project. A side benefit is the training of local residents who will, in many cases, be maintaining the completed project.

This three years LSR&T Program is based on remaining funds from previous allocations and the 1980 Transportation Facilities bond issue of $10,000,000 for fiscal years 1981 and 1982.

Funding shown in this program anticipates using all of these funds by the end of calendar year 1982. Therefore, projects shown for calendar year 1983 only can proceed if additional funds are made available.

TABLE OF CONTENTS

Governor's Greeting i
Narrative.....ii
Table of Contents.....iii
Allocation District I Program.....1
District I Project Location Map.....4
City of Anchorage Location Map.....5
Allocation District II Program.....6
District II Project Location Map.....9
Allocation District III Program.....10
District III Project Location Map.....13
Allocation District IV Program.....14
District IV Project Locations Maps.....17
Allocation District V Program.....19
District V Project Location Map.....20

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1981		
MUNICIPALITY OF ANCHORAGE	Commercial Drive-3rd Ave., to Mt. View Dr.	1.	323,800
	Arctic Blvd. 44th to International	2.	291,400
	Hillside & Girdwood Community Improvements	3.	101,400
	Eagle River - Chugiak Improvements	4.	252,400
	Bike Trails - Anchorage	5.	68,400
	Bike Trails - Girdwood/Hillside	6.	30,300
	Bike Trails - Eagle River/Chugiak	7.	22,400
KENAI-PENINSULA BOROUGH	Longmere Lake Access Road	8.	150,000
	Murwood Drive	9.	50,000
	Bear Creek Road	10.	200,000
	Base Road	11.	75,000
MATANUSKA-SUSITNA BOROUGH	Lucille St. - Phase I	12.	55,000
	Welch Road	13.	29,500
	King Arthur Drive (Houston)	14.	112,000
	Smith Drive	15.	102,000
KODIAK-ISLAND BOROUGH	Lilly Drive	16.	91,300
CITY OF KENAI	Main Street Loop - Phase I	17.	60,200
CITY OF KODIAK	Mill Bay Road	18.	24,100
CITY OF PALMER	Funds Reserved for Calendar Year 1982 & 1983		
CITY OF SEWARD	City Streets	19.	16,900
UNORGANIZED BOROUGH 1			
Chenega	Village Streets	20.	117,500

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

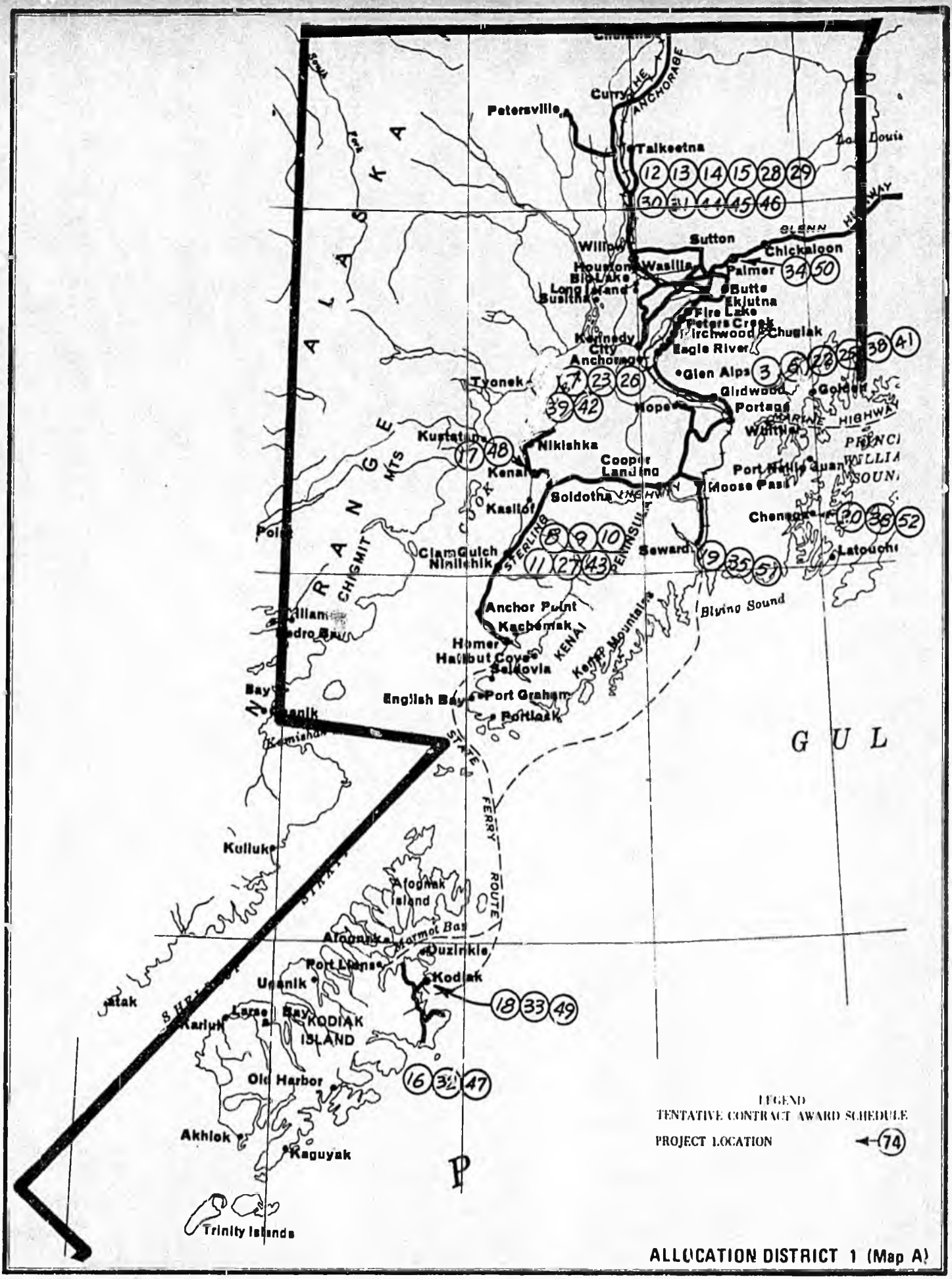
PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1982		
MUNICIPALITY OF ANCHORAGE	36th Avenue-Arctic to Spenard	21.	291,500
	Hillside/Girdwood Community Improvements	22.	129,200
	Eagle River/Chugiak Community Improvements	23.	95,500
	Bike Trails/Anchorage	24.	32,400
	Bike Trails/Girdwood & Hillside	25.	14,400
	Bike Trails/Eagle River & Chugiak	26.	10,600
KENAI-PENINSULA BOROUGH	Feuding Lane	27.	36,000
MATANUSKA-SUSITNA	Palmer West	28.	75,000
	Jupiter Street	29.	20,000
	Bridge-Wilderness East Subdivision	30.	30,000
	Jim Creek Trail	31.	135,400
KODIAK-ISLAND BOROUGH	Womans Bay Drive	32.	91,300
CITY OF KENAI	Funds Utilized in 1981		
CITY OF KODIAK	Ersleine, Wilson & Carolyn Road Improvements	33.	23,100
CITY OF PALMER	North Alaska Street Paving	34.	66,700
CITY OF SEWARD	City Streets	35.	13,500
UNORGANIZED BOROUGH 1			
Chenega	Village Streets	36.	117,500

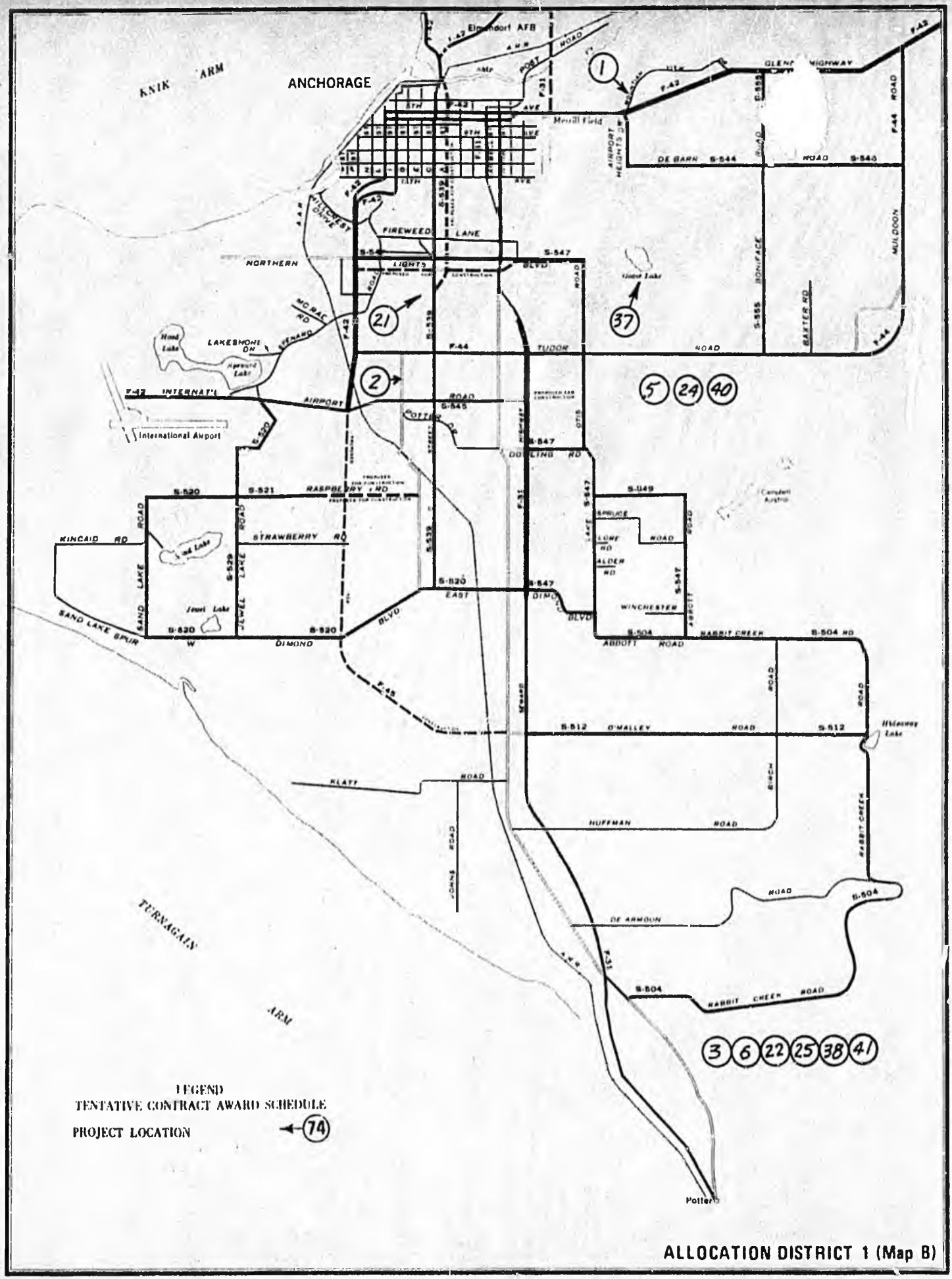
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 1

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1983*		
MUNICIPALITY OF ANCHORAGE	Providence Drive - University to Northern Lights	37.	291,500
	Hillside/Girdwood Community Improvements	38.	129,200
	Eagle River/Chugiak Community Improvements	39.	95,500
	Bike Trails - Anchorage	40.	32,400
	Bike Trails - Girdwood & Hillside	41.	14,400
	Bike Trails - Eagle River & Chugiak	42.	10,600
KENAI-PENINSULA BOROUGH	Lewis Lane	43.	224,000
MATANUSKA-SUSITNA BOROUGH	Lucille St. - Phase II	44.	220,000
	Phile Spees	45.	23,500
	Various Locations Access Roads & Streets	46.	35,900
KODIAK-ISLAND BOROUGH	Bayview Drive	47.	91,300
CITY OF KENAI	Main Street Loop Phase I	48.	30,100
CITY OF KODIAK	Baranof Avenue - 6th to 10th	49.	23,100
CITY OF PALMER	North Gulkana Street - Paving	50.	105,100
CITY OF SEWARD	City Streets	51.	13,500
UNORGANIZED BOROUGH 1			
Chenega	Village Streets	52.	117,500

* Calendar Year 1983 is unfunded with present allocations.


Petersville
Talkeetna
Willow
Houston
Big Lake
Wasilla
Palmer
Sutton
Chickaloon
Butte
Ekjutna
Fire Lake
Peters Creek
Eagle River
Chugiak
Kenai
Soldotna
Kasilof
Seward
Anchor Point
Kachemak
Homer
Halibut Cove
Seldovia
Port Graham
Portlock
Kamishak
Kulluk
Alaganik
Island
Uganik
Port Lions
Kodiak
KODIAK
ISLAND
Old Harbor
Akhiok
Kaguyak
Trinity Islands
Cook Inlet
Kenai Mountains
Prince William Sound
ALASKA RANGE
CHIGMIT MTS
STERLING HIGHWAY
KENAI PENINSULA
STATE FERRY ROUTE
ANCHORAGE
GLENN HIGHWAY
MARINE HIGHWAY
LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
ALLOCATION DISTRICT 1 (Map A)



ALLOCATION DISTRICT 1 (Map B)

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1981		
FAIRBANKS NORTH STAR BOROUGH	Service Area Roads	1]	
	Badger-Dennis Intersection	2]	
	Badger Road Bike Path	3]	650,000
	Chena Hot Springs Road Trail	4]	
	Hagelbarger Avenue Extension	5]	
	Holmes Road - Dennis to Badger	6]	
NORTH SLOPE	Point Lay - Community Roads	**7	310,000
CITY OF FAIRBANKS	No Program Submitted		464,400
CITY OF NORTH POLE	No Program Submitted		1,500
UNORGANIZED BOROUGH II			
HEALY/ANDERSON/NENANA	Local Service Roads	8]	
EUREKA	Vehicle Bridge @ Boston Cr.	9]	
BEAVER	Village Streets	10]	
EVANSVILLE	Village Streets	11]	1,370,000
EAGLE	Access Road	12]	
TETLIN	Access Road	13]	

** Refer to Map A Allocation District 4

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1982		
FAIRBANKS NORTH STAR BOROUGH	Arterial Streets Service Area Roads	14.] 15.]	351,000
NORTH SLOPE	Atkasook - Road to Airport	** 16.	290,000
CITY OF FAIRBANKS	No Program Submitted		125,000
CITY OF NORTH POLE	No Program Submitted		1,400
UNORGANIZED BOROUGH II			
CENTRAL NORTHWAY RAMPART STEVENS VILLAGE	Vehicle Bridge @ Miller Creek Village Streets Mining Access Road Village Streets	17.] 18.] 19.] 20.]	488,600

** Refer to Map A Allocation District 4

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 2

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1983 *		
FAIRBANKS NORTH STAR BOROUGH	Arterial Streets Service Area Roads	21.] 22.]	351,000
NORTH SLOPE	No Program Submitted		289,300
CITY OF FAIRBANKS	No Program Submitted		125,400
CITY OF NORTH POLE	No Program Submitted		1,500
UNORGANIZED BOROUGH II			
DELTA AREA FORT YUKON VARIOUS LOCATIONS	Community Roads City Streets Trails & Access Roads	23.] 24.] 25.]	502,000

* Calendar Year 1983 is unfunded with present allocations.


LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
74
Umiat
RIVER
Anaktuvuk Pass
PHILIP SMITH MOUNTAINS
Arctic Village
DAVIDSON MOUNTAINS
Wiseman
Chandalar
Christian
Rampart House
PORCUPINE
UNITED STATES
Caro
Chandalar
Venetie
River
Fort Yukon
Chalkyitsik
Fishhook
Salmon
Bettles
Evansville
Venetie Lundin
CIRCLE
Allakaket
YUKON
Beaver
Stevens Village
RAY
MOUNTAINS
WHITE MOUNTAINS
CRAZY MTS
Circle
RIVER
Miller House
Central
Circle Hot Springs
Woodchopper
Miners Camp
Livengood
Rampart
Tanana
Manley Hot Springs
Eureka
ELliOTT
Minto
STEESE
Chatanika
Chena Hot Springs
Fox
Fairbanks
North Pole
Eagle
Dunbar
Nenana
Yakiak
Anderson
Healy
Suntrana
Usibelli
McKinley Park
Lagoon
Diamond
Kantishna
Cantwell
Summit
DENALI
Denali
Mt McKinley
Gerstle
Richardson
Big Delta
Delta Junction
Salchaket
Chicken
Jack Wade
ALASKA
RANGE
Tok Junction
Tetlin Junction
Northway
Nabesna Village
Northway
Tanacross
Taylor
1
2
3
4
5
6
8
9
10
11
12
13
14
15
17
18
19
20
21
22
23
24
25
ALLOCATION DISTRICT 2 (Map A)

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1981		
CITY & BOROUGH OF SITKA	Price Street Sidewalks	1] 2]	100,000
KETCHIKAN GATEWAY BOROUGH	Animal Shelter Access	3	20,000
CITY OF KETCHIKAN	Shoenbar Trail Lighting	4	12,500
	Cook STreet Drainage	5	6,000
	4 1/2 Alley Drainage	6	13,100
	Tower Road Drainage	7	12,300
CITY OF WRANGELL	Link Road	8	10,000
	Case Avenue	9	20,000
	Cemetary Access Road	10	2,500
CITY OF PETERSBURG	City Streets or downtown parking	11	22,000
HAINES BOROUGH	Paving local streets	12	22,800
CITY & BOROUGH OF JUNEAU	Davis Avenue	13	40,000
HOONAH	Drainage on Lumbago Street	14]	
KAKE	Cemetary Access Road	15]	
PELICAN	Mussel Street - Phase II	16]	
KLAWOCK	Roadway Drainage	17]	240,000
MEYERS CHUCK	Service Trails	18]	
SKAGWAY	Sidewalk	19]	
ELFIN COVE	Boardwalk	20]	
VARIOUS LOCATIONS	Road & Trails	21]	

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1982		
CITY & BOROUGH OF SITKA	Upgrade Dodge Circle Sidewalks	22] 23]	100,000
KETCHIKAN GATEWAY BOROUGH	Access to subdivisions	24	86,700
CITY OF KETCHIKAN	Funds utilized in Calendar Year 1981		
CITY OF WRANGELL	McKinnon Street	25	22,000
CITY OF PETERSBURG	City Streets or parking	26	22,000
HAINES BOROUGH	Front Street	27	22,800
CITY & BOROUGH OF JUNEAU	Tongass Avenue and Nancy Drive	28	146,000
KUPREANOF	Petersburg Creek to Petersburg Lake Trail	29]	
KAKE	Second Street Bulkhead	30]	
TENAKEE	Service Trail	31]	
CRAIG	Beach Road	32]	240,000
YAKUTAT	Bulkheads on Bayview Drive	33]	
KASAAN	Drainage on Main Road, Phase I	34]	
HYDABURG	Drainage & Surfacing	35]	
VARIOUS LOCATIONS	Roads & Trails	36]	

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 3

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1983*		
CITY & BOROUGH OF SITKA	Sidewalks	37	65,900
KETCHIKAN GATEWAY BOROUGH	No Program Submitted		41,000
CITY OF KETCHIKAN	Denali Avenue Drainage	38	8,900
	Alaska Avenue Drainage	39	13,100
CITY OF WRANGELL	Church St. from Zimovz to Case Avenue	40	42,800
CITY OF PETERSBURG	City Streets or parking	41	21,800
HAINES BOROUGH	Fort Wm. H. Seward Boardwalk	42	22,800
CITY & BOROUGH OF JUNEAU	Radcliff Road	43	93,700
KAKE	Roadway Drainage	44]	
YAKUTAT	Access Road to Monit Bay Heights	45]	
CRAIG	6th Street, Main to Beach	46]	240,000
KASAAN	Drainage on Main Road, Ph. I	47]	
VARIOUS LOCATIONS	Roads & Trails	48]	

* Calendar Year 1983 is unfunded with present allocations.


Pt Manby
Yakutat Bay
Yakutat
Dry Bay
Cape Fairweather
Skagway
Kluk
Haines
Excursion Inlet
Gustavus
Cape Spencer
Cross Sound
Elfin Cove
Chichagof
Pelican
Tenakee Springs
Chichagof Island
Chatham
Baranof
Baranof Island
Sitka
Goddard
Big Port Walter
Port Alexander
Cape Pole
Kake
Kupreanof Island
Cape Fanshaw
Scow Bay
Petersburg
Wrangell
Etolin Island
Calder
Edna Bay
Prince of Wales Island
Thorne Bay
Klawock
Craig
Hollis
Ketchikan
Mud Bay
Saxman
Mountain Pt
Metlakatla
Chomly
Revillagigedo Island
Myers Chuck
Port Houghton
Hyder
JUNEAU
Douglas
Hawk Inlet
Admiralty Island
Kuiu Island
Frederick Sound
Stephens Passage
Chatham Strait
Sumdum
Angoon
Tyee
Sumner Strait
Clarence Strait
Wrangell Narrows
Tongass Narrows
Portage Bay
Behm Canal
Revillagigedo Channel
Tongass Passage
Dixon Entrance
ALEXANDER ARCHIPELAGO
LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
ALLOCATION DISTRICT 3

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1981		
BRISTOL BAY BOROUGH	Savonoski Road - Phase III	1	110,200
UNORGANIZED BOROUGH IV			
	CENTRAL REGION		
AKOLMUIT	Boardwalk	2]	
ANIAK	Access Road	3]	
ATKA	Streets & Vehicle Bridge	4]	
ATMAUTHLUAK	Boardwalk	5]	
IVANOFF BAY	Boardwalk	6]	
KOLIGANIK	Streets & Vehicle Bridge	7]	695,000
PERRYVILLE	Vehicle Bridge	8]	
SCAMMON BAY	Access Road	9]	
TULUKSAK	Boardwalk	10]	
TUNTUTULIAK	Boardwalk	11]	
	INTERIOR REGION		
KALTAG	Streets	12]	240,000
RUBY	Streets	13]	
	WESTERN REGION		
ANVIK	Streets	14]	
EMMONAK	Vehicle Bridge	15]	
GRAYLING	Streets	16]	660,000
HOLY CROSS	Streets	17]	
LITTLE DIOMEDE	Foot Trail	18]	
NOORVIK	Streets	19]	
NULATO-KOYUKUK GALENA	Winter Trail Staking	20]	

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

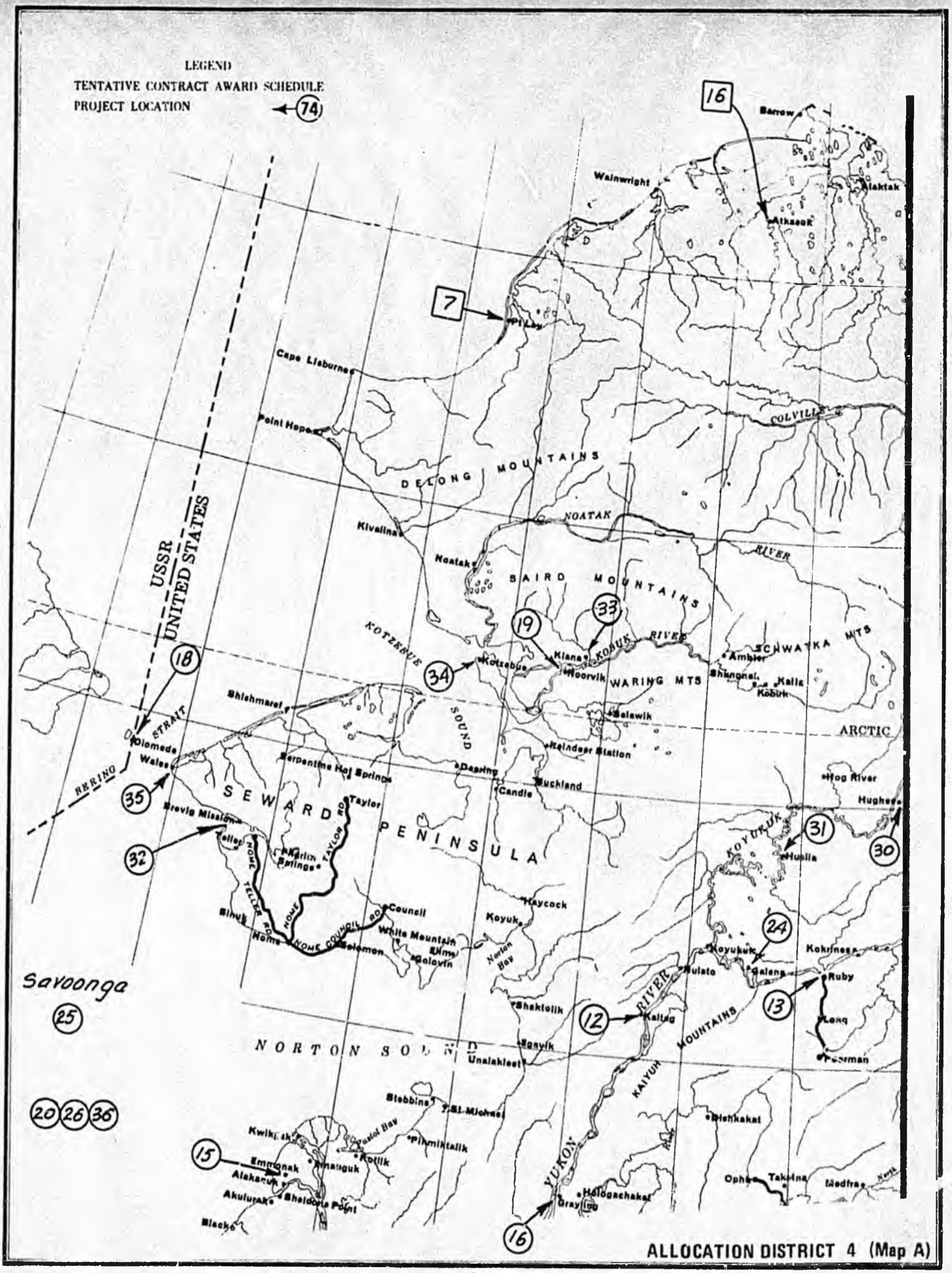
PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1982		
BRISTOL BAY BOROUGH	Funds Utilized in Calendar Year 1981		
	CENTRAL REGION		
NAPAKIAK	Boardwalk	21]	
NEW STUYAHOK	City Streets	22]	203,000
QUINHAGAK	Boardwalk	23]	
	INTERIOR REGION		
GALENA	Community Roads	24	62,000
	WESTERN REGION		
SAVOONGA	Access Road	25]	
NULATO-KOYUK GALENA	Winter Trail Staking	26]	120,000

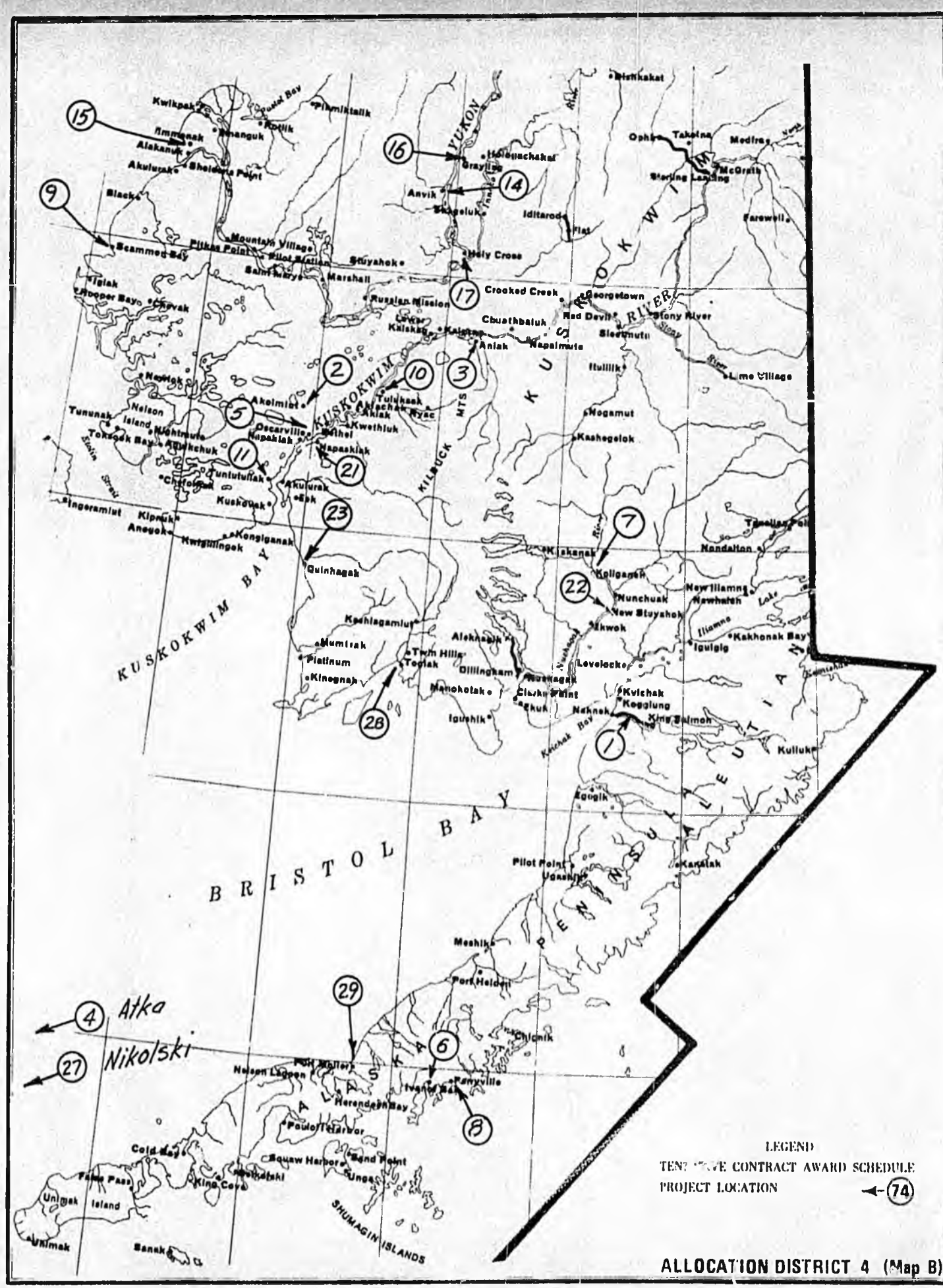
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 4

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1983*		
BRISTOL BAY BOROUGH	No Program Submitted		22,400
UNORGANIZED BOROUGH IV			
	CENTRAL REGION		
NIKOLSKI	Access Road	27]	
TOGIAK	City Streets	28]	420,000
UGASHIK	Village Streets	29]	
	INTERIOR REGION		
HUGHES	City Streets	30]	111,800
HUSLIA	City Streets	31]	
	WESTERN REGION		
BREVIG MISSION	Boardwalk	32]	
KIANA	Access Road	33]	
KOTZEBUE	Access Road	34]	395,000
WALES	Access Road	35]	
YUKON-KOBUK	Winter Trail Staking	36]	

* Calendar Year 1983 is unfunded with present allocation.


LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
74
16
Barrow
Wainwright
Atqasuk
Nuiqsut
7
Pt Lay
Cape Lisburne
Point Hope
DELONG MOUNTAINS
COLVILLE
NOATAK
RIVER
Kivalina
Noatak
BAIRD MOUNTAINS
USSR
UNITED STATES
19
33
KOBUK
RIVER
SCHWATKA MTS
Ambler
Shungnak
Kiana
Kotzebue
Noorvik
WARING MTS
Kobuk
34
KOTZEBUE
SOUND
18
Shishmaref
Selawik
ARCTIC
Reindeer Station
Diomede
Wales
BERING
STRAIT
35
Serpentine Hot Springs
Deering
Candle
Buckland
Hog River
Hughes
Brevig Mission
Taylor
SEWARD PENINSULA
32
Teller
NOME
TAYLOR RD
Nome Springs
Bluff
NOME
TELLER RD
NOME
COUNCIL RD
Nome
Solomon
Council
White Mountain
Golovin
Haycock
Koyuk
Norton Bay
31
30
KOYUKUK
Huslia
24
Koyukuk
Kokrines
Galena
Ruby
Nulato
Shaktoolik
12
Kaltag
RIVER
MOUNTAINS
13
Long
Tesorman
Savoonga
25
NORTON SOUND
Egavik
Unalakleet
KAIYUH
20 26 36
Stebbins
St Michael
Hishkakat
Kwiguk
Pastol Bay
Pilmiktalik
15
Kotlik
Emmonak
Alakanuk
Nunapitchuk
Akulurak
Sheldons Point
Blacks
YUKON
Holy Cross
Grayling
Ophir
Takotna
Medfra
16
ALLOCATION DISTRICT 4 (Map A)



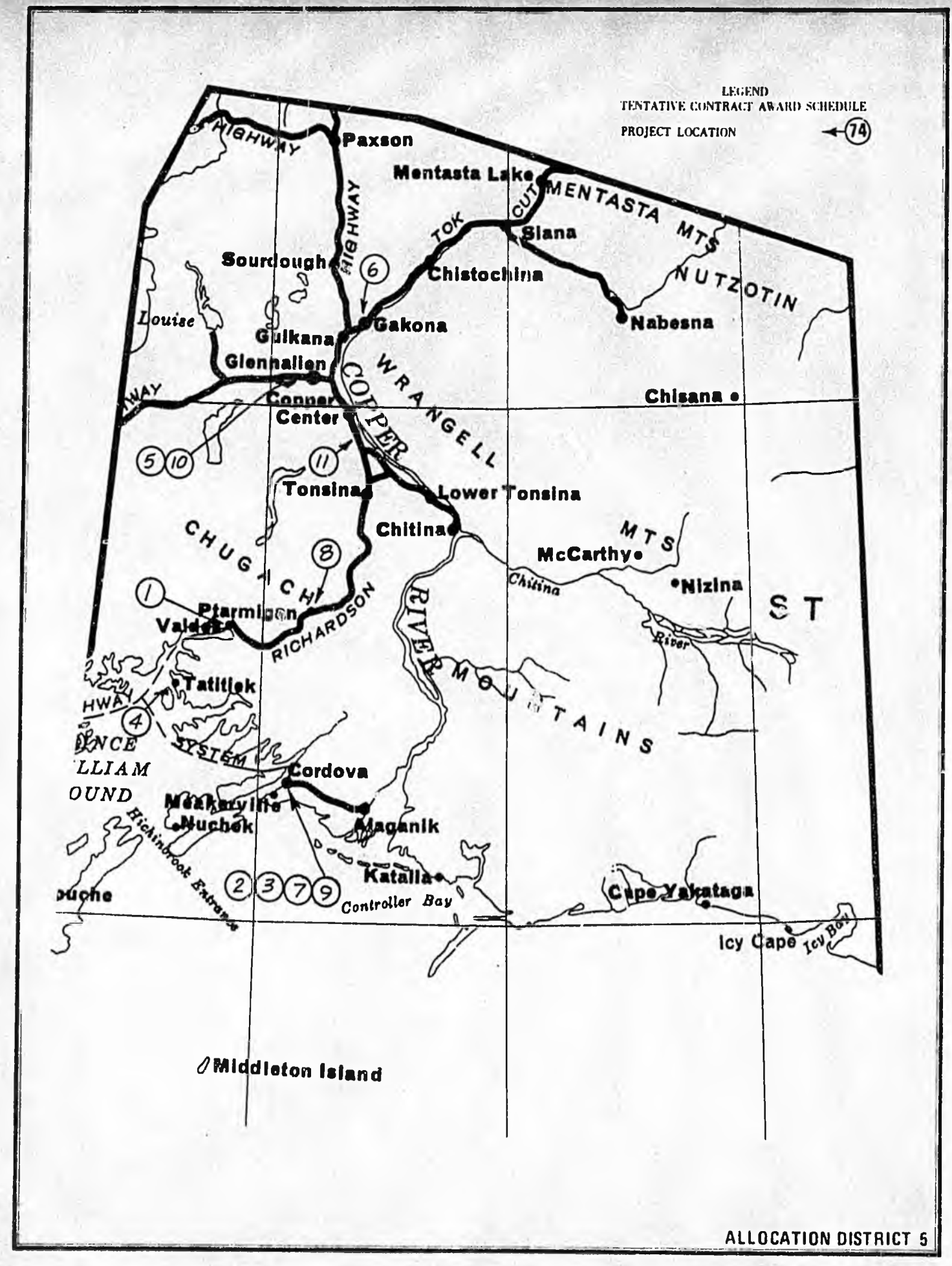
ALLOCATION DISTRICT 4 (Map B)

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

Allocation District 5

PROJECT LOCATION	PROJECT DESCRIPTION	PROJECT NUMBER	LSR&T FUNDS (DOLLARS)
	Calendar Year 1981		
CITY OF VALDEZ	West Egan Drive	1.	120,800
CITY OF CORDOVA	First Street Trestle	2.	69,500
	Railroad Avenue	3.	30,500
UNORGANIZED BOROUGH V			
TATITLEK GLENNALLEN GAKONA	Airport Access Road School Access Road Foot Bridge	4.] 5.] 6.]	285,000
	Calendar Year 1982		
CITY OF VALDEZ	Fund Utilized in Calendar Year 1981		
CITY OF CORDOVA	Second Avenue Paving, Phase I	7.	30,400
UNORGANIZED BOROUGH V			
Tzaina (Lost Lake)	Lake Access Road	8.	59,800
	Calendar Year 1983*		
CITY OF VALDEZ	No Program Submitted		20,900
CITY OF CORDOVA	Second Avenue Paving, Phase II	9.	30,400
UNORGANIZED BOROUGH V			
GLENNALLEN TAZLINA	Village Street - Paving Copperville Subdivision Street Paving	10] 11]	142,900

* Calendar Year 1983 is unfunded with present allocations.


LEGEND
TENTATIVE CONTRACT AWARD SCHEDULE
PROJECT LOCATION
74
HIGHWAY
Paxson
Mentasta Lake
MENTASTA MTS
TOK
CUT
Slana
HIGHWAY
Sourdough
6
Chistochina
NUTZOTIN
Louise
Gakona
Nabesna
Gulkana
Glennallen
COPPER
WRANGELL
Chisana
Copper Center
5
10
11
Tonsina
Lower Tonsina
CHUGACH
Chitina
MTS
McCarthy
8
Chitina
Nizina
1
Palmer
Valdez
RICHARDSON
RIVER
MOUNTAINS
ST
River
Tatitlek
HWAY
4
SYSTEM
Cordova
LLIAM
OUND
Nuchek
Kennicott
Glacier
Richinbrook Entrance
Katalla
2
3
7
9
Controller Bay
Cape Yakataga
Icy Cape
Icy Bay
Middleton Island
ALLOCATION DISTRICT 5

TO: Barbara

FROM: Staff

Subject: HB 169

DOTPF is "supposedly" phasing out the LSR & T program because there is a large share of the monies in this program going directly to grants to communities (see their CIP brown book) and they indicate that they do not need the program for this.

This bill essentially puts $10 million more into the L S R & T pool and it appears that it is the intent to continue the program.

Steve (committee staff) suggests that the Legislature should draft a letter of intent or somewhere state their intent with regard to this program; either it should keep going and be funded and not in bits and pieces but wholly or phased out.

1. planning
2. 10 mil 300 Excessed

3. Accountability

B.O.A. 1. Capital Budget
2. Program ?
3. Mitchs
4. Bonding

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB7 Date on Bill: 1/18/83
Title: An Act making an appropriation to DOTPF for local service roads and trails
Sponsor: Ferguson, Kerttula, and Moss
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			10,000.0					
Operating				209.0	218.0			
Total			10,000.0	209.0	218.0			

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not identified by sponsors of bill.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Wayne Weeks Phone: 465-4070
Division: Planning and Programming Date: 2/10/83

Approved by Commissioner: Date: 2/10/83
Department: Transportation and Public Facilities

Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

L S R & T



HANDBOOK

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
LOCAL SERVICE ROADS AND TRAILS

ENGINEER'S HANDBOOK

LOCAL SERVICE ROADS
AND TRAILS PROGRAM

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
STATE OF ALASKA
POUCH Z
JUNEAU, ALASKA

JUNE 1978

NO. _____

INTRODUCTION

This manual became a necessity since the Local Service Roads and Trails program is no longer a pilot program but an integral part of the Alaska Department of Transportation and Public Facilities. This self-sustaining program is designed to accomplish the most with the least amount of State dollars under the rules and regulations of the Alaska State Statutes. Therefore, these guidelines must remain flexible in order that the program can be properly administered.

This manual should be considered a guide for LSR&T Engineers and their subordinates. This guide is not intended to take the place of good engineering judgement nor is it an answer to all situations.

All necessary revisions will be made to this handbook to guarantee the efficiency of the LSR&T Program.

TABLE OF CONTENTS

	Page
INTRODUCTION	i
TABLE OF CONTENTS	ii
ORGANIZATION CHART	v
CHAPTER 1	
BACKGROUND	1-0
History	1-1
LSR&T Act.	1-2
CHAPTER 2	
LOCAL GOVERNMENTS AND LOCAL GOVERNING BODIES	2-0
Definitions	2-1
Allocation of Funds	2-2
Allocation Flow Chart	2-3
Typical Local Government Project Flow Chart	2-4
Typical Rural Community Project Flow Chart	2-5
Applicant Guidelines	2-6
CHAPTER 3	
PLANNING	3-0
Three Year Program	3-1
Programming Guidelines	3-3
Region Outline for Program	3-4
Contacting Local Authorities	3-5
Project Coordination	3-5
Annual Report	3-6
CHAPTER 4	
PROCEDURES	4-0
Project Coding	4-1
Road Design	4-1
Maintenance and Operations	4-1
Recreation Facilities	4-2
Reimbursable Service Agreement	4-3
Overhead Account	4-4
Federal Grants	4-5
Negotiations Prior to Award	4-6
CHAPTER 5	
PRECONSTRUCTION	5-0
Reconnaissance	5-1
Project Agreements	5-1
Force Account	5-2
R/W Certification	5-2
Survey	5-3
Structures	
Requirements	5-3
Navigation Permits	5-4
Bridge Design	5-6
Materials	5-8
Traffic Safety Responsibilities	
Construction	5-8
Traffic Design	5-9

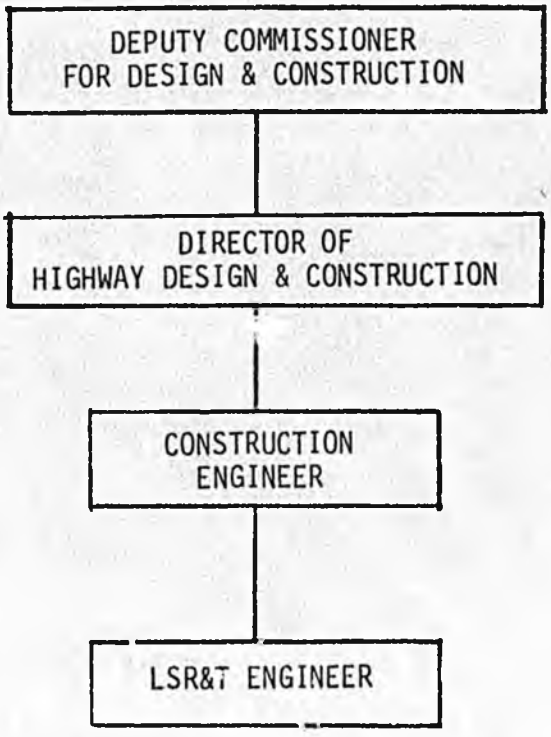
	Page
CHAPTER 5	
PRECONSTRUCTION (Con't.)	
Typical Sections	5-10
Utility Relocation	5-16
Alaska Historical Preservation Act	5-16
CHAPTER 6	
CONSTRUCTION	6-0
Management	6-1
Construction Procedures	6-1
Project Budget	6-3
Equipment Costs	6-3
Transportation	6-4
Safety	6-4
Supply	6-5
Bookkeeping	6-5
Inspection	6-6
Completion Report	6-6
Regional Construction Review	6-6
Status Report	6-8
Finance	
Disbursements	6-8
Bank Accounts	6-9
Coding Structure	6-9
CHAPTER 7	
EQUIPMENT	7-0
Purchase	7-1
Rental	7-1
Operation	7-1
Repair and Maintenance	7-1
Disposal	7-1
Inventory	7-2
CHAPTER 8	
PERSONNEL	8-0
State Employees	
LSR&T Assignments	8-1
Temporary Reassignment	8-2
Outside Employment	8-2
Village Employees	
Local Hire	8-2
Local Control	8-2
State Control	8-2
Local Government Employees	8-2
Training of Community Residents	
State Employees Local 71	8-2
Community Employees	8-3
CHAPTER 9	
PROJECT MAINTENANCE	9-0
Road Powers	9-1
Maintenance Responsibility	9-1
Revenue Sharing	9-2
Routine Maintenance	9-2

Page

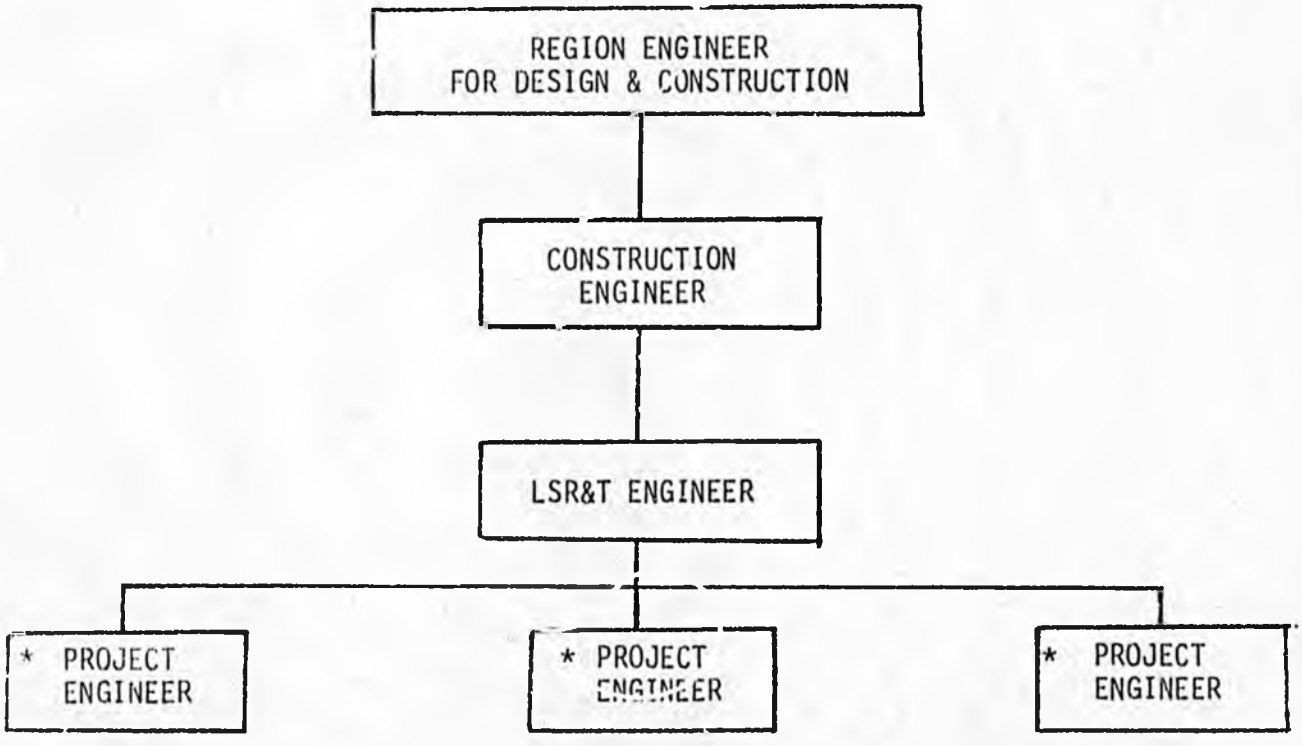
CHAPTER 10
CONTRACTS 10-0
Local Government Construction 10-1
DOT/PF Construction 10-2
Consultant Engineers 10-2
Negotiated Construction 10-2

CHAPTER 11
LSR&T FORMS 11-0
Required 11-1
Management 11-18

HEADQUARTERS ORGANIZATION CHART



REGION ORGANIZATION CHART



* Also Roaming Foreman or Appointed Villager

CHAPTER 1

BACKGROUND 1-0

History 1-1

LSR&T Act. 1-2

LOCAL SERVICE ROADS AND TRAILS PROGRAM

Primary Functions:

The Local Service Roads and Trails (LSR&T) program was established by the State Legislature in 1971 to provide for special needs to "bush" communities, rural communities and communities both within and outside of organized boroughs.

Local Service Roads and Trails was designed to aid communities in accomplishing projects that do not have the financial means nor the technical expertise to achieve alone. These projects were to be in the nature of roads, trails, bridges and boardwalks specifically. Special exceptions are considered and granted if justification is sufficient.

The LSR&T Program is wholly State funded. Wherever costs are not prohibitive, generally within organized boroughs, projects are awarded by bid contract. In the remote areas where, because of location and size of the project bid contracts cost are prohibitive, LSR&T maintains its own small fleets of equipment or rents equipment, if available, and directs the operation of the projects.

The scope of LSR&T is basically three-fold. This is particularly true for "bush" projects. It provides:

1. Needed projects to communities that have not the capabilities of accomplishing alone.

2. A source of training for construction work by employing local residents as laborers and equipment operators.

3. Provides supplemental income to communities that are single-income or subsistence oriented.

Project Limitation

Local Service projects are confined to roads which are not part of the federal-aid system and are not, the responsibility of corporate units, or private individuals but are dedicated to public use. These projects cover wide ranging road needs. They include State recreation routes, connections between outlying villages and airports, villages and canneries, villages and port facilities, short routes needed to better integrate subdivision roads and State highways, and improvements to existing roads.

Article 3. Local Service Roads and Trails.

Section		Section	
111.	Purpose	181.	Project agreements
121.	Regulations	191.	Letting of contracts
127.	Allocation districts	201.	Construction
131.	Allocation of funds	211.	Maintenance
141.	Construction programs	221.	Availability of allocated sums
151.	Local government participation	231.	Payment for construction
161.	Design standards	241.	Definitions
171.	Acquisition and conveyance of rights-of-way	251.	Local government powers

---

Repeal of former article.—Section 1, ch. 84, SLA 1971, repealed former Article 3, entitled "Local Service Roads." The former article consisted of §§ 19.30.110—19.30.270 and derived from § 5, ch. 129, SLA 1968.

Sec. 19.30.111. Purpose. It is the purpose of §§ 111—251 of this chapter to provide for the construction of local service roads and trails which are not included in the approved federal-aid primary or secondary highway systems eligible for federal-state matching funds. (§ 2 ch 84 SLA 1971)

Sec. 19.30.121. Regulations. The commissioner may make regulations necessary to carry out §§ 111—241 of this chapter. (§ 2 ch 84 SLA 1971)

Sec. 19.30.127. Allocation districts. The state is divided into five allocation districts as follows:

(1) The boundary of allocation district one begins in Kamishak Bay at 59°15′ N, 154°00′W; and travels north along longitude line 154°00′W to latitude 63°00′N; thence east along latitude line 63°00′N to a point common with the boundaries of allocations districts two and five; southerly of the Denali Highway at Corkscrew Creek (Milepost 59.1); thence southerly to Prince William Sound at Fairmount Point 60°53′45″N, 147°27′W and inclusive of Kodiak, Afognak, Barren, Trinity and Chirjkof Islands.

(2) The boundary of allocation district two begins at and includes the point at which the Alaska Highway intersects the Alaska-Yukon border; travels northwesterly to the west abutment of the Little Tok River Bridge on Tok Cutoff Highway (Milepost 91.2); thence west to the northerly abutment of the McCallum Creek Bridge on the Richardson Highway (Milestone 202.4); thence west to a point directly north of the Denali Highway at Corkscrew Creek (Milepost 59.1); thence southwesterly to the Glenn Highway at Summit (Milepost 118) and continuing along that line to latitude 63°00'N; thence west along latitude 63°00'N to longitude 154°00'W; thence north along longitude 154°00'W to the Arctic Ocean.

(3) The boundary of allocation district three begins in the Gulf of Alaska on longitude line 141°00'W; thence north along longitude 141°00'W to Boundary Point 187; thence southeasterly along the Canadian-United States border bounding Southeastern Alaska in its entirety.

(4) The boundary of allocation district four begins in the Arctic Ocean at Smith Bay 70°54'N, 154°19'W; on longitude line 154°-00'W; travels south along longitude 154°00'W to latitude 59°15'N in Kamishak Bay; thence east along latitude 59°15'N to longitude 152°15'W; thence southwesterly through Shelikof Strait and bounds of the entire Aleutian Chain.

(5) The boundary of allocation district five begins at the Gulf of Alaska on longitude line 141°00'W and travels northerly along that line to the point (but not including the point) at which Alaska Highway intersects the Alaska-Yukon border; thence northwesterly to the west abutment of the Little Tok River Bridge on the Tok Cutoff Highway (Milepost 91.2); thence west to the northerly abutment of McCallum Creek Bridge on the Richardson Highway (Milepost 202.4); thence west to the point directly north of Denali Highway at Corkscrew Creek (Milepost 59.1); thence southwesterly to the Glenn Highway at Summit (Milepost 118); thence southerly to Prince William Sound at Fairmount Point 60°53'45"N, 144°37'W. (§ 2 ch 84 SLA 1971)

Sec. 19.30.131. Allocation of funds. (a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for that fiscal year among the five allocation districts in the following manner: one-half in the ratio which the area of each allocation district bears to the total area of the state and one-half in the ratio which the population of each allocation district bears to the total population of the state as shown by the latest available federal census.

(b) The commissioner shall also further allocate the sums in each allocation district to the boroughs within each allocation dis-

trict in the following manner: one-half in the ratio which the area of each organized borough (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio which the population of each organized borough area within that district bears to the total population of the allocation district as shown by the latest available federal census.

(c) The commissioner shall also further allocate portions of the sum allocated to any borough, either organized or unorganized, and to any home rule city within the borough in the following manner: one-half in the ratio which the area of each home rule city bears to the total area of the borough (excluding salt water areas) and one-half in the ratio which the population of each home rule city bears to the total population of the borough as shown by the latest available federal census.

(d) The sums not allocated within each district to a local government under (b) and (c) of this section shall be allocated to the unorganized borough and administered by the department. (§ 2 ch 84 SLA 1971)

Sec. 19.30.141. Construction programs. Before October 1 of each fiscal year each local government eligible for allocation of funds under § 131 of this chapter shall submit to the commissioner for approval a long-range program for the construction of local service roads and trails. Before December 1 of each fiscal year the commissioner shall submit to the governor a long-range program for the construction of local service roads and trails, including the approved local government programs. An organized borough shall include in its long-range program local service road construction programs for all cities other than home rule cities within the boundaries of the borough. The commissioner shall include in his long-range program local service road and trail construction within the unorganized borough. (§ 2 ch 84 SLA 1971)

Sec. 19.30.151. Local government participation. (a) Upon application by a local government, local service roads and trails constructed under the provisions of §§ 111—241 of this chapter and located within the jurisdictional boundaries of a local government, as defined in § 241(3) of this chapter, may be transferred to that local government upon approval by the Department of Highways and after a vote of the people in the area. A local government which has assumed road powers before May 20, 1971 may not be required to hold an election as provided by this section.

(b) The commissioner is authorized to transfer funds to any local government which he determines to be qualified to construct local service roads or trails.

(c) Nothing in §§ 111—241 of this chapter prohibits a local government from participating financially in the construction of a local service road or trail. (§ 2 ch 84 SLA 1971)

Sec. 19.30.161. Design standards. Design standards for each local service road and trail project shall have the prior approval of the commissioner. (§ 2 ch 84 SLA 1971)

Sec. 19.30.171. Acquisition and conveyance of rights-of-way. (a) The local government shall acquire all rights-of-way required for local service road and trail construction. However, if the local government is unable to acquire the necessary right-of-way, the commissioner is authorized to acquire it in accordance with AS 19.05.080—19.05.120. The commissioner may convey to the local government, by appropriate instrument executed in the name of the state, any land or interest in land which has been acquired by the state for the construction of local service roads or trails.

(b) The costs incurred by the commissioner in acquiring this land or interest in land includes all costs and any fees incidental to acquisition, including relocation assistance and payments in accordance with AS 34.60. All costs incurred by the commissioner in connection with the acquisition of the land or interest in land shall be paid by the local government for which the land or interest in land is acquired.

(c) When rights-of-way for local service roads are acquired over land or interest in land owned by the state, the commissioner may make such arrangements with the department having jurisdiction over the land as may be necessary to give the local government adequate rights-of-way, and any such department is directed to transfer the jurisdiction of the land to the commissioner. (§ 2 ch 84 SLA 1971; am § 17 ch 71 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "AS 34.60" for "ch. 35 of this title" at the end of the first sentence in subsection (b).

Legislative committee report.—For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Sec. 19.30.181. Project agreements. As soon as practicable after a specific project has been approved by the commissioner, the commissioner shall enter into a formal project agreement with a qualified local government concerning the construction of the project. (§ 2 ch 84 SLA 1971)

Sec. 19.30.191. Letting of contracts. (a) If the construction is to be performed by the local government, or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the commissioner. The commissioner shall require plans and specifications and methods of bidding which will be effective in securing competition.

(b) Construction of each project subject to the provisions of this section shall be performed by contract awarded by competitive bidding, unless the commissioner finds that, under the circumstances relating to the project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation may be imposed upon a bidder as a condition precedent to the award of a contract to a bidder unless the requirement or obligation is otherwise lawful and specifically set out in the advertised specifications.

(c) All contracts by a local government awarded by competitive bidding under (b) of this section must comply with the provisions of this section, and have the prior concurrence of the commissioner. (§ 2 ch 84 SLA 1971)

Sec. 19.30.201. Construction. The construction of a local service road or trail undertaken by a local government or under its direct supervision under the provisions of §§ 111—241 of this chapter, shall be performed according to approved design standards and are subject to the inspection and approval of the commissioner. All construction work done and labor performed by or under the direct supervision of the local government shall be in accordance with the laws of that local government and applicable state law. (§ 2 ch 84 SLA 1971)

Sec. 19.30.211. Maintenance. The department shall maintain, or cause to be maintained, any project constructed under the provisions of §§ 111—241 of this chapter, except that upon mutual agreement of the commissioner and the local government the responsibility for maintenance may be transferred to the local government if it is authorized to assume road maintenance powers. (§ 2 ch 84 SLA 1971)

Sec. 19.30.221. Availability of allocated sums. (a) On and after the date that the commissioner has certified the sums allocated to each local government, the sums shall be available for expenditure by the local government under the provisions of this chapter.

(b) These sums shall continue available for expenditure by that local government for a period of five years after the close of the fiscal year for which the sums are authorized and any amounts so obligated remaining unexpended at the end of that period shall lapse and shall be available for other local service road or trail construction within that allocation district in accordance with §§ 111—241 of this chapter. (§ 2 ch 84 SLA 1971)

Sec. 19.30.231. Payment for construction. (a) The commissioner may from time to time as the work progresses, make payments to

a local government for the total cost of completed construction incurred by it on a project.

(b) After completion of a project and approval of the final voucher by the commissioner, a local government is entitled to payment of the unpaid balance for the project from the sums allocated to it.

(c) No payment under this section may be made except for a project covered by a project agreement. No final payment may be made to a local government for its costs of construction of a project until the completion of the construction has been approved by the commissioner following inspections under § 201 of this chapter.

(d) The payments shall be made to the official or depository as may be designated by the local government and authorized under the laws of the local government to receive public funds of the local government. (§ 2 ch 84 SLA 1971)

Sec. 19.30.241. Definitions. In §§ 111—241 of this chapter

(1) "construction" means the building of a new road, street or trail or the improvement of existing roads, streets or trails and includes the necessary preliminary engineering, construction engineering and utility relocation;

(2) "home rule city" means a city defined in AS 29.05.010;

(3) "local government" means an organized borough of any class or a home rule city;

(4) "local service road" means a public road which is not designated as a route on the approved federal-aid highway system;

(5) "project" means an undertaking to construct a particular portion of a local service road or trail, or, if the context so implies, the particular portion of a local service road or trail so constructed;

(6) "trail" means a footpath or way on land or water that is open to public use as a matter of right whether or not a thoroughfare, particularly for dog sleds and mechanized snow vehicles. (§ 2 ch 84 SLA 1971)

Revisor's note (1972). — AS 29.05.010 referred to in paragraph (2) has been repealed by § 1, ch. 118, SLA 1972; however, see AS 29.08.010 enacted by § 2, ch. 118, SLA 1972 for a re-definition of "home rule city."

Sec. 19.30.251. Local government powers. Road construction and maintenance authority is granted to local governments, as defined in § 241(3) of this chapter, which do not otherwise have that authority; however, the authority granted is limited to participation in the construction and maintenance of local service roads under §§ 111—241 of this chapter. (§ 2 ch 84 SLA 1971)

Article 3. Local Service Roads and Trails.

Section
151. Local government participation
191. Letting of contracts
241. Definitions

Sec. 19.30.151. Local government participation. (a) Upon application by a local government, local service roads and trails constructed under the provisions of §§ 111 — 241 of this chapter and located within the jurisdictional boundaries of a local government, as defined in § 241 (3) of this chapter, may be transferred to that local government upon approval by the Department of Transportation and Public Facilities and after a vote of the people in the area. A local government which has assumed road powers before May 20, 1971 may not be required to hold an election as provided by this section.
(am Executive Order No. 39, § 11 (1977))

Effect of amendment. — Pursuant to Executive Order No. 39 (1977), a reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Highways in the first sentence of subsection (a).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 19.30.191. Letting of contracts.
(b) Except as provided in AS 44.33.300, construction of each project subject to the provisions of this section shall be performed by contract awarded by competitive bidding, unless the commissioner finds that, under the circumstances relating to the project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation may be imposed upon a bidder as a condition precedent to the award of a contract to a bidder unless the requirement or obligation is otherwise lawful and specifically set out in the advertised specifications.
(am § 4 ch 277 SLA 1976)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, added "Except as provided in AS 44.33.300" to the beginning of the first sentence of subsection (b).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 19.30.241. Definitions. In §§ 111 — 241 of this chapter
(2) "home rule city" means a city as defined in AS 29.08.010;
(am § 30 ch 53 SLA 1973)

Effect of amendment. — The 1973 amendment inserted "as" and substituted "29.08.010" for "29.05.010" in paragraph (2).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative committee report. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

CHAPTER 2

LOCAL GOVERNMENTS AND LOCAL GOVERNING BODIES 2-0

Definitions 2-1

Allocation of Funds 2-2

Allocation Flow Chart 2-3

Typical Local Government Project Flow Chart 2-4

Typical Rural Community Project Flow Chart 2-5

Applicant Guidelines 2-6

DEFINITIONS

Local Government:

A local government is an organized borough of any class, a home rule municipality or a home rule city.

The local government controls its own LSR&T program. Priority of projects is flexible but changes must be approved by the assembly before a project can be approved by the Department.

Local Governing Body:

A local governing body is the classification of authority in a village or city in the unorganized borough.

Right-of-way and gravel rights must be furnished without reimbursement by the State.

Maintenance responsibility is denoted in the project agreement.

ALLOCATION OF FUNDS

The allocation formula is clearly defined in the Article 3. Local Service Roads and Trails, Section 19.30.111 to 19.30.251 of the Alaska Statutes, but a brief description is included herein for explanatory purposes.

The distribution follows a sequential breakdown and is based on area and population factors. Half the funds are allocated on the basis of area and half on the basis of population. Salt water areas are excluded from allocation areas and the latest Federal Census is used for population figures.

The first stage distribution is made to allocation districts, which correspond to the highway districts existing on June 30, 1971.

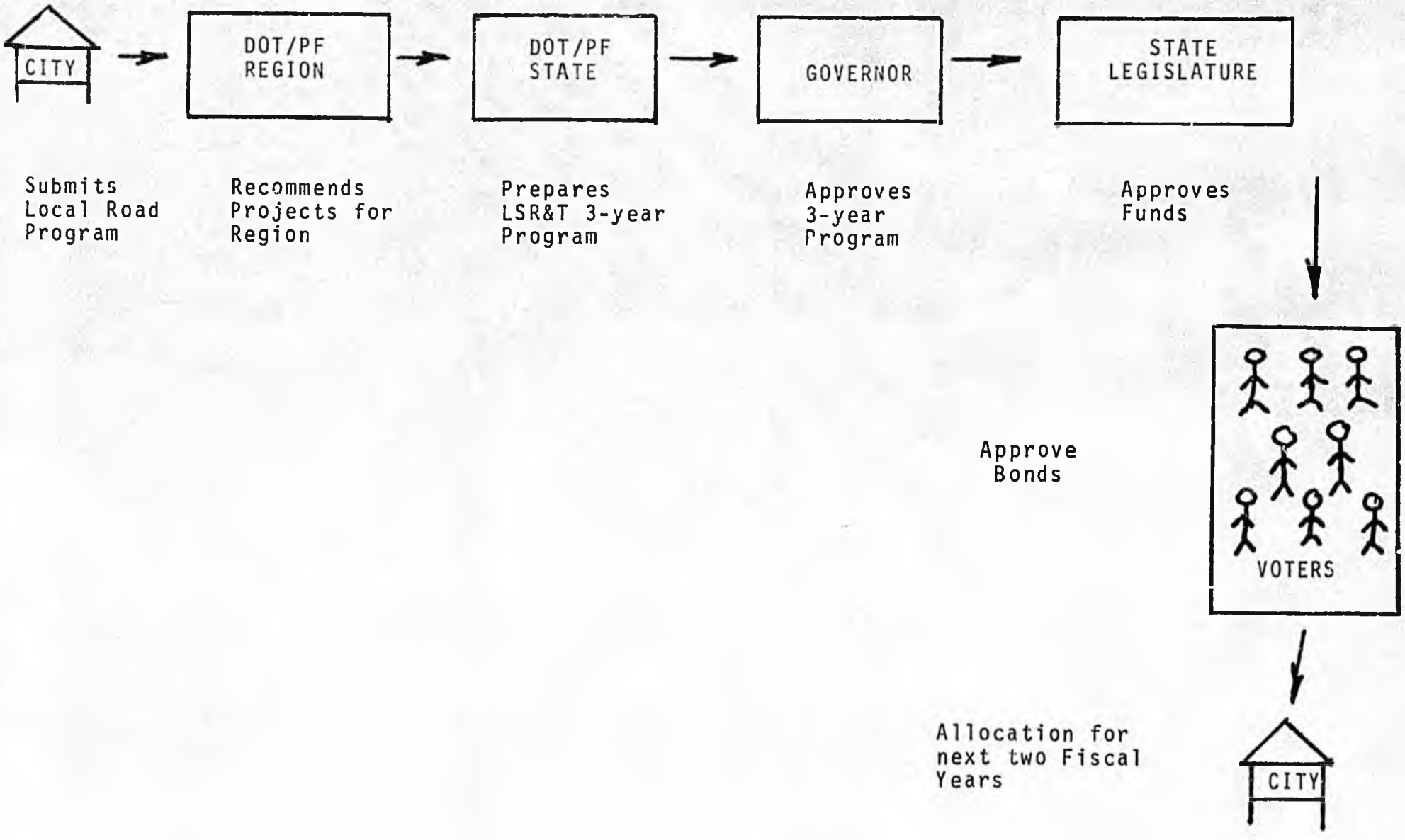
Each allocation district's distribution is then broken down and allocated to the boroughs within that allocation district, each organized borough figuring for a share and all areas outside organized boroughs combining together for a share. The important distinction here is that the "borough" is considered an area within an allocation district.

The third and final breakdown allocates to the local government. If a home rule city exists within an organized borough, the borough government and the city government share the "borough" (second stage) allocation in proportion to their area-population factors. If no home rule city exists within the organized borough, the entire allocation is to that borough's government. If a home rule city exists in an unorganized borough, the home rule city's allocation is their area-population proportion of the unorganized borough's allocation.

Using the highway district boundaries existing on June 30, 1971, the allocation is as follows:

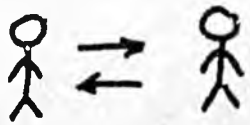
Allocation District	Corresponding Highway District	Allocation Factor
I	Central Region	.306486
II	Interior Region	.249049
III	Southeastern Region	.104827
IV	Western Region	.296550
V	Southcentral Region	.043088
		1.000000

ALLOCATION OF LSR&T FUND TO LOCAL GOVERNMENT



TYPICAL LOCAL GOVERNMENT LSR&T PROJECT

IN AN ORGANIZED BOROUGH OR HOME RULE CITY



LSR&T Guy from Region

Mayor or his Representative

All phases of the project such as Consultant Engineering, Design Advertising and Letting of a Contract requires approval by DOT/PF. Coordination between the City and the LSR&T man from the Region makes the procedure fast and effecient.

1. Local government submits a construction program to the Region by September 15 of each year.
2. The Regional LSR&T Engineer reviews the program and coordinates with the city in listing projects within funds available and proposed.
3. The local government and the State sign an agreement for reimbursement for each project according to priority.
4. The agreement reflects whether the work is by contract or by local government forces.
5. Maintenance responsibility is included in the agreement.



TYPICAL RURAL COMMUNITY LSR&T PROJECT

Village Council

LSR&T Guy

Road Needs are Discussed

Request by Village

Region

LRS&T Guy

Request goes to Juneau

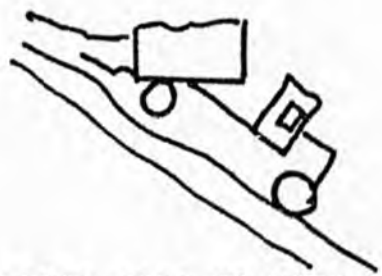
DOT/PF

LSR&T Headman

Recommends Approval of Project

Dep. Commissioner for Design & Construction DOT/PF

Approves Project



LSR&T GOES TO WORK

Makes Agreement with Village

Village Headman

What Roads or Streets do you need?

LSR&T Guy from Region

START

ANOTHER "OUT OF THE MUD" SUCCESS

APPLICANT GUIDELINES

Nature and Purpose of Program:

To provide State assistance in the development of roads and trails on routes that are not eligible for federal-aid matching funds.

Who May Apply:

Each organized borough and home rule city is eligible for a direct allocation, based on their population and area. All other areas are considered unorganized boroughs and are eligible for projects administered by the Department, subject to priority scheduling within the respective allocation districts.

Authorizing Legislation:

AS 19.30.111-251

Administrative Agency:

Department of Transportation and Public Facilities, State of Alaska.

Type of Assistance:

Financial and Engineering.

How Program is Financed:

100% State. Organized boroughs and home rule cities may supplement their allocation with local funding in any amount. Unorganized borough areas will be encouraged to provide local participation whenever possible. Federal and State grants can be used in conjunction with LSR&T funds.

How To Apply:

Each organized borough and home rule city may receive their allocation by submitting a three-year project program for the construction of such roads to their Regional Highway Engineer by October 1 of each year, indicating the priorities for construction on the program. When a project is approved, a project agreement will be drafted, and development of the project may proceed. No payment can be made for work done prior to execution of the project agreement.

Unorganized borough communities should provide input data for road needs in their areas to their Regional Highway Engineer, who will compile a three-year program and establish priorities for the unorganized borough projects within his jurisdiction. When a project is approved, the Department will proceed with development of the project.

For More Information Contact:

Commissioner
Department of Transportation and Public Facilities
State of Alaska
Pouch Z
Juneau, Alaska 99811

Field Offices:

Central Regional Highway Engineer, Pouch 6900, Anchorage, AK 99502
Interior Regional Highway Engineer, 2301 Peger Road, Fairbanks, AK 99701
Southeastern Regional Engineer, P.O. Box 3-1000, Juneau, AK 99802
Western Regional Highway Engineer, P.O. Box 1048, Nome, AK 99762
Southcentral Regional Highway Engineer, P.O. Box 507, Valdez, AK 99686

CHAPTER 3

PLANNING 3-0

Three Year Program 3-1

Programming Guidelines 3-3

Region Outline for Program 3-4

Contacting Local Authorities 3-5

Project Coordination 3-5

Annual Report 3-6

PLANNING

Three Year Program

The allocation districts are the boundaries of the Highway Department established in 1970. The larger of the five districts being the Western District, engulfing nearly half of the land mass of Alaska, is administered by the Western, Central and Interior Regions. This split jurisdiction is strictly an economic measure.

Although the North Slope Borough area is half in the Western Region, to focus administration to one locale, Interior Region has full jurisdiction. Other organized boroughs whose boundaries partially overlap allocation districts, the responsibility lies with the primary region.

A construction program utilizing LSR&T construction equipment, State employees, village labor, equipment rental, when available, is the primary mode of operation in the unorganized boroughs of the Central, Interior and Western Regions. Programming the projects in the unorganized boroughs depends on requests from local governing bodies (both submitted and solicited), available road building materials, right-of-way access, and coordination of other projects in the area.

In the unorganized borough of Southcentral and Southeast, State WCF equipment and maintenance personnel are utilized when a contract for the work is not feasible.

The Local Service Roads and Trails Program is a vital link in the State road network. It is the only State program established for solving local transportation needs. Reflecting a typical construction season, several miles of new road, new and reconstructed boardwalk, year around foot trails, winter trail staking, foot bridges, paved bike paths and vehicle bridges are constructed with LSR&T funds.

These and other special projects are completed each year in answer to what the LSR&T is all about, "Get the people out of the mud". This program does a lot for all the people of Alaska and is presently performing a service the people of Alaska could not do without.

Local governments throughout the State share 52.8% of each LSR&T bond issue. The unorganized boroughs share in the remaining 47.2%. Annual expenditures average this percentage.

Summary

I. Definition

A. Purpose

a. To get people out of the mud
b. Flexibility of Program
c. To aid communities with no revenue
d. Economy of operation

B. Type of Projects

a. Local Service Roads
b. Year around foot trails
c. Winter trail staking
d. Bicycle paths
e. Erosion control
f. Foot bridges
g. Boardwalks

C. Type of Funding

a. LSR&T
b. Local Government Participation
c. EDA (Public Works Act and individual grants)

II. Allocation

A. Two Year Legislation (Amounts vary)
B. Five Year duration
C. 50-50 Factor, Area - Population
D. Operating Budget - Program Support

a. Bridge Design Headquarters
b. Road Design and Adv. (Headquarters and Region)
c. R/W Certification Region
d. Construction Review Headquarters and Region
e. Administration Headquarters and Region

E. FY 77-78 Allocation

Organized Boroughs and Home Rule Cities	3,695,721
Unorganized Boroughs	3,304,279
	7,000,000

III. Administration

A. Allocation District - Regional Control
B. Organized Boroughs and Home Rule Cities

a. Construction contract by Local Government
b. Local Government Labor and Equipment

C. Unorganized Boroughs

a. Construction Contract by Local Government or State
b. Village or City Labor and Equipment
c. State Equipment and Village Labor
d. State Equipment and State Employees
e. State Equipment and Village State Employees

IV. Three Year Program

A. Project Selection

a. Organized Boroughs and Home Rule Cities

1. Select their own projects
2. Able to change program at will

b. Unorganized Boroughs

1. Cities and Villages select their own projects.
2. Region sets priorities within funds available.
3. Regions may subfill projects with funds available on non-federal routes.

Programming Guidelines

1. Programming of projects in the Matanuska-Susitna Borough and the Kenai Borough are made through the Central Region Office, regardless of the limits of their respective borough boundaries. Programming of projects in the North Slope Borough are made through the Interior Region Office. The administration of construction and maintenance will be performed by the region in which the project is located.

2. Each project (i.e., completed improvement) must provide a usable facility with the expenditure of available funding.

3. Each local service road project submitted for inclusion in the program shall indicate the standards of design for the improvement. This information shall include the following:

   a. Minimum AASHTO design load for structures.
   b. A brief narrative description.
   c. Type and character of traffic.
   d. Typical section(s) of the proposed improvement(s), and
   e. Length of project to the nearest tenth of a mile.

4. The program should show priority scheduling for construction, estimated total project construction costs and utilization of allocated funds.

5. The time limit for expending allocated funds is within five years after the close of the year in which the funds were authorized. Local governments may thus broaden the scope of a project and provide for adequate funding by permitting their allocations to accumulate. Program submissions should note this intention, if applicable.

6. Estimated project construction costs must include all costs, including administration, preliminary design engineering and construction engineering.

7. Any portion of the project construction costs may be funded by the local government. For all projects constructed with participated funding by the local government, the determination of the responsibility for maintenance will be made on a project by project basis.

8. The Department may assist the local government in the acquisition of right-of-way, but that all costs for right-of-way, including administrative costs, must be borne by the local government.

9. Roads presently on the State maintenance system may be improved under the Local Service Roads and Trails Program.

10. The highway regions will assist the local governments, if requested, in the preparation of the three-year program, and offer guidance for programming projects within the scope of available funding. All local government programs will be assimilated by their respective highway regions.

11. Preliminary engineering considerations for larger projects shall include studies of possible alternates.

12. A determination will be made on a project by project basis as to whether the local government will administer the construction of the project with reimbursements for costs from available allocated funding, or whether the Department will administer the construction of the project.

13. An executed project agreement is required prior to the expenditure of any sums which are to be included in reimbursement for the costs of the road or trail improvements. All project agreements will stipulate maintenance responsibilities for the completed improvement.

14. Any supplemental information which may assist the local government in the formulation of their three-year Local Service Road and Trail Program will be provided by the Department of Transportation & Public Facilities.

15. The three-year programs, including the priority scheduling, submitted by each local government shall bear a certification of approval by their respective governing body.

Region Outline for Annual LSR&T Program

To better formulate the regions annual three-year program, the ensuing guidelines should be followed:

1. Retain an ongoing program of assimilating information from all local entities throughout the year to eliminate last minute delays.

2. Follow previous program projections insofar as possible and reasonable.

3. Keep the overall allocation within the projected level of funding.

4. Keep the number, size, and type of projects (boardwalks vs. roadwork) within the equipment, manpower, and fiscal capabilities.

5. Schedule projects which complement other transportation facility construction.

6. Schedule projects which take advantage of contractors mobilized in remote locations.

7. Spread the work as evenly as possible and avoid concentration of work in one area.

8. Provide a logical and logistical sequence of work to make full use of the equipment.

9. Take advantage of federal programs providing additional transportation funding whenever possible (this increases the effectiveness of the LSR&T Program exponentially).

10. Consider inflation and unforseen cost increases.

11. Provide timely reaction to local requests.

12. Leave room for flexibility.

Contacting Local Authorities

Local Governments:

Road needs are requested by the State LSR&T Engineer for the Deputy Commissioner of Design and Construction.

Local Governments are notified of their allocation from Bond Issues by the Deputy Commissioner of Design and Construction.

Unorganized Boroughs:

Road needs are solicited by the Region LSR&T Engineer.

The Region should make periodic verbal or written contact with local governments and cities and villages in the unorganized borough pertaining to their road needs. During these contacts, it should be made clear that the services of the Region and State LSR&T Engineers are at their disposal.

This action will assure a prompt transmittal for the annual three-year program.

Project Coordination

In the initial phase of a bush project request, the Region LSR&T Engineer should inquire, at the village level, if other work is being performed or contemplated by other State or Federal agencies. If none is known, the other agencies should be contacted directly.

Assembling information of mutual concern to the LSR&T Program and other State and Federal agencies should be an obligation of the Region LSR&T Engineer.

Annual Report

The annual report of LSR&T activities is prepared each year by the State LSR&T Engineer and submitted to the Director of Transportation Planning by November 15. This report is then incorporated into the Department of Transportation and Public Facilities' annual report.

The LSR&T annual report is based on activities for the calendar year.

The regions are asked to submit certain information that will enhance the program, such as special projects, methods of cost savings, training, etc.

CHAPTER 4

PROCEDURES 4-0

Project Coding 4-1

Road Design 4-1

Maintenance and Operations 4-1

Recreation Facilities 4-2

Reimbursable Service Agreement 4-3

Overhead Account 4-4

Federal Grants 4-5

Negotiations Prior to Award 4-6

PROCEDURES

LSR&T Project Coding Procedures

Project numbers are assigned by the State LSR&T Engineer.

An example is as follows:

G	-	2	7	0	0	2
(a)		(b)	(c)		(d)	

(a) LSR&T Program
(b) Region
(c) Allocation Area
(d) Project Number in Sequence

When work is required on a project prior to project approval, charges are to be made to region reconnaissance.

See Chapter 5 for reconnaissance numbers.

Road Design

Any LSR&T project that is designated to be designed by the Department will be submitted by the Region LSR&T Engineer using the following procedures:

1. A request for the design work should be sent to Region Road Design by memorandum.

2. All pertinent information relative to the project, including project charge numbers must accompany the request.

3. Proposed advertising date and amount authorized for design and construction.

4. Request an early cost estimate to accomplish the design and construction.

Maintenance and Operations

LSR&T Projects to be maintained by the State.

All LSR&T construction contracts to be administered by the Department or local government, which are wholly or part of another contract, funded with LSR&T money and maintenance to be performed by the Department, must be coordinated with the Region Director for Maintenance and Operations during the design phase.

Construction Projects:

A list of all LSR&T projects to be maintained by the Department and constructed by one of the following methods will be submitted by the Region LSR&T Engineer to the Regional Director for Maintenance and Operations prior to each construction season with a copy to the State LSR&T Engineer:

1. Department of Transportation & Public Facilities Contract

2. Local Government Contract

3. State Equipment and LSR&T Employees

4. State Equipment and Maintenance & Operations Employees

5. State Equipment and Village Employees

6. Local Government Equipment and Employees

The description of each project shall include the project name, location, length and width of surfacing, type of construction and projected beginning and ending dates. Additional information is to be given upon request.

This report is essential in order that a liaison can be established between the local maintenance foreman and the Regional LSR&T Engineer and for better planning of maintenance responsibilities.

Unless agreed to before hand, comments made directly to the local government representative or contractor by the local maintenance foreman are prohibited.

Final Acceptance:

Final acceptance of the project shall not be given without the concurrence of the Regional Director for Maintenance and Operations or his representative.

Final inspection and completion report of all LSR&T projects shall be submitted to the State LSR&T Engineer.

Completion reports for all road projects will be transmitted to the State Maintenance and Operations Engineer by the State LSR&T Engineer.

See Chapter 5 for minimum right-of-way requirements.

See Chapter 6 for completion report requirements.

See Chapter 9 for routine maintenance scheduling.

Recreation Facilities

LSR&T funds are not valid for the construction of a facility whereby the right of entry is not open to the public at all times.

The LSR&T program was established to fund projects that aid the surface transportation of people, equipment and supplies from one point to another over public right-of-way.

As defined in Section 19.30.241 of the Alaska Statutes, the following definitions pertain to the Local Service Roads and Trails Program:

"(4) 'local service road' means a public road which is not designated as a route on the approved federal-aid highway system;

(5) 'project' means an undertaking to construct a particular portion of a local service road or trail, or, if the context so implies, the particular portion of a local service road or trail so constructed;

(6) 'trail' means a footpath or way on land or water that is open to public use as a matter of right whether or not a thoroughfare, particularly for dog sleds and mechanized snow vehicles."

LSR&T funds are not available for construction of recreational facilities such as rifle range pads, race tracks or similar proposals that limit the right of entry to the public.

Roads or trails to recreational facilities and parking areas for such facilities are eligible for funding under the program providing the following criteria is met:

1. Adequate public right-of-way.

2. Sufficient funds available.

3. Approval of local residents.

Reimburseable Service Agreement

Intradepartmental RSA Procedures:

In an effort to reduce administrative and fiscal paper flow, the following procedures will govern requests for services between elements of the Department of Transportation and Public Facilities.

The requesting agency will initiate a memorandum setting forth the type and level of service required of the servicing agency and citing the specific collocation charge code to which charges may be incurred. The memorandum will also reflect the total funds available for the service which will not be exceeded by the servicing agency. The servicing agency will acknowledge receipt and acceptance of the agreement to perform the service by so indicating on a copy of the memorandum and return to the requesting agency. A completed copy of the agreement memorandum will also be provided to the State LSR&T Engineer who will forward the document to Budget Finance.

This then becomes a valid agreement between the two agencies and is authority for the servicing agency to incur charges directly to the collocation charge code indicated. Where it is desired by either the requesting or servicing agency, a separate collocation code may be established.

The servicing agency may elect to use its own project reporting system for collecting costs for reimbursement when personnel services are involved. However, when charging an expense to the requesting office collocation code, the requesting office project ledgers must be used if applicable.

Formal Reimbursable Services Agreements and their associated documents will no longer be required on intradepartmental service requests.

Normal RSA procedures will be followed between other departments of State government and the Department of Transportation and Public Facilities.

Overhead Account

The use of the LSR&T overhead account number N00407 must be closely scrutinized to insure proper practice. All eligible costs must be charged to their respective project numbers. The use of this overhead number is limited to LSR&T assigned personnel. When your people are temporarily assigned to another section for one month or longer, a personnel action must follow.

Federal Grants

It is Legislative Audit's policy to consider all requests for federal grant audits. All requests should be in writing and the following information be included:

1. Number of grants to be audited.

2. Amount of the grant.

3. Whether grant funds were sub-granted to other organizations, and if so, the number of sub-grants and amounts.

4. The grant period and/or periods.

5. Who Legislative Audit should contact to discuss requests, and

6. Since these audits are performed on a reimbursable basis, the amount of funds available for audit.

If after reviewing any request, Legislative Audit is unable to perform the audits requested, they will send you a letter stating that fact. If you have any questions concerning this policy, please contact:

Legislative Auditor
Pouch W
Division of Legislative Audit
Juneau, Alaska 99811

Economic Development Administration (EDA) grants are sometimes utilized to supplement LSR&T funds, in areas where requests for roads exceed funds available.

Negotiations Prior to Bid Award

When a LSR&T construction contract is being advertised for bid, negotiations with the Contractor prior to award is prohibited.

Negotiations with a Contractor by a Department employee may be cause for dismissal.

CHAPTER 5

PRECONSTRUCTION 5-0
- Reconnaissance 5-1
- Project Agreements 5-1
- Force Account 5-2
- R/W Certification 5-2
- Survey 5-3
- Structures
  - Requirements 5-3
  - Navigation Permits 5-4
  - Bridge Design 5-6
- Materials 5-8
- Traffic Safety Responsibilities
  - Construction 5-8
  - Traffic Design 5-9
  - Typical Sections 5-10
  - Utility Relocation 5-16
  - Alaska Historical Preservatio Act 5-16

PRECONSTRUCTION

Reconnaissance

This phase should determine how the project will be constructed; such as by contract, force account or in-house forces. Sufficient information should be obtained so plans and specifications can be prepared. Under this article a requirement for a meeting with the local community to inform them on the progress of the project and construction timetable may be necessary.

Procedure:

1. Select Typical Section
2. Determine method of construction
   a) Local government contract
   b) State contract
   c) State forces (LSR&T or Maintenance)
   d) Local government equipment and labor
   e) Local government labor only
   f) A combination of two or more
3. Determine if cost of project is within funds available
4. Charges to the region reconnaissance project is permitted only when it is impractical to obtain a project agreement and then only to establish the validity of such a project.

   Reconnaissance charge numbers are as follows:

Central Unorganized Borough I	G-00011
Interior Unorganized Borough II	G-00021
Southeastern Unorganized Borough III	G-00031
Western Unorganized Borough IV	G-00041
Southcentral Unorganized Borough V	G-00051

See Chapter 11 for the reconnaissance check list.

Project Agreements

Projects submitted to Headquarters for approval must include the following information:

1. Project Agreement
2. Project description of work including typical section, length of project and a map of the location with scale shown. (See Management Forms 14 and 15).

3. Resolution for Local Entity

4. Funds authorization request

5. Engineering Consultant Agreement, if applicable

For unorganized borough projects to be constructed by LSR&T equipment no transportation of equipment shall be made to the project site until the following has been secured:

1. Right-of-way certification (Refer to this chapter)

2. Material source approved and free use of the material for construction

3. Wage agreement with the local governing body (Approved at the Region level)

4. Historical clearance (Refer to Chapter 5)

5. Structure permit, if applicable

Construction on any LSR&T project is prohibited until all above requirements are met.

See Chapter 11 for agreement forms.

Force Account

PS&E assembly of a force account (in-house) construction project submitted for approval must include the following:

1. Estimated Costs of Construction Engineering

2. Estimated Costs of Equipment and Labor

3. Estimated Costs of Materials

4. Estimated Costs of Closing out Project after Construction is Completed

5. Department of Fish and Game permit, if applicable

6. Coast Guard or Corps of Engineers permit, if applicable

Right-of-way Certification

When right-of-way has been cleared, the Regional Right-of-way Agent will certify in a memorandum that all necessary right-of-way has been acquired for each parcel and list the type of possession gained for each. In the event that the project will be constructed within a platted subdivision or townsite survey within the dedicated right-of-way, a letter of certification from the city will be adequate.

Roads to be maintained by the Department require a minimum of 100 feet right-of-way. The Department may waive this requirement when mitigating circumstances warrant.

Minimum right-of-way width required for subdivision streets must be sufficient to contain the slope limits as designed. Authority to proceed with construction will not be given until the Department is assured that this requirement is met.

Preliminary Engineering

Survey

Local Government

1) Determine right-of-way width is sufficient to construct proposed facility

2) Line and grade

3) Typical Section

LSR&T Forces

1) Utilize survey practice as determined by the Region LSR&T Engineer.

2) The survey must be complete enough to estimate construction costs and provide enough information to construct the facility proposed.

Structures

Requirements:

1. Stream crossings exceeding 5 cfs refer to U.S. Coast Guard Permit Requirements

2. AASHTO Specifications

3. ADT to determine design loading

4. When utilizing an existing structure at a different location the following data must be reviewed:

   a) ADT
   b) intended use
   c) modification required

5. All structures require the State LSR&T Engineer approval.

Navigation Permits:

During the reconnaissance of a proposed LSR&T project, if spanning of a stream or work is required in a body of water, site information shall be submitted to the State LSR&T Engineer. To verify the need for a permit, the hydraulic unit of the bridge section will review the information and the State LSR&T Engineer will inform the Region LSR&T Engineer of the results.

The Corps of Engineers exercises permit authority for stream encroachments, tidal encroachments, and wet land encroachments under various sections of the River and Harbor Act of 1899, Section 404 of the Federal Water Pollution Control Act Amendments of 1972, and other federal codes. Coordination of permit requirements and processing of applications is handled by the hydraulics unit of the Bridge Design Section. Part of the permit requirements is a "Certification of Reasonable Assurance" from the Alaska Department of Environmental Conservation under Section 401 of the Federal Water Pollution Control Act Amendments of 1972. This process is also handled by the hydraulics unit. The processing of these permits usually requires approximately 120 days.

U.S.C.G. navigation permits are required under Section 9 of the River and Harbor Act of 1899 and other federal codes for all "navigable waters" crossings. The hydraulics unit of the Bridge Design Section coordinates with the Coast Guard to determine if a particular crossing is non-navigable, has "prior approval", or requires a navigation permit. On those crossings where marginal navigability may exist, the hydraulics unit submits a "Request for Declaration of Non-navigability" to the Coast Guard for review by their legal section. If the crossing is declared navigable, the hydraulics unit submits a Navigation Permit Application for processing. Part of the navigation permit requirements is a "Certification of Reasonable Assurance" from the Alaska Department of Environmental Conservation under Section 401 of the Federal Water Pollution Control Act Amendments of 1972. This process is also handled by the hydraulics unit. The processing of these permits usually requires approximately 180 days.

Corps of Engineers U.S. Coast Guard Permit Applications:

In reference to the Corps of Engineers' permits under Section 404 of the amended Federal Water Pollution Control Act of 1972 the following information is to help anticipate the information and time needs in obtaining necessary COE and USCG permits:

Phase III of Section 404, effective July 1, 1977, requires application for permit if there is any placement of dredged or fill material in wetlands or bodies of waters to their headwaters where the flow is 5 cfs or less. The quantity of fill material that the Corps considers is that amount below the ordinary highwater elevation (OHW) or below MHHW for tidal influenced areas.

At the present time the Corps of Engineers is forming a general permit for fills less than 100 c.y. Investigation of the special conditions required for

a general permit has indicated that more paper work and possibly a longer delay in getting a general permit will be required than applying for a regular permit. Except in unusual cases, applications will be made for regular permits.

Section 10 of the Rivers and Harbors Act of 1899 requires permit application for the excavation from or depositing of material below OHW or MHHW (Pacific Coast) in the navigable waters of the U.S. The Coast Guard through its navigation permit process exercises authority under Section 10 for projects that have bridges, culverts, causeways and overhead pipelines. Projects that require a Corps of Engineers permit under Section 10 include but are not limited to wharfs, docks, dolphins, excavation, dredging, filling disposal of dredged material, riprap, retaining walls, breakwaters, wires and cables over navigable waters.

Jurisdictions of these two agencies obviously overlap in some cases. In most cases only one agency will exercise its authority and it is sometimes difficult to determine which agency will be the one to do so. In those cases where jurisdictional authority is in question it is necessary to ask the Coast Guard for a declaration of non-navigability. The U.S. Coast Guard is getting more stringent on the determination of navigable waters. The data required on their standard form for navigability is quite extensive. Determination of navigability has taken up to four months. The time required for processing and issuing a navigation permit is about six months after the application is received by the Coast Guard.

The processing of Corps permits takes approximately 90 to 120 days after they are received by the Corps. The time will be longer if problems occur due to objections by reviewing agencies.

In order to advertise projects as scheduled it is necessary that the following material be received by this office four months in advance for Corps of Army Engineers permits and seven months in advance for Coast Guard permits.

Corps of Engineers Permits

1. Location of project on USGS guad sheets.

2. Location of stream crossings where the flow is over 5 cfs. This could be done by station numbers for small streams.

3. Amount of fill in cubic yards below OHW (MHHW for tidal influence) in the natural channel.

4. Amount of excavation in cubic yards below OHW (MHHW for tidal influence) in the natural channel.

5. Location of disposal site for and method of transporting the excavated material.

6. OHW (MHHW) elevation near culvert and elevation of stream bed at that location.

7. Drainage areas.

Determination of OHW (MHHW) elevation can be as follows:

1. On streams that have USGS gaging records the enclosed definitions of terms by the COE is helpful. Also is a list and map of USGS gages. Records on any specific stream are available upon request.

2. Preliminary studies indicate that the flow for OHW = 10% of a 50 year flood as a State wide constant with the exception of the Interior Region where studies indicate an 8% conversion factor. It should be noted that these conversion factors should be used with caution. As more data is collected, adjustments will be made for the conversion factors.

U.S. Coast Guard Permits

1. Location of project on USGS quad sheets

2. Location of stream crossings where the flow is over 5 cfs. This could be done by station numbers for small streams.

3. Drainage areas

4. Length of stream and fall per mile

5. History of navigation

6. Pictures of stream crossings if available

Bridge Design:

The assistance available from Bridge Design on LSR&T projects can be greatly improved by more complete and timely communications. This will also avoid inadequate designs which might prove hazardous while keeping within budgeted funds.

When a project involves a bridge a completed DH45 form (applicable portions) should be provided along with the following:

Construction schedule
Amount budgeted for structure
Number and type of vehicles in community
Anticipated live load during life of structure
Recommended structure type
Materials available (if any)
Equipment available
Transportation limitations
Experience of labor for erection (when to be done by local labor)
Site survey, marked aerial photo or sketch drawn

In case a design is done or partly done by a region, other agencies or individuals, this section will review the work in keeping with the considerations listed above.

EXAMPLE

BRIDGE SITE SURVEY

Form DH 45

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

Project No. S-0481(9) BRIDGE SITE SURVEY (To Accompany Contour Map) Bridge No. 1162

Name of Stream: Sheep Creek Date of Survey: June 17, 1963

Location: 5 mi. E. of Mantilla Rt. No. FAS-481 Sta. No. 1027+30

Bench Mark TBM#5 Sta 1027+00 Do fish use stream for spawning? Yes

Drainage Area: 96 sq. mi. How Determined: U.S.G.S. Topo. Map

General Description of Drainage Area: 40% Rocky mountainous, 60% rolling brush covered country

Any Storage Basins Upstream? Yes, Cascade Lake - 5 sq. mi. - 2 mi. upstream

Elev. of High water 340.0 High Ice 333.5 Date of High Ice 3/2/61

Location of High Water Mark 20 ft. Left Sta. 1027+30.

What caused H.W. Heavy rain in spring with snow melt during warm weather (70°).

To what elevation can water be backed up without local flood damage? 350.0

Slope or gradient of stream: 500 ft. upstream 1.7% 500 ft. downstream 1.6%

In dry stream bed, give water table elev. Stream never dry.

Describe ice and drift conditions Sheet ice - rots in place. Brush and small trees (15' max. length) during flooding.

Scour conditions: None existing. Stream may scour at piers.

In general, is stream cutting or filling? Stable

Should structure be skewed? No

Should channel change be made? Not necessary

Any special treatment for approach fills? Riprap abutment slopes.

Sidewalks and Utilities No sidewalk or utilities in area.

SUBMITTED BY William Jones BKAIII

APPROVED BY _____
(District Engineer)

Date _____

Materials

1. Royalities are to be paid by the recipient with no reimbursement from the State except under extreme conditions such as, the competitive bidding procedure.

2. Inspection:

   Local Government - responsible for inspection and acceptance of materials.

   DOT/PF Contract - Construction Manual, Section 1.03.09

3. Determine that adequate materials exist to construct the project.

Traffic Safety Responsibilities

I Construction

Road Construction Traffic and Pedestrian Safety Requirements
(Type of Protection must fit nature of work)

Short term day light construction operations

a) Minor traffic and pedestrian interuptions -Notes: 1,6

b) Major interuptions (moderate to high volumes) -Notes: 1,2,6

c) Lane closures, Flagman operation -Notes: 1,2,5,6

d) Street closed during construction period -Notes: 1,2,4

2. Long term day light with overnight protection

a) Minor traffic and pedestrian interuptions -Notes: 1,3,6

b) Major interuptions (Moderate to high volumes) -Notes: 1,3,5,6

c) Lane closures, Flagman operation -Notes: 1,3,5,6

d) Road or Street closed overnight -Notes: 1,3,4

3. Night Construction operation

a) Minor traffic and pedestrian interuptions -Notes: 1,3,5,6

b) Major interuptions (Moderate to high volumes) -Notes: 1,3,5,6

c) Lane closures, Flagman operation -Notes: 1,3,4,5,6

d) Road or Street closed during night construction -Notes: 1,3,4,5,6

Note:

Notification of road disruption (closed or restricted) should be given to news media and local Police, Fire and Emergency Agencies.

Worksite Protection Notes

1. One advance warning sign approximately *700 feet before each direction of approach to construction area, such as ROAD CONSTRUCTION AHEAD, ROAD WORK AHEAD, etc. One additional specific warning sign approximately *300 feet before jobsite, such as, ONE LANE ROAD AHEAD, SHOULDER WORK AHEAD, MEN WORKING, SURVEY CREW, etc.

2. Traffic cones and temporary barricades placed to direct traffic through the work area and to protect worksite.

3. More permanent barricades and barriers with steady burning or flashing battery or electric lights installed for visability and delineation.

4. ROAD CLOSED signs and barricades sufficiently placed to safely close traveled way. A DETOUR plan shall be submitted to the Engineer for approval prior to commencement of closing roadway. DETOUR signs directing motorists to alternate routes around closed roadway.

5. Flagman required for directing traffic with FLAGMAN AHEAD signs installed 300 to 500 feet in advance of station.

6. Flagman required to protect worksite area with FLAGMAN AHEAD signs installed 300 to 500 feet in advance of worksite.

* Verify distance using approach speed data and A.T.M.

II Traffic Design

Permanent Traffic Control Devices Requirements

1. Warning Signs

a) Curve warnings with speed plates -Notes: 1,2

b) School and Pedestrian warnings -Notes: 1

c) Hazards, such as loose gravel, slides, etc. -Notes: 1,5

d) Intersections, street ends, stop ahead, etc. -Notes: 1,3,5,6

2. Regulatory Signs

   a) Stop, Yield -Notes: 1,4,6

   b) Speed limit -Notes: 1,3,6

   c) One Way, Do Not Enter -Notes: 1,6

   d) Load restrictions and closures -Notes: 1,2,5

3. Guide Signs

   a) Street name signs -Notes: 1,2,6

   b) Directional and mileage signs -Notes: 1,2

   c) Service signs (Hospital, police, etc.) -Notes: 1,2,6,7

4. Delineation and Object Markers

   a) Roadside delineation - hazard areas -Notes: 1,2,8

   b) Bridge end and Object markers -Notes: 1,2,9

Permanent Control Device Notes

1. Determine location, and type of sign needed during P.S. & E. preparation.

2. Additional field conditions may warrant further protection devices.

3. Has a speed study been completed or is one warranted?

4. Have STOP or YIELD warrants been met?

5. Have construction or permanent conditions warranted restrictive signs?

6. Are existing nonstandard signs being replaced?

7. What services signs needed and if so what type?

8. Areas where road sides and objects need delineation.

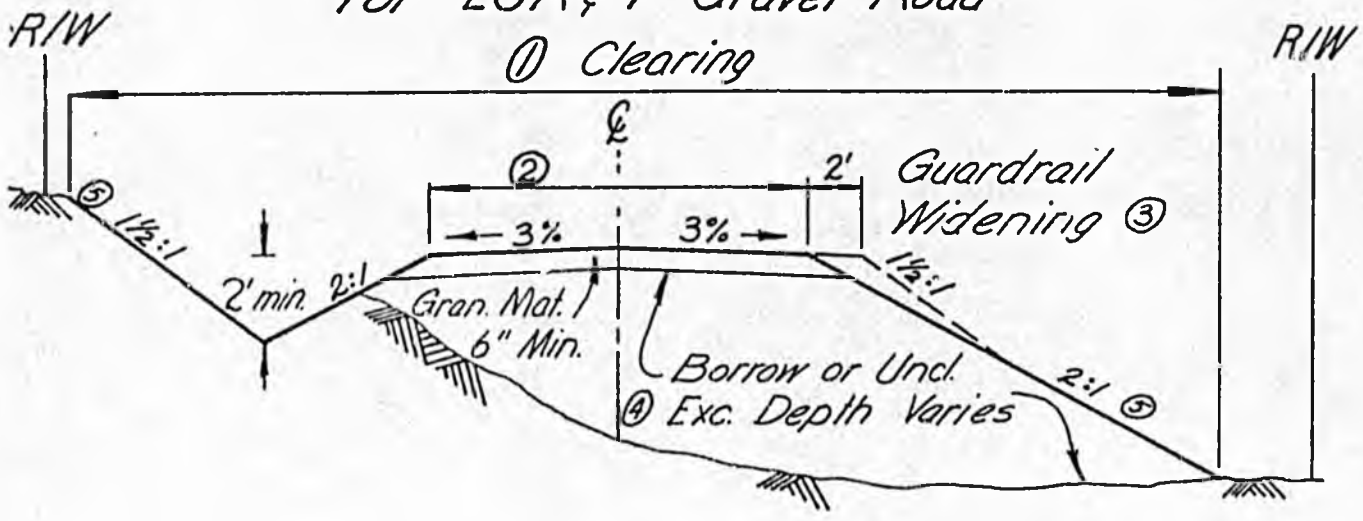
9. Bridge ends, guardrail ends and objects requiring type III object markers.

Typical Sections

The Typical Section will be determined by the intended use and should be adequate to provide the desired service.

TYPICAL SECTION

For LSR & T Gravel Road



(1) Minimum Clearing & Slopes kept within existing Right-of-Way.

(2) 14′ Min. Single Lane with turnouts @ Inter-visible locations.
20′ Min. Two Lane

(3) Minimum requirements for guardrail:
a) Outside of horizontal curves less than 600′ radius
b) Ponding of water at toe of fill exceeds 3 feet in depth.
c) Approaches to structures.

(4) Overlay embankment durable enough to withstand intended loads.

(5) Slopes will vary depending on material (2:1 F.S. to 5′ Min.)

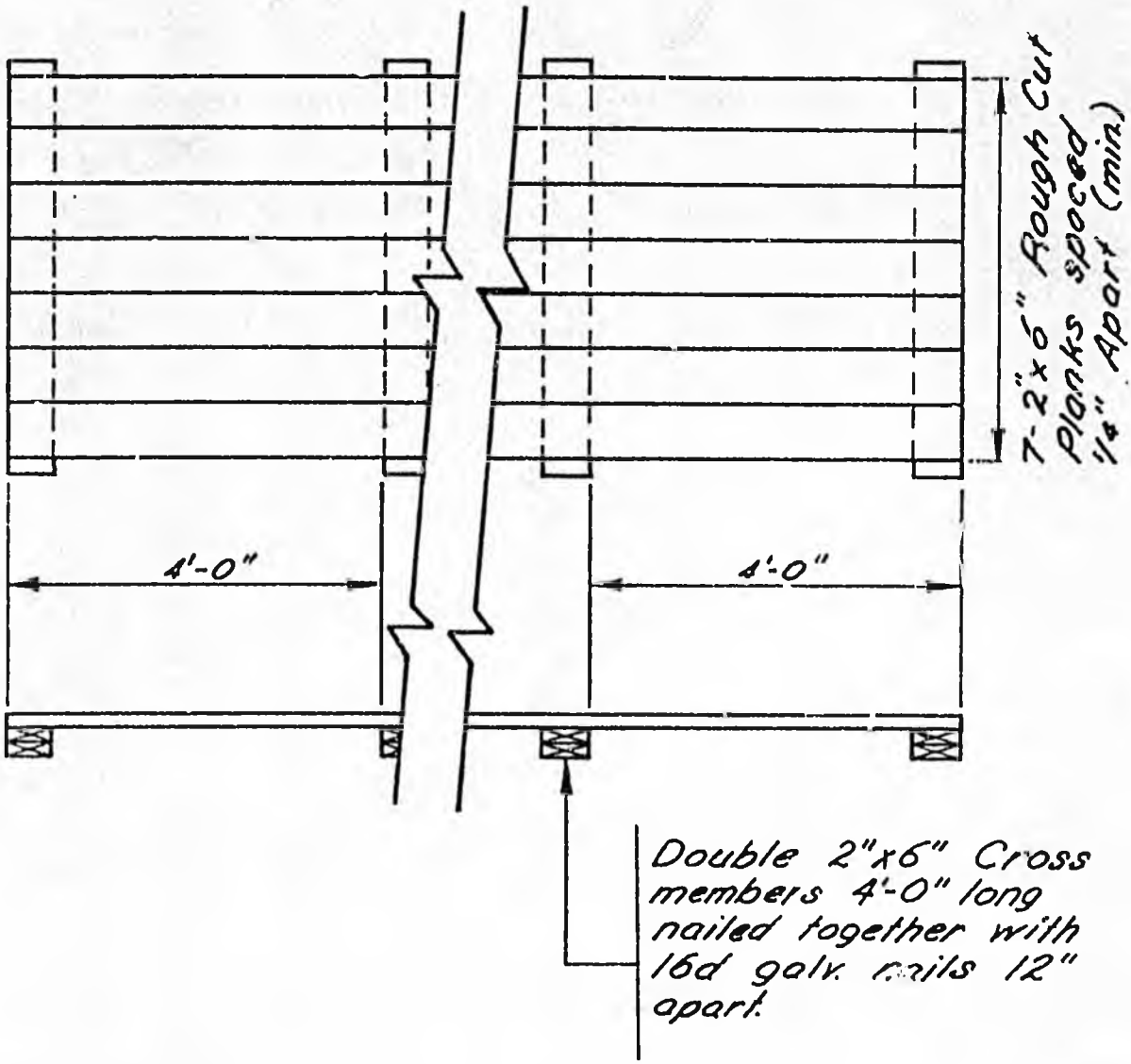
Alignment is not normally a problem since LSR & T goal is to get people out of the mud and connect two points with a vehicle trail. The project should be routed to eliminate safety hazards.

All Local Government projects will be scrutenized as to good engineering practices and AASHTO design of Structures.

Widen 2 feet inside of curve when radius is less than 600 feet.

4/15/77

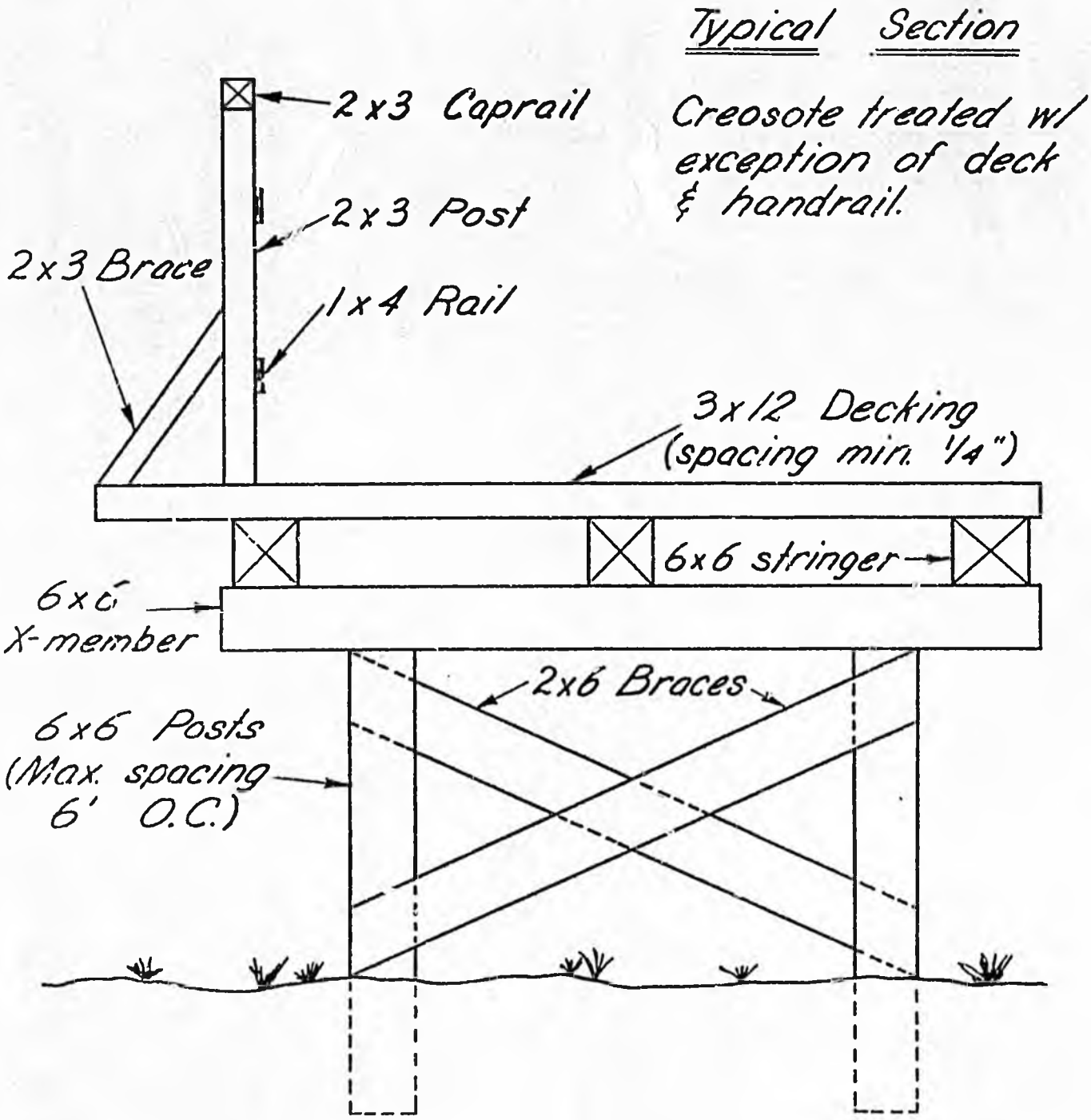
TYPICAL BOARDWALK LAYOUT



NOTES:

1. Stagger butt end joints at cross members.
2. Minimum plank length should be 8'.
3. Use 3-16d galvanized nails for each plank at each cross member.

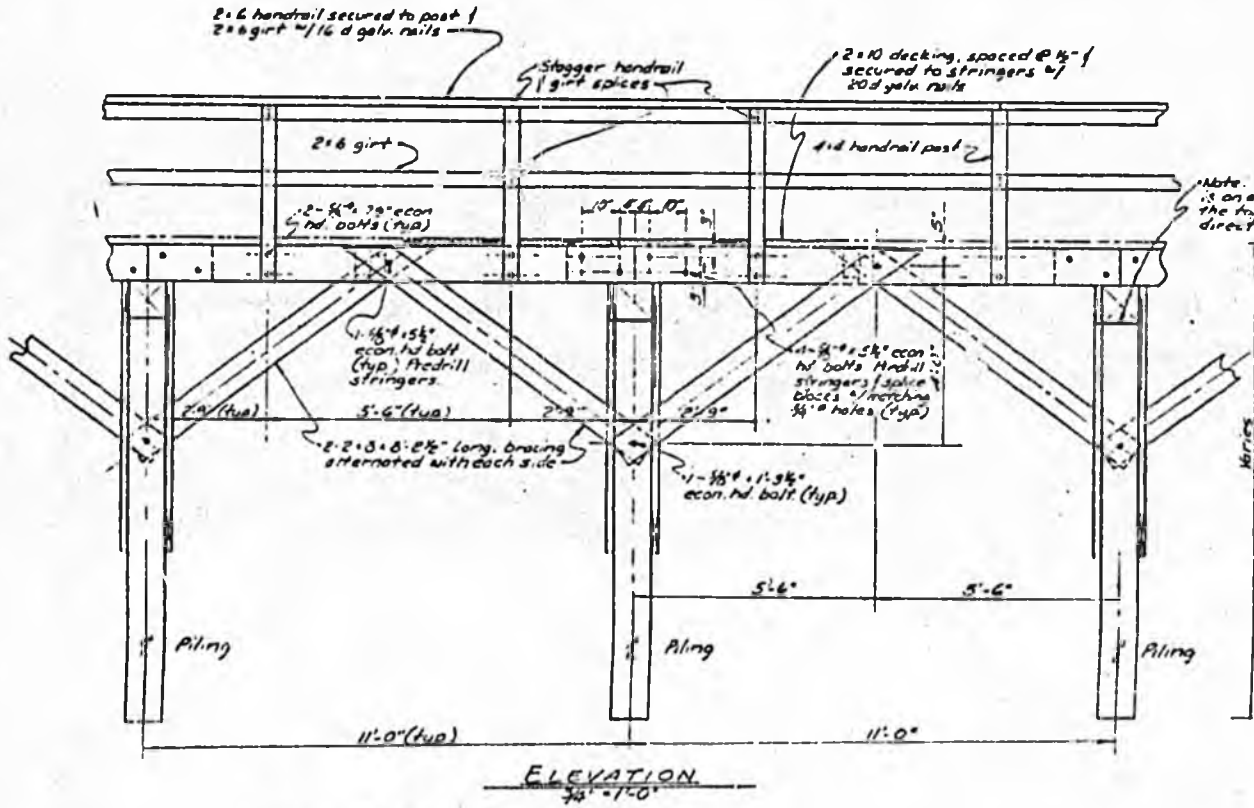
TYPICAL
BOARDWALK TRESTLE



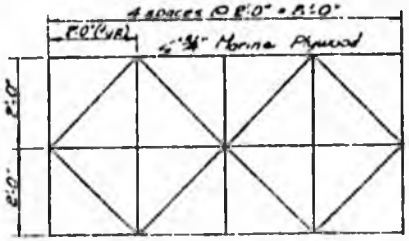
Length- ___ ft.
Width- ___ ft.

No Scale

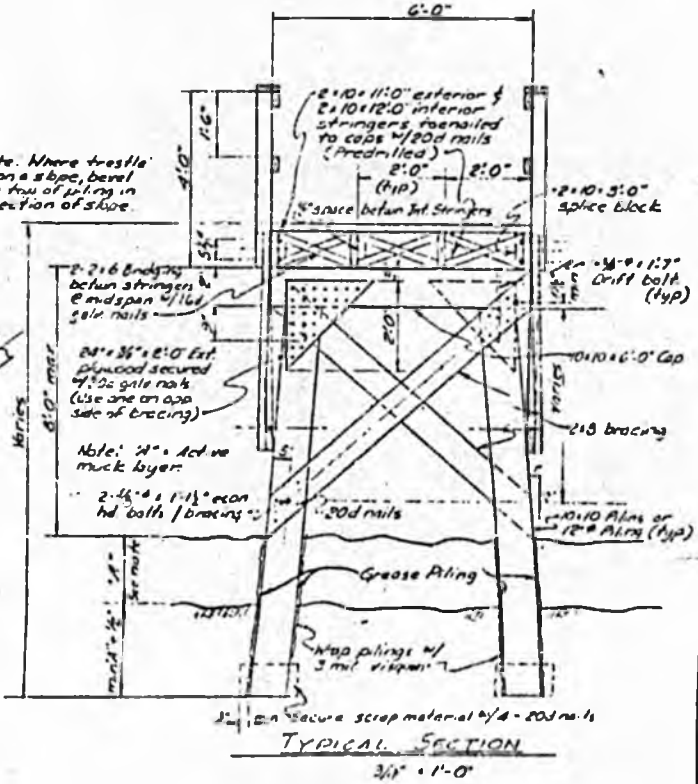
REVISIONS			STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
NO.	DATE	DESCRIPTION	ALASKA				



ELEVATION
¾" = 1'-0"



BRACING - CUTTING PATTERN

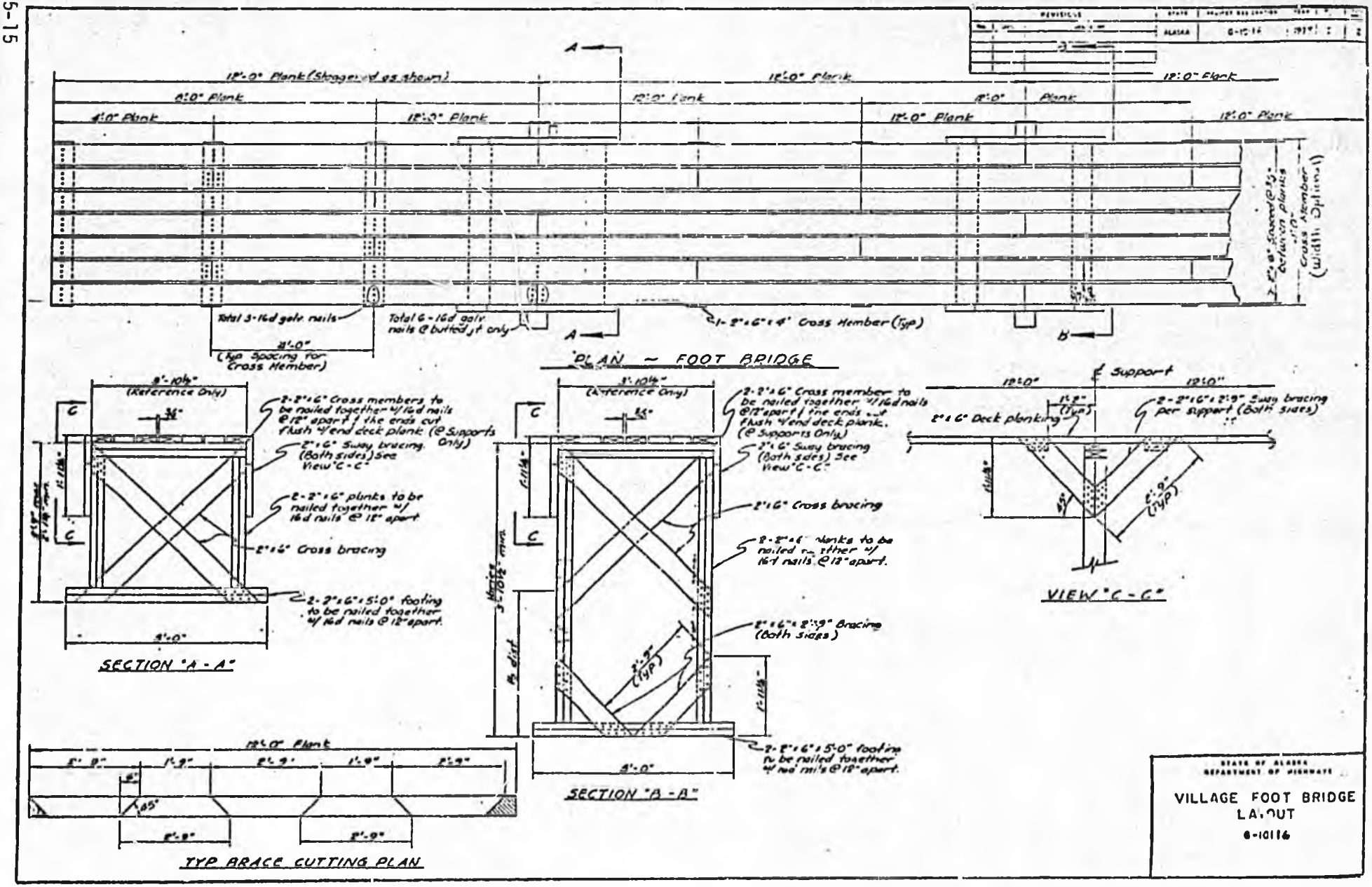


TYPICAL SECTION
¾" = 1'-0"

GENERAL NOTES:
1. All hardware shall be H.D.G. galvanized & malleable iron washer shall be placed between all nut & wood surfaces.
2. All bolts to be economy head type. Holes in est stringers for handrail posts to be field drilled 1⅛" oversize. All other holes to be drilled ⅞" oversize. Predrill holes for Drift bolts to undersize.
3. All stringers to be predrilled for decking nails.
4. All lumber material exposed to weather shall be treated with preservative to AWPA standard C1 with minimum retention of .40 pcf. Do not treat with creosote. Treat all field cuts & drilled holes with two coats.
5. All lumber pilings shall be treated with 3 mil visqueen.

STATE OF ALASKA

TYPICAL FOOT BRIDGE



12'-0" Plank (Staggered as shown)
12'-0" Plank
8'-0" Plank
4'-0" Plank
Total 3-16d galv. nails
Total 6-16d galv. nails @ butted jt only
1-2"x6"x4' Cross Member (Typ)
4'-0" (Typ Spacing for Cross Member)
PLAN ~ FOOT BRIDGE
3'-10½" (Reference Only)
2-2"x6" Cross members to be nailed together w/ 16d nails @ 12" apart & the ends cut flush w/ end deck plank (@ Supports Only)
2"x6" Sway bracing (Both sides) See View "C-C"
2-2"x6" planks to be nailed together w/ 16d nails @ 12" apart
2"x6" Cross bracing
2-2"x6"x5'-0" footing to be nailed together w/ 16d nails @ 12" apart.
SECTION "A-A"
2-2"x6" Cross member to be nailed together w/ 16d nails @ 12" apart & the ends cut flush w/ end deck plank. (@ Supports Only)
2"x6" Sway bracing (Both sides) See View "C-C"
2"x6" Cross bracing
2"x6"x2'-9" Bracing (Both sides)
2-2"x6"x5'-0" footing to be nailed together w/ 16d nails @ 12" apart.
SECTION "B-B"
℄ Support
2"x6" Deck planking
2-2"x6"x2'-9" Sway bracing per support (Both sides)
VIEW "C-C"
12'-0" Plank
TYP BRACE CUTTING PLAN
STATE OF ALASKA
DEPARTMENT OF HIGHWAYS
VILLAGE FOOT BRIDGE
LAYOUT
6-10116

Utility Relocation

Utility move costs are fundable under the LSR&T Program and must be considered when necessary to construct a proposed project.

Alaska Historic Preservation Act

In compliance with Section 41.35.070 of the Alaska State Statutes, a list of all LSR&T projects scheduled for construction and not previously submitted shall be sent each year by the region directly to:

Director and State Historic Officer
Division of Parks
619 Warehouse Drive, Suite 210
Anchorage, Alaska 99501

The list of projects must include the project name, type of construction and a location sketch with scale shown. This information should be submitted as soon as construction activities are planned in order that adequate time for review is allowed prior to construction.

A copy of this report must be submitted to the State LSR&T Engineer.

CHAPTER 6

CONSTRUCTION 6-0

- Management 6-1
- Construction Procedures 6-1
- Project Budget 6-3
- Equipment Costs 6-3
- Transportation 6-4
- Safety 6-4
- Supply 6-5
- Bookkeeping 6-5
- Inspection 6-6
- Completion Report 6-6
- Regional Construction Review 6-7
- Status Report 6-8
- Finance
  - Disbursements 6-8
  - Bank Accounts 6-9
  - Coding Structure 6-9

CONSTRUCTION

Management

This will be determined by how the project is to be constructed. Contract or force account projects will require a fulltime project engineer/inspector. If constructed by in-house forces, a local individual may be appointed project foreman and will be under the control of the Regional LSR&T Engineer or roving foreman.

Construction Procedures (Project Engineers)

Projects are administered by two distinctly different contractual methods; by construction contract and by village forces and Department equipment. LSR&T projects, both methods are 100% State funded. It is noteworthy that no Federal Highway Funds are involved on these projects. Federal grants, special allocations and local participation funds are sometimes used in conjunction with LSR&T funds. If other funds are included in your project, a separate set of instructions will accompany your project assembly.

METHOD A (by contract):

When LSR&T projects are under contract, a Project Engineer is assigned and the LSR&T Engineer serves as Assistant Construction Engineer. Some of the instructions given to the Project Engineer include:

1. Type of funding and funds available for project including engineering.
2. Coding on stock requests and time sheets.
3. Materials summary requirements.
4. Approvals for change orders, etc.
5. Records required - use Construction Manual.

Administration of the contract will be in accordance with the Construction Manual.

METHOD B (with local labor and State equipment):

Prior to your assignment to the job site, certain agreements shall have been entered between the Department and the local governing body. These are a "Project Agreement" and a "Reimbursement Agreement" for labor. The "Reimbursement Agreement" will state that the local governing body will hire laborers at a stipulated rate to work under the direct supervision of the Project Engineer. Your ring-bound book will contain:

EXAMPLE:

1. DAILY EXPENDITURE ACCOUNT: This form will record the daily and cumulative costs of the project. We will be given a

figure to enter on the first day's sheet for the "Total Cost Brought Forward" line near the bottom of this form. Make the subsequent daily entries and submit a copy weekly to the Region LSR&T office.

2. WEEKLY LABOR EXPENDITURE ACCOUNT: This form serves a dual purpose. Make the entries daily and total them weekly. The daily totals are entered on the "Daily Report of Contract Costs" and the completed form is the backup for payment to the local governing body for labor.

3. PAYMENT FORM: This is the form that is used to make periodic payments to the local governing body for labor. Complete it and transmit it to the Region LSR&T Engineer with the "Daily Labor Expenditure Account" for backup.

4. EEO REPORT: This form is to be submitted at the end of each quarter.

A complete Project Diary must also be kept in a suitable bound book.

We anticipate that the ring-bound books will serve a dual purpose. First, it is your initial supply of forms; and second, your carbon copy of the completed day-to-day or week-to-week forms, retained in the book, becomes your initial file of project records.

Instruction to Local Foreman:

1. Limits of Authority.

2. Inform him of what is to be constructed and ask for suggestions on how this can be accomplished, since he may be more familiar with the area and local individuals hired to do the actual work.

3. Discuss with him the priorities and sequence of construction.

4. Emphasize safety and the necessity to hold regular safety meetings.

5. Emphasize preventive maintenance for equipment.

6. Establish a routine for servicing equipment at regular intervals.

7. Inform of the requirement of keeping daily load count of material hauled.

8. Emphasize submitting time sheets in timely manner.

As an aid in filling out the remarks column on the daily expenditure account sheet, you will find below a list of the minimal information required:

Contractors Work Schedule

1. Shifts/day
2. Hours/shift
3. Days/week

Construction Status

1. % completed this day
2. % completed to date

Culverts

1. Placement (Location)
2. Length

Borrow

1. Placement (Location Station to Station)
2. Quantity (Yd3).

Travel

1. Departure
2. Destination

Equipment Being Used

1. Type (identify)
2. Approximate number of hours each piece of equipment is being used.

Project Budget

Each project is budgeted (estimated) to include design, construction and administration.

It is the Region LSR&T Engineer's responsibility to submit a cost estimate that is reasonable.

No construction equipment is to be moved to a project site until the R/W certification and royalties for material is secured.

No construction equipment is to be moved from a project site that is not complete without the prior approval of the State LSR&T Engineer.

No project is to be terminated, typical section reduced or length of project shortened without the prior approval of the State LSR&T Engineer.

Reimbursement to a local government exceeding the authorized amount requires prior approval of the local government authority (usually the assembly).

Overruns for State administered projects over 10% require prior approval of the State LSR&T Engineer.

Equipment Costs

Cost of operation exceeds the value to the fleet:

1. Evaluate

   a) down time
   b) parts and labor
   c) availability of parts

2. Reasons

   a) too old
   b) lemon

3. Determine action

   a) keep the equipment on line
   b) replace

Transportation

Evaluate moving costs of construction equipment.

1. Air
2. Barge
3. Truck

Safety

Pursuant to Part 1926 of the U. S. Department of Labor OSHA Act, the following basic safety specification shall apply to all LSR&T projects and to the personnel working on them:

Proper safety equipment shall be provided by the employer for the work conditions. It shall be the employee's responsibility to properly use all equipment or devices when appropriate and conditions warrant.

The Regional LSR&T Engineer or his designee, shall sideline or discard defective machinery and equipment. This equipment will not be used on the project until it has been restored to a safe condition.

All equipment to be used on any LSR&T project shall first be inspected and approved by the Region LSR&T Engineer, or his authorized representative.

In matters concerning the safety of a work site or conditions, the project site supervisor shall obtain the Regional LSR&T Engineer's permission before proceeding with the work.

A basic safety/first-aid plan shall be drawn up and presented at a meeting prior to construction and a plan for the implementation shall be formulated at this time.

Before the start of any work, project personnel shall attend a safety orientation meeting. It is mandatory that safety meetings be held at least once per month. All new or late hires shall be oriented to all existing safety programs and policies and procedures that apply to the project.

Should there be any questions concerning safety by the project representative, contractor or employees, they may contact the Region Safety Officer through the Regional LSR&T Engineer.

All State contracts shall adhere to the safety rules and procedures outlined in Section 1.07 of the Construction Manual.

All personal injuries on the job shall be reported on form ADL 210 Workman's Compensation form, within twenty four hours.

Supply

Purchases.

Purchases of equipment chargable to an equipment project number in excess of $500 shall have prior approval from the State LSR&T Engineer. This can be accomplished by phone.

Bills:

Freight bills are to be paid up on receipt of billing. All other bills are to be paid upon receipt of the merchandise.

Bid Waivers:

Planning ahead should eliminate all bid waviers.

Bookkeeping

LSR&T Project Construction by LSR&T Forces:

1. A system must be maintained to insure an audit trail.

2. To eliminate time-consuming review costs, the following procedure is necessary:

   a) Attach invoices to disbursements

   b) Show documentation for all materials

   c) Checks paid out with wage agreements attached

   d) Signed employment cards for each employee listed (unless they are State employees)

   e) On LSR&T administered projects, Chapter VIII of the Construction Manual may be used for routine record keeping practices.

DOT/PF Contract LSR&T Projects:

When projects are being constructed by State contract, including force account, the Construction Manual will be followed for record keeping.

When projects are constructed with in-house forces a bookkeeping system must be set up and kept current of all costs charged to the project to provide an accumulative total of all expenditures.

Inspection

Local Government Projects:

Periodic inspections are required (minimum);

1) reconnaissance
2) during construction
3) when construction is completed.

LSR&T Administered Projects:

Same as for Local Government.

Completion Report

All LSR&T completion reports shall include the following:

1) Location Map with Scale
2) Type of Facility
3) Length and Width of Facility
4) Final Inspection Report
5) Report of Deficiencies Rectified
6) Acceptance by Maintenance and Operations when applicable
7) Project History
8) Certification by Local Government (See Example, Chapter 11, Management Form No. 5).

Regional Construction Review

Purpose:

To establish procedures for review of LSR&T records to assure that such records adequately document costs incurred; that all measurements and computations are in accordance with the project specifications, and that all amounts due on estimates are properly separated into fund categories according to the project estimate, or that reimbursement to a governing body is in accordance with the project agreement and that records are adequately documented.

Procedures:

1. Until otherwise notified by the State LSR&T Engineer, review shall begin at the time the project is completed. The Regional Engineer may require an interim review when he believes such action is warranted. The number of LSR&T projects to be reviewed will be determined by the Regional Engineer. The status report will reflect projects available for review.

2. The Review Engineer, appointed by and under the direct supervision of the Regional Engineer should check the basic documentation of the project as necessary to assure himself that quantities were determined as prescribed by the plans and specifications or that reimbursement to the governing body (municipality, borough, village, etc.) has been made in accordance with the project agreement.

   A. Department of Transportation and Public Facilities/Contract project:

      Upon project completion, the final estimate and project records shall be reviewed. This review must be accomplished within 30 days after final estimate. The review should determine the following:

      a) Documentation and records support the quantities being paid.

      b) Measurement was made in accordance with plans and specifications, appropriate change documents, and properly documented force account records.

      c) Quantity computations were properly performed and independently checked.

      d) All work orders, change orders and extra work orders are accounted for.

      e) Plans and field records indicate work was performed within the project limits.

      f) Final acceptance has been made.

      g) Liquidated damages have been assessed when due.

      h) Project charges on the final estimate have been separated as per project agreement estimate, and properly distributed.

      i) LSR&T funds have not participated in right-of-way work.

      j) Costs are correctly classified and all participating costs are properly supported in accordance with the project agreement.

   B. LSR&T projects performed by a governing body, either by force account, contract, or utilization of local labor. This review must be accomplished within 30 days after the records are submitted to the Review Engineer. Review charges to this type of project cannot exceed one man workday unless prior approval is received from the Region Engineer.

The review should include the following:

a) Audit trail readily documents and supports quantities being paid and supports labor, equipment and material/ freight costs. The Wage Deductions Agreement, LSR&T Form No. 80 to be utilized when necessary.

b) Governing body receives authority to advertise and authority to award a contract, for work to be performed by contract construction.

c) LSR&T funds have not participated in costs incurred prior to execution of the project agreement or in costs attributed to right-of-way.

d) Change orders, etc. have had LSR&T Engineer's concurrence in accordance with the project agreement.

e) Increase in costs over the amount originally authorized are documented and properly authorized.

f) Final acceptance has been made.

C. If the project records fail the above review(s) they should be returned to the Regional Construction Engineer or LSR&T Engineer for corrective action. The Region Construction Section or LSR&T Engineer should document the disposition of all discrepancies. Within thirty days a report of such disposition will be forwarded to the Review Engineer, who will then prepare a final review report for submission to the Regional Engineer, with copies to the State LSR&T Engineer and Construction Engineer, outlining the review procedure, findings, and subsequent disposition of any discrepancies.

D. Final review reports will be retained by the region for a minimum of three years.

Status Report

The Status Report of projects is to be submitted annually by November 1. This report shall reflect the project status through September 30 on only those projects that were active on January 1, of that year. The State LSR&T Engineer may request interim reports.

Finance

Disbursements:

All requests for disbursement shall include the proper coding and region approval. Payment requests for payroll will receive special handling by the Headquarters' Finance Section.

Bank Accounts:

Joint Account for LSR&T Projects

In the event a village or small community has no money on which it can draw for procurement of material or payment of wages, it may be advantageous to advance the community the funds to initiate a project.

This can be done by including in the agreement a clause pertaining to establishing a joint account for purchase of material and payroll purposes, and a clause to the effect that the account may be closed by the Departmental signatory at any time.

After the agreement is approved, or at the time the agreement is submitted for approval, an advance may be requested and the account opened. Two reliable village employees, preferably the bookkeeper and foreman should be village signers, one of whom must sign with a Departmental signer in order for the check to be valid. If you have a State inspector or Project Engineer on site, they can co-sign and verify the checks against the daily and weekly reports prior to issuing the checks on the site.

If a Departmental co-signer is not on the site, the checks can be mailed in with the reports, material billings, etc., for verification and signing of the checks. Income tax and other deductions may be made prior to issuing the checks, or the employees can sign the wage deduction LSR&T Form No. 80.

Upon receipt of cancelled checks and bank statements (mailed to the Region LSR&T Engineer) the appropriate checks, or copies, should be attached to the weekly reports and material billings or invoices for ease of review.

Coding Structure

OLD CODE/NEW CODE CONVERSION

Old Code	New Code
14-81-7-101	25-81-2-101
-201	-201
-301	-301
-401	-401
-501	-501
-670	-001
-991	-002

NEW COLLOCATION CODES - LOCAL SERVICE ROADS
EFFECTIVE JULY 1, 1977

25-	Department of Transportation
25-81	Highways
25-81-2	Cap. Imp./General Fund
	Local Service Roads
25-81-2-001	Administrator
-002	Cost Bond Sales
-101	Central Region
-201	Interior Region
-301	Southeastern Region
-401	Western Region
-501	Southcentral Region

CHAPTER 7
EQUIPMENT 7-0
Purchase 7-1
Rental 7-1
Operation 7-1
Repair and Maintenance 7-1
Disposal 7-1
Inventory 7-2

EQUIPMENT

LSR&T Construction Equipment Purchase

To insure the LSR&T construction fleet remains operational, new or used equipment may be purchased to replace existing equipment.

The request for funds to purchase equipment must be accompanied with adequate proof as to necessity, intended use and cost savings. Each request will be adjudicated on its own merit.

Equipment purchases to expand the existing LSR&T construction fleet will not be approved except where a cost savings to purchase rather than rent is justified.

Equipment Rental

A. Private Source

Before approving an equipment rental contract, the equipment to be used should be examined by the Region LSR&T Engineer or his representative (knowledgeable of machinery) as to its operational capabilities. The equipment must meet state safety standards.

For equipment rental agreements see Chapter 11, LSR&T Form 70.

B. WCF Region and Headquarters Levels

WCF equipment should only be used if absolutely necessary.

A check of the rental rates before using is necessary and establishing if rental will be wet or dry. When using WCF equipment (wet rental) it is necessary to make sure that all fuel and repair costs are charged to the vehicle and not the project. Establishing a system for recording daily usage is necessary.

Operation

Proper training of operators before they mount the piece of equipment is essential. Safety of the operator and by-standers must be considered the main factor during this orientation.

Repair and Maintenance

Prior to beginning work on a project instructions should be provided on preventative maintenance procedures and establishing a system for recording the daily equipment usage and a time frame for servicing equipment.

Disposal of LSR&T Equipment

Refer to Chapter 6, Construction, Equipment Costs.

Inventory In-house operation

A record should be kept of all equipment assigned to LSR&T and should include the type, model, location, condition and accumulated maintenance costs.

CHAPTER 8

PERSONNEL 8-0

State Employees

LSR&T Assignments 8-1

Temporary Reassignment 8-2

Outside Employment 8-2

Village Employees

Local Hire 8-2

Local Control 8-2

State Control 8-2

Local Government Employees 8-2

Training of Community Residents

State Employees Local 71 8-2

Community Employees 8-3

PERSONNEL

State Employees

LSR&T Assignments:

Program Administrator

Charles D. Karella - State LSR&T Engineer
P.O. Box 1467
Juneau, Alaska 99802 Phone: 364-2121

Central Region I

Robert L. Haneline - Regional LSR&T Engineer
Pouch 6900
Anchorage, Alaska 99502 Phone: 266-1542

Ruth Iverson - Secretary
John McClellan - Project Engineer
Charles Moyer - Project Engineer
Paul White - Project Engineer

Interior Region II

Donovan S. Ronken - Region LSR&T Engineer
2301 Peger Road
Fairbanks, Alaska 99701 Phone: 452-1911

Benedict Jones - Roving Foreman

Southeastern Region III

Olaf L. Bartness - Region LSR&T Engineer
P.O. Box 3-1000
Juneau, Alaska 99802 Phone: 789-0841

Western Region IV

Johnathan A. Widdis - Region LSR&T Engineer
P.O. Box 1048
Nome, Alaska 99762 Phone: 443-5266

Jeffrey S. Chandler - Project Engineer

Southcentral Region V

Bernard Murphy - Region LSR&T Engineer
P.O. Box 507
Valdez, Alaska 99686 Phone: 835-4322

Due to the multiple duties performed by the Southcentral Region LSR&T Engineer, his position is retained in the Region's engineering budget for Design and Construction.

Temporary Reassignment:

To insure that LSR&T retains program oriented personnel for the construction season all personnel assigned to LSR&T must be given temporary reassignment to other sections of DOT/PF when the workload dictates. Concurrence of the accepting sections must be obtained. Any deviation from this procedure must have the approval of the State LSR&T Engineer.

If the RSA method of finance is utilized, a memorandum must be sent to the affected employee with a copy to the LSR&T Engineer. If a PA is used, a memorandum is not necessary.

Outside Employment:

Any Department of Transportation and Public Facilities' employee who is in violation of S.O.P. 0900-11 policy on outside employment, will be subject to immediate dismissal for cause. Supervisors who condone these violations will be subject to the same action.

Village Employees

Local Hire - Local residents receive priority hire.

Local Control - As stipulated in project agreement.

State Control - When the Department administers the project, the control of the project is by the Department utilizing an initial hire list from the village.

Local Government Employees

The local government has control of the local government employees.

Training of Local Community Residents

State Employee Local 71 Status.

In hiring of Local 71's in the LSR&T program, the following pay schedules will be in effect in our training programs and hiring policies.

Our laborers will be hired at a WG 58, the normal pay schedule. Much of our work for them is in land clearing (ax work), and they need no training there, other training necessary is minimal. All operators, that is, truck drivers, load operators, and dozer operators, will start at the WG 57, Step A. At the end of two (2) pay periods they will progress to WG 56, at the end of four (4) additional pay periods, they will go to WG 55, at the end of four (4) more pay periods, they will go to WG 54. At that point, the truck drivers will receive no more increases. They will be considered trained. Four pay periods after the loader or dozer operators receive their WG 54 pay, those operators will move to a WG 53.

In the event this schedule goes into two (2) seasons, all the time in the previous season will count toward grade increase upon returning to work the succeeding season.

The employees will be in temporary status as they complete the progression through the training period. At the time they finish their training, and achieve full pay, they will enter normal employee status, i.e. either permanent status or no more than eight (8) continuous pay periods of temporary status.

An agreement to the effect must be obtained between the employee and the supervisor at the time or hire.

Community Employee

Construction projects in communities utilizing locally hired crews are sometimes plagued with high rates of absenteeism. In an effort to induce crew members to show up regularly the following training scale is established, subject to certain stipulations noted below, for drivers and operators hired without previous experience:

Step 1	First two weeks	*$ 6.00/hr
Step 2	Second two weeks	*$ 8.00/hr
Step 3	Third two weeks	*$10.00/hr
Step 4	After six weeks	*$11.00/hr

* or prevailing wage

The principal stipulation is this: An employee must be at work punctually and every day of a continuous two week period to be eligible for a raise to the next step in the scale. In the event that he is not regularly punctual or misses a portion of a day in any week, he forfeits the opportunity to apply that week towards fulfillment of the two-week requirement.

Operators and drivers hired with previous experience may be started at a higher step depending on qualifications. Operators and drivers who are current union A card holders are paid prevailing union, provided they are never absent without cause. Mechanics, clerks and secretaries wages are commensurate with experience or union background.

The crew should be advised that absenteeism could be cause for applying the scale in reverse after an employee has reached steps 3 and 4.

CHAPTER 9

PROJECT MAINTENANCE 9-0
Road Powers 9-1
Maintenance Responsibility 9-1
Revenue Sharing 9-2
Routine Maintenance 9-2

PROJECT MAINTENANCE

Road Powers

Local Government as defined in the LSR&T Act:

Article 3. Local Service Roads and Trails

Sec. 19.30.151. Local government participation. (A) Upon application by a local government, local service roads and trails constructed under the provisions of Sections 111-241 of this chapter and located within the jurisdictional boundaries of a local government, as defined in Section 241(3) of this chapter, may be transferred to that local government upon approval by the Department of Transportation and Public Facilities and after a vote of the people in the area. A local government which has assumed road powers before May 20, 1971 may not be required to hold an election as provided by this section.

(b) The commissioner is authorized to transfer funds to any local government which he determines to be qualified to construct local service roads or trails.

(c) Nothing in Sections 111-241 of this chapter prohibits a local government from participating financially in the construction of a local service road or trail.

Sec. 19.30.211. Maintenance. The department shall maintain, or cause to be maintained, any project constructed under the provisions of Sections 111-241 of this chapter, except that upon mutual agreement of the commissioner and the local government the responsibility for maintenance may be transferred to the local government if it is authorized to assume road maintenance powers.

Sec. 19.30.241. Definitions. In Sections 111-241 of this chapter (2) "home rule city" means a city defined in AS 29.08.010;

(3) "local government" means an organized borough of any class or a home rule city; (also home rule municipality).

Sec. 19.30.251. Local government powers. Road construction and maintenance authority is granted to local government, as defined in Section 241(3) of this chapter, which do not otherwise have that authority; however, the authority granted is limited to participation in the construction and maintenance of local service roads under Sections 111-241 of this chapter. (Section 2 ch 84 SLA 1971)

Maintenance Responsibility

Maintenance responsibility of projects constructed with LSR&T funds may be accepted by all local entities. Revenue sharing is available to all cities and boroughs incorporated under the laws of Alaska. Local governing bodies not incorporated may enter into road maintenance agreements with the Department of Transportation and Public Facilities. It is mandatory for home rule cities and home rule municipalities to maintain LSR&T funded projects.

Revenue Sharing

The Regional LSR&T Engineer should make every effort to explain the advantage of revenue sharing to all incorporated cities and organized boroughs.

For a local government to seek revenue sharing, the appropriate official must submit a release of maintenance responsibility to the Regional Highway Engineer for all roads constructed with LSR&T funds.

This document is to be sent to the State LSR&T Engineer who in turn will submit it with all supporting information to the Deputy Commissioner for Maintenance and Operations. When the request is approved, the mileage requested by the local government will be submitted by Maintenance and Operations to the Director of Transportation Planning to be deleted from the State Maintenance System.

The State LSR&T Engineer will be informed when the transaction is complete.

Routine Maintenance

Local service roads constructed by LSR&T funds and maintained by the Department shall be maintained as scheduled by the Regional Maintenance and Operations Division.

Reference is made to P & P No. 50-1000.

See Chapter 4 for projects maintained by State forces.

CHAPTER 10
CONTRACTS 10-0
Local Government Construction 10-1
DOT/PF Construction 10-2
Consultant Engineers 10-2
Negotiated Construction 10-2

CONTRACTS

Local Government Construction

All contracts with construction or engineering firms funded wholly or partially with LSR&T funds must be approved by the Deputy Commissioner for Design and Construction. No reimbursement of funds will be made for work performed prior to this approval.

All addendums, change orders, extra work orders must be approved by the Regional Engineer for Design and Construction.

Advertising and award of contract requires the approval of the Deputy Commissioner for Design and Construction.

Authority to Proceed will be issued by the Regional Engineer for Design and Construction upon receipt of the Department's concurrence in award.

The plan assembly submitted by a local government for approval must include the following information:

1. Plans
2. Specifications
   a. Table of Contents
   b. Notice to Bidders
   c. Information to Bidders
   d. Invitation for Bids
   e. Contractor's Questionnaire
   f. Proposal
   g. Corporate Acknowledgement
   h. Contract Bond (Payment)
   i. Contract Bond (Performance)
   j. Resident Agent's Affidavit
   k. Non-Collusion Affidavit
   l. Bid Schedule
   m. Contract
   n. Certification with Regard to the Performance of Previous Contracts or Subcontracts subject to the Equal Opportunity Clause and the filing of required reports.
   o. Certification with Regard to Increased Participation by Minority Business Enterprise in Highway Construction.
   p. Special Provisions. Specific Equal Employment Opportunity Responsibilities for all non-exempt State and State-Assisted Construction Contracts awarded in the State of Alaska.
   q. Notice of Workmen's Compensation Insurance
   r. Special Provisions
   s. Current Alaska Minimum Wage Rates
3. Engineer's Cost Estimate
4. Department of Fish and Game permit, if applicable
5. Coast Guard or Corps of Engineers permit, if applicable
6. Assurance that a Bid Bond will be required

Documents may vary from the above, but results must be conformable.

Department of Transportation and Public Facilities Construction

All contracts require the approval of the Commissioner.

Authority to Proceed will be issued by the Deputy Commissioner for Design and Construction.

Consultant Engineers

Consultant Agreements with local governments and subsequent changes to the agreements require approval by the Deputy Commissioner for Design and Construction.

A minimum of three Consultants shall be contacted to perform the services or justify why it is not feasible.

Negotiated Construction Contracts

The following facts are necessary to consider a negotiated contract for construction of an LSR&T funded project:

1. Project less than $100,000 may be negotiated at the discretion of the Department.

2. Projects exceeding $50,000 require bonding.

3. Legal bonding required for a contract is bonding of 50% payment and 50% performance.

4. Difference between the low bidder and the negotiated price must result in substantial savings to the State.

CHAPTER 11
LSR&T FORMS 11-0
Required 11-1
Management 11-18

REQUIRED LSR&T FORMS

LSR&T Form No.	Page	Description
10	11-2	Project Agreement - Local Government
20	11-6	Project Agreement - Local Governing Body
30	11-7	Funds Authorization
40	11-8	Employee Pay Agreement
50	11-10	Resolution - Local Government
60	11-11	Resolution - Loval Governing Body
70	11-12	Equipment Rental
80	11-13	Wage Deductions Agreement
90	11-14	E.E.O. Report
100	11-15	Status Report
110	11-16	Reimbursable Services Agreement
120	11-17	Bridge Site Survey (DH-45)

NOTE: Each subsequent form revision will reflect in an increase of the form number by one, such as, the first revision to LSR&T Form No. 10 will read 11.

LSR&T Form

Region_____
Allocation District_____
Project No. _____
Project Name_____
Local Government_____
Mailing Address_____
Business Address_____
Phone_____

PROJECT AGREEMENT
LOCAL SERVICE ROADS & TRAILS

PROJECT:

Under the provisions of AS 19.30. 111 et. seq. this Project Agreement is entered into on this_____day of_____, 19___, by and between the State of Alaska, Department of Transportation and Public Facilities (hereinafter the Department), and_____ ___ _____, (hereinafter the Local Government) for the purpose of constructing the following described project:

(A) OBLIGATIONS OF THE LOCAL GOVERNMENT

To further accomplish the construction of the project, it is agreed that the Local Government shall:

1. construct the above-described project, which is more fully described by Appendices "A" and "B" attached hereto and made a part hereof consisting of a location plat (Appendix "A") and a typical cross-section (Appendix "B");

2. provide all funds necessary to construct the project;

3. acquire and certify to the satisfaction of the Department that all necessary right-of-way, easements, permits and utility agreements have been obtained prior to commencement of construction;

4. award a contract for construction of the project to the lowest responsible bidder through the competitive bidding process unless the Commissioner of the Department expressly approves an alternate method;

5. execute a written contract with a contractor for the project;

6. maintain accurate daily written records of all costs for which reimbursement is requested, which records shall be made available for inspection by the Department upon request, and preserve such records for a period of three years following final acceptance of this project by the Department or termination of this agreement, after which they may be destroyed except for the project history, project engineer's diary, photos and the correspondence folder.

7. promptly pay in full all legitimate claims for services or material provided for construction of this project and hold the Department harmless f m any claims or costs arising from the Local Government's failure or refusal to pay claims, whether or not those claims are legitimate;

8. indemnify, defend and hold harmless the Department from all liability, claims and demands arising from the work undertaken by the Local Government, its employees, agents or representatives, or arising out of any operation, no matter by whom performed or on whose behalf, whether or not in conjunction with work to be -ordinated by the Department;

(B) OBLIGATIONS OF THE DEPARTMENT

1. If the Local Government has fulfilled its obligations, the Department shall reimburse the Local Government for the cost of materials and labor used in construction of the project in an amount which may not exceed the sum of $_____, the maximum amount of Local Service Roads and Trails funds allocated to this project.

2. The Department further agrees to provide assistance upon request of the Local Government in the form of advice and consultation for all phases of the project, including further design refinement and advice during construction. However, managment of the project is the full responsibility of the Local Government.

(C) F RTHER CONDITIONS

1. Local Service Roads and Trails funds are obligated for this project in an amount as shown on the attached funds authorization which is made a part of this agreement. Maximum reimbursement for pre-construction engineering is limited to 15% of the Local Service Roads and Trails funds for this project.

2. Expenses incurred by the Local Government prior to the date of execution of this agreement will not be reimbursed by the Department.

3. The Department will not be obligated to reimburse the Local Government for costs which can not be adequately verifed as a necessary cost of construction.

4. The following stages of this project are subject to the prior written approval of the Department;

a. Plans, specifications and estimate prior to advertising

b. Award of the construction contract.

c. Any proposed contract for consulting engineering services.

d. Any changes in plans or specifications occurring during the construction of the project.

5. The Department has the right to make periodic inspections during the course of work and a final inspection upon completion of construction for the purpose of certifying that the funds expended by the Local Government on this project qualify for reimbursement under this agreement.

6. When the construction of this project has been completed and duly accepted, the responsibility for maintaining the facility shall be borne by the_____.

If the Department agrees to perform the maintenance, the Department reserves the right to issue utility, driveway and encroachment permits. If the Local Government is to bear the maintenance responsibility, the Local Government agrees to indemnify, defend and hold harmless the Department and the State of Alaska from any and all claims arising in connection with or related to the maintenance function.

7. This agreement may not be modified except by written agreement between the Commissioner of the Department and an authorized agent of the Local Government.

8. The parties to this agreement shall obey all federal, state, and local laws and regulations.

9. This supersedes any and all other agreements expressed or implied between the Department and the Local Government with respect to this project and this agreement contains the entire agreement between said parties.

Project No._____
Project Name_____

To witness this agreement, the Department and the Local Government have affixed hereto the signatures of the Commissioner of the Department and _____, the duly authorized signatory for said Local Government.

DATED this_____day of_____, 19__.

_____
(insert name of Local Government)

LOCAL GOVERNMENT

BY_____
Attach the completed resolution, (attached) approved by the Local Government

ATTEST:

_____
(Title)

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RECOMMENDED FOR APPROVAL:

_____

_____REGIONAL ENGINEER

APPROVED AND EXECUTED BY:

_____
Deputy Commissioner
Design & Construction

_____
Date

LSR&T Form

Region_____
Allocation District_____
Project Number_____
Project Name_____

Project Agreement
Local Service Roads and Trails
Local Hire

Under the authority granted by Chapter 84 Sessions Laws of Alaska 1971 this project agreement is entered into by and between the State of Alaska, Department of Transportation and Public Facilities; hereinafter called the Department, and _____, hereinafter called the Local Governing Body, that:

1/ The Department will upgrade local streets, access roads or trails, as shown on the attached plat with the typical section of improvement.

2/ A. In the event existing streets and platted street right-of-way do not agree, the platted right-of-way will govern.

B. Work will not begin until certification for the necessary right-of-way for this project is assured.

3/ A. The Department shall utilize local hire for on site project personnel excluding engineering personnel and project foreman.

B. Engineering personnel or project foreman may be hired locally at the discretion of the Department.

C. The Department will obtain initial local hire through the local governing body. Subsequent hiring is at the discretion of the Department.

4/ The cost of this project to the Department will not exceed _____.

5/ The Local Governing Body shall indemnify, defend and hold harmless the Department from all liability, claims and demands arising from the work undertaken by the Local Governing Body, its employees, agents, or representatives, or arising out of any operation, no matter by whom performed, or on whose behalf, whether or not in conjunction with work to be coordinated by the Department;

6/ The local Governing Body retains the right to provide additional unencumbered funds if they so desire.

7/ Project termination or work stoppage is dependent upon exhaustion of funds or completion of project, whichever occurs first.

8/ Following construction, maintenance will be provided by the _____.

9/ Any modification of this agreement are subject to mutual approval of both parties.

To witness the agreement, the Department and the Local Governing Body have affixed hereto the signatures of the Deputy Commissioner for Design and Construction and Village Council President, or duly authorized signatory of said Local Governing Body.

_____
Local Governing Body

_____

_____

_____
Date

Attach the completed resolution (attached) approved by Local Governing Body

RECOMMENDED FOR APPROVAL

_____
Regional Engineer Date

_____
APPROVED AND EXECUTED BY:

_____
Deputy Commissioner
Design & Construction
Department of Transportation
& Public Facilities

HIGHWAY REGION

PROJECT NO. G-

NAME OF LOCAL GOVERNMENT

_____

ALLOC. DISTRICT_____

PROJECT NAME _____

DESCRIPTION OF WORK AND REASON:_____

TYPE OF ACTION:_____

_____INCREASE FUNDS _____ORIGINAL FUNDING

_____FINAL (to match actual cost)

IT IS REQUESTED THAT FUNDS FOR THIS PROJECT BE AUTHORIZED AS FOLLOWS:

FUNDS CURRENTLY AUTHORIZED $_____

CHANGE REQUESTED ( ) _____ _____

TOTAL AUTHORIZATION
WITH THIS CHANGE: _____

_____ _____
Regional Engineer Date

Recommendation

Approved	Disapproved		
		_____ State LSR&T Engr.	_____ Date
		_____ Programming Officer	_____ Date
		_____ Director of Highway Design & Construction	_____ Date

AUTHORIZATION GRANTED: _____

Deputy Commissioner for Design & Construction — Date

Department of Transportation & Public Facilities

NOTE: THIS DOCUMENT IS NOT VALID UNLESS APPROVED BY THE DEPUTY COMMISSIONER

CC: Region
Program Officer
Finance

Region_____
Allocation District_____
Project Number_____
Project Name_____

STATE OF ALASKA
DEPARTMENT OF TRANSPORTAION
AND PUBLIC FACILITIES

LOCAL SERVICE ROADS & TRAILS
PROJECT REIMBURSEMENT AGREEMENT

This Agreement made and entered into this_____day of _____, 19___, by and between

Party of the First Part: State of Alaska, acting by and through its Department of Transportation and Public Facilities, hereinafter called the Department

Party of the Second Part: The _____, hereinafter called the Local Governing Body.

WITNESSETH:

Whereas, the local governing body desires to participate in the Local Service Roads and Trails program and,

Whereas, the local governing body has been allocated funds for the purpose of constructing a Local Service Road, and

Whereas, the local governing body desires that the Department administer the project in their behalf

THEREFORE, it is mutually agreed that:

A. The local governing body agrees to employ people for the purpose of constructing a Local Service Road Project.

B. The local governing body agrees to pay employees utilized in constructing the Local Service Road Project the following hourly rates:

Title	Hourly Rate

C. The local governing body agrees that pay will be for the actual hours worked on the project.

D. The local governing body agrees that:

1. The Department will supervise the people working on the project, or will assign a local foreman to supervise the project.

2. The Department will determine the days, shifts, hours and number of people to be used on the project.

3. The Department reserves the right to judge the ability of any locally hired person on the project and, if found unacceptable by the Department, the local governing body will provide an immediate replacement.

4. The local governing body requests that adequate Workman's Compensation and Liability Insurance be arranged by or on behalf of the local governing body for the duration of the project and that the Department pay the premiums for the local governing body.

E. The local governing body agrees that under no circumstances does this agreement bind the Department to any expenses in excess of the amount specified in the project agreement.

F. The local governing body specifically agrees to indemnify, defend and save harmless and exonerate the Department of and from all liability, claims and demands arising out of the work undertaken by the local governing body its employees, agents, representatives; or arising out of any operation, no matter by whom performed, or on behalf, or in conjunction with work to be coordinated by the Department.

G. The Department agrees to reimburse the local governing body for the wages of employees utilized on the Local Service Roads project and pay the premium, on behalf of the Local Governing Body, for Workmen's Compensation and Insurance Liability from the project funds.

H. It is mutually agreed that this agreement may be terminated by either party upon written notice in forty-eight (48) hours.

I. This agreement shall become effective on the date of its approval by the Department.

_____

BY: _____

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

BY: _____
Deputy Commissioner
Design & Construction

Recommended for Approval:

_____
Regional Engineer for Design
and Construction

LSR&T Form

(NAME OF LOCAL GOVERNMENT)

RESOLUTION NO.

A RESOLUTION OF THE _____ AUTHORIZING THE CONSTRUCTION OF THE _____ TO BE PAID FOR BY THE LOCAL SERVICE ROADS AND TRAILS FUND.

WHEREAS, the _____ desires to construct a road known as the _____ at a cost of _____, and

WHEREAS, pursuant to AS Ch. 84, Sec. 19.30.111 though Sec. 19.30.241, the State of Alaska has a fund for construction of local service roads and trails.

WHEREAS, the Local Government agrees to secure all royalities for road building materials from private or public lands necessary for the construction of this project, at no cost to the Department of Transportation and Public Facilities if a method other than the competitive bidding process is approved by the Commissioner of the Department.

NOW, THEREFORE, BE IT RESOLVED by the _____ that application be made to the State of Alaska for funds from the Local Service Roads and Trails Fund to be used in construction of the _____.

PASSED, APPROVED AND ADOPTED by the _____ of _____ on this _____ day of _____, 19___.

_____

NAME & TITLE

A T T E S T :

_____

, CLERK

(NAME OF LOCAL GOVERNING BODY)

RESOLUTION NO.

A RESOLUTION OF THE _____ AUTHORIZING THE CONSTRUCTION OF THE _____ TO BE PAID FOR BY THE LOCAL SERVICE ROADS AND TRAILS FUND.

WHEREAS, the _____ desires to construct a road known as the _____ at a cost of _____, and

WHEREAS, pursuant to AS Ch. 84, Sec. 19.30.111 through Sec.19.30.241, the State of Alaska has a fund for construction of local service roads and trails.

WHEREAS, this local governing body requests that the State of Alaska proceed with development of roads, trails and material sites in the vicinity of _____, as generally shown on the map attached hereto and made a part hereof.

WHEREAS, the proposed project was reviewed and found not to be detrimental to the welfare of the individual natives of this area if the right of way should fall within lands withdrawn under Section 11(2), (1) of the Alaska Native Claims Settlement Act.

WHEREAS, this local governing body has no objections to the granting of a Right-of-way by the Bureau of Land Management Townsite Trustee for the above named and numbered project.

WHEREAS, this local governing body has no objections to furnishing royalities (permission to use) for materials necessary to construct this project at no cost to the Department of Transportation and Public Facilities.

NOW, THEREFORE, BE IT RESOLVED by the _____ that application be made to the State of Alaska for funds from the Local Service Roads and Trails Fund to be used in construction of the _____

_____

PASSED, APPROVED AND ADOPTED by the _____ of _____ on this _____ day of _____, 19___.

_____

_____
NAME AND TITLE

A T T E S T :

_____
, CLERK

LSR&T Form

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS
AGREEMENT FOR RENTAL OF EQUIPMENT

Project Name: _____ Date: _____

Project No.: _____ Activity: _____ M.P. _____ To _____

The State of Alaska hereby enters into an agreement with:

Owner-Lessor: _____ Phone No.: _____

Address: _____ Alaska Business License No.: _____

City, State: _____ Zip Code: _____

The Department of Highways, in order to augment equipment pool operations, requires the rental of the equipment described herein:

1. The Lessee, the State of Alaska, agrees to pay for all damages caused by the negligence of its employees. The Lessor shall assume liability for damages caused by the negligence of other parties or acts of God.

2. The State of Alaska, will make all normal operating repairs to the equipment except those repairs required due to usage prior to this contract. The Lessor further warrants that he will pay for all major repairs to the said equipment.

3. The owner-lessor agrees to deliver the specified equipment to _____ and the equipment shall be picked up at _____.

   The owner-lessor warrants that the equipment is in good working order, and available for the full time specified in this contract.

   The owner-lessor further certifies he holds an Alaska business license, and has submitted his bid using the name appearing on that current Alaska business license.

   He further certifies he shall comply with all applicable State and Federal Laws and Regulations.

4. Payment of Taxes: As a condition of performance of this contract, the contractor shall pay all Federal, State and local taxes incurred by the contractor, sub-contractor or other person or persons in the performance of this contract, and proof of payment of these taxes is a condition precedent to payment by the State under this contract.

   Failure to comply with this provision releases the lessee from the rental and transportation costs.

5. The lessee will assume the responsibility for Workmans Compensation Insurance, when the leased equipment is under the operation and control, by an employee of the State of Alaska.

6. Description of Equipment: _____ With: _____. Without: fuels, oils & operator.

7. Rental Fee: $_____ Shall be per _____.

8. Specified time: _____ To _____.

Signed: For Owner-Lessor

By: _____

Title: _____

Signed: State of Alaska
Department of Highways

By: _____

Title: _____

Project _____

Date _____

Name: Social Security No. _____

Residence Address:

Mailing Address:

The undersigned hereby acknowledges that wages received for work performed in connection with the above project is taxable income, and as such will be reported by the undersigned on the applicable income tax forms when due, the undersigned is also responsible for payment of school taxes, F.I.C.A., Employment Security, and any other taxes required by state or federal law.

Signed _____

The above named individual, known to me, did personally appear before me, and of his/her own free will, did sign this document on the date above mentioned.

_____
Notary Public (Postmaster)

Date _____

LSR&T WORKFORCE PROFILE BY PROJECT

LSR&T PROJECT Number: _____ LOCATION: _____ Dollar Amount of Project:$ _____

LOCAL HIRE DATA	1ST QUARTER, 19__		2ND QUARTER, 19__		3RD QUARTER, 19__		4TH QUARTER, 19__	
	Male	Female	Male	Female	Male	Female	Male	Female
ALEUT								
CAUCASIAN								
BLACK								
SPANISH SURNAME								
ASIAN AMERICAN								
AMERICAN INDIAN								
ESKIMO								
ALASKA NATIVE*								
TOTAL MINORITY								
TOTAL MALE/FEMALE								
TOTAL EMPLOYEES								
Breakdown by CRAFT Truck Drivers								
Laborers								
Operating Engineers								
Dollar Amt. paid for Wages on this Project($)								
ADH Project/Adm. Personnel								

* Includes Athabascan, Eyak, Haida, Tlingit, Tsimshian, Tyonek, etc.

NOTE: This report should be completed by the Project Engineer and should include each individual who worked on the project during that quarter. The report should be transmitted to Hdqtrs. upon completion of the project or at the end of the fourth quarter if it is a two year project. Additional comments can be listed on the back.

cc: Local Service Roads Engineer ; EEO Coordinator,

LSR&T FORM 100

LOCAL SERVICE ROADS & TRAILS

STATUS CHART

Date _____
By _____

Unorganized Boroughs ☐
Borough-Home Rule Cities ☐

PROJECT NO.	LOCATION	DESCRIPTION	IN PROGRAM	ADDED PROJECT	UNDER AGREEMENT	BY OTHER AGENCY	GRANTED AUTHORITY TO ADVERTISE	GRANTED AUTHURITY TO AWARD	UNDER CONSTRUCTION	CONSTRUCTION COMPLETE	FINAL INSPECTION	BILLINGS COMPLETED	PROJECT FINALED	FUNDS EXPENDED	FUNDS AUTHORIZED	REMARKS

11-15

STATE OF ALASKA

REIMBURSABLE SERVICES AGREEMENT

The _____ hereby requests the following services
(Agency)

to be performed by the _____
(Agency)

PROJECT OR PROGRAM TITLE: _____

DESCRIPTION AND TERMS OF REIMBURSEMENT: _____

_____

_____

_____
(Attach additional information as required)

DATE COMPLETION REQUIRED: _____

ACCOUNT CODE TO BE CHARGED: _____

ESTIMATED COST OF PROJECT OR SERVICES REQUESTED

	Estimate	Actual
Planning and engineering	$ _____	$ _____
Land acquisition	$ _____	$ _____
Construction	$ _____	$ _____
Supervision	$ _____	$ _____
Equipment	$ _____	$ _____
Contingency	$ _____	$ _____
Other services (itemize)	$ _____	$ _____
	$ _____	$ _____
TOTAL	$ _____	$ _____

NOTE: Requesting agency must submit an encumbrance document with this agreement.

I certify, based on the above estimate, that sufficient funds are available to pay this obligation and that the appropriation code to be charged has a sufficient balance to cover this obligation through Interagency Charges Account (line item 900).

Signed: _____
REQUESTING AGENCY AUTHORIZED REPRESENTATIVE

Approved: _____
SERVICING AGENCY AUTHORIZED REPRESENTATIVE

Date: _____

Date: _____

FORM 02-038 REIMBURSABLE SERVICES AGREEMENT

DH 45
(4-66)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

BRIDGE SITE SURVEY
(To Accompany Contour Map)

Project No._____ Bridge No._____

Name of Stream:_____ Date of Survey:_____

Location:_____ Rt. No._____ Sta. No._____

Bench Mark_____ Do fish use stream for spawning?_____

Drainage Area:_____ How Determined:_____

General Description of Drainage Area:_____

_____

Any Storage Basins Upstream?_____

Elev. of High Water_____ High Ice_____ Date of High Ice_____

Location of High Water Mark_____

What caused H.W._____

_____

To what elevation can water be backed up without local flood damage?_____

Slope or gradient of stream: 500 ft. upstream_____ 500 ft. downstream_____

In dry stream bed, give water table elev._____

Describe ice and drift conditions_____

_____

Scour conditions._____

In general, is stream cutting or filling?_____

Should structure be skewed?_____

Should channel change be made?_____

Any special treatment for approach fills?_____

Sidewalks and Utilities_____

SUBMITTED BY_____

APPROVED BY_____
(District Engineer)

DATE_____

MANAGEMENT LIST OF FORMS

NUMBER	DESCRIPTION
1.	Application for Services
2.	Bid Tab
3.	Change Order
4.	Contractor's Release
5.	Certification for Local Government Project
6.	Daily Expenditure Account
7.	Daily Report of Contract Costs
8.	Documents Sent Out
9.	Equipment Rental
10.	Extra Work Order
11.	Final Estimate
12.	Final Estimate Review Report
13.	Foreman's Daily Report
14.	Reconnaissance Check List
15.	Reconnaissance Report
16.	Right-of-Entry and Easement
17.	Truck Load Measure Record
18.	Truck Measurements
19.	Vendor Payment Authorization
20.	Village Payment Form
21.	Weekly Equipment Expenditure Account
22.	Weekly Equipment and Labor Report

State of Alaska
Department of Transportation
and Public Facilities
Local Service Roads & Trails

APPLICATION FOR SERVICES

_____
(date)

Name of Applicant: _____

Address: _____

The above named hereby requests the Department of Transportation and Public Facilities to perform the following services; and does affirm that private or other State and government agencies are not available to perform the services requested:

_____

_____

_____

_____

_____

_____

The applicant understands that reimbursement of the total cost will be made to the State by money order or check upon receipt of billing by the State. It is further understood that the minimum service charge is $10.00 (ten dollars). Performance of the work will depend upon availability of equipment and personnel.

It is further agreed that the applicant will hold the State blameless for any damages or injuries that may occur during or after the performance of the work.

_____
Applicant's Signature

_____
Title

_____
Recommended by LSR&T (date)

_____ _____ _____
Approved by Regional Engineer (date) Region Location

Original to Finance (with G#)
1st copy to Regional Engineer
2nd copy to Local Service Roads & Trails

PROJECT G- ,

CONTRACTOR	PROPOSAL	BID BOND	AMOUNT

14-21F
(2-74)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

CHANGE ORDER NO. _____

_____ District

Sheet 1 of _____

Project No. _____ Contractor _____

Project Name _____ Address _____

The following change(s) in the above Contract are hereby ordered, in accordance with the terms of the Contract, and under the terms and conditions stated hereor

Receipt Acknowledged:	Recommended:
_____ Contractor	_____
_____ Contractor Representative Title	Issued: _____
Date _____ _____	Date _____

DESCRIPTION

Use Form 14-22a for continuation, if required.

14-22a
(2-74)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

CONTINUATION SHEET _____ Sheet _____ of _____

Project No. _____

14-17A
(3-74)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

CONTRACTOR'S RELEASE

RE: Project No._____ Final Project Amount $_____

Project Name _____ Previous Payments, Progress Estimate(s). 1 thru ____ $_____

_____ Final Payment Due $_____

CONTRACTOR: _____

Address: _____

Pursuant to the terms of the agreement in writing under date of _____,

19____ for the construction of _____
(Project Number)

and in consideration of the sum of _____

Dollars ($ _____) which has been or is to be paid under the said agreement to _____ _____

_____
(Contractor's Name and Address)

(hereinafter called the Contractor) or its assignees, if any, the Contractor, upon payment of the said sum by the STATE OF ALASKA, does remise, release and discharge the STATE OF ALASKA, its officers, agents and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from said contract, whether known or unknown and whether or not ascertainable at the time of the execution of this instrument except specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows:

_____

_____

_____

The Contractor agrees, in connection with the claims which are not released as set forth above, that he will comply with all the provisions of the said contract, including without limitation those provisions relating to notification of the Contracting Officer and relating to the prosecution of claims.

IN WITNESS WHEREOF, this release has been executed this _____ day of _____,

19____.

_____ _____
WITNESS Contractor

_____ BY _____
WITNESS

TITLE _____

(NOTE: In the case of a corporation, witnesses are not required, but certificate on reverse side must be completed.)

CERTIFICATE

I _____, certify that I am the _____

(official title) of the corporation named as Contractor in the foregoing release; that _____

who signed said release on behalf of the Contractor was then _____ (official title)

of said corporation; that said release was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

_____ (Signature)
Name:

Corporate Seal

CITY AND BOROUGH OF JUNEAU
DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S REQUEST FOR PAYMENT NO. _____ ON CONTRACT NO. _____

CONTRACTOR: _____

CONTRACT TITLE: _____

☐ Partial Pay Request for Period Ending _____

☐ Final Pay Request (attach contract release form).

Total Work Completed to Date*		$_____
Materials on Hand**	(+)	_____
NET EARNED ON CONTRACT TO DATE:		_____
Less _____% Retained	(-)	_____
SUB-TOTAL		_____

Previous Payments
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

EXAMPLE

Total Previous Payments	(-)	_____
BALANCE DUE		$_____

The undersigned hereby certify that all items and amounts on this request for payment are correct and that the work has been performed and/or material supplied in full accordance with the contract.

_____ (Date) _____ (Signature of Contractor's Representative) _____ (Title)

_____ (Date) _____ (Signature of Project Engineer or Architect)

*Attach Form 35 or Form 36.
**Attach invoices or other documentation.

CITY & BOROUGH OF JUNEAU
DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S PAY ESTIMATE NO. _____
(Lump Sum Contracts)

****

CONTRACT PRICE:
Original Contract Price: $_____

Change Orders (indicate + or -)
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

ADJUSTED CONTRACT PRICE $_____

****

WORK TO DATE THROUGH _____:
(date)

Work completed on Contract (____%) $_____

Work completed on change orders
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

****

Total work completed to Date $_____
(enter this amount on Form #34)

EXAMPLE

CITY & BOROUGH OF JUNEAU
DEPARTMENT OF PUBLIC WORKS

CONTRACTOR'S PAY ESTIMATE NO. _____
(Unit Price Contract)

Contract No. _____ Contract Title _____

Contractor _____

Estimate of work completed on _____
(Date)

Item No.	Description	Unit Price	Bid Quantity	Bid Amount ($)	Actual Quantity To Date	Amount To Date

EXAMPLE

RELEASE

_____, being first duly sworn and under oath does say that he is the _____ of
(Owner, President, etc.)

_____ and that the Final Payment of
(Name of Contracting Firm)

$_____ by the City and Borough of Juneau to the
(Amount of Final Payment)

Contractor will satisfy in full all claims in any way connected with contract for _____,
(Contract Number and Title)

which the Contractor has or may have against the City and Borough; and he further states that _____
(Name of Contracting Firm)

has satisfied all claims and indebtedness of every nature in any way connected with the contract, including but not limited to, all payables, amounts due subcontractors, accounts for labor performed and material furnished and liens and judgements.

Dated this _____ day of _____, 19___.

_____
Signature

_____
Title

Subscribed and sworn to before me this _____ day of _____, 19___.

_____
Notary Public for Alaska.
My commission expires ___
_____.

EXAMPLE

ALASKA DEPARTMENT OF TRANSPORTATION

DAILY EXPENDITURE ACCOUNT

State Project No:	Project:	Date:

LABOR COST (STATE PERSONNEL)

Name	Class	Hours		Rate		Amount	Subsistence
		Regular	Overtime	Regular	Overtime		
TOTAL - LABOR and SUBSISTENCE							

EQUIPMENT COST

Vehicle No. or Type	Hr./Mi.	Rate	Amount
TOTAL -			

MATERIAL COST

Description	Quantity	Price	Amount
TOTAL-			

SUMMARY OF COSTS

	Dollars	Cents
TODAYS LABOR COSTS		
TODAYS EQUIPMENT COSTS		
TODAYS MATERIAL COSTS		
TODAYS CONSTRUCTION COSTS (i.e. Contract Items, F.A. Sheets)		
TOTAL COST TODAYS WORK		
TOTAL COST BROUGHT FORWARD		
TOTAL COST TO BE FORWARDED		

REMARKS: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

PROJECT ENGINEER

ALASKA DEPARTMENT OF TRANSPORTATION
DAILY REPORT OF CONTRACT COSTS

Contract No:	Project:	Date: , 197
C LSR&T		
Description of Work: Grading & Drainage	Authorization No.	Estimated Amount

LABOR COSTS

NAME	CLASS	HOURS Regular	HOURS O.T.	RATE Regular	RATE O.T.	AMOUNT	TRAVEL OR SUBSISTANCE
SUBTOTAL - LABOR							
TOTALS - LABOR AND TRAVEL OR SUBSISTANCE							

EQUIPMENT RENTAL C

TYPE	HOURS	RATE	AMOUNT
TOTAL			

CONTRACT MATERIAL COSTS

KIND	QUANTITY	PRICE	AMOUNT
TOTAL MATERIALS COSTS			

SUMMARY OF COSTS

Costs	Dollars	Cents
Costs Brought Forward		
Labor		
Subsistance		
Equipment		
Materials		
Total Cost Today's Work		
Total Cost to be Forward		

I hereby certify that the above is a true and correct statement of labor performed and materials used in executing the work and that all hours shown were actually worked.

Prepared by:

_____ DATE _____
(Project Engineer)

Accepted by:

_____ DATE _____
(Contractor)

Distribution:

Original - Project Engineer
Copies - Contractor

DOCUMENTS SENT OUT

PROJECT NAME	PROJECT NO.	TYPE OF DOCUMENT	DATE SENT	ADRESSEE	RETURNED

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
AGREEMENT FOR RENTAL OF EQUIPMENT

Date _____

Project _____

Project No. _____

The State of Alaska hereby enters into an agreement with:

_____

_____

_____

for rental of the equipment described herein. The lessee, the State of Alaska, agrees to pay for all damages caused by the negligence of its employees. The lessee does not assume liability for damages caused by the negligence of other parties or acts of God (such as tornado, lightning, snowstorm, flood, etc., damage).

The lessee agrees to make the normal operating repairs.

The lessor-owner warrants that the equipment is in good working order.

Failure to comply with this provision releases the lessee from the rental and transportation costs. The lessor further warrants that he will pay for all major repairs to the said equipment.

Description of Equipment:

Rental Fee:

SIGNED: State of Alaska
Department of Transportation
& Public Facilities

BY: _____

SIGNED: _____ TITLE: _____
For Lessor-Owner

(NOTE: Letter of Agreement may be substituted.)

14-21G
(2-74)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

EXTRA WORK ORDER NO. _____

_____ District

Sheet 1 of _____

Project No. _____ Contractor _____

Project Name _____ Address _____

The above designated Contract is hereby modified in the manner described below. This order is supplemental to the above Contract, which is, by reference made a part hereof. All terms, conditions and provisions of the Contract, except as specifically modified herein, remain unchanged and in full force and effect.

Acceptance of this Extra Work Order constitutes agreement to the terms, conditions, and prices stated.

ACCEPTED:

_____
Contractor

_____
Contractor Representative Title

Date _____

Recommended:

_____

Issued: _____

Date _____

DESCRIPTION

Use Form 14-22a for continuation, if required.

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

FINAL ESTIMATE

SUMMARY OF QUANTITIES

14-25
(3-74)

Sheet _____ of _____

Project _____

Project No. _____

ITEM NO.	FA CODE	ACT CODE	ITEM	UNIT	UNIT PRICE	QUANTITY	AMOUNT

Prepared By _____ Date _____

Checked By _____ Date _____

DH-31
4-71

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

FINAL ESTIMATE REVIEW REPORT

Highway District_____

Project No. & Name_____Contractor_____

Description of Work_____

Required Completion Date_____Accepted for Traffic_____

Resident Engineer_____Project Engineer_____

Project Final Acceptance Date_____

Days Overrun_____Liquidated Damages Assessed $_____

Final Amount $_____Bid Amount $_____

Material Certification Date_____PR 47 Date_____

Classification of Costs

Per Project Estimate		Review Findings	
rticipating	$_,___,___.__	Participating	$_,___,___.__
Non participation	$_,___,___.__	Non participating	$_,___,___.__
Deferred participating	$_,___,___.__	Deferred participating	$_,___,___.__
Liquidated Damages	$_,___,___.__	Liquidated Damages	$_,___,___.__
Total Per Project Estimate	$	Total Review Findings	$
Participating	$_,___,___.__	Participating	$_,___,___.__
Non participation	$_,___,___.__	Non participating	$_,___,___.__
Deferred participating	$_,___,___.__	Deferred participating	$_,___,___.__
Liquidated Damages	$_,___,___.__	Liquidated Damages	$_,___,___.__
Total	$	Total	$

REMARKS: _____

I certify that my reviews of this project, in accordance with SOP 0201-01 indicate that all work has been substantially completed within the terms of the contract and authorized change documents, and also indicates that federal aid funds have been protected and properly classified unless otherwise noted above.

_____
Signature of Reviewer

_____
Date Submitted

LOCAL SERVICE ROADS AND TRAILS
FOREMAN'S DAILY REPORT

Project No._____ Name:_____

DESCRIPTION OF WORK PERFORMED

_____

_____

_____

_____

_____

_____

_____

MEN

Name	Started Work	Stopped Work	Work Performed	Actual Hours Worked.

EQUIPMENT

Type of Equipment	Started Work	Stopped Work	* Down or Standby Time	Work Performed	Hours Worked

* Down or standby time shall be explained in detail.
Note: If additional room for remarks is needed use back of this sheet.

Foreman's Signature:_____ Date:_____

FOREMAN'S DAILY REPORT INSTPUCTIONS

GENERAL:

The Foreman's Daily Report in the course of a normal day's operation should list the work being performed and by who and what equipment is involved. The report,in the event men and or equipment changed type of work,should note hours spent oneach item for the day. (e.g.) If a laborer was involved with culvert installation at the begining of the shift then worked atdrilling, his operation as noted on the "Daily Report" would show, say, 2 hrs.culvert,6hrs.drilling. The same would hold true for equipment changing basic jobs. In the event that for several days running,(e.g.) clearing and grubbing, a laborer would be noted on the first full day of this operation that he set chokers, operated chainsaw or whatever. As long as this operation contued the Foreman could note each day that "Men & Equipment the same" The first day of each week should be detailed. In all cases the remarks area on the "Daily Report" shall be filled out showing what work was accomplished for the day. The instructions for the equipment are the same as for the men. This report should contain enough information so that the job could be followed through on a day by day basis. This will be necessary for writing up the project history after completion of the work and might possibly show pitfalls that could be avoided in future operations.

SPECIAL:

(1) Materials should be noted as to when ordered,expected arrival date and actual arrival date. If a delay is encountered it should be noted and what action was required if any.

(2) The same holds true for Equipment.

(3) Unforeseen problems encountered should be described in detail. (e.g.) Inclement weather, major equipment breakdowns, anything that might slow down or stop the work for an appreciable length of time.

(4) State or Federal visitors,or legislatures or any one of note that might visit the project. If possible get their name, organization represented and any comments pertaining to the work.

(5) Anything related to the project that might be of interest that might not be normally noted.

LSR&T

RECONNAISSANCE CHECK LIST

Date: _____

Attended by: _____

_____

_____

1. Project Description: (length, typical section, plan and location.)

2. Estimated Cost:

3. R.O.W. Clear - Letter of Certification: _____

_____

4. Any utilities requiring relocation? _____ _____

_____

_____

5. Photos.

6. Costs incurred prior to agreement are not reimburseable: _____

_____

7. Local Government Participation.

   1. Administration. _____
   2. P.E. _____
   3. Labor _____
   4. Equipment _____
   5. Material _____
   6. Money _____
   7. R.O.W. _____
   8. Other _____

8. Pay Scales Used _____

   _____

9. Equipment Rental Rates: _____

   _____

10. Employment card if governing body not making deductions for payroll: _____

11. Equipment Rental Agreement to be completed prior to starting work: _____

12. Separate project checking account required to be countersigned by LSR&T Engineer: _____

13. Bank name and location: _____

    _____

    _____

14. Governing body signatures for account.

    _____

    _____

15. Local foreman available? _____

_____

16. Daily and weekly report forms to be furnished by Department._____

_____

17. Maintenance by _____

_____

18. Airport clearance required? _____

_____

19. Historical Preservation Act: _____

_____

20. Structures: _____

21. Materials: _____

22. Survey Required: _____

By whom: _____

District:_____ Name of Route_____

Termini: From_____ To_____ Length of Project_____

(INCLUDE MAP SHOWING PROJECT LIMITS)

Type of service to be provided: _____

Describe Existing Facility: _____

Proposed Facility:_____

Present System:_____ No. of persons served:_____

Location of materials sources:_____

Estimated Costs

P.E.	R/W	Construction	Constr. Engineering	Total

Type of R/W to be acquired:_____

Name of Head of Local Government:_____

Remarks (possible causes of delay, e.g. R/W, land claims, materials, etc.)

Construction Site Access:_____

WHEREAS, the STATE OF ALASKA, is willing to construct a Boardwalk and Foot Bridges through certain properties described below and the various owners and/or occupants are in agreement with the State's desire to construct said Boardwalk and Foot Bridges;

NOW THEREFORE, in consideration of the mutual benefits to be derived therefrom, the undersigned hereinafter called the Grantor states that he is the owner of said premises and is legally entitled to grant this right of entry and easement to the State of Alaska hereinafter called the Grantee, and by this instrument does herewith grant the State of Alaska the right to enter upon the following described real property for the purposes of constructing said Boardwalk and Foot Bridges over, throught and across said lands, said property being situated in the Iliamna Recording Precinct and more particularly described as follows:

A fifty foot strip along the westerly edge of U.S. Survey 5577 and generally following the existing trail.

EXAMPLE

It is agreed by the Grantee herein, that said road will be constructed along that certain alignment previously agreed upon, insofar as it is possible and that at a later date when such alignment had been ascertained the Grantor herein agrees to execute an easement in perpetuity to the Grantee establishing the route and width of said road.

Signed this ____ day of _____, 19_____

_____ _____ _____

Grantor

ACKNOWLEDGENT OF GRANTOR__

STATE OF ALASKA)
) ss.
)

ON THIS_____ day of _____, 19___, before me, the undersigned, a Notary Public in and for the said State, personally appeared_____, the Grantor__, known to me to be the identical person__ who executed the foregoing instrument and _____ he__ acknowledged to me that ___ he ___ signed the same as _____ free voluntary act and deed, with full knowledge of its contents, for the uses and purposes therein mentioned.

IN WITHNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

My Commission Expires:

_____
Notary Public

The Department of Transportation and Public Facilities hereby accepts the above easement on behalf of the STATE OF ALASKA.

_____
Region Right of Way and
Land Acquisition Agent
For the Commissioner

Project Pedro Bay
Parcel USS 5577

ALASKA DEPARTMENT OF HIGHWAYS No. 11

TRUCK LOAD MEASURE RECORD

Project No. _____ Date _____

Material _____

Truck No.	Capacity	No. Loads	Quantity

Today's Total _____

Previous Total _____

Total to Date _____

Project Engineer or Inspector

Contractor's Representative

ALASKA DEPARTMENT OF HIGHWAYS NO. 01

TRUCK MEASUREMENTS

PROJECT NO. _____ DATE _____

MEASURED BY:

MEASUREMENTS
AGREED TO BY:

_____
Contractor's Representative

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION and PUBLIC FACILITIES

CENTRAL REGION 4111 A... ION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-105)

Date: _____

TO: State of Alaska
Department of Transportation
Division of Highways
Local Service Roads & Trails
Pouch 6900
Anchorage, Alaska 99502

Pay to _____ _____, vendor, the amount

of $_____ for the items as stated below:

Vendor: _____ _____

Title: _____

Approved for Payment: _____
Project Engineer
Department of Transportation

PROJECT: _____ Activity: _____

PAYMENT FORM

Date _____

Village of
, Alaska

TO: State of Alaska
Department of Transportation

Pay to the Village of , Alaska, the amount of $_____ through _____ on Local Service Road Project No. G_____ in accordance with the Reimbursement Agreement dated _____, 19___, as itemized below:

NAME	HOURS	RATE	AMOUNT
		TOTAL AMOUNT	$

For the Village of: _____

Approved for Payment: _____
Project Engineer
Department of Transportation

Project: G_____ Activity: 490

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION LSR&T
WEEKLY EQUIPMENT EXPENDITURE ACCOUNT

PROJECT NAME_____ PROJECT NO._____

WEEK FROM_____ THRU_____ HOURLY RATE_____

DATE / NAME		MON	TUE	WED	THU	FRI	SAT	SUN	WEEK TOTAL
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
	HRS								
	AMOUNT								
DAILY HOURS									
DAILY AMOUNT									

REMARKS_____

_____ _____
PROJECT ENGINEER

WEEKLY REPORT FORM

Location: _____

Project: _____

Date: _____

LABOR: Name	Job	Hours Reg.	Hours O.T.	Rate Reg.	Rate O.T.	Extensions	COST
							$
						Sub-Total:	$

EQUIPMENT:	Hours	Rate	COST
			$
		Sub-Total:	$

MATERIALS:	Unit	Cost/Unit	Invoice No.	COST
				$
			Sub-Total	$

Computed By: _____

Title: _____

Date: _____

SHEET TOTAL $ _____

PREVIOUS TOTAL $ _____

TOTAL TO DATE $ _____

NOTE: Foreman's Daily Report should be used for Backup.

HB

170

STATE OF ALASKA
FISCAL NOTE

Revision Date March 16 , 1983

I. REQUEST
Bill/Resolution No.: HB 170
Title: Approp. to DOT/PF construct, harbor facilities at St. George & St. Paul
Sponsor: Herrman, Cato & Zharoff
Requestor: House Trans. Committee

II. FISCAL DETAIL
Agency Affected: DOT/PF
Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0.0	0.0			
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		0.0	0.0			
CAPITAL		22,340.0	16,900.0			
REVENUE		0.0	0.0			

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
		0.0	0.0			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not provided by Sponsor.

IV. ANALYSIS: See attached for analysis.

Prepared By: William R. Snell Phone: 266-1468
Division: Planning and Programming Date: 3/11/83

Approved by Commissioner: Date: 3/16/83
Department: Transportation and Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

St. Paul's total two-phase harbor development will cost $28,900.0. Recommend Phase I funding at $12,000.0 and Phase II funding at $16,900.0.

St. George's harbor development cannot be phased. The latest cost estimate is $12,000.0 to $14,000.0. There is an existing construction fund of $3,660.0. A maximum of $10,340.0 is needed in addition to the existing construction fund. This increase is due to a reevaluation of available on-island armor rock sources. Design modifications have occurred as a result of available armor rock having a lower specific gravity than originally estimated.

The FY'84 Capital Expenditure column reflects the additional $10,340.0 needed to fund the St. George harbor development plus the cost needed for Phase I of the St. Paul Project.

Dames & Moore
800 Cordova, Suite 101
Anchorage, Alaska 99501
(907) 279-0673
Telex: 090-25227 Cable address: DAMEMORE

March 17, 1983

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants
1506 West 36th Avenue, Suite 101
Anchorage, AK 99503

Attention: Mr. Jeff Gilman

Gentlemen:

Report of Additional Rock Testing
Surface Boulder Samples
St. George Island, Alaska

This letter summarizes the results of Los Angeles abrasion (ASTM C-131) and California durability index (plastic fines and aggregate) tests performed on samples of rock from St. George Island. Durability index tests were in accordance with AASTHO T-210-72 procedures.

The samples were obtained from "large rock" areas delineated on Figure 2 of our November 24, 1982 geotechnical report. The samples were obtained by St. George residents acting on our telephone instructions with respect to sample size, location, etc. Earlier, specific gravity and absorption testing was completed for these samples; the results of those tests were presented in our letter dated February 17, 1983. At this writing, accelerated expansion tests (Corps of Engineers CRD-C148-69) and freeze-thaw loss testing (AASHTO 103-78, 50 cycle) are still in progress. Those results will be presented later. At this time, however, the accelerated expansion testing has been in progress beyond the nominal two-week time limit. Casual observation indicates no change in the samples. Also, the freeze-thaw loss tests have progressed through about 20 cycles. Thus far there is no visible change.

The results of the LA abrasion and durability index tests may be summarized as follows:

LABORATORY TEST RESULTS

Sample Identification	LA Abrasion Loss (percent)	Durability Index
Sample A+E (combined)	24(a)	-
Sample B+F (combined)	56(a)	-
Sample D	-	83.5(b)
Sample Z	-	85

(a) LA abrasion tests utilized gradation "A" (1-1/2 minus to 3/8 plus material).
(b) Two trials were run; results were 82 and 85, the average, 83.5, is reported above.

In addition to this testing, we have completed an examination under high magnification of these rock samples and have compared them side-by-side with the surface boulder samples obtained by ADC earlier this year. On the basis of this examination, all of the "new" samples have a less "open appearing" fabric than the ADC samples. There are no significant lithological differences, however; all the rocks can be classified as felsite or felsophyre as reported in our January 6, 1983 letter. Texturally, all of these rock samples appeared quite similar to those rocks obtained from the core borings and exposed in the cliff face. The fabric was perhaps somewhat more "open" than the cores, but only slightly more so. It was definitely tighter than the previous surface samples. Of course, this appearance difference is reinforced by the results of the specific gravity testing (as reported in our letter of February 17, 1983). Those test results were in the same range as the specific gravity data obtained by our earlier testing on the cores; they were considerably higher than the previous surface sample tests.

We have no complete, certain explanation for these differences in rock character. We understand that the initial surface boulder samples were broken from the edges of large rock blocks with heavy

hammers. Although close examination revealed no obvious signs of advanced chemical weathering (i.e., discoloration, deterioration of felospars, presence of clay minerals, etc.), we must speculate that some changes nevertheless had occurred. Perhaps years of frost action had opened up the fabric in some subtle way. As indicated, the only discernible difference between all the rock samples, based on examination under fairly high magnification, was the apparent "openness" of fabric. Since there is no reason to expect major lithologic or fabric differences on the basis of the rock origin, and since careful examination disclosed no litholcgical differences, we can only conclude that some process has operated to reduce the density of the boulder surfaces. The weight of evidence now suggests that a bulk specific gravity in the 2.6 area, or perhaps slightly higher, should be utilized for stability calculations.

Most of the additional testing (absoprtion, accelerated expansion, durability index, Los Angeles abrasion, and freeze-thaw loss) suggest that the rock is of reasonably good quality for armor rock purposes. The only exception is the LA abrasion test on combined Sample B and F, which produced a loss of 56 percent. Examination of the other test results, as well as the rock performance to date in the accelerated expansion and freeze-thaw testing, provides no clue as to why this particular sample should have performed so poorly in the abrasion testing. It is true that all of the samples for abrasion and durability index testing had to be crushed and screened from larger rock particles. Our review of case history data has established that crushed rock (as opposed to rounded gravel or crushed gravel) produces significantly higher losses under LA abrasion testing. This is particularly true of brittle rocks (such as these) which tend to break in ways that produce many relatively thin particles with sharp edges. We speculate that this may be the reason for the anomalously high abrasion losses for combined Sample B and F.

We have completed additional research in an attempt to better understand the implications of the various tests that we have completed. Our research did not produce any significant body of data comparing armor rock performance with results of these tests. As you know, the Los

Angeles abrasion and durability index tests were designed primarily for evaluation of concrete aggregate and crushed base or surfacing material for roads. The best information we obtained was included in a letter from Mr. James Paxton, Director of the Northern Pacific Division Corps of Engineers Materials Laboratory in Troutdale, Oregon. He transmitted to us a summary of typical riprap specifications that he had compiled for the various Corps regions within the North Pacific District and other (undefined) sources. We have reproduced that table in an attachment to this letter. It was interesting to learn that there is no district-wide policy within the Corps of Engineers with respect to riprap or armor rock specifications. During telephone conversations, Mr. Paxton explained that the specification provisions in this table are typical but all of them are not necessarily applied to each project. Also, he emphasized that the Corps tends to rely first on a record of satisfactory performance from a quarry; they "fall back" to specific specification provisions and extensive testing only if a quarry does not have such a record. (In earlier conversations with geotechnical engineers within the Seattle District, we were informed that they had numerous experiences with quarries that performed well in service where specification provisions indicated they should not and vice versa.)

- o O o -

We will report the results of the LA abrasion and durability index tests in a subsequent letter. In the meantime if you have any questions, feel free to call us. The budgetary reserve in our geotechnical study contract has been exhausted, no further testing or study can be undertaken without further authorization.

Yours very truly,

DAMES & MOORE

Larry L. Morrison
Associate

LLM:ss
3 copies submitted
8215-062-05

QUARRY STONE
RIPRAP SPECIFICATIONS - TYPICAL

Tests	District NPW (Walla Walla)	NPS (Seattle)	NPP (Portland)	NPA (Alaska)	MISC. (Non Corps)
Specific Gravity, BSSD (unit weight-lbs/cu ft)	≥2.75	2.56 (160.0)	2.56 (160.0)	2.60	2.57
Absorption, percent	≤2.5	3.0	3.0	2.5	5.0
Freeze-Thaw (100 cycles)	≤5.0	<10.0	15.0	5.0	15.0
Ethylene Glycol	No breakage	<15.0(a)	15.0	No breakage	+
Abrasion (500 cycles)	25.0	<20.0	20.0	20.0	25.0
Wet/Dry (80 cycles)		<15.0	15.0		15.0
MGSO4 (5 cycles)			15.0		
Petrographic	*	*	*	No significant deleterious materials	*
X-ray				No significant deleterious materials	

(a) Based on counting pieces that separate.
* No specific criteria, based on subjective analysis.

Dames & Moore
800 Cordova, Suite 101
Anchorage, Alaska 99501
(907) 279-0673
Telex: 090-25227 Cable address: DAMEMORE

February 17, 1983

Peratrovich, Nottingham & Drage, Inc.
Engineering Consultants
1506 West 36th Avenue, Suite 101
Anchorage, AK 99503

Attention: Mr. Jeff Gilman

Gentlemen:

Preliminary Report
Additional Laboratory Testing
Surface Boulder Samples
St. George Island, Alaska

This letter summarizes the results of specific gravity and absorption testing on rock samples from the various identified surface source area near Zapadni Bay on St. George Island. Samples were obtained from the "large rock" areas delineated on Figure 2 in our November 24, 1982 geotechnical report. The samples were obtained by St. George residents acting on our telephone instructions with respect to sample size, location, etc.

Specific gravity and absorption testing has been completed for all of these "new" samples. Additional tests, including Los Angeles abrasion, durability index, freeze-thaw loss, and accelerated expansion are now in progress and will be reported later.

In accordance with your request, specific gravity and absorption testing was completed in accordance with two different ASTM standard methods for comparison. Also, the specific gravity was computed in three ways - bulk, bulk SSD (saturated surface dried), and apparent. The results of these tests are summarized in the attached table.

All of these samples, irrespective of the test method, have higher specific gravities than the first surface boulder samples. The values, however, are lower than for the initial test results which were obtained from cores and samples broken from inplace rock in the sea cliff. A detailed examination of the lithology, texture, and fabric of these latest rock samples has not yet been completed. However, a brief hand lens examination indicates some variation. Some of the samples appear very similar to the initial batch of surface boulder samples that were obtained by ADC. A few pieces of rock appeared to have the "tighter" fabric and slightly darker color that characterized the bulk of the sound rock in the cores. Others were of

intermediate appearance. A more detailed examination will be made at the conclusion of the testing program and our final report will include that information together with all of the test results.

- o O o -

We trust that this information will be of value to you in the ongoing design development. If you have any questions, feel free to call us at any time. The LA abrasion and durability index tests should be completed in the latter portion of February. The other tests are quite time consuming and will be completed later.

Yours very truly,

DAMES & MOORE

By Larry L. Morrison

Larry L. Morrison
Associate

LLM:jm
Attachment
3 copies submitted

QUARRY STONE
RIPRAP SPECIFICATIONS - TYPICAL

Tests	District NPW (Walla Walla)	NPS (Seattle)	NPP (Portland)	NPA (Alaska)	MISC. (Non Corps)
Specific Gravity, BSSD (unit weight-lbs/cu ft)	≥2.75	2.56 (160.0)	2.56 (160.0)	2.60	2.57
Absorption, percent	≤2.5	3.0	5.0	2.5	5.0
Freeze-Thaw (100 cycles)	≤5.0	<10.0	15.0	5.0	15.0
Ethylene Glycol	No breakage	<15.0(a)	15.0	No breakage	+
Abrasion (500 cycles)	25.0	<20.0	20.0	20.0	25.0
Wet/Dry (80 cycles)		<15.0	15.0		15.0
MGSO4 (5 cycles)			15.0		
Petrographic	*	*	*	No significant deleterious materials	*
X-ray				No significant deleterious materials	

(a) Based on counting pieces that separate.
* No specific criteria, based on subjective analysis.

SUMMARY OF SPECIFIC GRAVITY AND ABSORPTION TEST DATA

Sample Location and Test Method	Percent Absorption	Specific Gravity		
		Bulk	Bulk SSD(1)	Apparent
Area A				
C-97	1.6	2.65	2.69	2.76
C-127	1.4	2.64	2.68	2.74
Area B				
C-97	2.3	2.53	2.59	2.69
C-127	2.2	2.52	2.57	2.67
Area C				
C-97	3.4	2.46	2.55	2.69
C-127	3.0	2.49	2.57	2.69
Area D				
C-97	1.7	2.66	2.70	2.79
C-127	1.7	2.66	2.71	2.79
Area E				
C-97	2.0	2.58	2.63	2.72
C-127	1.8	2.57	2.62	2.70
Area F				
C-97	2.4	2.58	2.63	2.74
C-127	2.4	2.58	2.64	2.75
Area Z(2)				
C-97	1.8	2.51	2.56	2.63
C-127	1.5	2.59	2.63	2.70

(1) SSD means saturated surface dried.
(2) Area Z sample for C-97 test method appeared slightly more porous than sample for C-127 test method.

St. George Village Corporation Forms Tanaq Fisheries Company

by Charles W. Smythe, Ph.D.

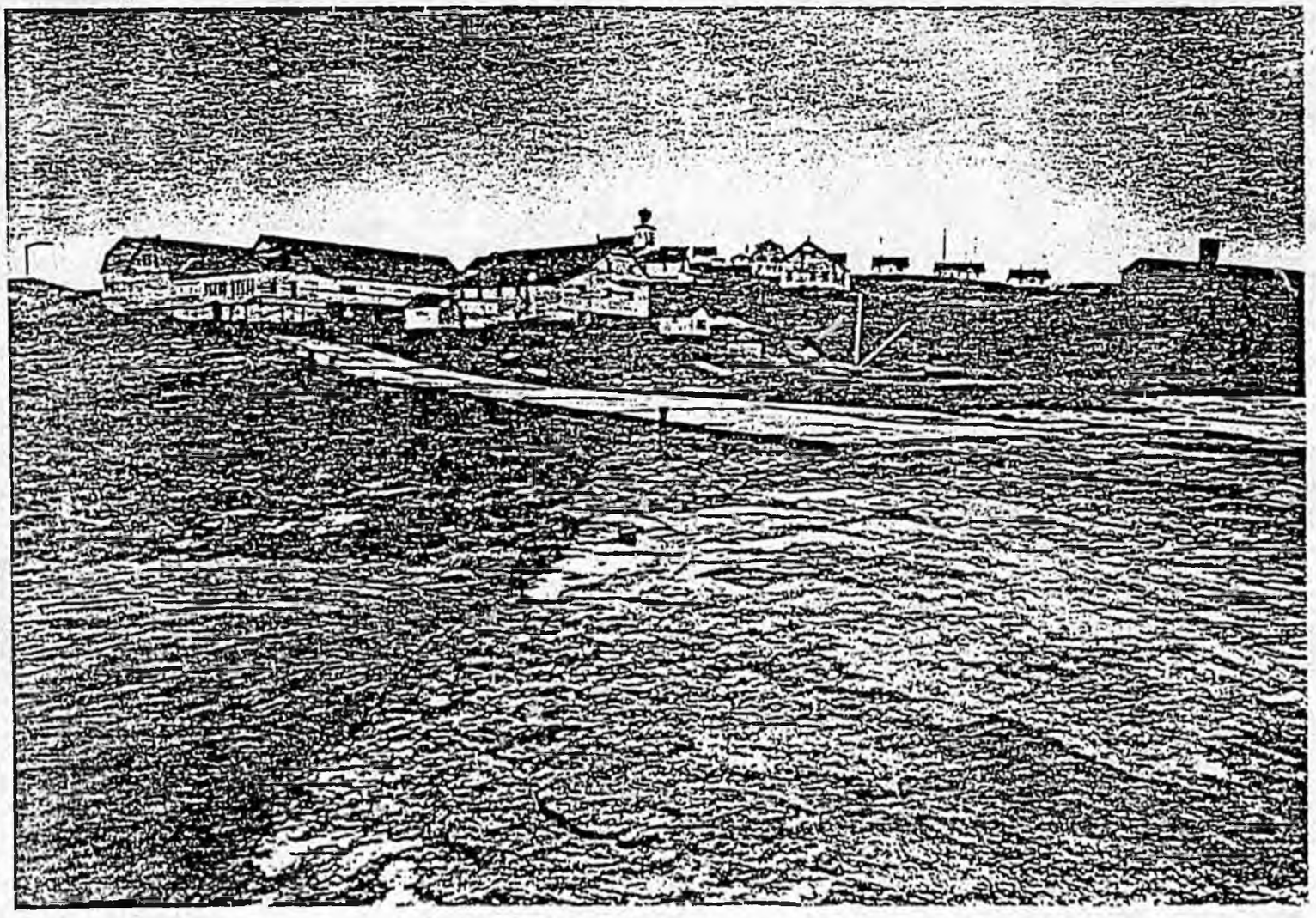


Photo courtesy of Aleutian-Pribilof Island Association, Inc. Photo by Stapleton/Klamser Photographers

Faced with the imminent withdrawal of the National Marine Fisheries Service's administrative support to the village of St. George later this year, the St. George Tanaq Corporation and the Village Council are developing plans for economic alternatives to government employment and administration. Because NMFS provides at least 80 percent of the earned income on the island, the need for immediate viable alternatives is critical. Tanaq is focusing its development efforts on the fisheries potential of the surrounding Bering Sea.

Last summer, Tanaq started a commercial fishing and fish processing operation which produced 14,000 pounds of frozen halibut during the two-week commercial season. Building upon the subsistence halibut fishing practices of the villagers, Tanaq bought fish from local fishermen who caught halibut hand-jigging in the Bering Sea from outboard-powered aluminum skiffs. The corporation sold the fish to the Hokuten Trawlers Association in Japan, which has agreed to buy all the fish that will be produced in the 1983 season.

The purchase agreement is part of a joint venture formed last month between the St. Gearge Tanaq Corporation and the Hokuten Trawlers Association, known as the Tanaq Fisheries Company. This business will take the lead in developing a primary interest in fishing on St. George. For the 1983 season, the Japanese group will give St. George a 26-foot vessel, including gear and equipment for halibut and crab. They will also send to St. George four experts in boat and equipment operation and fish processing. The Tanaq Corporation has two



Photo courtesy of Aleutian-Pribilof Island Association, Inc. Photo by Stapleton/Kiemser Photographers



Orca boats which will become part of the operation. Tanaq has agreed to sell 500,000 pounds of halibut to the Hokuten Trawlers Association, which will be caught and processed by the Islanders. In order to help ensure their access to the fish resource, St. George is joining with communities on St. Paul, Nunivak and Nelson Islands to request from the North Pacific Fisheries Management Council a longer season and a twelve-mile exclusive fishing zone around the respective islands.

During the last fishing season, the Tanaq Corporation started a fish processing operation in St. George. Villagers were required to process the fish in three different buildings due to the lack of facilities in the community. Flash freezing was done in the freezer at the village store owned by the corporation.

Next season, the corporation expects the operation to be in a single location. In the fall, workers began the conversion of an unused NMFS building into a processing and freezing plant. NMFS had used the building to store transformers, which had leaked oil. A soils test revealed no traces of PCB, which saved the corporation from having to remove 6 feet of ground from under the building.

As a contribution to the fishing operation, the Community Council installed a hydraulic boom near the village suitable for handling the small boats used in the fishery. Also, Tanaq is investigating the potential for providing loans for the purchase of boats. Several men wish to purchase slightly larger boats, 20-24 feet, for their fishing.

A subsidiary of Tanaq, the Pribilof-Highly Company, is another joint venture into the Bering Sea fishing business. This company was formed with a Taiwanese fishing organization. The company is planning to expand their operation with the purchase an American bottom-fishing boat.

Discussing their immediate development plans, Chairman of the Board Anthony Merculief said "We feel pressed to do something right away, in light of the pull-out of NMFS." The Tanaq Corporation and the Community Council are united in their position that the federal government should not pull out until a viable economy is established on St. George. Although their plans appear to be feasible, the fishery development is not definite.

A critical factor in the success of the fishing industry on St. George is the installation of a harbor. The State Department of Transportation is nearing completion of a harbor development plan, but there is no guarantee of state funding for the construction.

Representatives from the corporation and the Council recently signed an agreement with the Department of Commerce which provides for a trust fund to improve the economic viability of the islands (St. Paul and St. George). The Department of Commerce stopped work on refurbishing the NMFS building to be used in fish processing until an agreement was developed, in effect holding the building in hostage.

The Tanaq Corporation and the Community Council are united in their position that the federal govenment should not pull out untill a viable economy is established on St. George.

The community representatives are concerned that there be no stoppage in supplies and equipment to maintain the island, and they sought unsuccessfully to have provisions included in the agreement which would allow them to request assistance from the Department of Commerce if the need arises. They believe this provision is necessary until the island can develop an economic base, or at least until the completion of the harbor facilities. They have requested the Alaskan congressional delegation to obtain the necessary federal appropriations.

If funding is approved by the state, the harbor construction will require three years. After that time the Tanaq Corporation would like to have an onshore fish processing plant located near the harbor, so all of the St. George residents can have the opportunity to work. ■

ALEUT

COMMUNITY COUNCIL

ST. PAUL ISLAND
ALASKA 99660

March 23, 1983

The Honorable Bill Sheffield
Governor of Alaska
Office of the Governor
Pouch "A"
Juneau, Alaska 99811

Dear Governor Sheffield:

The St. Paul IRA Council requests your support funding the St. Paul Harbor Project.

With the National Marine Fisheries Service withdrawal this fall, viable economic alternatives must be found that provide economic development, allow St. Paul Island to become self supporting, and provide a positive outlook for growth in the future.

One of the world's richest fishing grounds surrounds the Pribilof Islands. The people of St. Paul are hard working and industrious but lack the facilities to support commercial fisheries development. We feel harbor development will create a positive impact to the state and local economy, and provide us the means to support ourselves gainfully, independently of government. Hand outs or subsidies.

Locally, the St. Paul IRA is providing $500,000 in fishing vessel loan guarantees to support local fishing development, operating in small boats off the beach - weather permitting. The Tanadgusix Corporation is constructing a small seafood processing plant to handle the catch. The City is providing materials and equipment for construction of limited boat launching facilities. All of this work and support is a start, however, without larger vessels and a protected all weather harbor, fishing seasons are limited to three months of fair weather in the summer.

Please support the St. Paul Harbor Project and our goal to develop a sound economic base for the community, provide future

growth and development commercial fisheries, and become the logistical support base for all marine and offshore related activities in the Bering Sea.

Respectfully,

Adrian Melovidov

Adrian Melovidov
President
IRA Council of St. Paul

cc: U.S. Senator Ted Stevens
U.S. Congressman Don Young
State Senator Bob Mulcahy
State Representative Adelheid Herrmann
Larry Merculieff, Tanadgusix Corporation President
John R. Merculief, Mayor, City of St. Paul
IRA Councilmembers
File

ST. PAUL HARBOR
PROJECT DESCRIPTION

JANUARY 1983

The proposed St. Paul Boat Harbor project is planned to fulfill a long-standing need for a port facility in the central Bering Sea. Such a facility will serve to establish an onshore commercial fishing industry near the vast fishery resources of the area, thus making a tremendous contribution in developing a renewable resource industry for the State. Presently, a large percentage of the commercial fish harvested in the region is taken by fishermen and processors from outside of Alaska due to lack of adequate landing and service facilities.

Detailed resource and fishing industry assessments have concluded that development of an onshore commercial fishing industry at St. Paul is, by no means, resource limited. Indeed, demand for such a facility is so great that a development of this type could soon fill to capacity, even at a large scale.

Several development scenarios were analyzed to balance the needs of the fishing industry, the goals of the residents of St. Paul, and likely available construction funds. The result of this analysis was a scenario based on a moderate level of development. Due to anticipated levels of funding, the development plan was divided into phases. Tables 1a and 1b illustrate, in general terms, the minimum expected volume and wholesale value of landings and processed product corresponding to Phase I development. Tables 2a and 2b illustrate similar estimates for Phase II.

In Phase I, dock space will be limited to the extent that priority must be given to vessels offloading fish, or cargo vessels which cannot afford lengthy waits. This facility will primarily be dedicated to establishing an onshore processing and cold storage operation. Limited services, such as fuel and ice will also be available.

The additional harbor area and port facilities planned for Phase II will provide additional berths for fishing vessels and a protected area sufficiently large to accomodate processing ships. Services to fishermen can be expanded to include repair facilities including electronics, gear, and engines.

Table 1a. ANNUAL VOLUME AND VALUE OF LANDINGS AT ST. PAUL HARBOR: PHASE I

Species	Volume (lb.)	Exvessel Price ($ per lb.)	Value ($)
Halibut	640,000	0.85	544,000.
Pacific Cod	300,000	0.21	63,000.
King Crab	600,000	1.00	600,000.
Hair Crab	750,000	0.70	525,000.
Tanner Crab	400,000	0.70	280,000.
TOTAL	2,690,000		2,012,000.

Table 1b. ANNUAL VOLUME AND VALUE OF PROCESSED PRODUCT AT ST. PAUL HARBOR: PHASE II

Species (product form)	Volume (lb.)	Wholesale Price ($ per lb.)	Value ($)
Halibut (frozen H&G)	480,000	2.50	1,200,000.
Pacific Cod (frozen H&G)	75,600	1.00	75,600.
Pacific Cod (salted)	86,400	0.75	64,800.
King Crab (frozen sections)	300,000	3.50	1,050,000.
Hair Crab (frozen whole)	650,000	4.00	2,600,000.
Tanner Crab (frozen sections)	200,000	2.10	420,000.
TOTAL	1,792,000		5,410,000.

Table 2a. ANNUAL VOLUME AND VALUE OF LANDINGS AT ST. PAUL HARBOR: PHASE II

Species	Volume (lb.)	Exvessel Price ($ per lb.)	Value ($)
Halibut	800,000	0.85	680,000.
Pacific Cod	1,000,000	0.21	210,000.
King Crab	1,200,000	1.00	1,200,000.
Bair Crab	1,500,000	0.70	1,050,000.
Tanner Crab	1,000,000	0.70	700,000.
TOTAL	5,500,000		3,840,000.

Table 2b. ANNUAL VOLUME AND VALUE OF PROCESSED PRODUCT AT ST. PAUL HARBOR: PHASE II

Species	Volume (lb.)	Wholesale Price ($ per lb.)	Value ($)
Halibut (frozen H&G)	600,000	2.50	1,500,000.
Pacific Cod (frozen H&G)	252,000	1.00	252,000.
Pacific Cod (salted)	288,000	0.75	216,000.
King Crab (frozen sections)	600,000	3.50	2,100,000.
Bair Crab (frozen whole)	1,300,000	4.00	5,200,000.
Tanner Crab (frozen sections)	500,000	2.10	1,050,000.
TOTAL	3,540,000		10,318,000.

The principal component of the proposed St. Paul Harbor project is a breakwater/wharf structure which will create an artificial harbor at Village Cove. This harbor will contain a fishing port as well as facilities to handle cargo vessels and fish processing ships.

The completed breakwater/wharf will be 1,770 feet in length and will provide approximately 17 acres of protected basin with a depth of 18 feet or greater at mean lower low water, with no dredging required. Since the cost of this facility is estimated to exceed the amount of funding which can be reasonably expected to be available in the initial stage of development, the project is planned to be developed in phases.

Phase 1 development will consist of the excavation of a portion of Village Hill at the harbor site and the creation of a protected harbor by constructing a one thousand foot long breakwater/wharf projecting out from the headland.

The excavation of the headland will create a three acre site for future fish processing plants and other facilities needed for the fishing industry.

The breakwater/wharf will comprise a breakwater and a wharf built back-to-back to form an integrated structure. No dredging of the Cove will be required. The 650 foot long wharf will provide berthing for any of the following combinations:

a. Two 140-foot long fishing vessels each moored alongside the wharf.

b. A floating fish processing ship and two 140-foot long fishing vessels moored side by side.

c. A cargo vessel and two 140-foot long fishing vessels moored side by side.

d. A moored ocean-going barge and two 140-foot fishing vessels moored side by side.

In addition to the above combination of vessels, the wharf will provide moorings for up to ten smaller fishing vessels. The capacity can be further increased by the addition of floats in the inner harbor as well

A roll-on/roll-off ramp will be provided to facilitate the unloading of barges and a bilge and processor wastewater collection and disposal system will be installed along the length of the wharf.

Phase II development comprises the extension of the breakwater/wharf to 1770 feet in order to provide additional berthing and improved shelter. The development will include the provision of service and maintenance buildings, lighting, and utilities.

The engineering and construction costs of Phase I development with the facilities proposed are estimated at $12 million. The costs for Phase II (the full development plan) are estimated at $25.8 million if the complete development is awarded in one contract. If the full development plan is constructed in two phases, the total cost is increased by $3.1 million due to the need to remove and reconstruct the breakwater head from Phase I.

In addition to its contribution to the State of Alaska in general, the St. Paul Harbor project will provide employment opportunities for local residents. These opportunities will occur at two levels. Short term jobs will be available during construction of the boat harbor and port facilities. Long term employment will be made available in fishing, fish processing, cargo handling, and other marine oriented activities.

The construction is scheduled in stages which will provide maximum opportunities for local participation. The initial stage will include haul road construction, demolition of structures and pipeline relocation, opening quarries, and preparation of contractor's housing. Most of these activities could be performed by local forces and would provide an excellent opportunity for local workers to expand their experience into the competitive marketplace. This will make those workers a more attractive labor pool for the main breakwater contractor in later construction contracts.

The main breakwater contract will be awarded to a contractor specially qualified for this work. Some of the jobs will, of necessity, be filled by the contractor's own experienced workers. However, there will also be substantial opportunities for local residents, particularly due to the high cost of transporting and housing outside workers at St. Paul.

Table 1 illustrates an estimate of the type and number of personnel who will be required to construct the Phase 1 facilities.

Even as the harbor is being constructed, long term commercial activity will begin to emerge. Negotiations between local groups and fish companies will establish the basis for onshore processing activities. Ancillary commercial activities such as electronic sales and repair, ship chandlery, fuel sales, ice plant, cold storage, etc. will also provide new business and employment opportunities for local residents.

TABLE 1: Construction Personnel Summary

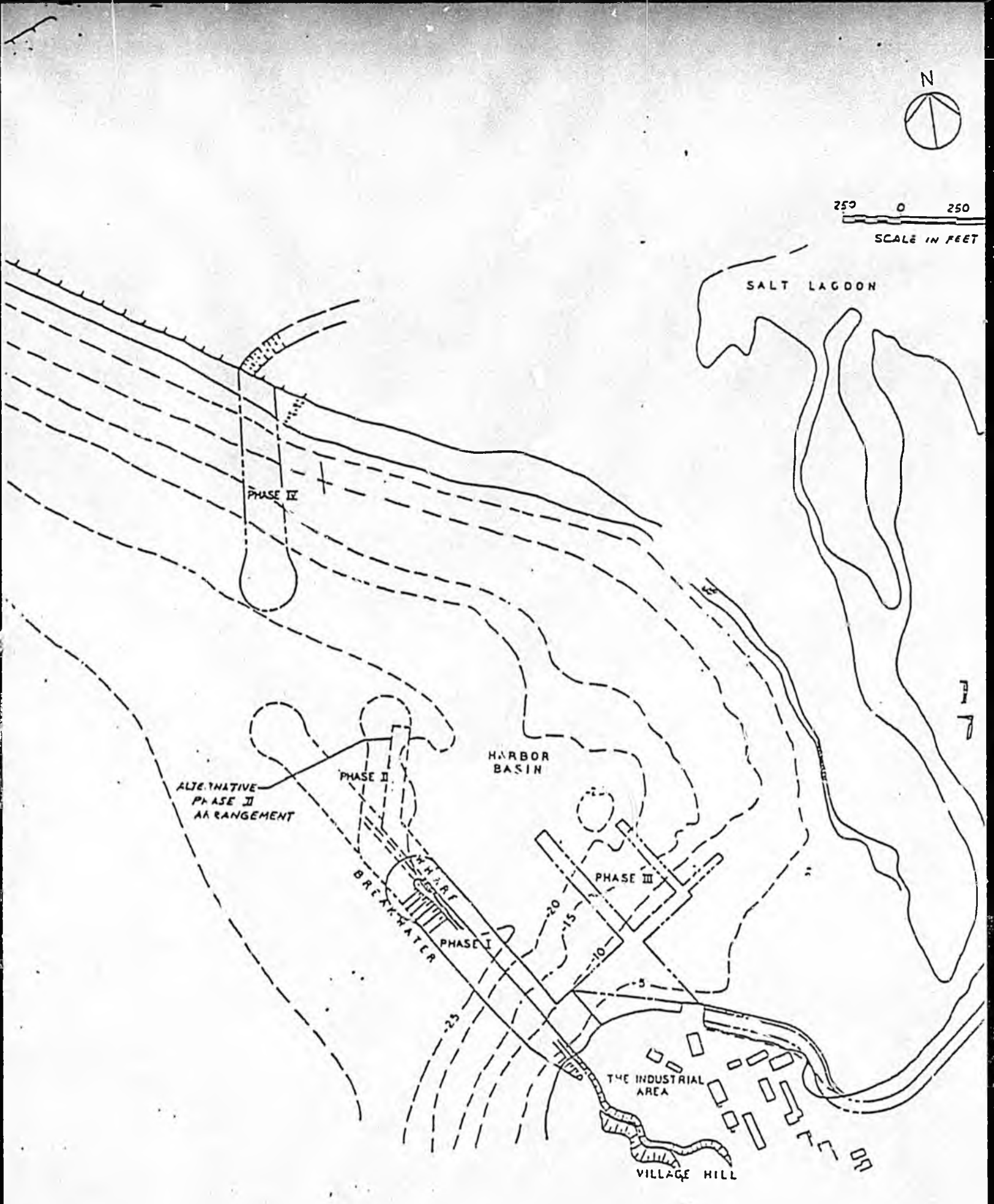
	Site Preparation	Quarries	Breakwater/ Wharf	Camp Operation & Maintenance	Main Contractor Requirement
Supervisory Staff					3
Foreman	2	2	1		3
Survey Crew	1		3		3
Operator	10	28	6		34
Driller		2			2
Chuck Tender		2			2
Powder Man		2			2
Oiler			4		4
Rigger			8		8
Teamster		4			4
Laborer	6	6	2		8
Signalman			2		2
Maintenance Crew	3			6	6
Camp Crew				12	12
Checker			2		2
Clerk			1		1
Timekeeper					2
Warehouseman				2	2
Carpenter	4		2		2
Plumber	2				
Dump Man	1				
Ironworker	3				
					102

Table 2 illustrates an estimate of the type and number of long term jobs which will likely be filled by St. Paul residents.

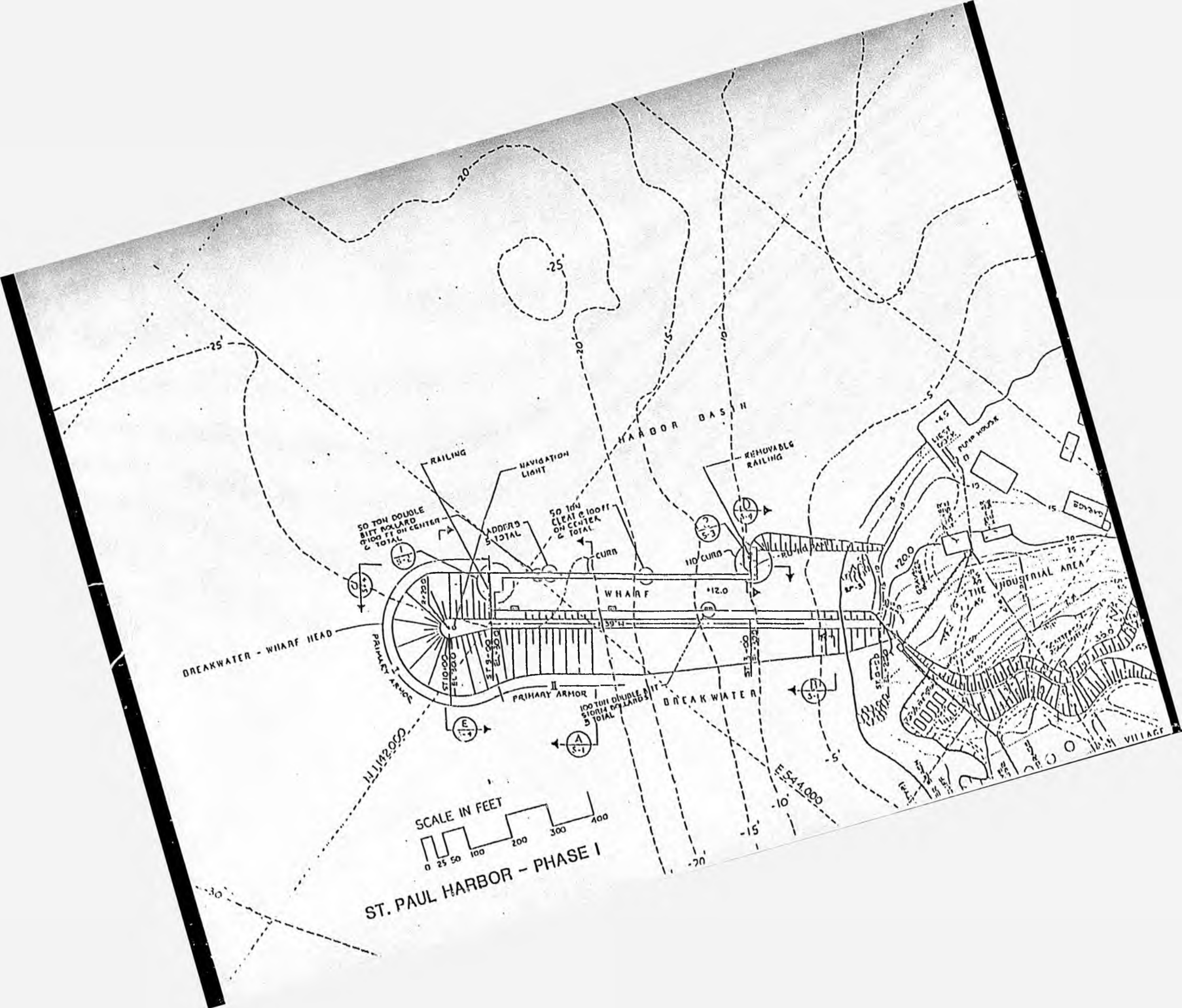
In addition to these marine oriented activities, general commercial activity will also increase, providing additional opportunities in the private sector.

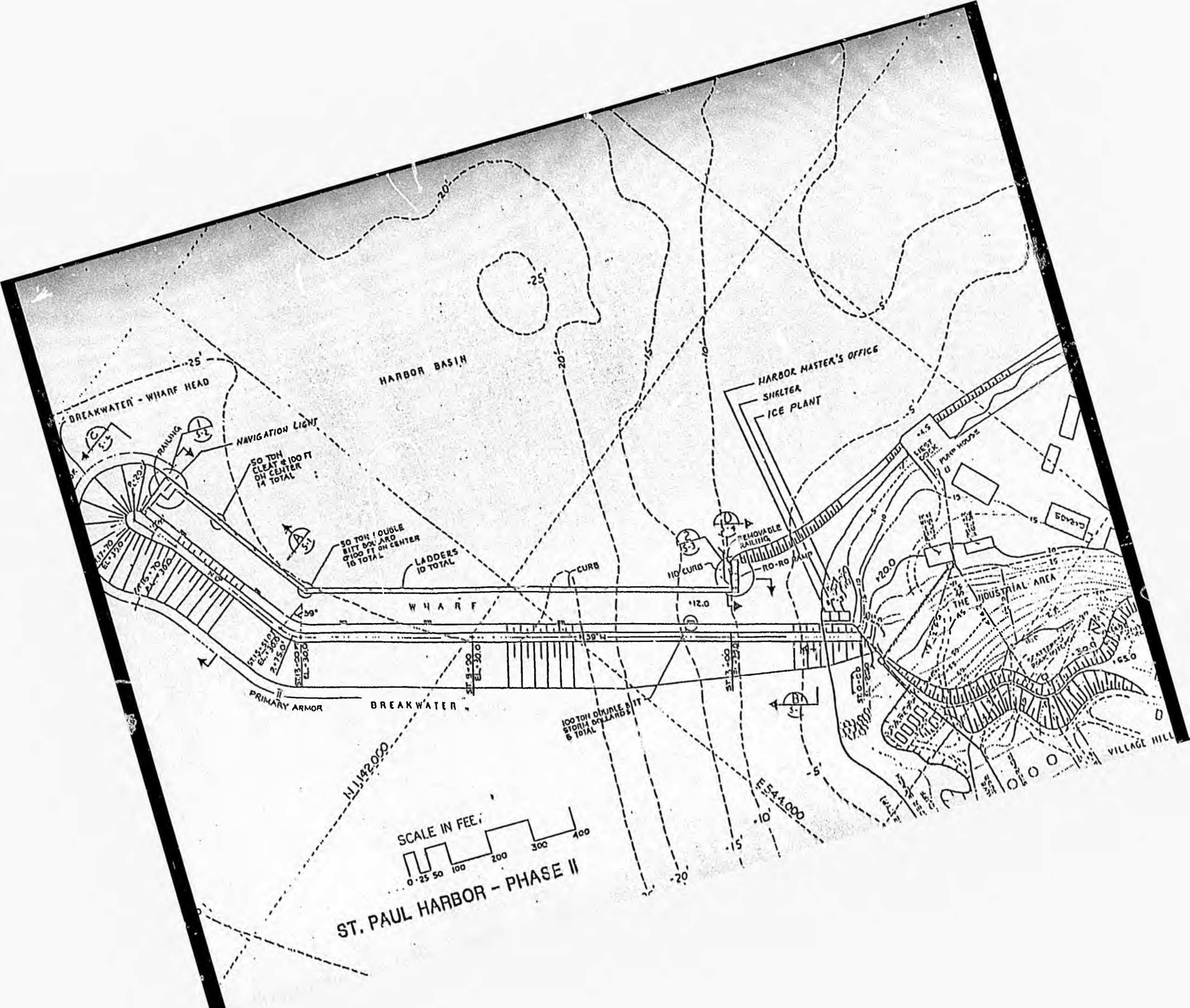
TABLE 2: Commercial/ Industrial Jobs Expected to be Filled by Local Residents

Fishermen	21
Processing	56
Service Industries	15
Public Sector	20



ST. PAUL HARBOR


HARBOR BASIN
RAILING
NAVIGATION LIGHT
REMOVABLE RAILING
50 TON DOUBLE BITT BOLLARD @100 FT ON CENTER 6 TOTAL
ADDED 5 TOTAL
50 TON CLEAT @100FT ON CENTER 6 TOTAL
CURB
110' CURB
WHARF
+12.0
+20.0
BREAKWATER - WHARF HEAD
PRIMARY ARMOR I
PRIMARY ARMOR II
100 TON DOUBLE BITT BOLLARD 5 TOTAL
BREAKWATER
THE INDUSTRIAL AREA
VILLAGE
E 54,000
-5'
-10'
-15'
-20'
-25'
-30'
SCALE IN FEET
0 25 50 100 200 300 400
ST. PAUL HARBOR - PHASE I


HARBOR BASIN
BREAKWATER - WHARF HEAD
NAVIGATION LIGHT
RAILING
50 TON CLEAT @ 100 FT ON CENTER 14 TOTAL
50 TON DOUBLE BITT BOLLARD @ 100 FT ON CENTER 16 TOTAL
LADDERS 10 TOTAL
CURB
WHARF
PRIMARY ARMOR
BREAKWATER
100 TON DOUBLE BITT STORM BOLLARDS 6 TOTAL
110' CURB
REMOVABLE RAILING
RO-RO RAMP
HARBOR MASTER'S OFFICE
SHELTER
ICE PLANT
LIGHT
PUMP HOUSE
CRANE
THE INDUSTRIAL AREA
VILLAGE HILL
-25'
-20'
-15'
-10'
-5'
N 1,142,050
E 544,000
SCALE IN FEET
0 25 50 100 200 300 400
ST. PAUL HARBOR - PHASE II

Transformation of the St. Paul Economy



Photo courtesy of Aleutian-Pribilof Island Association, Inc. Photo by Stephen Klamser Photographers

The Pribilof communities of St. George and St. Paul are the homes of the largest Aleut population living in a single area. Ninety-eight percent of the population are descendents of Aleuts who were brought to the Pribilof as slaves. The Russians transported the Aleuts to these islands in 1786 to harvest seals. The 1867 Treaty of Cession transferred the jurisdiction of Alaska from Russia to the United States. From 1867 until 1969, Aleuts were a captive labor force for private U.S. commercial companies harvesting fur seals.

The U.S. government assumed direct control of the Pribilofs in 1910. The U.S. Indian Claims Commission documented the federal administrators' treatment of the Aleuts.. The Commission reported the treatment of the Aleut as abhorrent and the human suffering as beyond

description.

It was only after the collective intervention of the United Nations in 1958, the State Human Rights Commission in 1964 and a special congressional investigation that the Aleuts' conditions of servitude changed. The passage of the 1966 Fur Seal Act provided a means for Pribilof Aleuts to attain political self-determination. Foremost was the right of the Aleuts to create a city government and receive land under the laws of Alaska.

The lack of knowledge and experience with outside institutions delayed the establishment of a city government in St. Paul until 1971. Prior to this time, contact with the outside had been virtually nonexistent. The federal government had exercised rigid control to maintain its Aleut captive labor force.

With the assistance of two Aleuts who were attending college, a city government was created in 1971. At the same time, the Alaska Native Claims Settlement Act (ANCSA) was passed in December 1971. For the first time since the Russians enslaved the Aleuts, the Pribilofs had the political and economic vehicles to attain self-determination. A serious drawback was still the lack of a trained human resource pool. The city and the ANCSA village corporations of St. George and St. Paul devoted the first four years of their existence to learning their basic functions, understanding relevant laws, establishing institutional contacts and training their people.

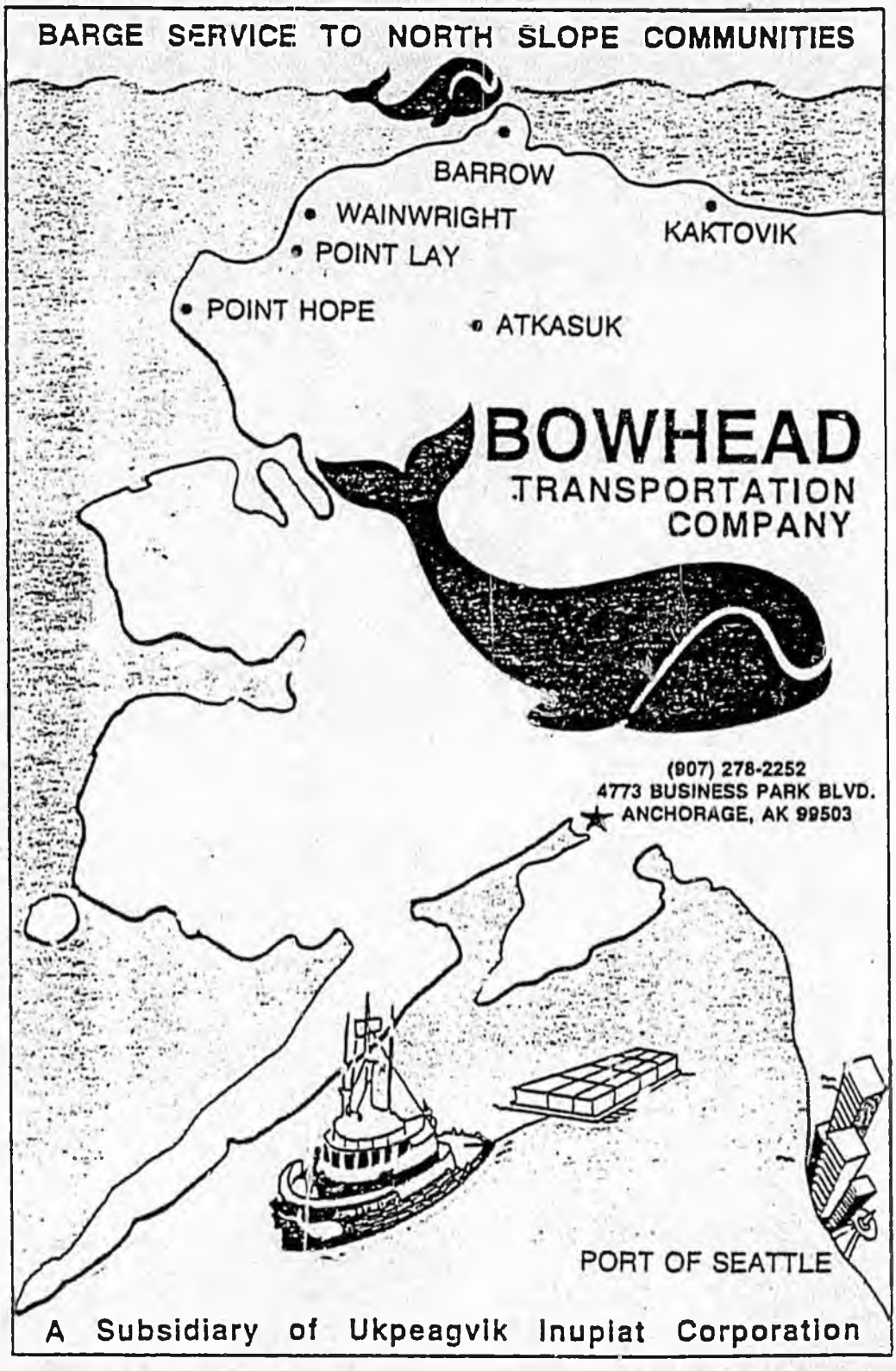
Since then, the Tanaq Corporation of St. George and the Tanadgusix Corporation of St. Paul assumed ownership of all village homes which were previously held by the federal government. In addition, the Tanaq Corporation took over operation of the local grocery store, and together with volunteers built a small airstrip on St. George.

The St. George Council took over police protection. The St. Paul city council assumed sanitation, water, police, and fire protection, road and airport maintenance and established a local magistrate system. Both villages created a school district and assumed direct responsibility for elementary and secondary education.

The Tanadgusix Corporation of St. Paul developed business enterprises which include marketing seal by-products, tourism, restaurants, two commercial fishing boats, a halibut processing plant and a training course for commercial boat operations. In addition, the Tanadgusix Corporation concentrated on obtaining funds for community economic development and training. The Tanadgusix Corporation also took the leadership role in forming an umbrella organization to guide economic diversification plans. The communities' accomplishments were made in a relatively short period despite the overwhelming handicaps of remoteness, high cost of transportation and operations, and untrained personnel.

In 1979, both communities began to plan the gradual phase-out of the federal operations in the Pribilofs. The government still provides 73 percent of the wage base and funds to operate all services in the villages. To date, only two Aleut individuals have been trained to manage the Pribilof federal operations. With a strong desire to seek political self-determination and economic self-sufficiency, the leadership felt it mandatory to plan the gradual federal phase-out.

The plans for a gradual federal phase-out were abruptly changed in 1980 under the new federal administration. Commerce Secretary Baldridge issued a directive to execute a one-year phase-out of government operations on the Pribilofs



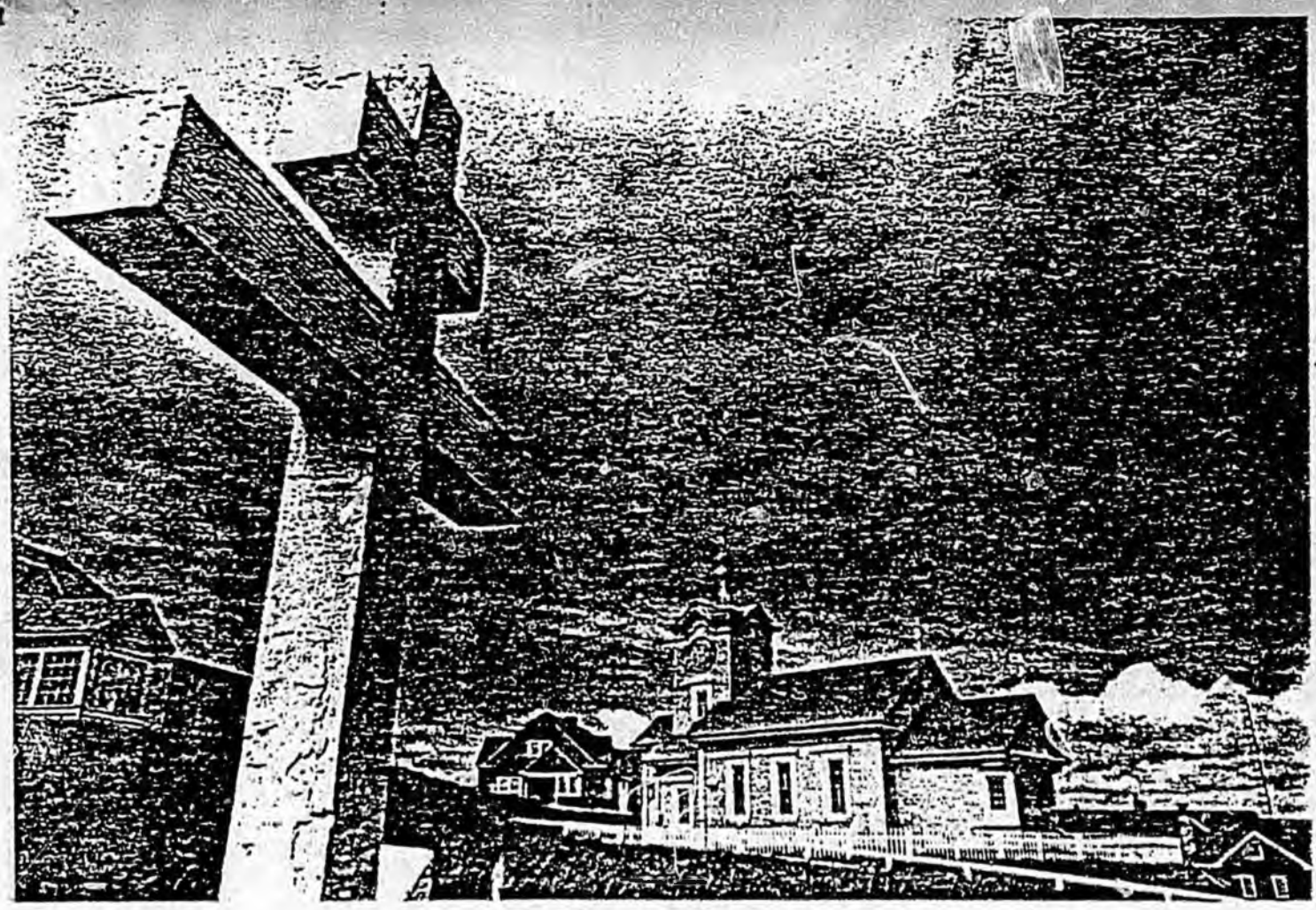


Photo courtesy of Aleutian-Pribilof Island Association, Inc. Photo by Stapleton/Klamser Photographers

Church on Saint Paul

which would cease by September 30, 1983.

The orgainzations on both islands mobilized in September, 1981, under an umbrella organization now called the St. Paul Interorganizational Council. The Council is coordinating the massive planning efforts to take over existing government services and develop new economic bases.

Economic Mobilization Projects

The impending federal withdrawal will require replacement of 73 percent of the total Pribilof wage base and assumption of the following services:

1. Marine transportation for transport of groceries and other major island supplies;

2. Operation, maintenance and funding of island power plants;

3. Purchase, supply and delivery of bulk home fuel and gasoline;

4. Purchase and maintenance of necessary heavy equipment;

5. Maintenance and operation of carpentry, plumbing and electrical shops;

6. Operation and maintenance of all water, sewer and electrical lines;

7. Maintenance of roads and buildings;

8. Funding and operation of the fur seal harvest and related buildings and equipment.

The federal withdrawal and the communities' assumption of these services and alternative economies will undoubtedly result in transformation of the Pribilof lifestyles essentially overnight. The Tanadgusix Corporation's and the St. Paul Inter-Organizational Council are initiating and conducting one of the most aggressive and comprehensive economic mobilization projects in the State.

The Tanadgusix Corporation has already expended nearly $1 million of its own capital in a variety of projects to assist in the economic transformation. The projects range from legal research, community planning and training to fisheries and harbor construction. Many projects are in progress and are coordinated with many federal, state and private organizations

An extensive planning effort is required for the government withdrawal and the development of a new economic base. The leadership has been severely burdened with the demands to coordinate these activities. At the same time, they must continue to conduct the usual governmental and corporate functions.

The leadership reports that a harbor is an essential requisite for the community's economic survival. They maintain that the largest Aleut community in the world will cease to exist without a harbor. The experts who are involved with the economic transformation efforts uniformly agree that the community *cannot* be viable without construction of the boat harbor.

The success of the local economy will benefit the national and state economies according to the St. Paul organizations. Construction of a port on St. Paul will aid to decrease the U.S. balance of trade deficit, increase the viability of a domestic bottomfishery, increase State revenues, provide local employment and the infrastructure necessary for the survival of an Aleut cultural stronghold. ■

Tanadgusix Corporation Enters Bering Sea Fisheries

An agreement between the Tanadgusix Corporation (TDX) and the National Federation of Medium Trawlers was signed in early December, 1982. The joint venture between TDX and the Hokuten Trawlers Association of Japan (sponsored by the National Federation of Medium Trawlers) is the beginning of a new commercial fishing industry on St. Paul. Hokuten and TDX have been exploring possibilities of joint efforts during the last twelve months. The agreement comes after reciprocal visits between Japan and the Pribilofs and several exploratory meetings. It is anticipated that the agreement will be ratified by the Board of Directors of each of the respective organizations.



Japanese experts will come to St. Paul in 1983

The National Federation of Medium Trawlers is an organization which represents Japan's medium trawlers. The Hokuten Trawlers Association is a group of small Japanese fishing companies headquartered in Tokyo, which owns or controls 97 boats.

The Tanadgusix Corporation, the ANCSA corporation of St. Paul village, has been involved in extensive studies of the Bering Sea fisheries for the past four years. Larry Merculieff, President of the village corporation, reports that TDX is now ready to become an active participant.

TDX owns and operates the King Eider Hotel on St. Paul Island. They also own the Anchorage International Airport Inn which is operated by International Inn, Inc., a subsidiary of TDX. In addition, TDX exports fur seal by-products to the Far East, leases out a production plant to a company which processes seal meat for dog food and crab bait, and operates two small *baby-longliners* as training boats for local Aleuts who wish to acquire commercial fishing experience.

TDX's agreement with the National Federation of Medium Trawlers is the first of many steps that it intends to take to ensure that its stockholders and the corporation will have the maximum opportunity to participate meaningfully in the vast Bering Sea fishery. The agreement calls for the Japanese to provide technical assistance to TDX and its stockholders in all areas involving day fishing boats, commercial fishing techniques, processing, quality control and marketing. Japanese experts will come to St. Paul in 1983. Provisions also exist to send St. Paul trainees to Japan for on-the-job training in fishery-related fields. The agreement also calls for the importation of a Japanese day boat under 5 net tons and gear from Japan to St. Paul to aid in local training.



The agreement calls for the Japanese to provide technical assistance to TDX and its stockholders

Merculieff noted that the agreement is essential to their economic viability. He stressed,

> *"We must prepare our people for the boat harbor which should be fully operational within four years. Without training, otherwise qualified Aleuts will not be able to participate in the fishery which will be headquartered on our land, nor will they have meaningful jobs."*

Merculieff cited the Japanese' extensive experience in fisheries as the reason for the business partnership.

Day boats will be used by the Aleuts in the fishery operation. Merculieff notes that they are familiar with them. Furthermore, day boats do not require an extensive knowledge of fishery technology. More importantly, they do not require a capital investment that is out of the reach of the corporation shareholders.

The agreement signed by TDX calls for short term obligations with minimal expenditures by TDX. Merculief stressed,

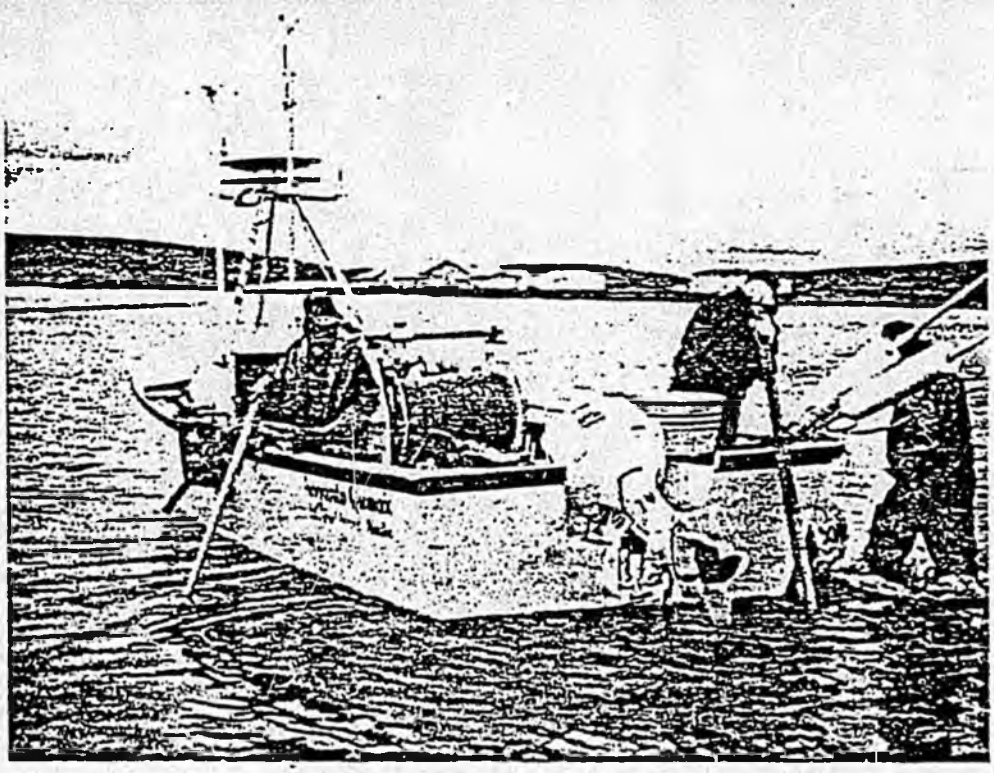
> *"We are going to keep our options open as far as any long term commitments are concerned, at least until we gain the requisite experience and more understanding of the business. We will not forego long term benefits for short term gains."*

A boat harbor is essential to TDX's participation in the Bering Sea fishery development. The corporation has campaigned extensively to obtain State funding for a major boat harbor on St. Paul. The harbor would serve the domestic Bering Sea fleet. Strategically located in the midst of one of the world's richest bottomfishery, St. Paul will be critical to fishermen and processors alike.

TDX's fishery plans also call for the development of a port in Chernofski Harbor on south Unalaska Island. According to Merculief,

> *"Chernofski Harbor is a natural deep water harbor, sheltered from most prevailing winds, with prime land suitable for large onshore facilities. TDX has been planning for the development of Chernofski as the major bottomfish port in Alaska for the past seven years. The domestic Bering Sea bottomfishery fleet will need a port. Dutch Harbor will have its hands full with the crab fleet, floating processor and the oil industry. We intend to provide a place for our American fishermen to our mutual benefit."*

Merculieff reports that TDX has been negotiating with a consotium of several large investors who are interested in developing Chernofski. He believes that negotiations may lead to development during 1983. ■



A boat harbor is essential to TDX's participation in the Bering Sea Fishery development



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PRIBILOF INTERORGANIZATIONAL COUNCIL

Tanadgusix Corporation
City of St. Paul



Aleut Community Council of St. Paul
Pribilof School District

(907) 546-2312

Janaury 10, 1983

Representative Adelheid Herrman
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Herrman:

We received your letter requesting priorities for St. Paul. We appreciate the opportunity to make input.

The obvious number one priority designated by all organizations on St. Paul is the first phase funding of the boat harbor. We hired Bechtel to do the design engineering and cost evaluations and their final report was submitted to DOT in December. During our last meeting in Anchorage, I gave you an executive summary of the project. If you need the complete Bechtel report, please let me know so I can get you a copy immediately. The first phase will cost twelve million dollars and would enable boat and processing operations to begin within a year of construction start-up. Needless to say, this project is essential for economic independence for St. Paul as well as St. George.

I understand that you will be in a meeting with us in Juneau when we talk with the Governor's staff. I look forward to providing more information to you prior to that meeting.

Our Corporation's second priority is funding for dock rehabilitation in Chernofski Harbor on South Unalaska Harbor. If I have not done so already, I am enclosing an executive summary of this project. Governor Hammond placed this in his capital budget at $600,000. I look forward to discussing this matter with you further when in Juneau.

Charlotte Kirkwood, planner for the IOC had developed other items which I am sure she will discuss with you if she has not already.

Goodluck this session.

Sincerely,

Larry Merculieff, Chairman

LM/mz

ST. PAUL BOAT HARBOR

Status Report (August 25, 1982)

Status Report Update (November 16, 1982)

INTRODUCTION:

With the withdrawal of Federal support from St. Paul Island, the provision of alternative employment and a renewed economic base is of great urgency.

The State of Alaska, through the Department of Transportation and Public Facilities, has recognized this need and during 1981 commissioned the consulting firms of Dames & Moore, and Norgaard (USA) Inc. to prepare a feasibility report and a harbor development plan.

The consultants investigated the fisheries resource, studied the socio-economic and cultural impacts, and undertook extensive environmental and physical investigations, including wave studies. The report concluded in the recommendation to construct a boat harbor at an estimated cost of $19,686,000.00. The harbor layout is shown as Figure 1.

ONGOING PLANNING:

Assisted by a grant from the State of Alaska, the City of St. Paul is proceeding with engineering design of the harbor facility to meet the urgent deadlines imposed by the withdrawal of Federal economic support. In this regard, the City has retained Norgaard Consultants as project managers and design consultants are now being selected for engineering design.

The previous environmental investigations have provided sufficient information to allow the consultants to proceed with preliminary engineering according to a 'fast track' design procedure shown in Figure 3. With this approach, some of the expensive and time consuming site investigations will be carried out concurrent with the construction contract and utilizing some of the contractors' equipment. With this approach, construction can commence by mid-1983 and allow for the first berthing of fishing vessels in the second half of 1984.

It is the intent of the design to propose a phased development of the harbor which will fit available funding. In this phased development, the initial phase of construction would consist of a length of breakwater and minimal berthing facilities and may amount to $12-14 million. Also, full cost estimates for this phase, together with preliminary engineering drawings, will be available by the first of December, 1982; in time to be presented to the new legislature.

With the 'fast track' design approach, reliable cost estimates can be provided within the present design budget of the City of St. Paul. If a standard design procedure was being followed, as shown in Figure 4, final cost estimates would require an expenditure of some $1.4 million and would not be available until late 1984.

Therefore, it appears that this 'fast track' design procedure will more realistically fit the needs of the people of St. Paul in providing for the fishing industry to begin operations approximately one year sooner.

ST. PAUL BOAT HARBOR
Status Report Update; November 16, 1982

Since the preparation of the original status report in August, Bechtel Civil & Minerals of San Francisco has been awarded a contract for preliminary engineering of the St. Paul Boat Harbor. This work has progressed well within schedule and we anticipate no problem in meeting the December 1 deadline for submission of cost estimates.

The preliminary plans developed by Bechtel have taken into account the need to provide a complete facility as soon as possible. The new layout is such that no dredging will be required, thus reducing any potential environmental impact. The new layout also provides an expanded harbor area which will allow for progressive growth of the port in the future.

Originally, the planned facility was to be divided into two basic development phases, since the estimate for construction at that time was on the order of $20 million and it seemed unlikely that that amount would be available in a single appropriation. Therefore, a maximum of $12 million was targetted as a reasonable limit for Phase 1 construction costs. By revising the layout, however, preliminary estimates indicate that the entire facility can be built for a cost of between $13 and $15 million thus allowing for a more efficient construction schedule, and earlier completion, at a much reduced cost.

Further details of the preliminary engineering design as well as final cost estimates will be available by December 1.

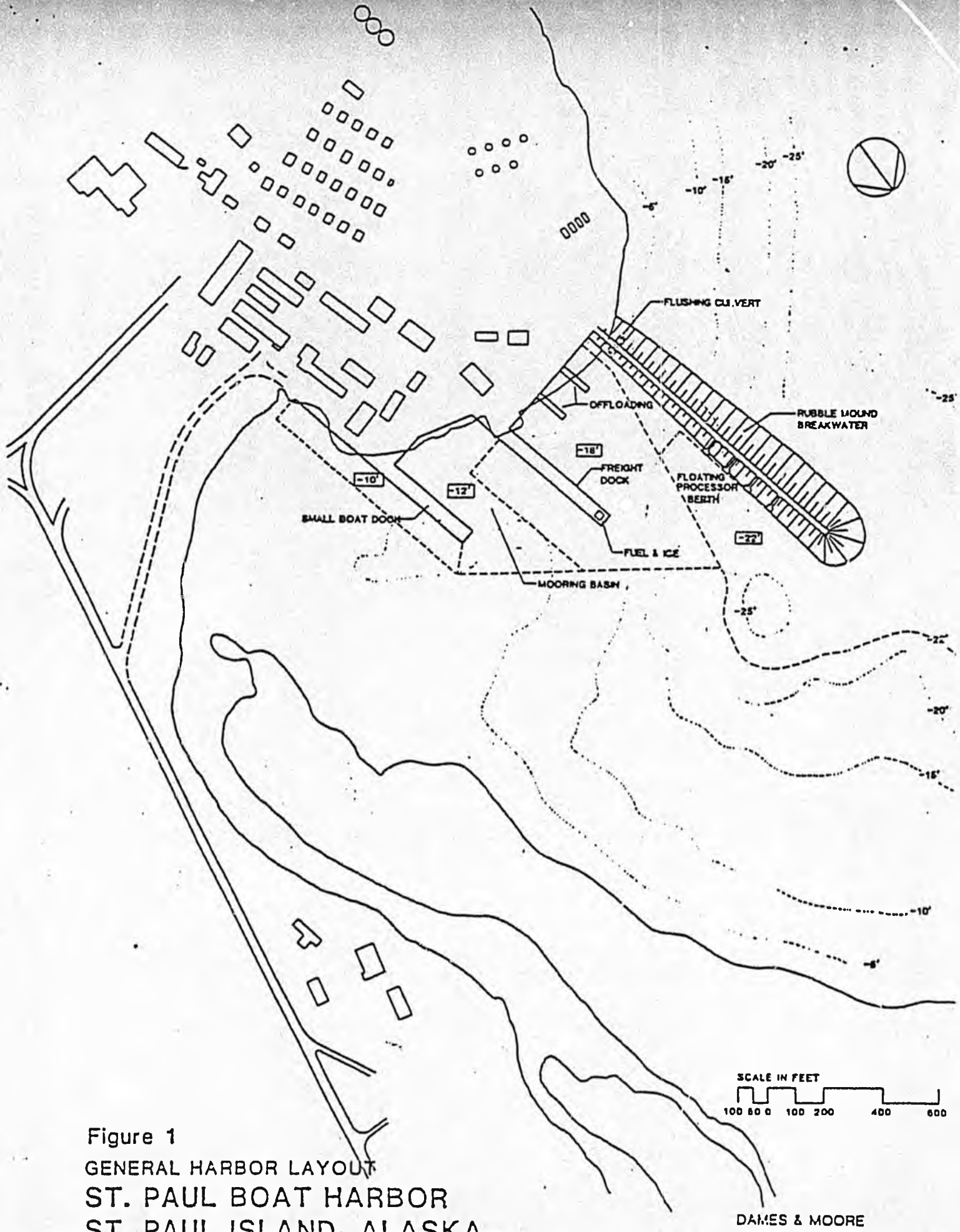


Figure 1

GENERAL HARBOR LAYOUT

ST. PAUL BOAT HARBOR

ST. PAUL ISLAND, ALASKA

DAMES & MOORE
NORGAARD (USA) INC.

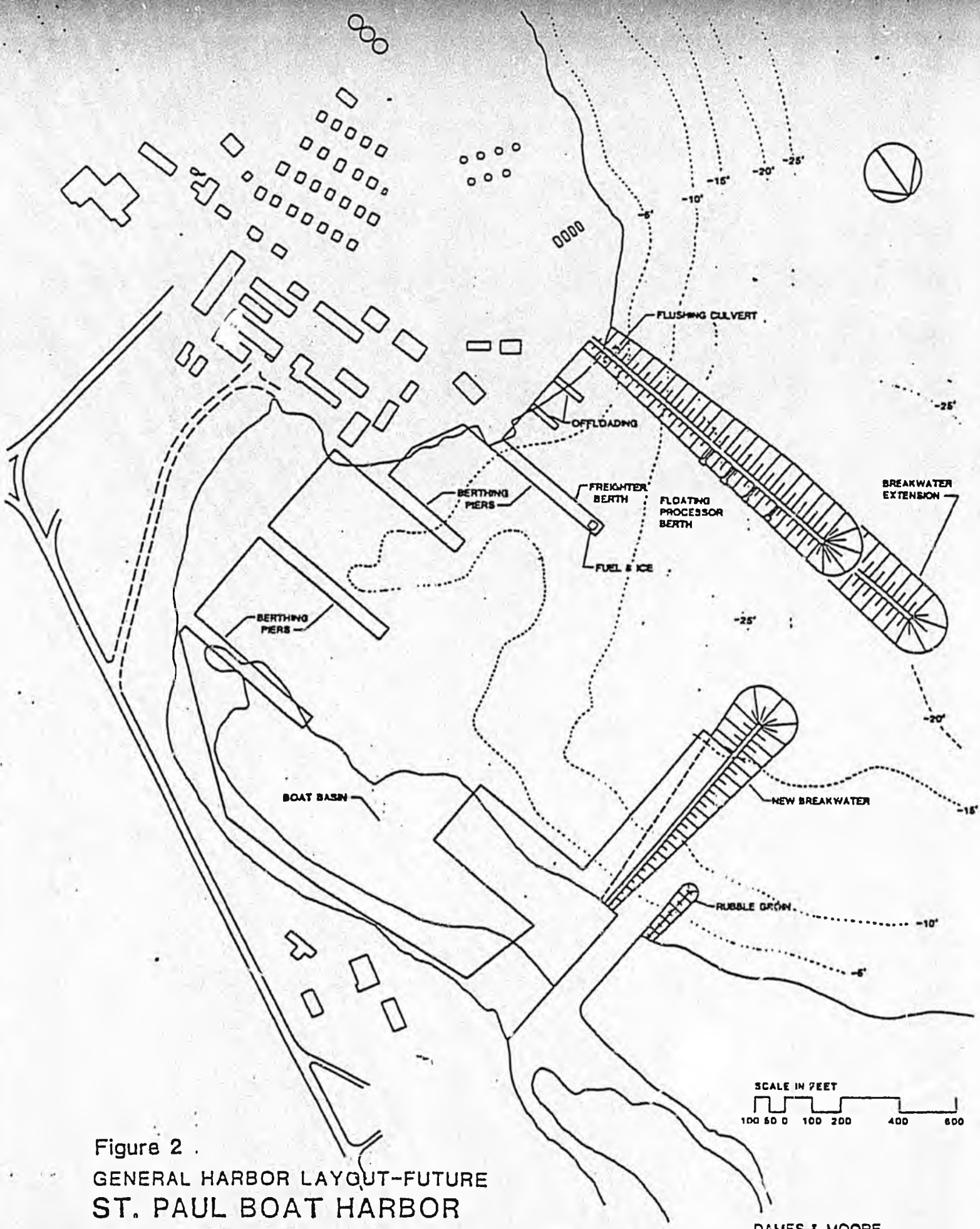


Figure 2 .

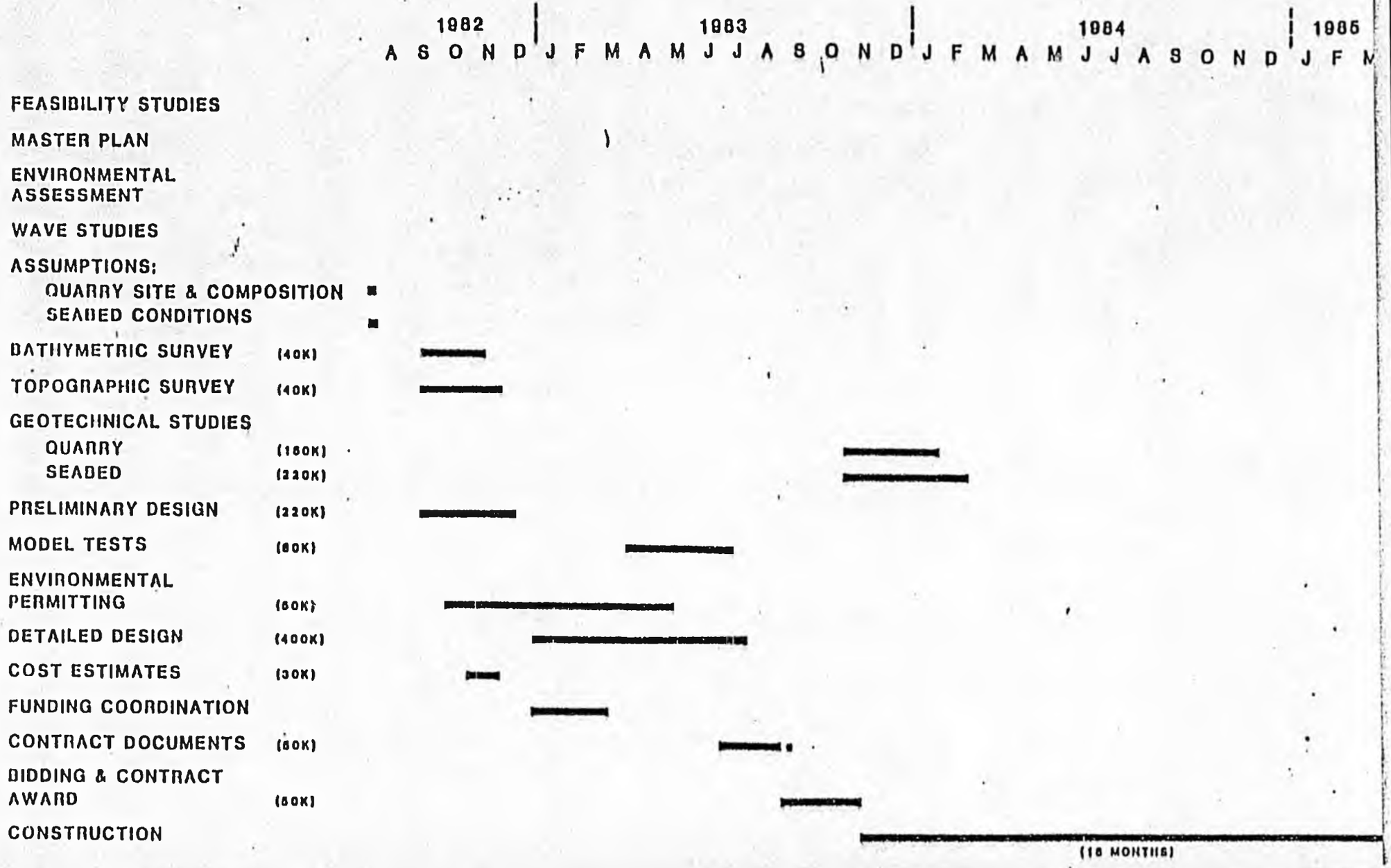
GENERAL HARBOR LAYOUT-FUTURE

ST. PAUL BOAT HARBOR
ST. PAUL ISLAND, ALASKA

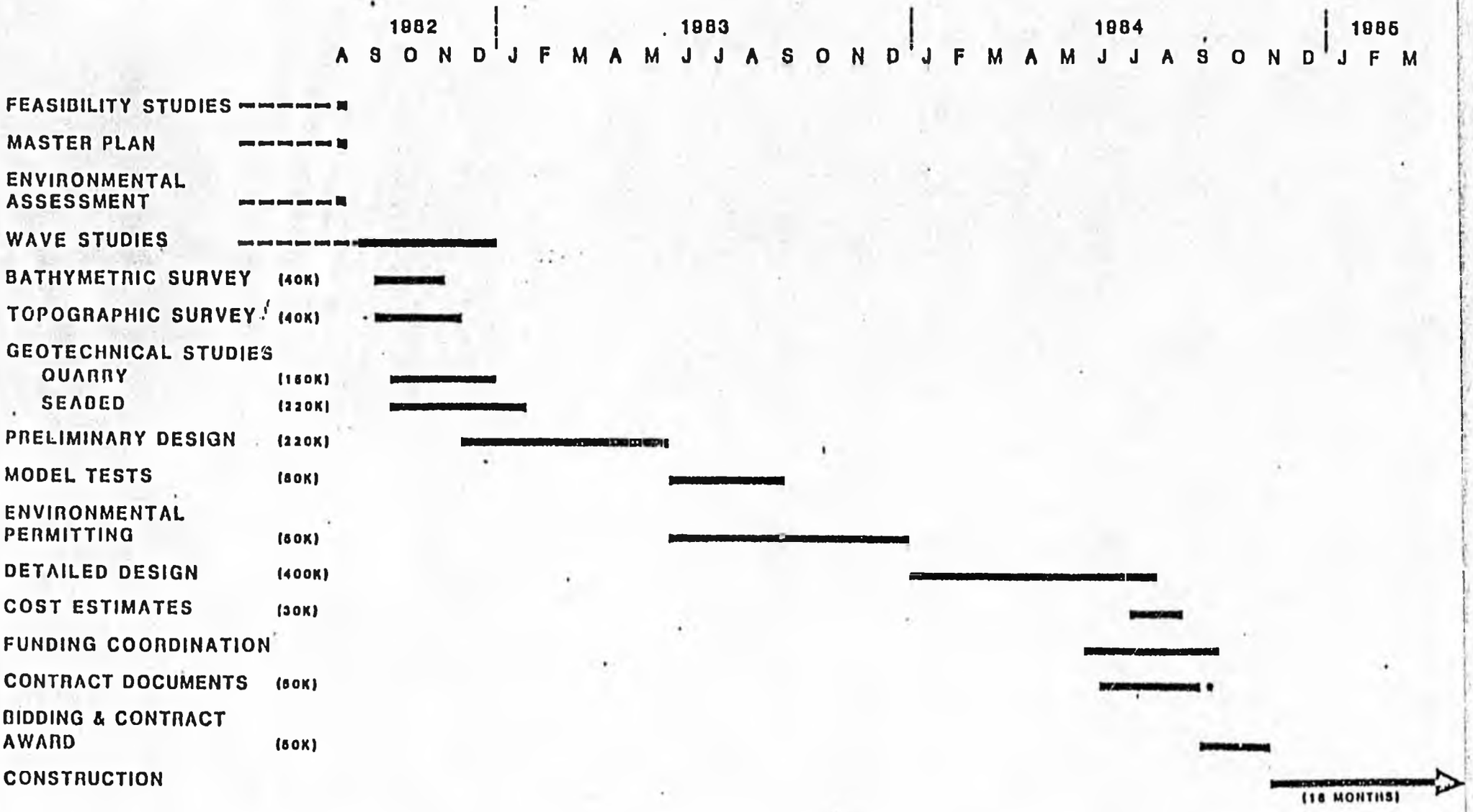
DAMES & MOORE
NORGAARD (USA) INC.

ST. PAUL BOAT HARBOR DEVELOPMENT SCHEDULE

FAST TRACK PROCEDURE



ST. PAUL BOAT HARBOR DEVELOPMENT SCHEDULE
STANDARD DESIGN PROCEDURE



NOTE: DOES NOT INCLUDE SEASONAL OR WEATHER DELAYS

APPENDIX.....

The following memorandum was previously prepared for the City of St. Paul to describe anticipated short-term employment and revenues generated by development of the St. Paul Boat Harbor.

ANTICIPATED SHORT-TERM
EMPLOYMENT AND REVENUE PROFILE
RELATED TO DEVELOPMENT OF ST. PAUL BOAT HARBOR

The purpose of this narrative is to briefly summarize the anticipated economic profile of employment and revenues directly related to harbor development at St. Paul Island as the role of National Marine Fisheries Service is phased out and is replaced by an economy based on commercial fisheries and related industries. (Unrelated activities, such as tourism, will also contribute, but are not included herein.)

Employment opportunities will vary as development progresses, but may be divided into several recognizeable components:

Harbor design and construction
Fishermen
Processing
Service industries
Other

In each of these areas, the skills and training of residents is a key factor in what percentage of the labor demand they will be able to meet. In general, it is to a business' advantage to hire locally and this is especially true at St. Paul. Initially, there will be a need for companies to bring in non-resident workers to perform some of the tasks until such time as residents are able to acquire the necessary skills and experience to take over those jobs.

For the design and construction of the boat harbor, design consultants and construction contractors will be hired to perform the work. While much of the work requires qualified specialists with extensive experience, many jobs can be performed by the local labor force. In the design phase, this would generally be in the form of technical assistants to the design consultants. The construction phase will provide the first opportunity for a significant amount of local employment. Also, since there will continue to be increased construction at St. Paul for some time to come, this initial work will provide valuable experience for local workers. Even

at this early stage, it may be possible for a local construction company to be formed to serve as a subcontractor in construction of the boat harbor. At this time the level of initial development remains uncertain. However, the following jobs could likely be filled by St. Paul residents in the design and construction phase, based on existing skills and experience:

Technical assistants	4
Equipment operators	10
Marine construction	4
Concrete workers	3
Carpenters	2
Laborers	6
Office assistance	4
TOTAL	33

The design and construction work will also generate indirect employment and business opportunities in providing food, lodging, maintenance and other services to the construction contractors. Following completion of the major construction activities, many of these workers can transfer their skills into maintenance or other construction activities on the Island.

St. Paul and Tanadgusix Corporation are involved in a training program aimed at providing residents with the necessary skills in fishing, navigation, vessel operation and maintenance, which will enable them to purchase and operate their own fishing vessels. Since loan capital is a limiting factor, many of these fishermen will initially serve as crewmen on other vessels operating out of St. Paul. Upon completion of the initial construction of the boat harbor, it is likely that up to 12 residents will be actively employed as commercial fishermen with a gradual increase to approximately 40 persons in 6-10 years.

Processing activities are initially envisaged as consisting of one floating processor in the harbor and one small to medium onshore processing plant. The number of resident workers in the processing plants is estimated at approximately 30 persons in the actual processing operations and 4-6 in administrative jobs.

This figure will increase as residents replace transient workers and as overall employment increases with development. The growth in processing employment is largely dependent upon the emphasis given to different species and product forms as development progresses.

There is likely to be a great demand for services at the St. Paul boat harbor. Fishing vessels and floating processors can remain on the nearby fishing grounds for longer periods if they are able to offload fish, take on provisions, and make repairs at St. Paul. Given time for sufficient training and experience, nearly all jobs in the service sector can be filled by St. Paul residents. A likely description of resident service industry jobs during early development is as follows:

Harbormaster and administrative	3
Fuel and ice	2
Cold storage	3
Stevedores	3
Electronics repair	1
Mechanic	1
TOTAL	13

With operations underway at the boat harbor, increased demands will be placed on other areas of the community. Expanded power plants, water and wastewater systems, and solid waste collection will require additional personnel for operation and maintenance. There will also be increased business for local merchants and restaurants which will likely result in new businesses and increased employment of residents.

Table 1 briefly describes an employment and wage profile for the sectors mentioned above, covering the period August, 1982 through December, 1987. The estimated wages are based on the wage factors indicated below the table. These factors are oversimplified approximations, but do give a general idea of what can be expected. It should be emphasized that the employment and wage figures in Table 1 are for St. Paul residents and do not include transient workers in construction, fisheries or related services.

There are several ways to consider the revenues generated by development of the boat harbor. In the broadest sense, this can be done by examining the value of

fish handled by the port. Tables 2 and 3 illustrate the annual value of fish landed (exvessel price) and the processed product (wholesale price) for St. Paul. Although this information is difficult to quickly translate in terms of local revenue, it does give an indication of the anticipated level of onshore commercial fisheries activities during early development. A significant increase results if the volume and value of fish transhipped via St. Paul is taken into account.

Table 1. RESIDENT EMPLOYMENT AND ESTIMATED WAGES RELATED TO ST. PAUL HARBOR DEVELOPMENT (August 1982-December 1987)

Description	1982		1983		1984		1985		1986		1987	
	No. Jobs	Total Est. Wages	No. Jobs	Total Est. Wages	No. Jobs	Total Est. Wages	No. Jobs	Total Est. Wages	No. Jobs	Total Est. Wages	No. Jobs	Total Est. Wages
A. Design & Construction	3	44,100	33	1,155,000	33	1,155,000	25	875,000	10	350,000	10	350,000
B. Fishermen	-	-	6	210,000	8	280,000	12	420,000	18	630,000	21	735,000
C. Processing	-	-	12	240,000	20	400,000	36	720,000	50	1,000,000	56	1,120,000
D. Service Industries	-	-	2	70,000	6	210,000	13	455,000	13	455,000	15	525,000
E. Other	-	-	-	-	2	70,000	8	280,000	18	630,000	20	700,000
		44,100		1,675,000		2,115,000		2,750,000		3,065,000		3,430,000

Wage Factors	
Design & Construction	$35,000./yr.
Fishermen	$35,000./yr.
Processing	$20,000./yr.
Service Industries	$35,000./yr.
Other	$35,000./yr.

Table 2. ANNUAL VOLUME AND VALUE OF LANDINGS AT ST. PAUL HARBOR.

Species	Volume (lb.)	Exvessel Price ($ per lb.)	Value ($)
Halibut	800,000	0.85	680,000.
Pacific Cod	1,000,000	0.21	210,000.
King Crab	1,200,000	1.00	1,200,000.
Hair Crab	1,500,000	0.70	1,050,000.
Tanner Crab	1,000,000	0.70	700,000.
TOTAL			$3,840,000.

Table 3. ANNUAL VOLUME AND VALUE OF PROCESSED PRODUCT AT ST. PAUL HARBOR.

Species (product form)	Volume (lb.)	Wholesale Price ($ per lb.)	Value ($)
Halibut (frozen H&G)	600,000	2.50	1,500,000.
Pacific Cod (frozen H&G)	252,000	1.00	252,000.
Pacific Cod (salted)	288,000	0.75	216,000.
King Crab (frozen sections)	600,000	3.50	2,100,000.
Hair Crab (frozen whole)	1,300,000	4.00	5,200,000.
Tanner Crab (frozen sections)	500,000	2.10	1,050,000.
TOTAL			$10,318,000.

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

BUSINESS & ECONOMIC DEVELOPMENT PLAN FOR ST. PAUL HARBOR & RELATED OPERATIONS

FEBRUARY 1983

CONTRIBUTORS:

NORGAARD (USA) INC.
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JOHN P. DAY M.A.I. & ASSOCIATES

L. WILLIAM CHILDS, C.P.A.

CHARLOTTE L. KIRKWOOD, PLANNER

HB

173

AT FED. BLDG.

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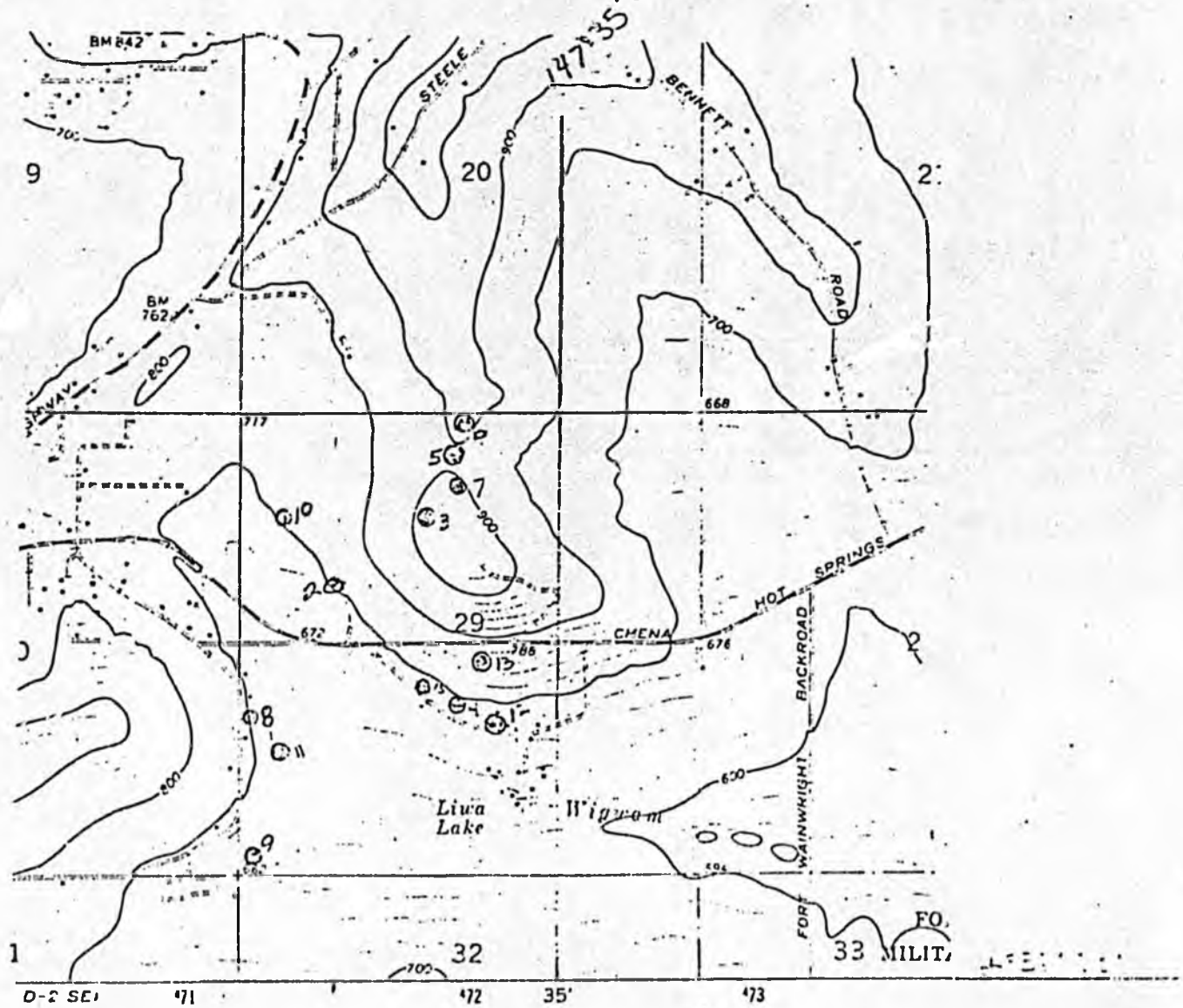

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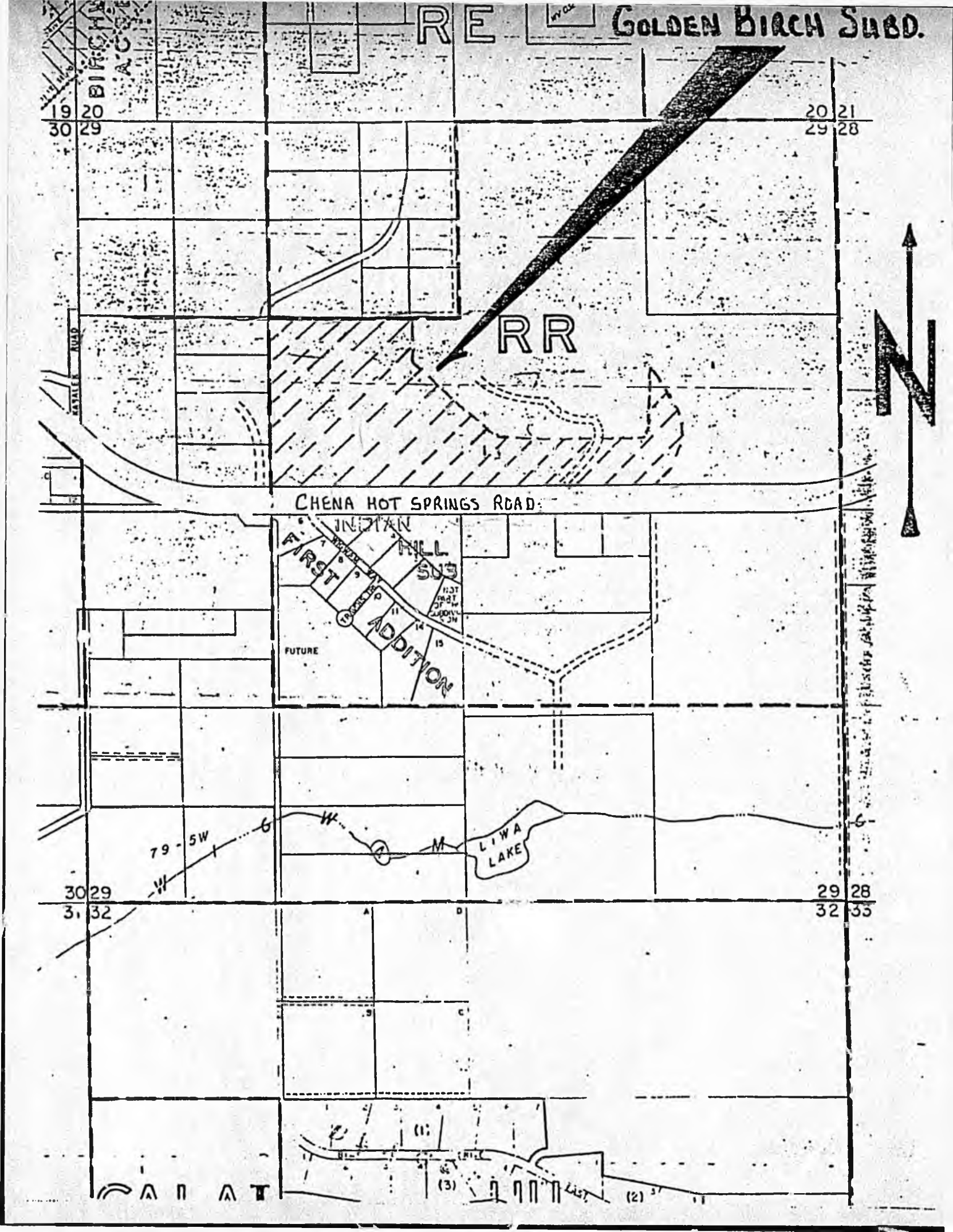
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THE PEOPLE IN FAIRBANKS WILL BE WAITING AT THEIR HOMES TO TESTIFY FOR THE HSE TRANSPORTATION CMTE MEETING TOMORROW (3/30). THE PEOPLE AND NUMBERS TO CALL ARE:

1. MARK SHELLINGER #479-5985
2. JUDY SMITH #455-6860
3. RON TANNER

MSG 83-00004251 PRTY 1 03/29/83 18:00:09 ORIG: LF02 IN= 0005 OUT= 0045
FROM: LYNDA/FBX TO: JNU T/C
TARGET: LJHZ SUBJ: ENTERED MSG TOO SOON

RON TANNER'S NUMBER IS #452-6008

THANKS

---EOM

(9)

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/28/83

Date: 3/30/83

Mr. Speaker:

The Committee on TRANSPORTATION has had SSHB 173

An Act making a special appropriation to the Department of Transportation for turn lanes and signs at the access to the Weller Elementary School in Fairbanks; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Adelheid Herrmann, Do Pass	
Mike Davis Do Pass	
[illegible]	
Mike Szymanski Do Pass	
M W Miller Do Pass	

M.W. Miller Vice Chairman

CHAIRMAN

H 60

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

MEMORANDUM

To: Rhonda

From: Rep. Mike Davis Mike

Date: March 25, 1983

Re: House Bill 173

Attached is the back-up material for HB 173, relating to the Weller Elementary School.

STATE OF ALASKA
FISCAL NOTE

Revision Date March 14 , 1983

I. REQUEST

Bill/Resolution No.: SSHB 173
Title: Spec. Approp. to DOT/PF for turn lanes & signs at access to Weller School/Fairbanks
Sponsor: Represenative Davis
Requestor: Trans. Committee

II. FISCAL DETAIL

Agency Affected: DOT/PF
Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0.0				
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		0.0				
CAPITAL		180.4				
REVENUE		0.0				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
		0.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of offsetting funds not indicated in bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: David W. Truax Phone: 479-4281
Division: Planning and Programming Date: 3/3/83

Approved by Commissioner: Date: 3/3/83
Department: Transportation and Public Facilities 3/16/83

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

Widen road as necessary in order to taper it for approximately 600' on either side of school zone to provide for left and right turning lanes. Also, provide street lights and advance warning flashers for school zone.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DEPUTY COMMISSIONER – PLANNING AND PROGRAMMING

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907)465-3900

February 14, 1983

The Honorable Mike Davis
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

Re: Waller School Turning Lanes and Signalization

I would like to take this opportunity to respond to your request for a cost estimate for providing turning lanes and signalization at Waller School, located off Chena Hot Springs Road.

The road work involved would consist of widening the road as necessary in order to taper it for approximately 600' on either side of the school zone to provide for left and right turning lanes.

As current traffic levels do not warrant use of a signal type device, it is not included in this project. However, street lights and advance warning flashers for the school zone are included.

The total estimated cost for the entire project is $180,400.00 (1984 dollars).

If we can be of any further assistance, please contact us.

Sincerely,

John C. Bates
Deputy Commissioner

cc: Emil Notti
Office of the Governor

February 16, 1983

Representative Mike Davis
P.O.Box 81435
College, Alaska. 99708

Dear Representative Davis:

I saw the article concerning the appropriations bill you sponsored for funding for the Rosamund Weller School's entry improvements. (FDNM 2-9-83).

On behalf of the Weller Task Force, I want to thank you for your concern and effort on behalf of the school and its students. We deeply appreciate your responsiveness to this serious concern, and hope we can be of assistance when and if needed.

Sincerely yours,

Judy Rae Smith

Judy Rae Smith, Chairperson
P.O.Box 81071
College, Alaska 99708

cc: Task Force members
Letters to the Editor

fairbanks north star borough
p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

January 31, 1983

Representative Mike Davis
Alaska State Legislature
Pouch V
Juneau AK 99811

RE: Weller Elementary School Approach

Dear Mike:

This is to assure you that we are very concerned about the subject matter. Donald Moore, Director of Public Facilities and Services, is on top of this situation and we are working very closely with the Department of Transportation & Public Facilities.

If you have any comments regarding same, please contact either Don Moore or me.

Personal regards.

Sincerely,

B.B. ALLEN
Borough Mayor

BBA:al

enclosure

cc: Don Moore

Mike -
I met with the Boro's Transportation planner today & requested him to identify all hazardous intersections within the Boro in order that we can ~~tot~~ alert DOT/PF of our concerns. When the report is prepared I'll copy you.
Bill

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
INTERIOR REGION, DESIGN AND CONSTRUCTION

BILL SHEFFIELD, GOVERNOR

2301 PEGER ROAD
FAIRBANKS, ALASKA 99701
(907) 452-1911

January 26, 1983

RE: Weller Elementary
School Approach

Mr. Bill Allen
Borough Mayor
Fairbanks North Star Borough
P. O. Box 1267
520 Fifth Avenue
Fairbanks, AK 99701

Dear Mr. Allen:

Your letter concerning vehicle access to the Weller Elementary School and bicycle access to the Ballaine Road School has been reviewed.

The approach to the Weller Elementary School has been the subject of several hopefully productive discussions between your engineering staff and the Department's Regional Traffic/Safety Section. It is recognized that the access location does present problems, most of which might have been avoided in the original site selection process.

Most of these have been addressed either verbally or in the November 15, 1982 letter to the Borough Engineer from the Department's Regional Director for Maintenance and Operations. The letter (copy attached) addresses some minimum recommendations for traffic control at the school access. A preliminary estimate prepared for the construction of turn lanes at the access is also attached which totals $95,740.00, but in order to cover all costs approximately $150,000.00 should be requested.

The suggested Auburn Drive bicycle path between Farmer's Loop Road and the Ballaine Road School should be constructed in accordance with the AASHTO Guide for Bicycle Routes. Since bicycle paths separated from the roadway are not cleared of snow during the winter these would have limited use unless the objective is to provide a path for bicyclists, walkers, skiers, snow machines, etc. as the seasons change.

Your request for a policy statement concerning bicycle path maintenance is referred to the Regional Director of Maintenance and Operations by copy of this letter.

I hope this answers most of your questions and I encourage your engineering staff to maintain contact with the Regional Traffic/Safety Section to resolve specific problems.

Sincerely,

Stephen C. Sisk
Director
Design & Construction

SCS/DM/dc

Enclosures

cc: John Horn, M&O, Fairbanks
Ron Tanner, Traffic, Fairbanks
Bob Venusti, Planning, Fairbanks

January 12, 1983

Fairbanks Area Delegation
13th Legislature - 1983

Dear Legislators:

The Fairbanks North Star Borough Mayor, the School District, and the Weller Elementary School Task Force have identified a traffic hazard at the entrance to the new Weller Elementary School on Chena Hot Springs Road.

The Task Force has suggested the following measures:

1. two turn lanes -
2. decreased speed limit
3. additional lighting -
4. frequent sanding in winter months
5. a non slick highway surface -
6. adequate signs -

This school will house 600 elementary students and will demand more bus traffic due to the rural location. This plus staff and parent vehicles will cause a substancial increase and change in traffic patterns at this site.

The funds needed to make this entrance safe could be significant and must be appropriated immediately so work will be complete before the school opens in August 1983.

This problem has been a major concern of the Fox P.T.O. and we would ask for your help in obtaining funds needed to upgrade this proposed entrance.

Thank you for your time and concern in this matter.

Sincerely,

Evelyn Trabant

Evelyn Trabant
General Chairperson
Fox P.T.O.

cc: Fon Tanner
Dr. Ken Burnley
Becky Snow
Judy Smith
Mark Shellinger

TUNDRA TOURS, INC.

June 22, 1982

Fairbanks North Star Borough
School District
P.O. Box 1250
Fairbanks, AK 99707

Attn: Bob Shefchik

RE: Entrance way to Steese/Fox Elementary School
1 mile Chena Hot Springs Road

The entrance to the New Steese Fox Elementary School is in a very dangerous location. I understand, the Engineer Spec's for distance is 550 feet, the sight distance according to the Engineers is 535 feet which they claim is within the safety factor for distance this is fine for dry ideal weather conditions. But due to our ice and snow conditions seven months out of the School Year, this distance is unsatisfactory. Especially going East, at 55 MPH under ideal dry conditions a car takes 208 feet to stop, this exceeds the distance by 74 feet. The School Buses turning East on Chena Hot Springs Road acceleration rate is slow, there for placing them in a vulnerable situation. Automobiles entering or leaving entrance way can not be seen by East bound traffic.

Solution:

1) Move the entrance roadway.
2) Decrease speed limit to 30 MPH and install flashing lights.
3) Widen Chena Hot Springs Road, the same as Farmers Loop & McGrath Road and install Flashing Lights.

Sincerely,

John Eldridge
Supervisor
Safety, Training and Personnel

cc: Debbie Walleri
File (2)

Drawer 74516, Fairbanks, Alaska 99707 • Phone 907-452-2718

November 15, 1982

Mr. Larry Crouder
Borough Engineer
Fairbanks North Star Borough
P.O. Box 1267
Fairbanks, AK 99707

Re: Steese - Fox Elementary

Dear Mr. Crouder:

In response to your request concerning traffic control at the Steese - Fox Elementary School access road, we suggest the following:

1. Since reconstruction of the previously existing driveway was involved, a new driveway permit is required. A driveway regulation booklet and application are enclosed for this purpose. This is strictly a formality and no permit fees are involved.

2. Normally, one luminaire would be required at this intersection. Note C.5 on page 12. This requirement has been waived upon request in the outlying areas with the stipulation that should illumination become necessary due to traffic volumes generated by the permittee's facility, the permittee will be responsible for the installation at his expense. Since this is a school, pressure for lighting from the school district, PTA, etc. is a real possibility. If you want to pursue the waiver, your application should be accompanied by a written request.

3. Signing required includes the following:

   (a) "STOP", (R1-1), 30" x 30".
   (b) Street name signs (D3-1), mounted on top of the stop sign naming the side street and the main line.
   (c) Side road intersection signs (W2-2), 36" x 36", installed 725 feet each side of the intersection on Chena Hot Springs Road.
   (d) Auxillary street name signs (modified D3-1A, black on yellow) installed below each W2-2.

   Signs (c) and (d) should be of high intensity sheeting and installed in accordance with attached standard drawing S-05.00. All sign posts should be 2½" x 2½" perforated steel tube installed in a 3" x 3" x 3' sleeve.

   Once the signs are installed, all future maintenance becomes the responsibility of the State.

4. If required, State forces will change the striping the next time the road is striped.

5. Please keep in mind the State has no current plans to widen Chena Hot Springs Road in that location. Until such a project is implemented, the Borough would be responsible for any such work that may become necessary as a result of traffic generated by the school facility.

Questions regarding the driveway permit process can be directed to Dick Royal at 452-1911 ext. 307.

Sincerely,

John D. Horn
Director, Maintenance and Operations
Interior Region

cc: Dick Royal
Ron Tanner

HB

189

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/11/83

Date: 3-17-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 189

An Act making a special appropriation for payment as a grant to the Municipality of Anchorage for upgrading Lake Otis Parkway, from Abbot Road to O'Mally Road; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s).

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller Do Pass	[illegible]
	[illegible]
	[illegible]
	[illegible]

M.W. Miller Vice Chairman

CHAIRMAN

H 60

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST
Bill/Resolution No.: HB 189
Title: Spec approp - grant - MOA
Sponsor: Pestinger
Requestor:

II. FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in Bill

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: A. Reed Gibby Phone: 266-1652
Division: Planning & Programming Date: 4/4/83
Approved by Commissioner: Date: 4/6/83
Department: DOT&PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Lake Otis Extension/Upgrade

FY'84	$300,000	ROW
FY'84	$581,000	Design
FY'84-85	$2,909,000	Construction

Would be a grant to the Municipality of Anchorage and would have no fiscal impact on the DOT&PF.

Was recommended for construction funding in FY'83 in the AMATS TIP.

POSITION PAPER

HB 189

Fiscal propriety demands that the State maintain project monitoring capability to ensure that the grant funds are spent for the project, and are managed according to Borough or Municipal fiscal procedures. Accordingly, a minimal State operating budget impact will be felt with the passage of each special appropriation under AS 37.05.315-37.05.319, such as this specific bill proposes. I should point out at this time that local governments have recognized their similar responsibilities when awarding grants to local social service providers, etc. Municipalities charge an administrative overhead fee of one to three point eight percent per grant. The Department of Administration requests that the specific grant appropriation language acknowledge a State agency overhead factor of up to .5% (one half of one percent) as Department of Administration operating costs for all special appropriations awarded under AS 37.05.315.

The Department questions the historical practice promoted under AS 37.05.315 and wonders if the Department of Community and Regional Affairs might be of better assistance to local governments through its Local Government Assistance program. Whereas the Department of Administration functions as a centralized control agency for all other Executive Branch agencies, the Department of Community and Regional Affairs is specifically charged with the responsibility of assisting local government in maximizing services to citizens.

Robert L. Stalnaker

Eleanor Andrews 3/16/83

1/0301-01/COMM

Project: LAKE OTIS PARKWAY, ABBOTT ROAD TO O'MALLEY

Project Cost: $3,790,000

Description/Justification:

This project consists of the construction of Lake Otis Parkway south to O'Malley Road. The proposed improvements will consist of a 45 foot wide street with barrier curbs. A 5 foot separated sidewalk is planned for the west side and an 8 foot separated bike trail on the east. The project would also include storm drain improvements, street lighting and necessary traffic control devices. This road will be the primary access to the new Junior High School now under design. It will also provide access to the proposed Section 16 Recreation Development and the rapidly developing hillside area. Construction of these improvements is expected to be complete by the end of 1984 and will provide 65 man years of work. The Municipality anticipates annual maintenance costs of approximately $26,000. This would be paid for through revenue sharing funds and local taxes. Construction of these improvements will significantly reduce existing safety and environmental hazards. Heavy truck traffic has caused high dust concentrations and severe erosion has damaged water quality in adjacent streams and wetlands. Acquisition of additional right-of-way for this project is anticipated. A funding request for this project has been included in the Municipality's 1983 Capital Improvement Budget.

Municipal Staff Contact

Name: Everett P. Diener
Title: Director of Public Works
Phone: 263-8160

Lee Browning
Municipal Engineer
263-8109

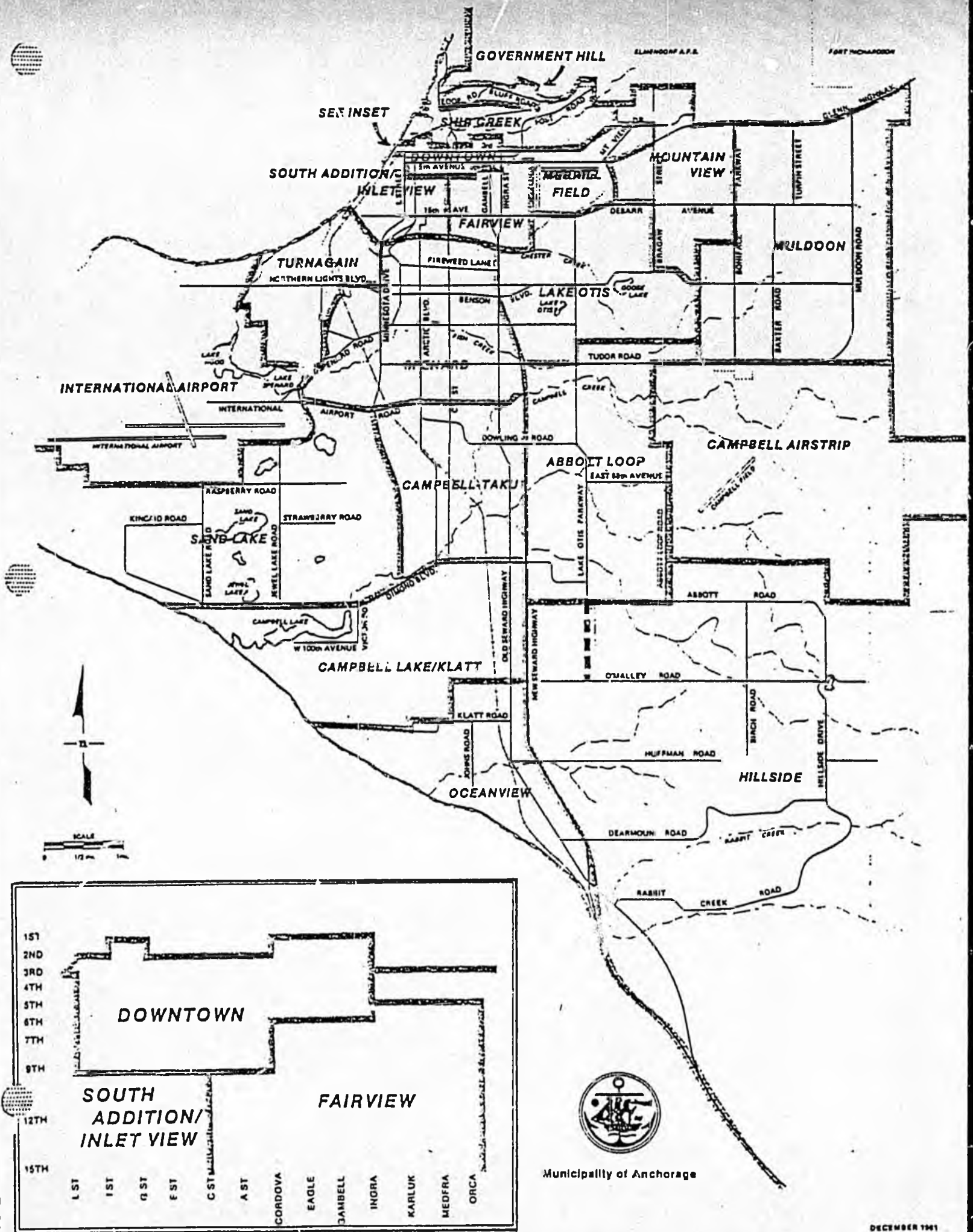
Legislative District E-8

House Representative: Cowdery, Pestinger

Senator: Pettyjohn, Faiks

SUB-AREAS

ABBOTT ROAD TO O'MALLEY



STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 189
Title: Upgrading Lake Otis Parkway
Sponsor: By Rep. Pestinger
Requestor: House Transportation

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected:
BRU, Program of Subprogram(s) Affected: Municipal Grants

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		16.0	17.3	18.7	20.2	21.8
200 TRAVEL		3.0	3.2	3.5	3.7	4.0
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		19.0	20.5	22.2	23.9	25.8
CAPITAL		3790.0	-0-	-0-	-0-	-0-
REVENUE		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND		3790.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert J. Stalnaker for Kenneth R. Ryals Phone: 465-2207
Division: Administrative Services Date: 3-16-83

Approved by Commissioner: Lisa Rudd Date: 3-16-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

POSITION PAPER

Fiscal propriety demands that the State maintain project monitoring capability to ensure that the grant funds are spent for the project, and are managed according to Borough or Municipal fiscal procedures. Accordingly, a minimal State operating budget impact will be felt with the passage of each special appropriation under AS 37.05.315-37.05.319, such as this specific bill proposes. I should point out at this time that local governments have recognized their similar responsibilities when awarding grants to local social service providers, etc. Municipalities charge an administrative overhead fee of one to three point eight percent per grant. The Department of Administration requests that the specific grant appropriation language acknowledge a State agency overhead factor of up to .5% (one half of one percent) as Department of Administration operating costs for all special appropriations awarded under AS 37.05.315.

The Department questions the historical practice promoted under AS 37.05.315 and wonders if the Department of Community and Regional Affairs might be of better assistance to local governments through its Local Government Assistance program. Whereas the Department of Administration functions as a centralized control agency for all other Executive Branch agencies, the Department of Community and Regional Affairs is specifically charged with the responsibility of assisting local government in maximizing services to citizens.

Robert L. Stalnaker

Edmund Andrews

1/0301-01/COMM

HB

190

Alaska State Legislature

House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

LETTER OF INTENT
TO ACCOMPANY
House Bill 190

It is the intent of the House Transportation Committee that a special appropriation be made to the cities of Newhalen and Nondalton for road construction between Illiamna and Nondalton as a special grant to the Department of Transportation and Public Facilities.

The House Transportation Committee requests the Department of Transportation and Public Facilities to work cooperatively with the cities of Newhalen and Nondalton and to manage and administer this project pursuant to AS 35.15.80.

The House Transportation Committee amendment to House Bill 190 is done with the intent that the Department of Transportation and Public Facilities will work cooperatively with the communities to ensure this project is completed on the existing time frame and will not be delayed.

(9)

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/11/83

Date: 2-17-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 190

An Act making a special appropriation for payment as a grant to the cities of Nondalton and Newhalen for road construction; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for ~~Transportation~~ HB 190 (TRSP) [ ] same title [X] new title

and recommends do pass

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	
[illegible]	
[illegible] do pass	
[illegible]	
[illegible]	

[illegible]

CHAIRMAN

H 60

Introduced: 2/11/83
Referred: Transportation
and Finance

Funding Information
General Fund $9,000,000
Other Funds -0-
$9,000,000

IN THE HOUSE BY HERRMANN

HOUSE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation for payment as ~~a grant~~ to the ~~cities of Nondalton and Newhalen~~ for road construction; and providing for an effective date."

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

* Section 1. The sum of $9,000,000 is appropriated from the general fund for payment ~~as a grant~~ to ~~the cities of Nondalton and Newhalen~~ DOT/PF for road construction between Illiamna and Nondalton. = 26 miles

* Sec. 2. The appropriation made by this Act shall be disbursed in accordance with AS 37.05.315 - 37.05.319. and A.S. 37.15.980(a)

* Sec. 3. This Act takes effect July 1, 1983.

Newhalen to Iliamna

Judge Hornaday not alone in Alaskan peremptory challenges

District Court James Hornaday is apparently not the only judge in the state who is regularly bumped off the bench by attorneys looking for another judge.

Five other jurists share that distinction, court records reveal: Juneau District Court Judge Gerald Williams, Fairbanks District Court Judge Stephen R. Cline, Anchorage Superior Court Judge Karl Johnstone, Juneau Superior Court Judge Roger Pegues, and Wrangell Superior Court Judge Henry Keene.

Mr. Hornaday has been disqualified from hearing 80 percent of the criminal cases brought before him — which are only about eight percent of his total workload, according to his own records. According to an Associated Press report, Messrs. Cline, Williams, and Johnstone are removed from about half of the criminal cases assigned to them, and Mr. Johnstone is bumped from more civil cases than all Anchorage Superior Court judges combined.

Disqualification of judges is made easy by a state law which allows attorneys to remove a judge by peremptory challenge, or without giving a reason. This can only be done once by either side in any case. But it can be done case, after case, after case.

These challenges not only disrupt the court system, said Court Administrator Art Snowden, it adds about $30,000 a year to court expenses.

When a judge is bumped another judge must be assigned to hear the case. That is a fairly simple matter in large courts such as Anchorage.

But it can be an administrative nightmare when it happens in single judge locations such as Homer. Judges must be shipped back and forth, delaying trials and increasing the cost of justice.

To solve the dilemma, some people have suggested that peremptory challenges be barred. Rep. Milo Fritz (R-Anchor Point) has cosponsored a bill which would repeal the law which allows this type of disqualification.

That bill is now before the House Judiciary Committee.

HB 190 from Pendleton
Don Anderson will
be testifying.

Resource people are:
Wassie Balluta
James Wilson
Jerry Armstrong
Norman Tacko
Gregory Anelon

112 C.

COMMITTEE
TAPE LOG 1983 (1)

tape no.

committee: TRANSPORTATION date 2-15-83 to

bill numbers: HB190 | HB68 | | | | | |

other information: Phillips, Wacher, Herrmann Abood, Szymanski; Davis, Miller, Cato

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
8:35 0002			CALL TO ORDER
	0023	HB190	Rep. Herrmann - sponsor - support
			self-det. + 3 vill. working together
	0040		James Wilson, Mayor Nandalton -
			"self-det" get away from ✓ funds
			as much as possible. Rd impt. to
			3 vill. - fuel, elec. — help causes
			to become self-sufficient
	0062	Phillips	
	0070	Wilson	Elec. line w/no supporting rd to
			support to work w/line
			Rd in to support elec. line
		0083	'84 line taken away from ~~BLM~~
			rt. away by BLM. Rd has been
		0098	funded twice - not a new concept.
		0107	Fred Don Anderson, Exec Dir Native Corp.
			major portions of testi. on rd
			'76 ∫ working jtly to accomp
			econ. indep. 3 things ✓
			outlined p. 1 of document
			1st - res. dev. & utilization - done
			res. assessment ✓) - reg.
			#1 hydro elec. B. Bay

COMMITTEE TAPE LOG 1983 (2)

tape no. _____

committee: _____ date _____ to _____

bill numbers: | | |

COMMITTEE
TAPE LOG **1983** tape no.

committee: date _____ to _____

bill numbers:

other information: (3)

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
		0292	Phillips - DOT/PF not prime admn. -
			Strange request
		0301	Andi - talked w/DOT - system
		0308	rural area car admn. - (new
			2 " — " — reg. unless
			w/ cap.) handling burn
			funds over to vill. Already
			did ∩ a survey ex. DOT
			$300,000 done for $232,000. Excellent
			agency + provide asst. - ✓
			— ✓ full value) $.
			Mgt. + dispersement of funds
			more ef.
		0334	Locker - ✓ owned? ✓
			maintained? Yes
		0338	Qualify for fed funds?
			Can't answer
		0342	How - — pen. use?
			Yr. round 785 - 3 communities
		0347	Neoh - 2nd
			Nand - 2nd
			Ill - Non-org. -
			Notary base at this time

COMMITTEE
TAPE LOG 1983

tape no.

committee:

date _____ to _____

bill numbers:

other information:

(4)

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	0359		Mayor Wilson
---	0384		Discussion of taxes - mayor
			Value of property when discussing
			lg. project - Notices in mill levy
	0399		Anderson - get figures
	0403		Anderson - In '74 res. passed by
			69% - g. values Nondalton subm.
			to Rep Niles Ant. off - was funded
			pet. w/7 sig.
	0417		road. Roads ferred to Bethel
			~~8 AM went into~~
	0429	Wilson	Signed by Gov (approp.) +
			then in ~~July~~ June re-assigned to
			Bethel '76-'77.
	0440	Cato	App. - re-approp.
	0443	Abood	Nondalton - New Halen connected
			Alianna Airport (4 mi comp.
			11 mi existing)
	0464	Abood	Wildlife concern?
	0472		W. Balluda - hasn't disturbed
			~~too~~ wildlife on exist 11 mi
			+ don't feel add'l 12 mi
			effect habitat

COMMITTEE
TAPE LOG 1985

committee: date _____ to _____

bill numbers:

other information: (5)

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	0492	CATO	Explanation of grant
---	0504	Anderson	2 Budget layouts - 1982 $s from DOT / 16 ft. bed — min. requirements 9M is 83-84 funding subst. less than DOT but found can cut 20-25% by coordinating efforts of communities
	0531	Zacher	Have engineers on staff? Cont. eng. consult — eng. work is done. Impact st. filed all rtaways, etc. done, all closure & easements issued;
	0545	CATO	Ready to go to bid & ready to go to work
		And.	Next Spring ready - over 40% of equip. rec
	~~0556~~		
			Maintenance & day to day cost only charge to road
	0569	And.	
	0574	Wilson	
	0580	Davis	
	0643	Abood	Poly.. manufacture?

COMMITTEE TAPE LOG 1983

committee: date _____ to _____

bill numbers:

other information: (6)

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	0647	Anderson	Locate plant in Mandalton (Mr. Lee)
0683	~~[illegible]~~	Wilson	Drum of stove oil $135/50 gal.
			takes 200 gal. to heat home = $600 fuel
			so forced to use wood; if rd.
			system in & dock can cut
			fuel in half.
	0694	And. —	Dock facility working since '78
			primarily 87¢/gal =
	0705	Wilson	Big Mtn. project -
	0717		Jerry Armstrong, Ill. Dev. Corp.,
			seek support; also private bussman
			rd. will benefit existing businesses
	0741		Gregory Nealan, Mayor of
			New Halen - need of rd. great
	0752		Les B. Sr. — can't add anymore
			request comm. support.
	0776		Pro. aware of change & will happen
			now or later
	0780	Szymansk.	Who owns most land?
	0783 -	0791	3 major prop. owners; 250+97 stock holders (inclusive of [illegible])
			except stuff in Park - Fed. reserve
	0792	Cato	
	0797	Szymansk.	

COMMITTEE 1983

TAPE LOG

committee: date _____ to _____

bill numbers:

other information: (M)

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	0822	Abood	Move Yulee until 5:1 Jurisdiction
---	0826		Object - discussion purposes
			DOT Here for mtg.
			Take up tomorrow) Morning
			9:1 DOT Here
	0836		Passes
	0852		Introduced HB 68
	0864		
	0884		Adjourned

NONDALTON [illegible] CORPORATION

DON ANDERSON
EXECUTIVE DIRECTOR

6/17/83

Rep. Cato,

Thank you for your support at bothe the Committee & floor level.

Don

1530 POST ROAD • ANCHORAGE, ALASKA 99501 • (907) 338-6080

JEVAD, inc.
600 Cordova
Anchorage, Alaska 99501
(907) 278-2578

JUN 20 1983

June 10, 1983

Executive Management Committee
Iliamna-Nondalton Inter-Tie
P.O. Box 159
Iliamna, Alaska 99606

Attn: Jerry Armstrong, President
Gregory Anelon, Jr., Vice-President
James Diamond Wilson, Secretary

Gentlemen:

Ref: Month 1, Executive Summary Report

Attached for your review is the first month's summary of items on the Start-up Punchlist that have been accomplished to date. As outlined in the report's Budget and Schedule Status sections, it is vitally important that additional funds be secured for this project if you are to meet your commitments for these items.

While it is possible to continue work and maintain administrative continuity, with limited funds, on a project that is already mobilized and in progress, this is virtually impossible during the start-up phase. In our opinion, a minimum of $1,500,000 is required to carry the project through to the next funding period, which you have indicated to be July, 1984. This lesser amount, compared to the initial target funding of $4,500,000, would allow work to continue through the next legislative session by rescheduling portions of the work and by increasing manloading during the last half of the '84 construction season. The impact on schedule and budget would be minimal, however, you should anticipate a 2% to 3% decrease in the manhour ratio provided by local labor forces.

Your time and consideration concerning this matter is appreciated and if you have questions or need additional information, please do not hesitate to contact me.

Sincerely yours,

Don Anderson
Project Director

LTRS, ROAD1

ILIAMNA-NONDALTON INTER-TIE

Month 1, Executive Summary Report

Period: Start-up to June 10, 1983
Project Phase: 1

Work Completed This Period:

1. Nondalton and Newhalen City Councils met, and formed and appointed members to the Executive Management Committee (EMC). Members are the mayor from each city and the President of the Iliamna Development Corporation (DCRA non-profit) with the Vice-Mayor/President's to act as alternates and attend all meetings of EMC. Official project name: Iliamna-Nondalton Inter-Tie (INI%).

2. Executive Management Committee (EMC) met and selected officers, mainly: Jerry Armstrong, President; Gregory Anelon, Vice-President; James D. Wilson, Secretary. Alaska Mutual Bank chosen for project funds using money market and instant asset accounts. Checks require two (2) signatures, one of which, by policy, shall be that of the President, except in an emergency when any two (2) signatures shall suffice but so noted at the next EMC meeting. JEVAD, Inc. selected to provide project management services. Officers noted all known and possible "Conflict of Interest" situations and directed project director to develop plan to handle same.

3. Project equipment mobilization begun. Fourteen (14) local personnel on board. Equipment mobilization 92% completed.

4. Grant contract with DOT/PF finalized and signed. Phase 1 payment received. DOT/PF contract negotiations for bridge design and permits opened. Gulkana Bridge inspected. Portions of Lowe River Bridge located. Transportation price quotes received and evaluated.

5. Management Manual started and 80% completed. Administrative Manual started and 15% completed.

Work Anticipated Next Period:

1. Final determination of funding available for FY'83/84. Develop and implement construction season work plan and methodology. Identify baseline performances for frontier road. Inventory, transport and store bridges. Select project manager, on-site superintendent, project engineer. Establish on-site adminsitrative controls.

2. Construction of maintenance facility. Locate acquire and transport needed camp facilities. Inventory equipment and parts. Select additional equipment needs.

Project Status With Respect To Budget:

Based on effective work load ratios requirements, (overhead/production) it is anticipated that current funds will be exhausted by October, 1983, necessitating project "shutdown." This will result in additional project "re-start" cost of approximately $268,000 for 1984 construction season and increase total project costs by $1,608,000. ($1,340,000 inflation cost due to schedule impacting shown below and $268,000 "re-start" costs.) Currently the project is proceeding within existing budget.

Project Status With Respect To Schedule:

Project is proceeding on the most cost effective schedule available considering current funding. Failure to receive additional funds prior to October, 1983 will result in shutdown. Based on additional funds being available in July, 1984, it is anticipated that 65% of the '84 construction season will be lost with a corresponding schedule completion impact of 1 year.

Exceptions:

1. Lowe River Bridge, originally shown to be in DOT/PF's Valdez Storage yard has been moved to Chitna. Bridge structural members have received considerable abuse and portions of the structural members have been used for other projects. Structural inventory is scheduled for June 20th with DOT/PF engineers and some redesign and remake of structural pieces is anticipated to make this unit functional.

2. Permitting process originally intended to be contracted with DOT/PF Bridge Design group in Juneau has been reassigned to Anchorage office.

3. Exceptionally strong, coordinated, single-point interface has been developed with DOT/PF.

Permit Status:

To date no final permits have been applied for, however it is the intent that original approvals will be resubmitted within 120 days for review, comment and updated approvals.

and (2) the original obligation date is not more than two years from the requested date of disbursement. (§ 1 ch 113 SLA 1962)

Sec. 37.25.020. Unexpended balances of appropriation for capital projects. An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years. Between July 1 and August 31 of each fiscal year, a statement supporting the amount of the unexpended balance required to complete the projects for which the initial appropriation was made and the amount that may be lapsed shall be recorded with the Department of Administration. (§ 2 ch 113 SLA 1962)

Chapter 30. Local Government Bonding.

Article
1. Anticipatory Borrowing (Repealed)
2. Restrictions on Sale of Bonds and Bond Anticipation Notes (§ 37.30.100)

Article 1. Anticipat. y Borrowing.

Section
10—90. [Repealed]

Secs. 37.30.010 — 37.30.090.
Repealed by § 1 ch 118 SLA 1972.

Editor's note. — The repealed article derived from § 1, ch. 117, SLA 1964; § 1, ch. 189, SLA 1970.

Article 2. Restrictions on Sale of Bonds and Bond Anticipation Notes.

Section
100. Prohibited bidding on bonds

Sec. 37.30.100. Prohibited bidding on bonds. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purchase if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 2 ch 102 SLA 1974)

Originality this statute in all

Revisor's notes. — The reference to AS 14.09.010 in paragraph (4) was originally a reference to AS 14.10.070. Chapter 98, SLA 1966 revised Title 14 and the substance of AS 14.10.070 became AS 14.09.010.

NOTES TO DECISIONS

Notice requirements. — This section makes no requirement for notice by special delivery, registered or certified mail. State ex rel. Department of Administration v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Amendments to bid invitations. — Using regular mail to send an amendment to an invitation for bids is a proper procedure for notifying knew bidders. State ex rel. Department of Administration v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Judicial review of agency actions of rejecting a bid for failing to return an amendment should extend only to whether there was a reasonable basis for the agency to decide that the bid in question was nonresponsive. State ex rel. Department of Administration v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

The department had a reasonable basis to determine that a defect in a bid was material and that the bid was nonresponsive when the bidder failed to acknowledge receipt of amendments. State ex rel. Department of Administration v. Bowers Office Prods., Inc., Sup. Ct. Op. No. 2244 (File No. 4792), 621 P.2d 11 (1980).

Article 5. General Provisions.

Section
315. State grants

Sec. 37.05.300. Interpretation of AS 37.05.010 – 37.05.330.

Opinions of attorney general. — As to applicability of the chapter to the University of Alaska, see notes under this catchline following chapter heading.

Sec. 37.05.315. State grants. (a) When an appropriation is made as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation; (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a municipality under this section shall be on a form furnished by the Department of Administration.

Not less than 20 percent of the grant shall be paid to the municipality within 10 days of the effective date of the agreement. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration.

(b) An appropriation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation.

(c) In accepting a grant of money for construction of a public facility, each municipality covenants with the state that it will operate and maintain the facility for its practical life and that it will not look to the state to operate or maintain the facility or pay for its operation or maintenance.

(d) When an appropriation is made to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services, or both, for which the appropriation is made. At the same time, the department shall issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C).

(e) A grant to a municipality must be made within 60 days after the effective date of the appropriation. A contract under (d) of this section must be executed within 60 days after the effective date of the appropriation.

(f) A grant to an unincorporated community made under this section shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine whether there is a qualified incorporated entity in the community area which will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes of the appropriation; however, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program directly or through agents or contractors with whom it may contract in the community area.

(g) Notwithstanding the Administrative Procedure Act (AS 44.62.010 — 44.62.650), the Fiscal Procedures Act (AS 37.05.010 — 37.05.330), and the Executive Budget Act (AS 37.07.010 — 37.07.130), a department may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific or otherwise carry out the provisions of this section unless required by the federal government for participation in federal programs. (§ 1 ch 156 SLA 1980)

Revisor's notes. — As enacted by ch. 156, SLA 1980, the last two sentences of subsection (a) and subsections (d), (e) and (f) were designated subsections (d), (e), (f) and (h), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b).

Chapter 07. Executive Budget Act.

Section

20. Responsibilities of the governor
60. Governor's recommendation
80. Program execution

NOTES TO DECISIONS

The University of Alaska is subject to the provisions of AS 37.07.010 — 37.07.090. February 28, 1977, Op. Att'y Gen.

There is no constitutional obstacle to making the University of Alaska subject to the provisions contained in AS 37.05.010 — 37.35.090. February 28, 1977, Op. Att'y Gen.

Sec. 37.07.020. Responsibilities of the governor. (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which shall cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. The budget shall be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

(b) In addition to the budget and general appropriation bill, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

Without following the Administrative Procedure Act. — The department would not be required to follow the Administrative Procedure Act (AS 44.62) in adopting regulations to implement a program of prequalification of contractors. 1959 Op. Atty. Gen., No. 27.

Publication of regulations concerning bidding and letting of contracts in Administrative Code. — A policy of publishing regulations concerning bidding and letting of contracts in the Administrative Code is consistent with the Alaska Administrative Procedure Act, since these regulations are regulations in which an important portion of the public has a vital interest and since they are of great use to the portion of the public interested in dealing and contracting with the state. 1959 Op. Atty. Gen., No. 27.

Am. Jur. 2d, ALR and C.J.S. references. — 64 Am. Jur. 2d, Public Works and Contracts, §§ 63-81.

Delays caused by change in plan or specifications of a public construction contract as coming within "no damage" clause with respect to delay appearing in the contract, 10 ALR2d 810.

Differences in character or quality of materials, articles, or work as affecting acceptance of bid for public contract, 27 ALR2d 917.

Right of public authorities to reject all bids for public work or contract, 31 ALR2d 469.

Rights and remedies of bidder for a public contract who has not entered into a contract, where bid was based on his own mistake of fact or that of his employee, 52 ALR2d 792.

"Changed conditions" clause in a public works or construction contract, construction and effect of, 85 ALR2d 211.

Effect of stipulation, in public building or construction contract, that alterations or extras must be ordered in writing, 1 ALR3d 1273.

Revocation, prior to execution of formal written contract, of vote or decision of public body awarding contract to bidder, 3 ALR3d 864.

The validity and construction of "no damage" clause with respect to delay in building or construction contract, 74 ALR3d 187.

Construction contract provision excusing delay caused by "severe weather", 85 ALR3d 1085.

72 C.J.S. Supplement, Public Contracts, §§ 15-17.

Sec. 35.15.060. Prior contracts unaffected [Obsolete].

Revisor's note. — This section is obsolete. It read as follows: "Sections 10-60 of this chapter do not apply to contracts entered into before April 1, 1957."

Editor's note. — The obsolete section derived from § 8 art. III title IV ch. 152 SLA 1957.

Letter of intent

Sec. 35.15.080. Local control of state public works projects.

(a) A municipality or, if the public work is an educational facility, a regional educational attendance area established under AS 14.08 may, by resolution of its governing body, request the assumption of all of the department's responsibilities relating to the planning and construction of a public works project of the state which is to be located within the boundaries or operating area of the municipality or regional educational attendance area and which would otherwise be constructed in the manner provided in AS 35.15.010. After receipt of the request, the department

(1) shall provide for the assumption by the municipality or regional educational attendance area of all of the department's responsibilities relating to the planning, design and construction of an educational facility;

(2) may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the

planning, design, and construction of a public works project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

(b) If the commissioner of transportation and public facilities determines that assumption of responsibilities by a municipality under (a)(2) of this section is not practicable or not in the best interests of the state, he shall notify the governing body of the municipality of his finding and specify reasons for it. If the governing body requests reconsideration of the decision, he shall hold a hearing in the municipality within 30 days following mailing of the request. Following the hearing, he may affirm, modify or reverse his initial decision and shall specify in writing the reasons.

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design and construction of a public works project. A regional educational attendance area may request joint assumption of responsibilities with the department relating to the planning, design and construction of an educational facility. Two or more municipalities or regional educational attendance areas may by mutual agreement provide for cooperative assumption of responsibilities relating to the planning and construction of a public works project. If two or more municipalities or regional educational attendance areas request assumption of responsibilities for a project and meet the standard of practicability set out in (a)(2) of this section, the commissioner shall determine which municipality or regional educational attendance area is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality or regional educational attendance area, or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under the provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section. For that purpose the provisions supersede any conflicting provisions of ordinance or charter of a municipality.

(e) An organized borough may plan and construct public works under this section and make an agreement with the department for that purpose irrespective of restrictions of other provisions of law on the acquisition and exercise of borough powers. Borough exercise of the power conferred under this subsection does not preclude exercise by a city of the borough of the same power within the city.

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design

and construction of public works under this section. He shall include in grant contracts terms and conditions requiring a regional school board and its contractors to adhere to the provisions of AS 36.05.010 with respect to the payment of wage rates on construction projects, and AS 36.10.010 with respect to employment preference, and may require different terms in agreements for different projects to meet local conditions and unique requirements and to assure compliance with the public facilities procurement policies developed by the department under AS 35.10.160 — 35.10.200. If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. Regulations adopted, amended or repealed by the department under this section which relate to educational facilities shall be developed in conjunction with the Alaska Association of School Boards and the Alaska Association of School Administrators and reviewed by those associations before final action on the regulations is taken by the department. (§ 1 ch 57 SLA 1976; am §§ 6, 7 ch 147 SLA 1978)

Effect of amendment. — The 1978 amendment, in subsection (a), inserted "all of" near the middle of the first sentence and in the second sentence, inserted the item (2) designation, added item (1), and inserted "transfer to and," deleted "or regional educational attendance area" following "assumption by the municipality" and "or area" following "of responsibilities by the municipalities," and substituted "a public works project" for "the public works project," all in item (2). The amendment also deleted the former third sentence of subsection (a), which read "The parties may by mutual agreement provide for joint or cooperative assumption of responsibilities by the department and the municipality or regional educational attendance area," and in the first sentence of subsection (b), substituted "commissioner of transportation and public facilities" for "commissioner of public works" and "under (a)(2) of this section" for "or regional educational attendance area under this section" and deleted "or area" following "body of the municipality." In subsection (c), the amendment added the present first through third sentences, inserted "(a)(2) of" in the present fourth sentence, and substituted "municipality or regional educational attendance area" for "subdivision or area" in the present fourth sentence. In subsection (f), the amendment substituted "commissioner of transportation and public facilities" for "commissioner of public works" in the first sentence, inserted "for the planning, design and construction of public works" in the first sentence, inserted the language beginning "shall include in grant contracts" and ending "with respect to employment preference, and" in the second sentence, and added the fourth sentence.

Sec. 35.15.090. Use of appropriated funds. Upon assumption by a municipality or regional educational attendance area of the department's responsibilities under AS 35.15.080(a)(1), or upon execution of an agreement under AS 35.15.080(a)(2), state funds appropriated for a public works project which is the subject of the assumption or the agreement shall be transferred to a special account in the state treasury. A municipality or regional educational attendance area administering the project under the assumption or agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 190
Title: Newhalen/Nondalton Road
Sponsor: Herrmann
Requestor: Herrmann

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING			150.0	165.0	181.5	
CAPITAL		9,000.0	1,400.0			
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		9,000.0	1,550.0	165.0	181.5	
FEDERAL FUNDS		0.0	0.0			
OTHER (Specify Source)		0.0	0.0			

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

This information was not provided by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis (attached)

Prepared by: William R. Snell, Director Phone: 266-1440
Division: Planning & Programming Date: 4/27/83

Approved by Commissioner: David W. Haugen Date: 4/29/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB 190 Fiscal Note (cont'd)

IV. Analysis

a. Assumption. This fiscal note assumes that there will be the same initial capital investment need for maintenance equipment and storage for the 14' road as for the 20' concept. Annual operating costs would also be similar.

b. Project Analysis. This project is a priority of the communities of Newhalen and Nondalton. The project would possible increase the tourist trade which is the area's largest industry.

DOT&PF has been approached by community representatives about receiving $1,000.0 to $2,000.0 as a grant to construct a pioneer road and to move bridge materials to the crossing sites. Once the pioneer route is established, records of traffic could be kept. Upon reaching certain Average Daily Traffic levels, this project would become eligible for Federal Aid Highway funds. This option seemed very attractive to the local representatives. The pioneer road alternative would be an inexpersive means of providing the requested service. It would probably meet the needs of the communities for several years.

CITY OF NONDALTON

General Delivery

Nondalton, AK 99640

February 15, 1983

Representative Mike Szymanski
Pouch V
Juneau, AK 99811

Ref: NONDALTON/NEWHALEN ROAD PROJECT
Private Property Ownership

Dear Representative SYMANSKI:

Pursuant to your question concerning the status and ownership of land along the right-of-way that was granted to the State of Alaska for the Nondalton/Newhalen Road Project, we would like to offer the following information.

As outlined in the attached report from Robert Jenks, Land Manager, the vast majority of the property along the right-of-way of the road belongs to three parties. Mainly, Nondalton Native Corporation, Iliamna Natives Ltd, and the U.S. Park Service. There are approximately ten other private land holders with land directly on the right-of-way and we have also identified 13 other private landholders that would benefit through access to private inland holdings. Additionally, there are 37 families that hold small land parcels, less than five (5) acres, that would benefit directly from access provided by the road.

These would be the primary direct beneficiaries of any development. In reference to the benefits that would be derived by the local Village Corporations, you may be interested to note that their policy concerning participation in development is:

"It shall be the policy of the corporation to assist in the development of the region in the fields of energy distribution and transportation systems.

The corporation will provide assistance in financing, management and operations for major development projects which are too large to be handled by the local 'small' corporations and/or partnerships and/or sole proprietorships.

The corporation will not become involved, except in an advisory position, in the numerous small businesses that are common to an economically independent region. This policy is based on the philosophy that most private enterprizes are more effective for these type of operations and that each individual should participate in the economy."

It may also be of interest to note that the IRS has concurred that lands held by village corporations, received through ANCSA legislation, are to be treated as "investment holdings." Thus any disposal of these lands, which is anticipated, does not result in "profits" to the corporations, but rather in the conversion of "long term hard assets" to "liquid assets." These will in turn be invested within the region and our ultimate resource, our people.

As a matter of record, Mr. Balluta would also like to clarify his position of this morning concerning the impact that the road would have on our people. Firstly, our surveys have shown that there is no one in our communities who want to be on welfare. As a people, we have been, in a first hand sense, economically independent for centuries. As a part of the culturual impact of the white civilization, we have to learn to adjust and change our direction and goals. Our past experience, in the construction of the electrical generation system, school projects, tanks, farms etc., has proven that our people are ready and willing to work and participate in this new life style as they were in the old "survival environment." With proper direction and leadership, their production has equaled or exceeded that of personnel who were "shipped in" for these projects. The key to this success has been the personnel and management procedures that were developed and implemented on the projects.

We sincerely hope that this will provide the information you requested on this subject. If you hve any questions, please do not hesitate to contact us.

Sincerely yours,

James Diamond Wilson
Mayor, City of Nondalton
Representing the Iliamna & Lake Clark Region

cc: Wassie W. Balluta, Sr.
Bette Cato, Chairman
Mike Miller, Vice Chairman
Mitch Abood
Randy Phillips
Barbara Lacher
Adelheid Herrmann
Jack McBride
Mike Davis
Committee Recorder

Newhalen City Council

P.O. Box 153
Iliamna, Alaska 99606

February 15, 1983

Representative Randy Phillips
Pouch V
Juneau, AK 99811

Ref: Management Plan for Nondalton/Newhalen Road Project

Dear Representative Phillips:

Pursuant to your request for additional information on the intended management procedures for the Nondalton/Newhalen road, we would like to supply the attached information. Please be advised that this is a summary of the "Project Management and Procedures Manual" which is approximately 80% completed at this time.

This manual outlines the entire management system for our project and will be completed prior to the start of work on the road.

As a Contract Administrator, we certainly appreciate your interest in how we intend to manage this project. From our prospective, project administration will the overall success and/or failure of this or any project. The communities of this region have been involved in numerous projects which have been performed by Project Management approach and have found this method to be extremely effective because:

1. It provides the flexibility to increase employment of local personnel.

2. It provides the communities the opportunity to determine which pieces of equipment will remain within the community after project completion. This is usually equipment that a general contractor would have a 100% write-off on during the course of a project.

3. It provides a methodology where the community government and administrative personnel can learn, through hands on participation, from professional personnel, the proper procedures and methods for administering contracts and perform the tasks for which they are qualified.

4. It teaches management and fiscal responsibility to members of the Project Management Committee.

We sincerely hope that this will properly address your concerns on this project. If you require additional information, please do not hesitate to contact us.

Sincerely yours,

Gregory Anelon, Sr.

Gregory Anelon, Mayor
City of Newhalen
Representing the Iliamna/Lake Clark Region

cc: Trans. Comm. Members

PROJECT MANAGEMENT & PROCEDURES MANUAL (abridged) ABSTRACTED

NONDALTON/NEWHALEN ROAD PROJECT

FUNDING

Funding will be requested in the name of the cities of Nondalton and Newhalen through the Department of Administration.

FUND MANAGEMENT

Project funds will be managed by the "Two Cities Project Committee" whose representatives will be responsible to their respective assemblies and/or councils. The project committee consists of two representatives from each of the municipalities of Nondalton and Newhalen and a like number from the community of Iliamna. A seventh member will be chosen at large by a 5/6th majority of these appointees. Appointees shall be made by the Mayor of the respective bodies and shall serve at his pleasure.

Project funds shall be accounted for in a manner such as to meet and/or exceed state requirements for project accounting and all procedures shall be approved by an in-house registered CPA. Expenditures shall be reviewed quarterly by a registered CPA and the project shall be audited annually by an independent auditor and at the end of the project.

Each community shall be responsible to provide proper insurances to the other members of the committee to protect against misuse and/or misappropriation of funds.

All disbursements shall require a minimum of two (2) signatures, one of which shall be that of the selected contracting officer, except in cases of emergency.

MANAGEMENT COMMITTEE

The Management Committee shall be responsible for the overall management and administration of the project. This committee shall be responsible that the appropriate statutes and regulations promugulated thereunder by the State of Alaska, Department of Administration are adhered too. In the absence of regulations directly relating to the procedures and/or decisions required of the committee, regulations of the Department of Transportation and Public Facilities shall apply.

The Management Committee shall meet not less than once monthly for the purposes of conducting the business of the project and at which meeting they shall cause to be provided a project status report and project budget report which shall accurately reflect the status of the project relative to schedule, quantities and budget.

Compensation of the Manageme[illegible]ittee shall be set by the Committee and subject to the approval of all of the respec[illegible]nicipal assemblies and/or councils

The Management Committee shall be the final administrative remedy for any contact and/or contractor disputes.

All contract awards shall be approved by the Management Committee, who cause a letter of review by legal counsel to be attached to said contract prior to presentation to the Committee, and which approval shall be by Roll Call Vote.

ENGINEERING CONSULTANTS

The selection of any engineering consultants, man[illegible]gement consultants and/or inspection personnel shall be in accordance with State of Al[illegible]ska procedures, which procedures shall be a part of the permanent records of the Committ[illegible]e.

ADMINISTRATION

Day-to-day administration of the project shall be handled by a Facility Coordinator with the duties and authority and responsibility as outlined in the job description of same as published by DOT/PF. Said coordinator shall utilize the staff as authorized by the Management Committee, which shall, in principal, consist of admin[illegible]strative staff of the City of Newhalen and the City of Nondalton.

In the addition of any staff members to the existing staff, first priority shall be given to staff members of the Iliamna Development Corporation.

Functions of this staff shall include such items as telephone answering, project accounting, coordination of work pools, secretarial services, account code distribution, preparation of reports and statements, preparation of contracts, scheduling of air transportation and such other tasks as the staff may be qualified for as determined by a quarterly evaluation procedure set by the Management Committee.

PROJECT METHODOLOGY

This project will utilize multiple contracts for the various portions of the roads. The following contracts are anticipated:

1. Inspections: A contract with DOT/PF to utilize their personnel to monitor the project and provide on-site inspection services to insure proper procedures and that construction meets their minimum standards. In lieu of such a contract, DOT/PF would be requested to provide the guidelines, procedures, record requirements and minimum qualifications for a professional inpection team to provide these services.

2. Engineering: An engineering consultant, selected by appropriate State procedures, to provide "as required" engineering services that will need to be addressed as on-site problems arise and to reconfirm structural analysis of the intended bridge structure.

3. Bridge Acquisition: A contract with the State of Alaska, DOT/PF for the transfer of the bridge to the Newhalen bridge site.

4. Bridge Construction: A contract for the construction of the bridge across the Newhalen River.

5. Subbase & Borrow Materials: A contract with the Bristol Bay Regional Corporation setting price, quality and quantities for gravel and other "minerals."

6. Construction: A general construction contract with private contractors for specialized portions of the project that can not be provided and/or implemented by local work forces that are not currently a part of the work forces of the cities.

SCHEDULING

Project scheduling shall be done by the Critical Path Method using an "activity on node" methodology equal to GE Project 2 flexibility. Scheduling program shall be the responsibility of the Facility Coordinator.

Level of scheduling detail shall be such that coordinator can track progress on a maximum 5 working day basis with quantity tracking progress on a one day basis.

All nodal activities shall contain budgeted costs which shall be cross correlated to actual cost activities not less than weekly.

"THIS ABRIDGED SUMMARY ABSTRACTED BY DON ANDERSON, 2/15/83 AT JUNEAU, ALASKA FROM DISC CNEW, 2: MGTPLAN2."

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 190 (Transportation) Date on Bill: February 17, 1983
Title: Approp. to DOT&PF for road construction
Sponsor: Herrmann
Requestor: OMB

1. Estimate fiscal impact on:

a. Expenditures:

(Thousands of Dollars)

			FY 84	FY 85	FY 86	FY 87		
Capital			9,000.0	6,300.0	-0-			
Operating			-0-	150.0	165.0			
Total			-0-	-0-	-0-			

b. Revenues:

Revenue			-0-	-0-	-0-			

2. Source of funds to offset fiscal impact of bill:

This information was not provided by the sponsor.

3. Assumptions:

The current cost estimate for road construction only is $13,525.0 in FY'84 dollars. Capital expenditure for maintenance equipment and building is $1,185.0 in FY'84 dollars. The FY'85 capital expenditure represents the difference between the proposed $9,000.0 and the actual project cost plus the cost of the maintenance building and equipment inflated by 10%.

Capital expenditures for maintenance building and equipment are include in the FY'85.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: William R. Snell Phone: 266-1462
Division: Department Transportation and Public Facilities Date: 2/25/83

Approved by Commissioner: [signature] Date: 2/25/83
Department: Department of Transportation and Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 190 Date on Bill: 2/11/83
Title: Act...special appropriation to Nondalton and Newhalen for road construction
Sponsor: Herrman
Requestor: House Transportation Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	$9,000.0	0	0		
Operating								
Total			0	$9,000.0	0	0		

b. Revenues:

Revenue			0	0	0	0		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: Per bill language, this appropriation is GF, under AS 37.05.315 and the department will incur no additional administrative costs as a result of this legislation.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

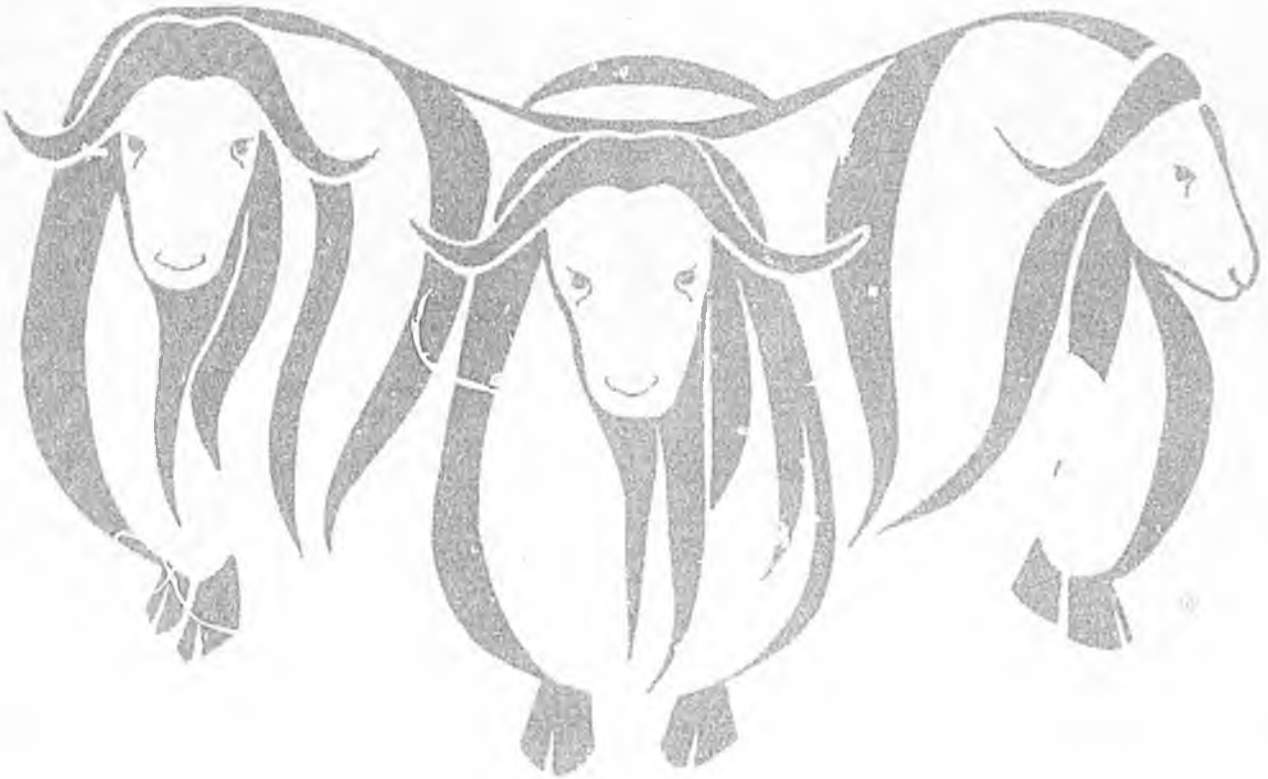
Prepared By: Kenneth R. Ryals Phone: 465-2277
Division: Administrative Services Date: ~~2/14/83~~

Approved by Commissioner: Date:
Department: Administration

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

NONDALTON/NEWHALEN ROAD
PROJECT SUMMARY



HOUSE TRANSPORTATION COMMITTEE

FEBRUARY 15, 1983

EXECUTIVE OVERVIEW

LAKE ILIAMNA/LAKE CLARK REGION

This document outlines the major capital project requirements for local self sufficiency for the cities of Nondalton and Newhalen and the communities of Iliamna, Pedro Bay, and Kokhanok as outlined and agreed by these communities at the Regional Planning and Development Conference held November 17-20, 1982 at Iliamna, Alaska.

The philosophy developed and adopted by the members at the conference for our growth into a self sustaining and economically independent region is based on a thorough understanding of infrastructure which must exist for:

RESOURCE DEVELOPMENT & UTILIZATION: Our ultimate resource is the people we represent and the work which we perform to set the goals, develop the plans, and implement tasks. For our region, we are fortunately supplemented by the availability of various resources which can be developed and utilized, and which are renewable. These include: (a) hydro electric potential for electrification of Bristol Bay; (b) tourism trade through the Lake Clark Park & Preserve; (c) fresh water fishery potential; (d) timber; and (e) world class trophy fishing.

ENERGY DISTRIBUTION SYSTEMS: Through a joint effort of the communities, we now have on-line an electrical generation system capable of meeting the demands through 2010 and a distribution system which ties the three largest communities together. Financing for over 50% of this system was provided by the local communities through long term loan obligations. We also have in place a fuel distribution system capable of serving the communities, which was 93% funded by private parties.

TRANSPORTATION SYSTEMS: Only one portion of the critical transportation system has been satisfactorily accomplished to date. The Iliamna Airport with its NDB approach meets the minimum requirements for year round reliable transportation to and from the region. There is currently no viable means to connect the three largest population areas so that reasonable commerce and trade between them can develop. Thus, the population base necessary for economic independence cannot be accomplished. This problem is further compounded by the fact that summer heavy freight traffic (barge) cannot be properly distributed, nor do we have a means for handling the ever increasing tourism flow.

Thus, we believe that the fundamentals for ECONOMIC INDEPENDENCE are: RESOURCE DEVELOPMENT, ENERGY, and TRANSPORTATION. This document addresses a specific portion of these needs, which when

accomplished and implemented will provide the basis for region wide economic independence.

In summary we:

- Want to develop and utilize our renewable resources.
- Currently have the basis of a viable energy distribution system.
- Have already participated in over 64% of the total financing of major projects to date.
- Must complete our transportation systems.
- Have the private industry sector commitments to assist.
- Have developed long term goals and plans for our needs.
- Desire to be economically independent.

EXECUTIVE PROJECT SUMMARY

Nondalton/Newhalen Road Project

For the past three years the cities of Nondalton and Newhalen and the community of Iliamna have been working jointly and cooperatively for the development of this region into economically self-sufficiency. We, the 1,000 residents of this area, feel that the top priority for the success of our development is the road connecting the communities.

The Nondalton/Newhalen Road is the major portion of the basic resource, energy and transportation triangle that must be completed to provide the proper intra structure for successful economic development of these three communities. This is the second of three parts of our overall transportation system. Basically, its timely completion effects the implementation and effectiveness of numerous projects, both private and governmental, which will lead to our economic independence. The effected projects include:

- LAKE CLARK PARK & PRESERVE development for tourist trade and location of the park gateway at Nondalton.
- NONDALTON POLYSTYRENE manufacturing facility and transportation of the manufactured goods, raw materials, and labor pool.
- INNEC LINE MAINTENANCE costs for the electrical distribution system.
- BRISTOL BAY ELECTRIFICATION project costs for either of the top three alternatives.
- RECREATIONAL PROPERTY DEVELOPMENT through the private sector.
- CENTRALIZED FIRE PROTECTION cost decrease, with a resulting drop in insurance cost for both the governmental and private sectors.
- PROVIDE COMMUNICATIONS corridor for telephone interconnect between the communities and the rest of the world.
- DECREASE EDUCATIONAL COSTS for travel functions between the communities.
- DECREASE PROTECTION & MANAGEMENT COSTS for the Alaska State Troopers and Fish & Game and for National Park Service by relieving the need for 100% air transport.

- o INCREASE LIFE SAFETY PROTECTION by providing year round transportation method for injured patients to MEDIVAK flights.

- o PROVIDE EQUIPMENT BASE FOR FUTURE MAINTENANCE of the road through the intended management procedures.

- o DEVELOP ADMINISTRATIVE SKILLS of local government personnel to the level required for proper administration of an economically independent region.

- o DECREASE COSTS for services such as postal delivery, fuel, food supplies, etc.

Work to Date

The project is scheduled to have the first bid package ready within 30 days of notice of funding.

In 1971, we received a "use required" restricted right-of-way from the Iliamna Airport to Nondalton. Paper plot surveys were completed, the right-of-way was selected, and numerous public meetings were conducted to insure that each sector of the local communities had their input on the project. The right-of-way from BLM specifies that substantial work must begin on the project prior to 1984 or the property will revert to BLM. Failure to meet this requirement would place the land back into the national park/preserve area and would eliminate future use of this routing.

In 1980 the communities jointly requested and received $150,000 and contributed another $82,000 to have the centerline survey of the road completed. As of December 1982, this work was completed, including complete soils analysis, location of borrow sites, and updating of engineering design. This work was managed and coordinated by a joint committee established by the two cities working for the most effective management of the project. To our knowledge, this is the first such coordinated effort between rural communities of such a project as allowable under Alaska statute.

An easement along the right-of-way has also been issued to the Iliamna-Newhalen-Nondalton Electric Cooperative, Inc. for the purpose of burial of the power distribution line to Nondalton. The installation of this line has already been completed and electrical service is now available to the City of Nondalton. A

repossession of this property by BLM would also necessitate INNEC's loss of this easement.

Management

It is anticipated that project management will be provided by the management committee, appointed from the three communities with additional assistance provided by DOT/PF. However, it is not anticipated that DOT/PF will be the prime project administrators. One of the keys to economic independence is the development of local administrative personnel, and both of the cities already have a proven track record in handling of state funds.

The local administration of this project will also decrease the cost of fill material through negotiations with the local village corporations and will insure that a minimum of 6% of the total project funds are expended within the local community. This last point may seem insignificant to many, but when you consider that, on the average, a major bush construction project injects less than 3% of project funds, including local labor wages, into the local economy, it is easy to understand why the numerous capital projects have had very little impact on rural Alaska.

Schedule

A summary of the project schedule shows work beginning within thirty days of funding approval, with project completion in August of 1985. Earlier completion is possible pending weather conditions and actual date of funding.

NONDALTON/NEWHALEN ROAD

Project Nondalton-Iliamna Road Plan

ESTIMATE OF COST

Project No. A-80811

ITEM	UNIT	UNIT PRICE	20' Road Bed		16' Road Bed	
			QUANTITY	AMOUNT	QUANTITY	AMOUNT
Furnishing and Maintaining Engineering Facilities	L.S.	Lump Sum	All Req'd	30,000	All	30,000
Furnishing and Maintaining Engineering Transportation	C.D.	75.00	1,800	135,000	1,800	135,000
Meals	Each	12.00	10,800	129,600	10,800	129,600
Lodging	Each	20.00	3,600	72,000	3,600	72,000
Mobilization	L.S.	Lump Sum	All Req'd	500,000	All	500,000
Temporary Erosion and Polution Control	C.S.	Cont. Sum	All Req'd	6,000	All	6,000
Consturction Surveying by the Contractor/City	L.S.	Lump Sum	All Req'd	450,000	All	450,000
Removal of Culvert Pipe	L.F.	20.00	70	1,400	70	1,400
Unclassified Excavation	C.Y.	8.00	563,542	4,508,336	450,834	3,606,672
Ditch Lining	L.F.	10.00	1,350	13,500	1,350	13,500
Excavation for Sturctures	C.Y.	35.00	45	1,575	45	1,575
Subbase Grading	C.Y.	20.00	32,480	649,600	25,984	519,680
Class "W" Concrete	C.Y.	900.00	27.8	25,020	27.8	25,020
Structural Plate Pipe Diameter 120-inch, Gage	L.F.	750.00	92	69,000	79	55,500
Structural Plate Pipe Diameter 144-inch, Gage	L.F.	950.00	196	186,200	157	149,150
18-inch Corrugated Steel Pipe	L.F.	40.00	2,662	106,480	2,130	85,200
24-inch Corrugated Steel Pipe	L.F.	45.00	502	22,590	402	18,090
30-inch Corrugated Steel Pipe	L.F.	50.00	332	16,600	266	13,300
36-inch Corrugated Steel Pipe	L.F.	70.00	424	29,680	340	23,800
48-inch Corrugated Steel Pipe	L.F.	100.00	86	8,600	69	6,900
84-inch Corrugated Steel Pipe	L.F.	150.00	190	28,500	150	22,800
25-inch by 16-inch Corrugated Steel Pipe Arch	L.F.	45.00	108	4,860	86	3,870

NONDALTON/NEWHALEN ROAD

Project Nondalton-Iliamna Road Plan

ESTIMATE OF COST

Project No. A-80811

ITEM	UNIT	UNIT PRICE	20' Road Bed QUANTITY	20' Road Bed AMOUNT	16' Road Bed QUANTITY	16' Road Bed AMOUNT
36-inch by 22-inch Corrugated Steel Pipe Arch	L.F.	70	108	7,560	86	6,020
50-inch by 31-inch Corrugated Steel Pipe Arch	L.F.	120	128	15,360	102	12,240
Precast Energy Dissipation	Each	4,000	2	8,000	2	8,000
24-inch Corrugated Downdrain Pipe Aluminum	L.F.	45	60	2,700	48	2,160
End Anchorage	L.F.	2,000	8	16,000	8	16,000
Adjust Existing Monuments and Cases	Each	400	5	2,000	5	2,000
Standard Signs	S.F.	100	37.5	3,750	100	3,750
Seeding	M.S.F	100	201.4	20,140	100	20,140
Beam Type Guardrail Type I Post	L.F.	50	500	25,000	500	25,000
Roadway Construction				7,095,051		5,964,367
Bridge Construction				2,587,984		2,266,984
Construction Subtotal				9,683,035		8,231,351
Engineering Construction 8.8%				1,452,455		723,649
Subtotal				11,135,490		8,955,000
Utilities				45,000		45,000
1982 Dollars Construction Grand Total				11,180,490		9,000,000

HB

199

Outdoor Recreational Facilities (creation of)

SENATE BILL NO. 9, by Senators Vic Fischer and Josephson. Amends law governing the state's system of wilderness trails and campsites (AS 41.20.070 - 120). Expands the system to include "historical, recreational, and wilderness trails, waterways, and campsites." The Division of Parks in the Dept. of Natural Resources would continue to administer the expanded program. Lands to be included in the system would be those designated by the state (DNR in consultation with Depts. of Fish & Game and Transportation & Public Facilities) or those nominated by local governments and approved by the Commissioner of Natural Resources.

Adds several paragraphs to AS 41.20.080 (selection of land) which list the requirements for land included in the system (e.g., must serve the recreational needs of a substantial number of people, must provide access to areas of historical, natural, or recreational interest, etc.). Requires that, when practicable, a trail in the system must follow historic routes.

Adds clause which states that nothing in the law requires the transfer of title to land within an existing or proposed unit of the system from a municipality to the state or the transfer of maintenance or management responsibilities except as may be contained in an agreement between the parties. Would allow the Dept. of Natural Resources to enter into cooperative management agreements with federal agencies, municipal governments, and private landowners. Adds requirement that trails, waterways, or campsites designated or acquired under the law contain sufficient reservations of land to provide for the purposes for which the unit is established.

Provides that money appropriated by the legislature may be spent on any units within the system, including portions of the system owned by municipalities, and may be spent on management, maintenance, and administration of existing units and planning or acquisition of proposed units, including payments to municipalities for these purposes.

Adds new section 41.20.105 which allows the Dept. of Natural Resources to enter into a cooperative agreement with a municipality of the state for the acquisition, development, and marking of trails within the municipality. Amends section on Regulations (41.20.100) to direct the Commissioner of Natural Resources to adopt regulations for the inclusion of local government trails within the system and regulations relating to payments to municipalities for the program.

Amends Sec. 41.20.110 (construction & maintenance of campsites) to require the Dept. of Transportation & Public Facilities to development and construct trail heads for the trail system and to development and provide for safe and adequate public access to waterways. A trail head must provide public parking and must mark the existence of the trail.

Directs the Div. of Tourism to prepare informational material for state and national distribution promoting the use of the system.

SB 9 (cont'd)

Requires the Division of Parks to file a yearly report with the Governor and Legislature which shows areas included in the system, arrangements made or entered into for use, development, maintenance, or marking of units, and money spent or committed. Also requires the Division of Parks to prepare and maintain a five-year development plan for the system. See SB 23, p. 7, similar.

Provides Act effective July 1, 1983.

Introduced January 18 and referred to Resources and Finance.

Alaska Railroad Authority (creation of)

SENATE BILL NO. 10, by Senator Kerttula. Would establish an Alaska Railroad Authority (AS 42.40.010 - 42.40.880) as an instrumentality of the state within the Department of Transportation and Public Facilities, with a legal existence separate from the state. Legislative findings indicate that the United States government determines to discontinue federal operation of the Alaska Railroad and the continued operation is possible only if the state acquires the railroad. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 18 and referred to Transportation and Finance.

Appropriation (Alaska Power Authority)

SENATE BILL NO. 11, by Senators Kerttula and Ziegler. Would appropriate $221,180,000 from the General Fund to the Alaska Power Authority for the construction of various power projects around the state. Subject to AS 37.25.020, which relates to the funds being available only for the life of the project. Effective July 1, 1983.

Introduced January 18 and referred to Resources and Finance.

Salmon Seine Vessels (max. length)

SENATE BILL NO. 12, by Senator Ziegler by request. Repeals AS 16.05.835, which limits vessel length to 50 feet (or 58 feet overall) unless the vessel was used in seine fishing in the state before 1962. Effective immediately.

Introduced January 18 and referred to Resources.

Arson (definition)

SENATE BILL NO. 13, by Senator Ziegler by request. Amends the definition of first degree arson contained in AS 11.46.400. A person commits the crime if person "intentionally damages any property by starting a fire or causing an explosion and by that act recklessly places another person in danger of serious physical injury." The definition is clarified by the addition of the following language: "For purposes of this section, 'another person' includes but is not limited to a fire protection officer, peace officer or public employee who responds to the fire or explosion." Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 18 and referred to Judiciary.

Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

March 24, 1983

MAR 28 1983

The Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Barbara:

Subject: HB 199 AND SB 23 - TRAILS AND RECREATIONAL PROJECTS

You had asked about the Assembly's position on HB 199 on trails and SB 23 on outdoor recreation and historic projects.

The Assembly, at its March 23, 1983 meeting, unanimously endorsed the above bills.

See the attached:

AM 13-99 - House Bill 199 and Senate Bill 23 Relating to Recreational Projects.

Letter of Alaska Association for Historic Preservation and Alaska Recreation and Park Association to Governor Sheffield.

Sincerely,

Gary Thurlow
Borough Manager

er

cc: Governor Bill Sheffield
Robert Goldberg
Alaska Association for Historic Preservation
Loren Smith
Alaska Recreation and Park Association
Janet McCabe, Chairman
Legislative Committee, AAHP, ARPA

Matanuska - Susitna Borough

assembly memorandum

no. A.M. 83-99

from: Rodney Schulling, Asst. Planning Director date: March 17, 1983

subject: House Bill 199 and Senate Bill 23 Relating to Recreational Projects

The Planning Commission has reviewed House Bill 199 (copy attached) amending current legislation relating to development of State trails and other recreational facilities. The Planning Commission agrees in principle with this legislation and has so stated in Resolution 83-18; however, they have some concerns which, if the Assembly agrees, should be conveyed with any endorsement of subject legislation. These concerns include a suggestion that the Borough be more specifically involved in planning and designation of elements which would be incorporated in a State recreational system within the Borough. The Planning Commission is also concerned that provisions be made to identify local control of local projects and that funding be provided to support their development.

A companion Senate bill - SB 23 - was not reviewed by the Planning Commission but does seem to address some of the funding concerns of the Commission. A copy of this bill is also attached for Assembly review.

A proposed Assembly resolution supporting HB 199 and SB 23 in principle is attached for your consideration. Administration recommends approval and suggests that the Planning Commission concerns expressed above be conveyed in an accompanying letter to sponsor legislators along with any other concerns the Assembly may have.

Respectfully submitted,

Claudio Arenas

Claudio Arenas
Planning Director

Reviewed and approved:

Gary Thurlow, Manager

Approved by Assembly March 23, 1983

Date Rec'd: 3/10/83 Initial

Alaska Recreation and
Park Association
P.O. Box 2664-DT
Anchorage, Alaska 99510

The Alaska Association for
Historic Preservation
Old City Hall
524 West Fourth Avenue, Suite 203
Anchorage, Alaska 99501

Honorable Bill Sheffield
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

At this time of year you and your administration are beseiged by requests for capital funds for various local projects. Certainly, this type of pressure is being applied to members of the Legislature. These requests are difficult to compare and evaluate on a statewide basis.

Our two statewide organizations, the Alaska Recreation and Park Association and the Alaska Association for Historic Preservation would like to propose an approach towards capital budgeting for local recreation facilities and historic preservation projects that would fit in with your efforts to provide a well considered and controlled capital budget.

Senate Bill No. 23 was drafted several years ago with the assistance of the Alaska Division of Parks. It establishes a program by which the State, through the Alaska Division of Parks, would fund local recreation and historic preservation projects on the basis of competitive applications received annually from localities throughout the state. The bill also authorizes the Division to provide technical assistance to communities in identifying projects and preparing applications. This assistance puts small communities on a more equitable basis with larger places in the annual competition for funds.

The program embodied in this bill has had substantial testing and precedent. It is based on the Land and Water Conservation Fund Program and the Historic Preservation Grant Program that were much used throughout Alaska in the decade preceding 1981 when federal funds were eliminated. These two highly successful programs combined federal funding with State administration to achieve an equitable distribution of dollars for local recreational and historic preservation projects. The requirement for local matching funds and an annual competition of applicants ensured that only those projects that had solid public benefit and local support received public funds. Unfortunately, recent federal cutbacks have eliminated both programs, except for a small amount appropriated for recreational projects during the current fiscal year. Senate Bill No. 23 would reinstitute these programs using State funding to match local dollars for locally initiated projects.

We believe that Senate Bill No. 23 deserves administrative support. For minimal statewide implementation, the FY 1984 fiscal note should be at least $4 million. Since the bill establishes a process of statewide

distribution of funding, it needs the support of the Administration. With your help the bill could establish a rational and cost effective system for distribution of funding for local recreation and historic preservation, a system which could provide an alternative to the ad hoc approach which has prevailed in recent years.

We look forward to discussing this proposal with you in further detail.

Sincerely,

Robert Goldberg, President
Alaska Association for
Historic Preservation

Loren Smith, President
Alaska Recreation and
Park Association

Janet McCabe, Chairman
Legislative Committee, AAHP, and
Legislative Committee, ARPA

Enclosure
Senate Bill No. 23

cc:

Neil C. Johanssen, Director
Alaska Division of Parks

Gary Thurlow, Manager
Matanuska-Susitna Borough

Senator Vic Fischer
Senator Arlis Sturgulewski
Senator Joe Josephson
Representative Randy Phillips
Representative Barbara Lacher
Representative Mike Szymanski

MAR 9 - 1983

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 199 Date on Bill: 2/14/83
Title: An Act relating to outdoor recreational facilities; providing for a state . . .
Sponsor: Lacher, Phillips, Clocksin and Larson
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Terry Miller Phone: 465-2010
Division: Tourism Date:

Approved by Commissioner: Richard A. Lyon Date:
Department: Commerce and Economic Development

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

AMENDMENT TO HB 199
HOUSE TRANSPORTATION COMMITTEE

Sec. 7 PAGE 4, LINE 16 INFORMATIONAL MATERIAL

Delete "The division of tourism in the Department of Commerce and Economic Development" and

Insert "The division of parks in the Department of Natural Resources".

(9)

COMMITTEE REPORT

HOUSE

FURTHER: RESOURCES FINANCE

2/21/83

Date: 4/7/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 199

An Act relating to outdoor recreational facilities; providing for a state historical, recreational, and wilderness trails, waterways, and campsite system; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the Resources Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Mike Davis Do Pass	[illegible] Do Rec
M.W. Miller Do Pass	[illegible] No Rec.
[illegible]	Mike Davis No Rec
[illegible] Do Pass	
[illegible] Do Pass	
[illegible]	

CHAIRMAN

H 60

Alaska State Legislature

HB 199

Senate

Official Business
Senator Bettye Fahrenkamp
Chairman

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1983
3:10 p.m.

211 Beltz Room

MEMBERS PRESENT

Senator Fahrenkamp
Senator Ziegler
Senator Elfason
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

SB 9 - An Act relating to outdoor recreational facilities; providing for a state historical, recreational, and wilderness trails, waterways and campsite system.

SB 128 - An Act establishing certain areas as marine park units of the Alaska state park system.

CSHB 151 - An Act making a special appropriation to the Department of Natural Resources, Division of Parks, for acquisition and development of the House of Wickersham in Juneau.

SB 9 - Neil Johannsen, Director, State Division of Parks testified that the administration supports SB 9. He would recommend that the fiscal note be stricken to zero. Discussion followed as to implementation of the bill if it was not funded. Regarding the Iditarod Trail, he stated that BLM will not act on the trail management plan until a joint understanding by the State of Alaska and the Department of Interior has been reached on management strategies. At that time a plan will be submitted to the Alaskan delegation in Washington, D. C. and funds requested.

Senator Vic Fischer listed amendments he wished to see included in SB 9. Senator Fahrenkamp suggested that Sen. Fischer work closely with Citizen's Advisory Commission which has worked on the Iditarod plan.

Senator Fischer moved a zero fiscal note on SB 9. There were no objections.

Jim Wilson representing himself expressed concern over the lack of safeguards in the bill permitting continued historic use of trails for mining, etc.

Mary Lou King representing herself supports SB 9.

SB 128 - Neil Johannsen, Director of Alaska State Parks, gave background information and the history of the acquisition of land for marine parks. Discussion followed regarding amount of state land selected from national forests allocated to prime recreation use, similar projects in other areas, the law suit over land selections with the Forest Service, the support of various groups including Alaska Visitor's Association and communities in the Prince William Sound area. He suggested various amendments to improve upon the bill; i.e. special purpose sites, the inclusion of Board of Game,

permission to construct aquaculture facilities, cooperative agreements with other owners in management and access across marine sites. He recommended a zero fiscal note.

Senator Fischer moved the committee fiscal note. There were no objections.

Jay Nelson, Representative of Alaska Environmental Lobby, testified that SB 128 would assure good conservation of land and supports the bill. He supports zero fiscal note on SB 128. He also supports CSHB 151 and SB 9.

Carl Yanagawa, Department of Fish and Game testified that his department supports SB 128.

Senator Vic Fischer moved that a committee substitute be prepared to incorporate proposed changes. There were no objections.

Senator Fahrenkamp stated that the Committee would consider SB 128 on Monday, March 28.

CSHB 151 - Ned Farquhar, Special Assistant to DNR Commissioner Wunnicke requested permission to delay the Administration's comments on CSHB 151 one week.

Senator Fahrenkamp concurred in the request.

Kitty Gaer, a private citizen testified in support of CSHB 151.

Perry Lovett, Mayor of Cordova and a member of Alaska Parks and Recreation testified in support of SB 9 and SB 128. He also supports amendments offered by State Division of Parks. However, he expressed concern regarding a zero fiscal note.

Meeting adjourned at 4:15 p.m.

after the close of the fiscal year for which the sums are authorized, unless they are obligated for expenditure, in which case they shall remain available until spent. Any amounts not obligated remaining unexpended at the end of the three-year period lapse.

(c) The amount expended by a city or borough under § 355(a) of this chapter or by the Department of Highways under § 355(b) and § 360 of this chapter, shall never in any one fiscal year be less than 10 per cent of the total amount of the funds it receives in that year for the purposes authorized in §§ 355 — 360 of this chapter. (§ 1 ch 107 SLA 1972; am § 3 ch 75 SLA 1974)

Effect of amendment. — The 1974 amendment, in subsection (a), substituted "of not less than three-eighths of one per cent nor more than" for "up to" near the beginning and "shall be appropriated" for "may be appropriated" and "footpaths and shelter construction and maintenance" for "and footpath" near the middle.

Sec. 41.20.370. Use and marking of trails and footpaths. Trails established under § 355(a) of this chapter may be used for more than one type of transportation, motorized or nonmotorized, as considered appropriate by the commissioner of natural resources. Except along highways within the jurisdiction of the Department of Highways, the Department of Natural Resources shall provide a uniform system of marking trails and footpaths. (§ 1 ch 107 SLA 1972)

Sec. 41.20.375. Reports. Cities and boroughs receiving grants under §§ 355 — 375 of this chapter shall submit to the commissioner of natural resources complete reports covering its expenditures relating to the establishment of trails and footpaths. Reports shall be submitted annually, on projects extending over 12 months. Reports on shorter projects shall be submitted at the completion of the project. (§ 1 ch 107 SLA 1972)

Article 11. Alaska Conservation Action Corps.

Section
385. Declaration of purpose
390. Corps
395. Activities of corps
400. Compensation
405. Restrictions

Editor's note. — Section 2, ch. 168, SLA 1972, provides: "This Act takes effect upon certification by the commissioner of natural resources to the governor that appropriated federal funds are available under P.L. 91-378, on other federal law, to pay compensation to corps members."

Sec. 41.20.385. Declaration of purpose. The purpose of §§ 385 — 405 of this chapter is to provide avenues of action for youth in the state

(d) Upon approval of the plan, funds shall be utilized and disbursed to cities and boroughs and to the Department of Highways according to regulations established by the commissioner of natural resources.

(e) Before the distribution of funds by the commissioner, consideration shall be given to the extent of funding available under other federal, local and state aid programs.

(f) Nothing in §§ 355 — 375 of this chapter prohibits a city or borough for which a grant is authorized from entering into an agreement with the Department of Natural Resources for the establishment and maintenance of trails and footpaths outside cities and boroughs. (§ 1 ch 107 SLA 1972; am § 1 ch 75 SLA 1974)

Effect of amendment. — The 1974 amendment, in subsection (c), substituted "paths" for "foothpaths" in the first sentence and added the second sentence.

Sec. 41.20.360. Paths and trails along highways. The commissioner of highways shall administer the plan and program providing for the establishment and maintenance of footpaths, bridle paths, bicycle paths, ski trails, dog sled trails, motorized vehicle trails and other paths and trails along certain designated existing highways, or when a highway, road or street is being constructed, reconstructed or relocated after June 7, 1972. Trails established under an approved plan submitted by the Department of Highways may be used for those types of uses written into the plan. A uniform system of marking the paths and trails established under this section shall be established by the commissioner of highways. (§ 1 ch 107 SLA 1972; am § 2 ch 75 SLA 1974)

Effect of amendment. — The 1974 amendment inserted "bridle paths, bicycle paths, ski trails, dog sled trails, motorized vehicle trails and other paths" in the first sentence, substituted "those types of uses written into the plan" for "more than one type of transportation, motorized or nonmotorized, as determined by the commissioner of highways" in the second sentence, and substituted "paths" for "footpaths" in the third sentence.

Sec. 41.20.365. Authorization of funds. (a) An amount of not less than three-eights of one per cent nor more than one per cent of the total yearly state and federal matching sum combined, under the federal-aid highways program (23 U.S.C., secs. 101 — 511), shall be appropriated annually from the general fund to the Department of Natural Resources for the purposes of providing grants to eligible cities and boroughs for trails, footpaths and shelter construction and maintenance in appropriate areas, including but not limited to existing park and recreation areas and for the purpose of providing grants to the Department of Highways for developing the program specified in § 355(b) and § 360 of this chapter.

(b) Except as provided in (c) of this section, the sums appropriated under this section shall continue to be available for expenditure by the departments or by eligible cities and boroughs for a period of three years

T2S, R1W, Seward Meridian. (§ 1 ch 66 SLA 1971; am § 1 ch 73 SLA 1975)

Effect of amendment. — The 1975 amendment divided the former third sentence into the present third and fifth sentences by substituting the language beginning "Lands covered by §§ 330 — 345" and ending "described parcels" for "and is described as follows," substituted "(1) — (4) of this section" for "§§ 330 — 340 of this chapter" in the third sentence, added the present fourth sentence, and added paragraph (5).

Sec. 41.20.340. Incompatible use prohibited. The commissioner of natural resources shall designate by regulation incompatible uses within the boundaries of the Caines Head State Recreation Area in accordance with § 335 of this chapter, and those incompatible uses designated are prohibited or restricted, as provided by regulation. (§ 1 ch 66 SLA 1971)

Sec. 41.20.345. Purchase authorized. The commissioner of natural resources may acquire, by purchase in the name of the state, title to or interest in real property lying within the boundaries of the Caines Head State Recreation Area. The state may not acquire by eminent domain privately owned land for inclusion in the Caines Head State Recreation Area. (§ 1 ch 66 SLA 1971)

Article 10. Trails and Footpaths.

Section
355. Grants for the establishment of trails and footpaths
360. Paths and trails along highways
365. Authorization of funds
370. Use and marking of trails and footpaths
375. Reports

Sec. 41.20.355. Grants for the establishment of trails and footpaths. (a) Within the limits of available appropriations, a city or borough of any class is entitled to state grants for the purpose of acquiring land or rights-of-way over land and establishing and maintaining trails and footpaths on that land or those rights-of-way.

(b) Within the limits of available appropriations, the Department of Highways is entitled to state grants for the establishment and maintenance of footpaths and trails along certain designated existing highways or when a highway, road or street is being constructed, reconstructed or relocated after June 7, 1972.

(c) Before a grant is awarded under this section, application shall be submitted to the commissioner of natural resources, accompanied by a comprehensive plan for the establishment of trails and paths. The plan may provide for ski trails, dog sled trails, motorized vehicle trails, bicycle paths, bridle paths, footpaths and other trails and paths, and designate separate and incompatible uses of these trails and paths.

HB

203

(9)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/16/83 Date: 3/4/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 203

An Act making a special appropriation to the Department of Transportation and Public Facilities for Phase I of the Nome Port Facility; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass w/ Individual Recommendations [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

Bettye Cato
CHAIRMAN

H 60

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 203 Date on Bill: February 16, 1983
Title: Appropriation to DOT/PF for Phase I of the Nome Port Facility
Sponsor: Fuller and Bussell
Requestor:

1. Estimate fiscal impact on:

a. Expenditures:

(Thousands of Dollars)

			FY 84	FY 85	FY 86	FY 87		
Capital			12,000.0					
Operating			-0-					
Total			12,000.0					

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Not identified by sponsor.

3. Assumptions:

This project is already designed. $12 million is sufficient to construct the full 3600' causeway, plus the required bridge.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Robert R. Venusti Phone: 479-4281
Division: Planning and Programming Date 2/24/83

Approved by Commissioner: [signature] Date: 2/25/83
Department: Department of Transportation and Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER
FINANCE COMMITTEE
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

MAR 2 1983

March 2, 1983

TO: Members of the House Transportation Committee

FROM: Rep. John G. (Jack) Fuller

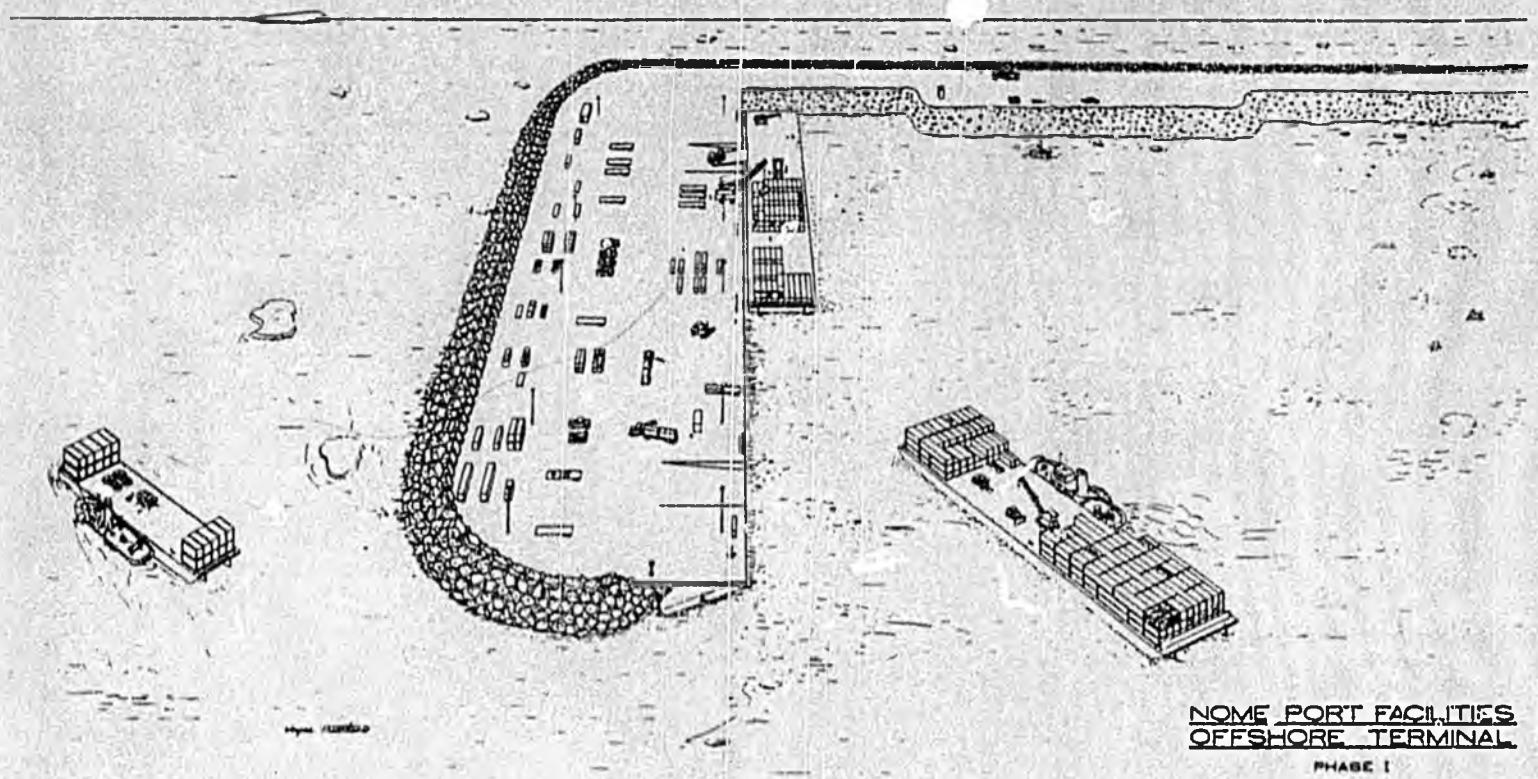
Attached is the Nome Port Facilities, Phase 1 report published by Tippetts, Abbett, McCarthy and Stratton. The report contains back-up information for House Bill 203. If you have further questions, please let me know.

HOME
P.O. BOX 689
NOME, ALASKA 99762
(907) 443-2968

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789
465-3784 465-3785

NOME PORT FACILITIES

PHASE I



TECHNICAL INFORMATION BULLETIN

TAMS
TIPPETTS-ABBETT-McCARTHY-STRATTON ENGINEERS
A PROFESSIONAL CORPORATION
ALASKA

PROJECT:	Port of Nome Causeway and Onshore Facilities
OWNER:	The City of Nome, Alaska
FUNDING	State of Alaska (DOT/PF)
DESIGN ENGINEERS:	Tippetts-Abbett-McCarthy-Stratton (TAMS)
DESIGN COMPLETION:	Estimated for February 1983
CONSTRUCTION BID DATE:	Unknown, depends on the City of Nome obtaining funding from the State of Alaska Legislature. Possibly in mid-summer 1983.
AVAILABILITY OF PLANS:	Plans will not be made available until the City is prepared to go ahead with construction. Incomplete preliminary plans and study materials may be viewed at TAMS offices by arrangement.

PROJECT DESCRIPTION: The City of Nome, situated on the north shore of Norton Sound (Figure 1) has a shallow harbor which precludes the docking of vessels drawing more than 6 feet of water. Consequently all cargo is lightered from barges anchored up to 1 mile offshore.

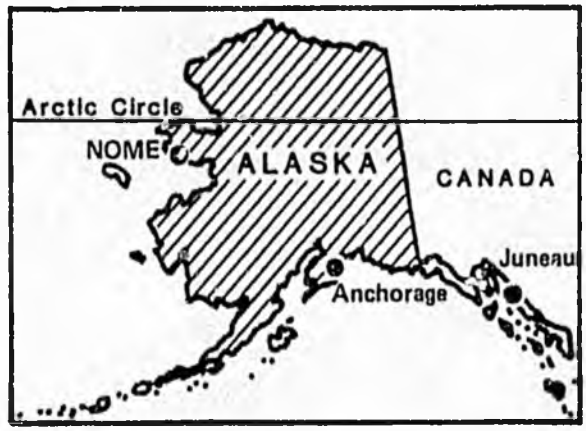


Fig. 1 Location Plan

The City proposes to build the new port in three phases. The first level of development, shown in Figure 2 will provide two 400 foot barge berths at an offshore terminal connected to the shore by a 3500 foot causeway. Later phases of development will include two additional piers for oil rig service vessels and a bulk ore load out facility.

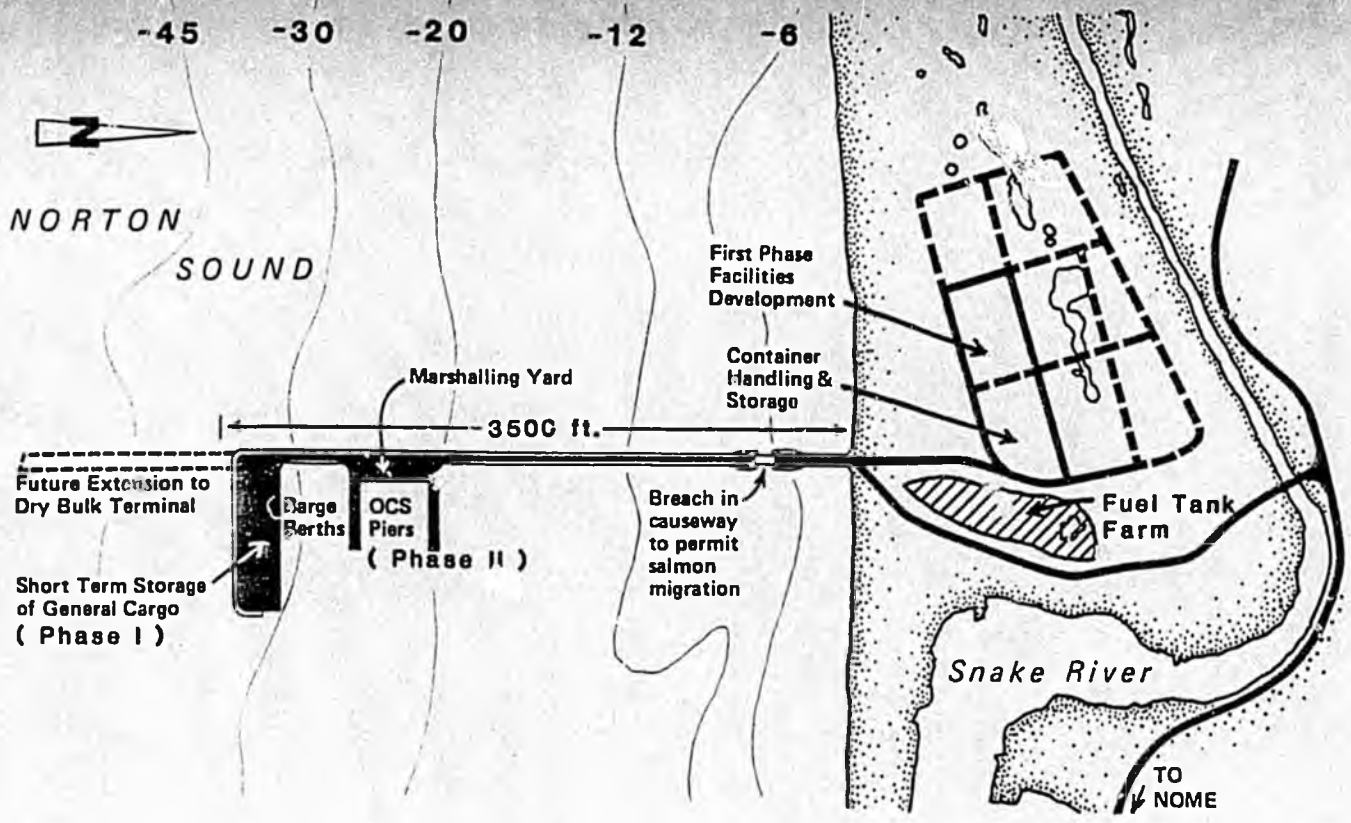


Fig. 2 Layout of Port

STRUCTURAL DETAILS:

Causeway

The causeway, shown in Figures 3 and 4, will be a rubble mound structure with 15-20 ton armor protection to the south and west faces and 8-12 ton armor on the east face. Utility lines will be direct buried in two utility corridors. The causeway roadway and offshore terminal area will be paved with asphalt; axle loads on the facility are expected to be 120,000 pounds.

Causeway Breach

Approximately 400 feet from shore the causeway will be breached and the opening crossed with a 98 foot bridge of prestressed concrete girders.

Offshore Terminal

The offshore terminal will provide 4.6 acres of short term open storage area (no buildings).

Dock Structure

The main dock structure to the offshore terminal will be constructed from 30 foot diameter by 33 foot high circular concrete caissons, as shown in Figure 5. Wall thickness is 12 inches with an 18 inch base giving a weight of 315 tons per

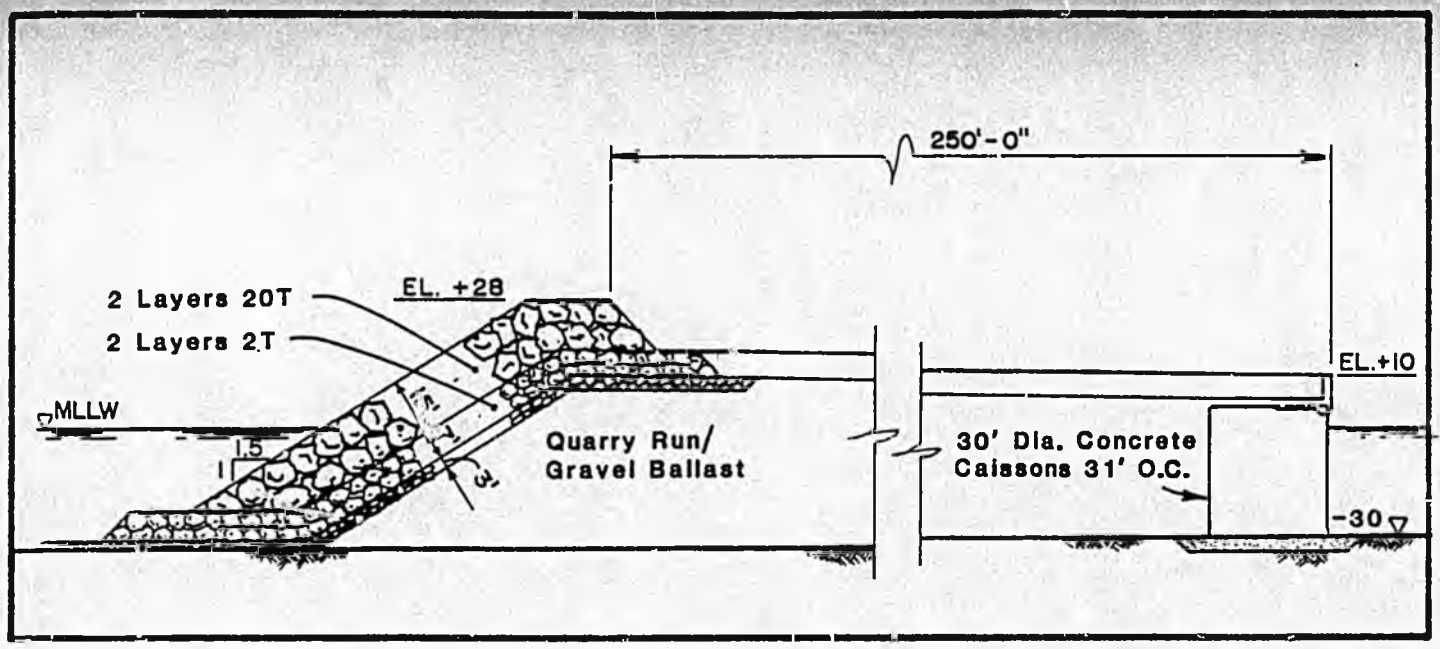


Fig. 3 Typical Section - Offshore Terminal

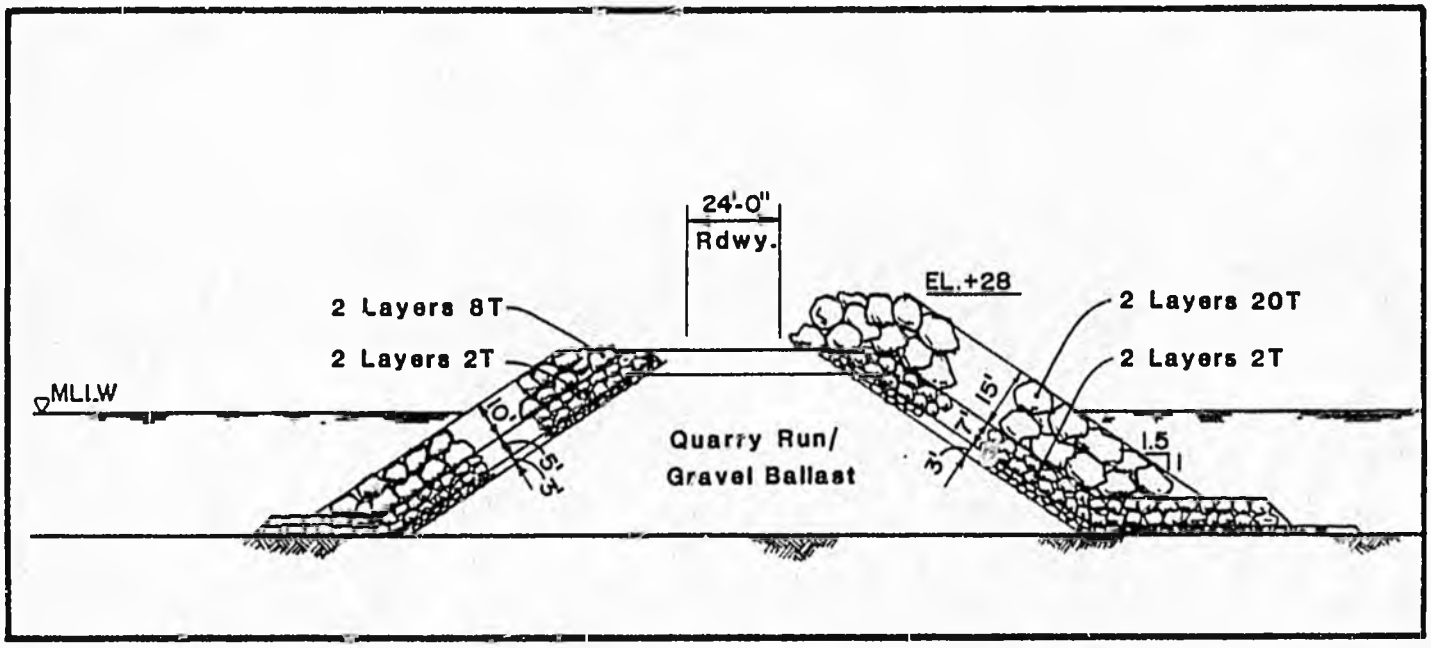


Fig. 4 Typical Section - Causeway

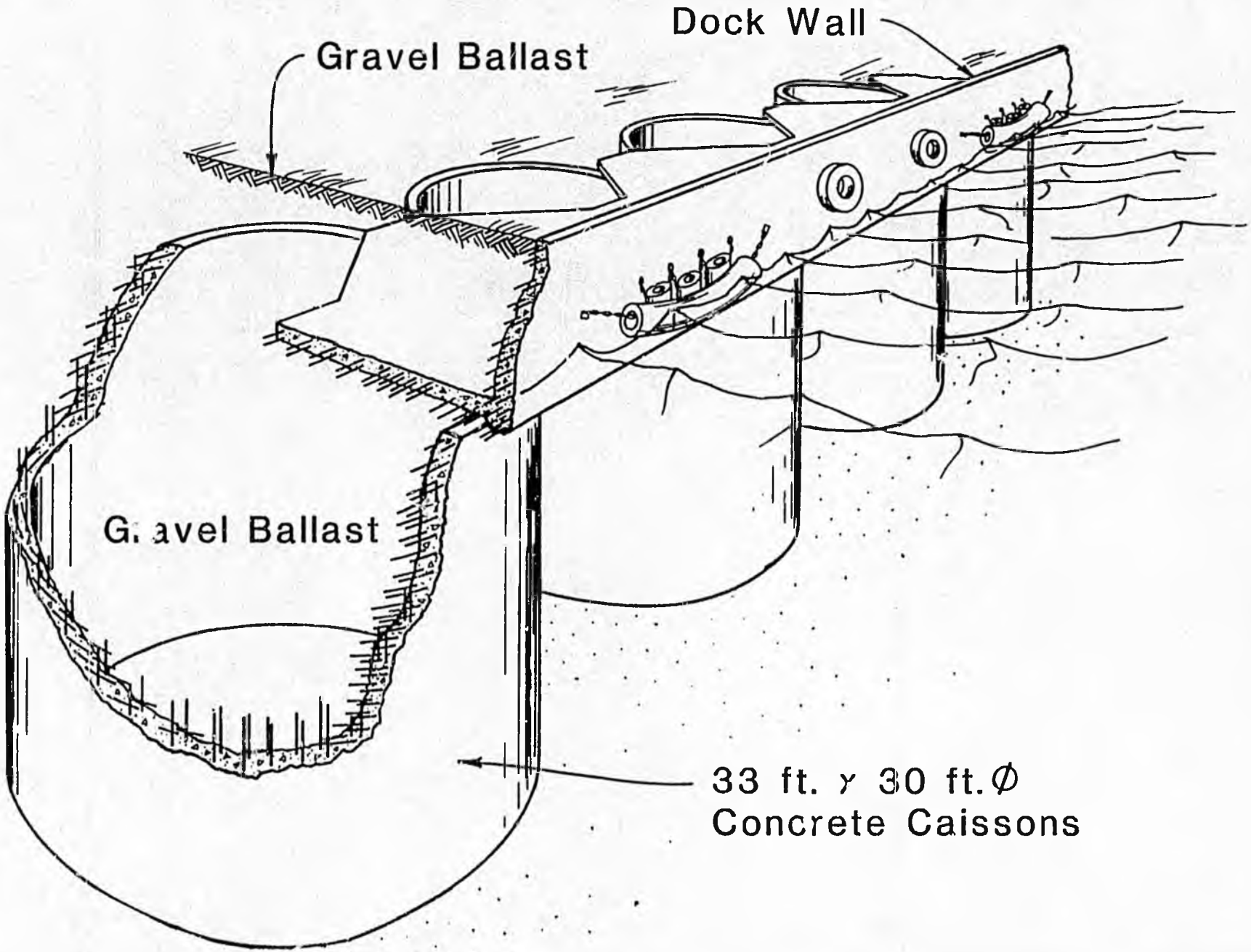


Fig. 5 Dock Structure and Caissons

caisson. Epoxy coated reinforcement is expected and an epoxy outer coating may be required over the area of the caisson likely to be subjected to ice abrasion.

Onshore Facilities

1. 10 acres of open storage on a 9 foot thick gravel pad.

2. Container Freight Station: 8000 square feet of container handling area plus 1600 square feet of office space using pre-engineered metal buildings.

3. Vehicle Maintenance Shop: 3200 square feet of work area with a 5 ton crane.

Fuel System

Since 75% of all cargoes imported to the region are bulk petroleum products, a comprehensive fuel unloading, distribution and storage system is required. The main offloading point will comprise 4 product unloading arms and pipework to the tank farm area shown in Figure 6. New tanks will be constructed within the existing fuel storage area.

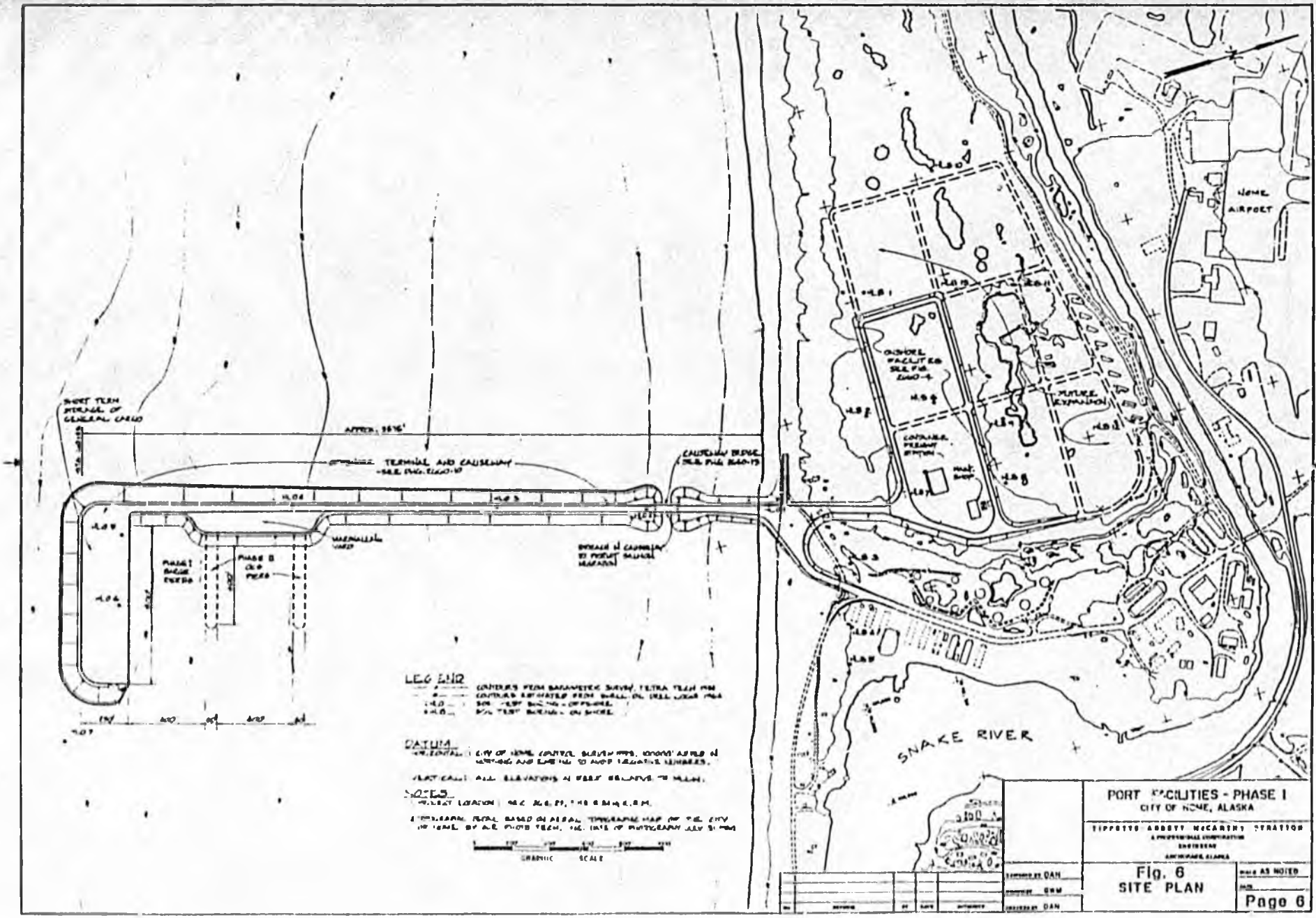
Mechanical and Electrical

The utilities corridor along the causeway will carry high and low voltage electrical service, telephone, lines for a variety of types of fuel, and water lines for fire fighting. At the terminals and berths there will be navigation lighting and illumination for work areas.

CLIMATE:

Norton Sound is open to navigation from mid or late June to late October or mid-November when sea ice from the Bering Sea collects along the shoreline. Shorefast and floating ice cover is normally established by January and remains to a distance of approximately 1 mile from the shoreline until break up (Figure 7). Winter temperature minimum averages -10° F and rarely falls below -40° F. Summer temperatures rarely exceed 55° F.

The predominant storm direction is from the southwest. A 100 year significant wave height of 16.5 feet is projected for the offshore terminal area, accompanied by a storm tide which in 1974 caused a 10 foot set up at the City dock in the Snake River.


TERMINAL AND CAUSEWAY
CAUSEWAY BRIDGE
HOME AIRPORT
SNAKE RIVER
PORT FACILITIES - PHASE I
CITY OF NOME, ALASKA
TIPPETTS ABBOTT McCARTHY STRATTON
Fig. 6
SITE PLAN
AS NOTED
Page 6

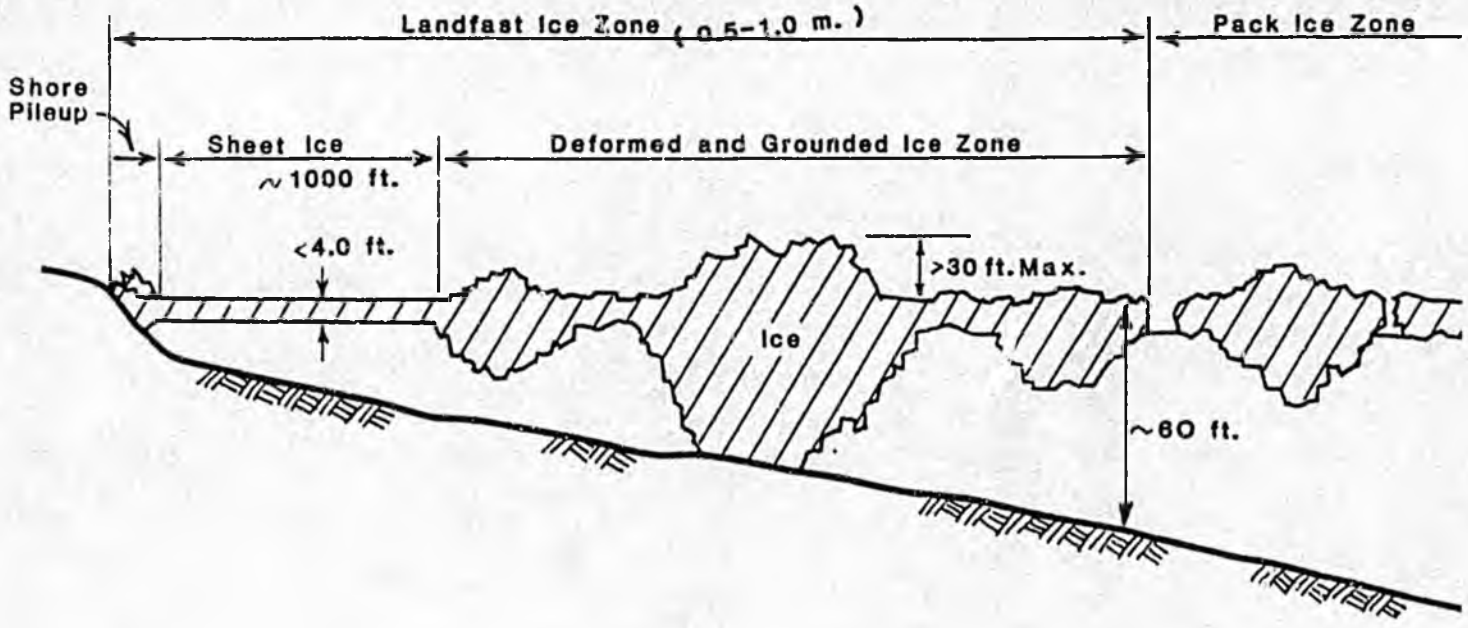


Fig. 7 Shorefast Ice Cover

MATERIALS:

The primary source of core material for the causeway and offshore terminal is expected to be one of a number of gold dredge tailing dumps located at 2-5 mile radii from the project site.

Rock armor for protection against wave and ice attack is expected to be obtained from the Cape Nome quarry, approximately 13 miles east of the project site as shown in Figure 8. Highway access to the quarry site is maintained in the summer months only.

GROUND CONDITIONS:

All onshore facilities are located in a permafrost area which must be protected by a gravel blanket. The permafrost is patchy towards the shoreline and the sand spit to the east of the causeway which has been worked for gold extraction exhibits very low bearing capacity.

SITE INVESTIGATIONS:

During a borehole program carried out in February 1982, 7 offshore and 13 onshore holes were drilled. Bedrock was encountered under the causeway location at depths varying from 40-60 feet below the seabed. Overlying materials sampled comprised glacial silts, tills and sands.

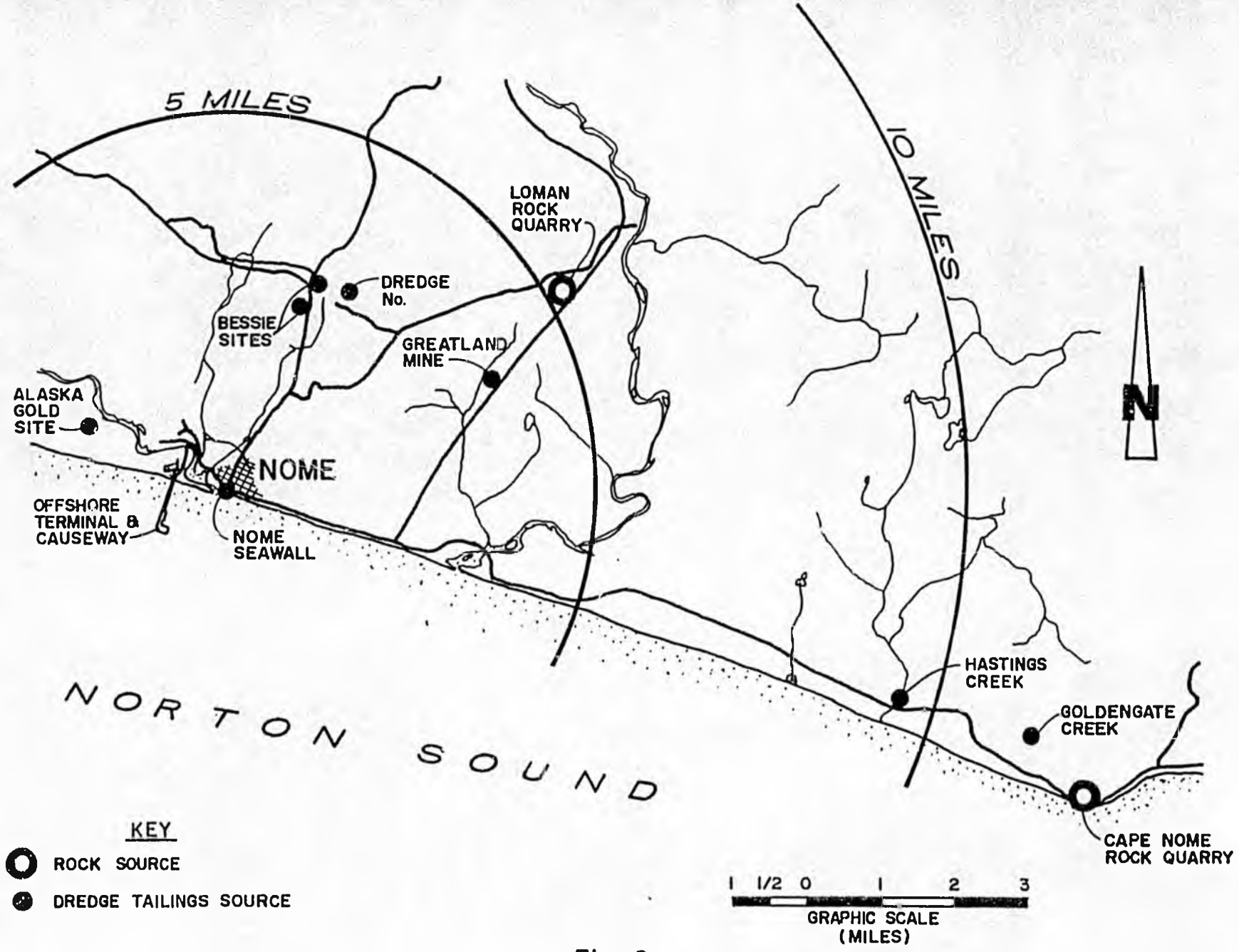


Fig. 8

LOCATION MAP - SOIL AND ROCK BORROW SITES

Materials source investigations carried out in June 1982 were followed by a test blast at the Cape Nome quarry. The results of these and all other site investigations will be made available to contractors at bid time and may be reviewed by arrangement with TAMS.

PERMIT STATUS:

An application for a Corps of Engineers construction permit was submitted in August 1982. Prior to the application extensive discussions with interested state and federal agencies were carried out to resolve concerns and incorporate mitigation measures where necessary.

MATERIALS QUANTITIES:

A preliminary, abbreviated list of materials quantities for the Phase I construction contract is attached.

Further information on the project may be obtained from the following:

TAMS
4791 Business Park Boulevard
Anchorage, AK 99503
Phone (907) 276-6565

After February 5, 1983 - (907) 562-2282

PRELIMINARY QUANTITIES
PHASE I - CONSTRUCTION

LINE	DESCRIPTION	QUANTITY	UNIT
	OFFSHORE TERMINAL - PHASE I BARGE DOCK		
1	20[t] Armor Rock	71,400	cu.yd.
2	2[t] Rock	31,800	cu.yd.
3	200# Rock	23,900	cu.yd.
4	Core material - Dredge tailings	395,600	cu.yd.
5	Core material - Quarry Run	44,000	cu.yd.
6	Non-frost susceptible material	59,400	cu.yd.
7	Furnish 30' diam. concrete caissons	29	each
8	Transportation to Nome		sum
9	Prepare bed and place	29	each
10	Reinforced concrete wave wall	2,280	cu.yd.
	Capping Beam and Bollard Bases		
11	Reinforcing Steel	456,000	lbs.
12	8" Crushed Rock Base, 6" Asphalt Pavement	21,100	sq.yd.
13	Cylindrical Rubber Fenders		sum
14	50 ton and 100 ton Bollards, Mooring Hardware		sum

LINE	DESCRIPTION	QUANTITY	UNIT
	BROUGHT FORWARD		
	CAUSEWAY		
15	20^{t} Armor Rock	124,100	cu.yd.
16	8^{t} Armor Rock	58,600	cu.yd.
17	2^{t} Armor Rock	39,000	cu.yd.
18	1600# Rock	26,800	cu.yd.
19	200# Rock	45,800	cu.yd.
20	80# Rock	33,500	cu.yd.
21	Core Material - Dredge Tailings	205,000	cu.yd.
22	Core Material - Quarry Run	83,000	cu.yd.
23	Non-frost Susceptible Material	36,000	cu.yd.
24	7" Crushed Rock Base, 5" Asphalt Pavement	11,750	sq.yd.
25	Bridge		sum

LINE	DESCRIPTION	QUANTITY	UNIT
	ONSHORE FACILITIES		
	Land Acquisition		
26	Phase A	19	acre
27	Phase B	41	acre
	Roads		
28	Dredge Tailings	24,000	cu.yd.
29	Non-frost Susceptible Material	8,600	
30	7" Crushed Rock, 5" Asphalt Pavement	6,750	sq. yd
	STORAGE AREA (50,700 sq. yd.)		
31	Dredge Tailings	62,000	cu.yd.
32	Non-frost Susceptible Material	93,000	cu.yd.
33	8" Crushed Rock, 6" Asphalt Pavement	50,700	sq.yd.
	BUILDINGS		
34	Container Freight Station	9,600	sq.ft.
35	Vehicle Maintenance Building	4,000	sq.ft.
36	Lighting		sum
37	Utilities		sum
38	Security Fencing	3,600	lin.ft.

LINE	DESCRIPTION	QUANTITY	UNIT
	UTILITIES - PHASE I		
39	Water Distribution		sum
	Furnish & install 7200 1.f. 8" Ø, 1000 1.f.		
	4" Ø, 8600 1.f. 2½" Ø, 1000 1.f. 6" Ø, and		
	1000 1.f. 2" Ø Ins. PVC Pipe		
	FUEL DISTRIBUTION		
	Alternate I		
40	Diesel Fuel		sum
	Furnish & install 5800 1.f. 8" Ø bl.steel pipe		
41	Jet Fuel		sum
	Furnish & install 5800 1.f. 8" Ø bl.steel pipe		
42	AVGAS 100/130		sum
	Furnish & install 8000 1.f. 6" Ø bl.steel pipe		
43	Unleaded Gasoline		sum
	Furnish & install 8100 1.f. 6" Ø bl.steel pipe		
44	Regular Gasoline		sum
	Furnish & install 8000 1.f. 6" Ø bl.steel pipe		
45	Corrosion Protection		sum
46	Utility Bridge		sum
	SUBTOTAL		
	Alternate II		
47	Diesel Fuel		sum
	Furnish & install 5800 1.f. 8" Ø bl.steel pipe		
	and 1 14,000 bbl tank		
48	Jet Fuel		sum
	Furnish & install 5800 1.f. 8" Ø bl. steel		
	pipe and two (2) 8500 bbl tanks		

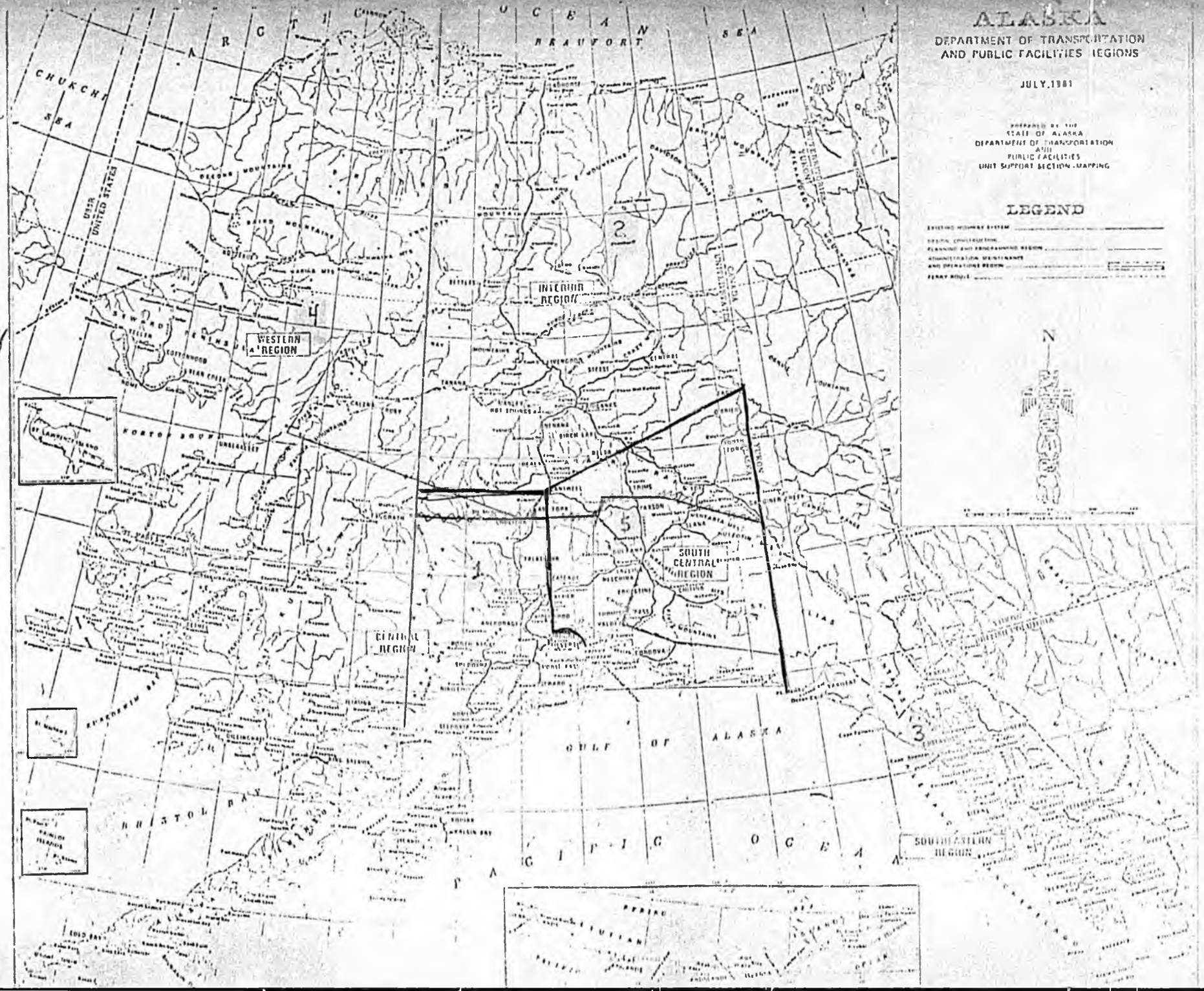
LINE	DESCRIPTION	QUANTITY	UNIT
49	AVGAS 100/130		sum
	Furnish & install 14,000 bbl tank and 6000		
	l.f. 6" Ø bl. steel pipe		
50	Unleaded Gasoline		sum
	Furnish & install 6000 l.f. 6" Ø bl. steel		
	pipe and 3500 bbl tank		
51	Regular Gasoline		sum
	Furnish & install 6000 l.f. 6" Ø bl. steel		
	pipe and two (2) 1500 bbl tanks		
52	AVGAS 80/87		sum
	Furnish & install 6300 l.f. 6" Ø bl. steel		
	pipe and one 1000 bbl tank		
53	Corrosion Protection		sum
	SUBTOTAL		
54	Electrical System		sum
	10,000 l.f. 5 kv #2 armored cable, 3500 l.f.		
	600 v #4/0 armored cable, switch gear,		
	transformers		

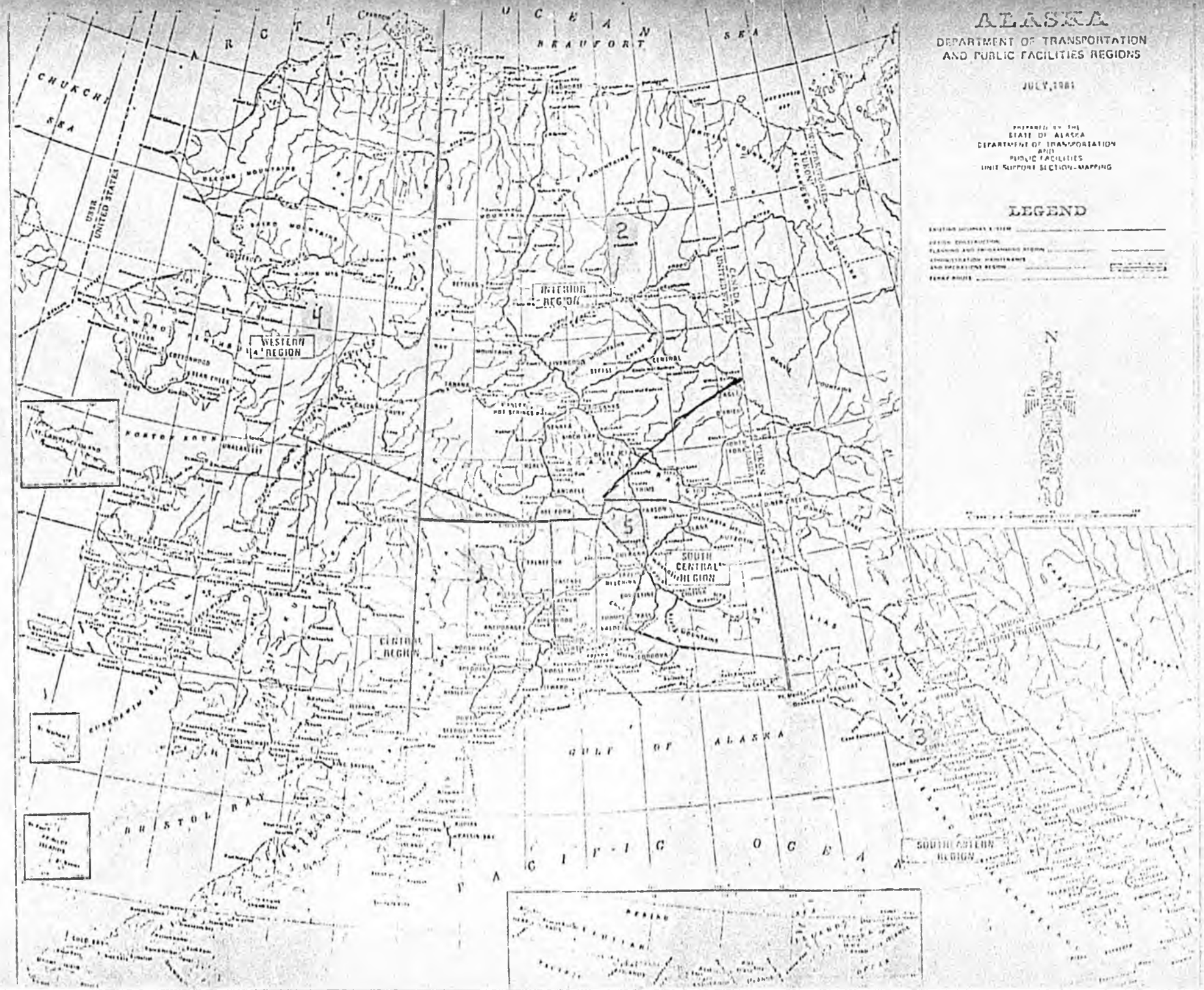
HB

228

~~[illegible]~~
Denali Hwy.
Richardson to Delta
~~[illegible]~~ Taylor Hwy
Alaska Hwy to
Delta
all are in tact
w/ these new lines
Not split half n-half

these regions
have all functions
Design & Const
Planning & Prog
Maint & operations




ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES REGIONS
JULY, 1981
PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND
PUBLIC FACILITIES
UNIT SUPPORT SECTION-MAPPING
LEGEND
N
ARCTIC OCEAN
BEAUFORT SEA
CHUKCHI SEA
USSR
UNITED STATES
CANADA
UNITED STATES
YUKON
WESTERN REGION
INTERIOR REGION
SOUTH CENTRAL REGION
CENTRAL REGION
SOUTHEASTERN REGION
GULF OF ALASKA
BRISTOL BAY
PACIFIC OCEAN
1
2
3
4
5

HB 228, by Shultz. Would organize the Department of Transportation & Public Facilities into five regions within the state (currently organized in regions--no specific number). Sets out specific location of each region. Provides each regional director shall have at least six years experience in transportation construction and engineering, and is responsible for planning, design, construction, administration, and maintenance within the region. Provides that the director of region two is responsible for planning, design, and construction within regions two, five and a portion of region four. The director of region one is responsible for planning, design and construction within region one and a portion of region four.

HB

237

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

3/4/83

Date: 5-17-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 237

An Act making a special appropriation for payment as a grant to the Matanuska-Susitna Borough for construction, reconstruction, upgrading, and bridge work on roads; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

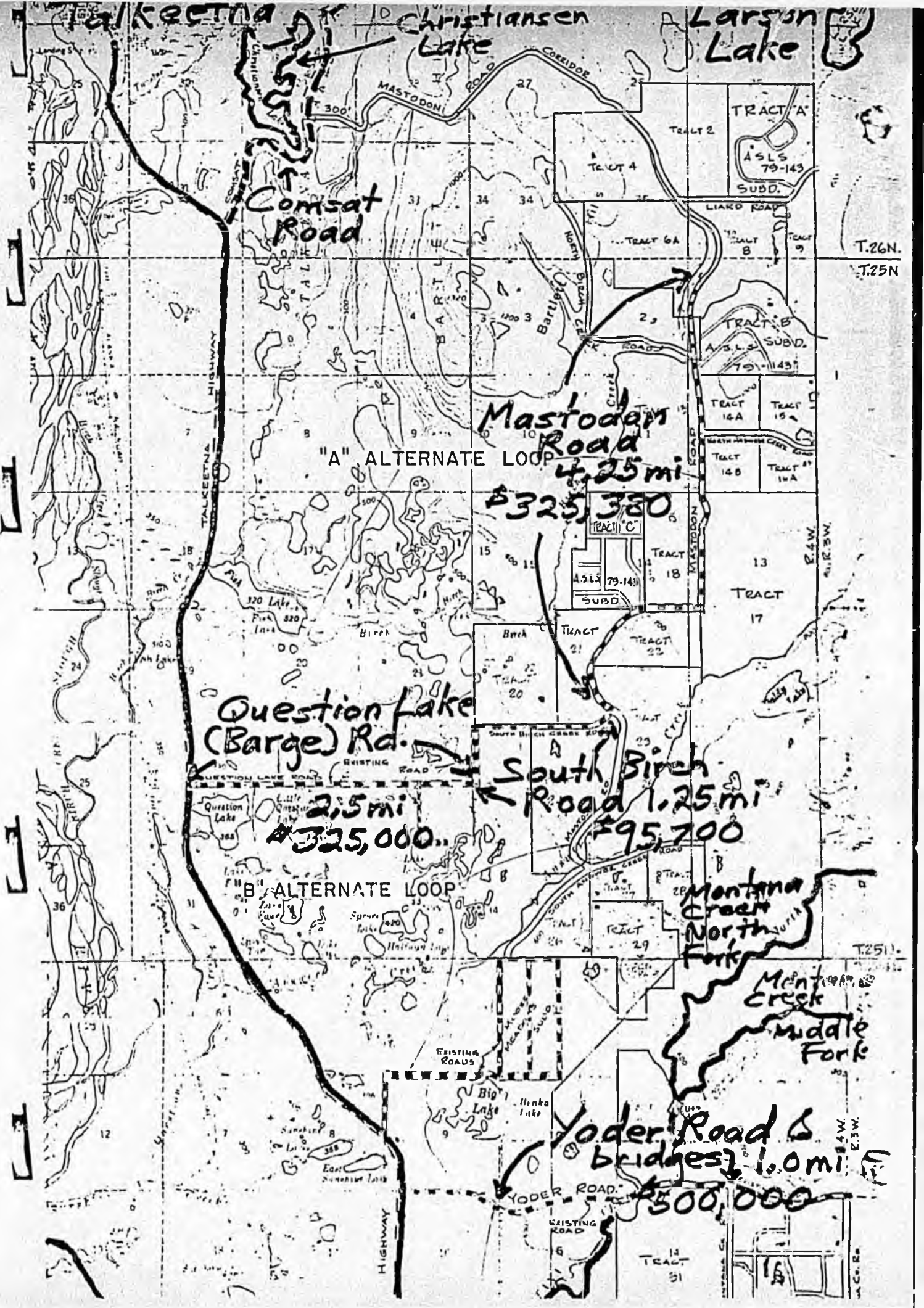
[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60



Talkeetna
Christiansen Lake
Larson Lake
Comsat Road
Mastodon Road 4.25 mi $325,380
"A" ALTERNATE LOOP
Question Lake (Barge) Rd.
2.5 mi $325,000
South Birch Road 1.25 mi $95,700
"B" ALTERNATE LOOP
Montana Creek North Fork
Montana Creek Middle Fork
Yoder Road & bridges 1.0 mi $500,000
T.26N.
T.25N
T.25N.
R.4W.
R.3W.
TRACT "A"
TRACT "B"
TRACT "C"
TRACT 17
TRACT 18
TRACT 20
TRACT 21
TRACT 22
TRACT 29
TRACT 4
TRACT 6A
TRACT 14A
TRACT 14B
TRACT 16A
TRACT 2
TRACT 8
TRACT 9
TRACT 13
TRACT 31
MASTODON ROAD
LIARD ROAD
YODER ROAD
TALKEETNA HIGHWAY
HIGHWAY
EXISTING ROAD
EXISTING ROADS
Big Lake
Honka Lake
Question Lake
Birch
Fish Lake

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE

FROM: REPRESENTATIVE BARBARA LACHER

DATE: MAY 16, 1983

RE: HB 237: BARTLETT HILLS ACCESS ROADS

PROJECT OVERVIEW:
The Bartlett Hills area is located to the North of Willow and South of Talkeetna, in the Matanuska-Susitna Borough, just East of the Parks Highway and the Susitna River. Maps 1a-1b-1c are taken from the State Highway System Maintenance Maps, Chulitna Maintenance Station. Map 1a indicates the general area within which the Bartlett Hills subdivisions and agricultural parcels are located. Maps 1b-1c locate the general roads proposed for the project to provide access into the area. Map 2 locates the roads included in HB 237 in more detail in relation to the existing and proposed subdivisions and agricultural units. Map 3 indicates the Tract D subdivision in Bartlett Hills, and the roads that are proposed for access, as well as the roads already constructed by the residents of the area. Map 4 is taken from the Mat-Su Borough Priority List for 1983 CIP's. This map indicates the location of all of the proposed access roads in the Bartlett Hills area.

It is the position of the Mat-Su Borough, and the sponsor of this legislation, that the State should not engage in the business of subdivisions and agricultural land disposals without first building access roads into those projects. While the Department of Natural Resources has been operating under a policy of exempting themselves from the obligation of building access roads into land disposals such as Bartlett Hills, with the good intentions of"getting the land to the people," this policy has been a failure. The effect has been that the Borough has had to turn around and pick up the responsibility of building those access roads. I could cite several examples of the same order as the Bartlett Hills project before you. In the past two years no more than 220 acres have been cleared in the 8,000 acre State of Alaska Bartlett Hills Agricultural Project. At this rate, Gary Thurlow, Mat-Su Borough Manager points out, it would take 70 years to bring this 8,000 acre project into production.

The Department of Natural Resources has several other proposed subdivisions in the area. HB 237 would provide the proper access to these subdivisions before further land disposals. This bill would also provide needed access to existing subdivisions and agricultural units.

EXISTING AND PROJECTED POPULATION:
Twenty-three existing agricultural parcels in the area currently have 52 dwelling units and 164 residents. Existing subdivisions, (See Map 2, and Tract D as detailed example of one of the subdivisions), number 192 parcels which are private lots, and 425 which are State subdivision parcels. This totals 617 total lots in the Bartlett Hills Agricultural boundary.

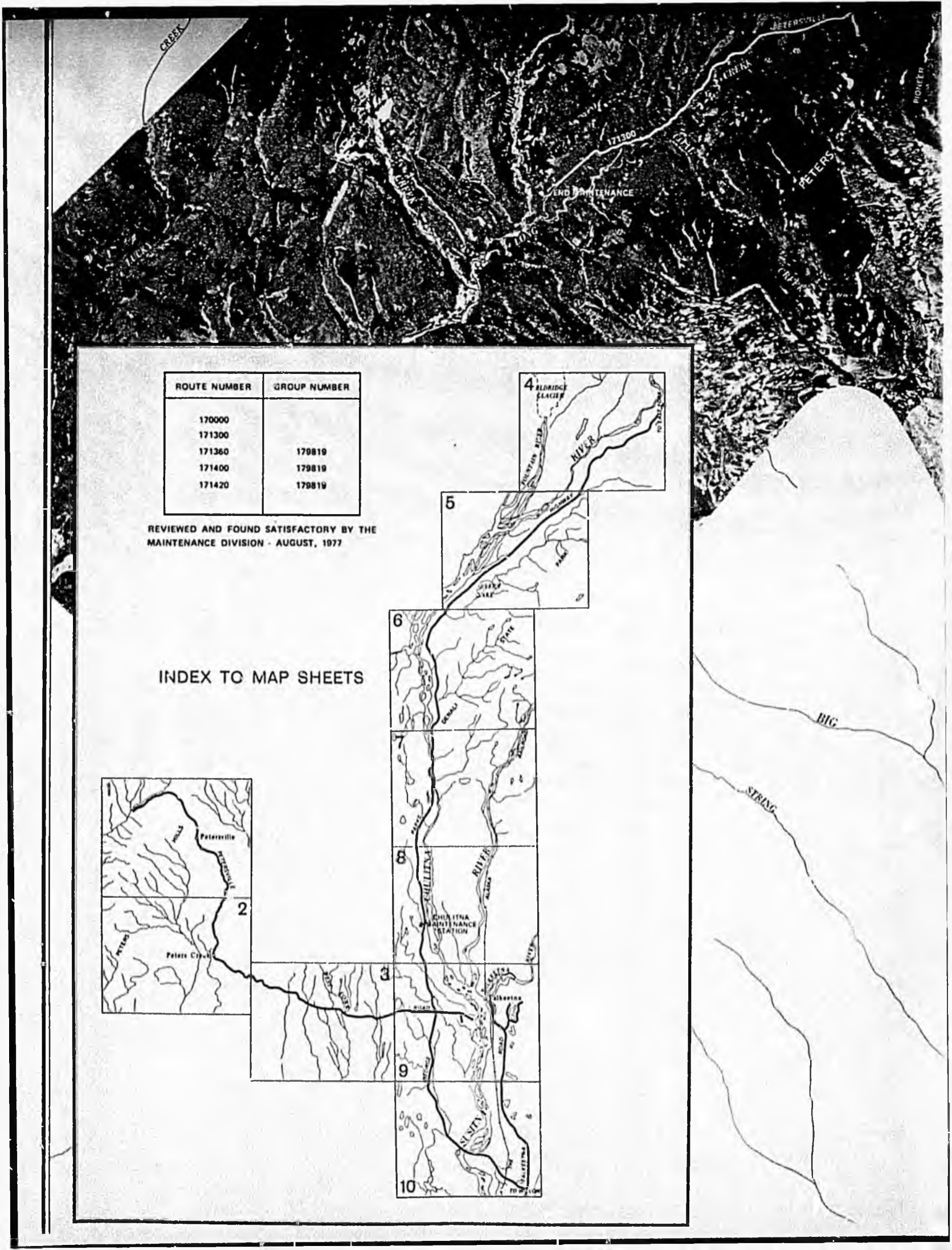
The State and the Borough have plans for further subdivisions in the area. It is the position of the Borough that the access roads should be constructed before any further subdivision takes place. Population growth is being experienced throughout the Mat-Su Borough and is expected to continue over the next several years. We can expect on the order of five times the current population in the Bartlett Hills area over the next decade.

Planned roadwork within existing parcels and planned construction on these lands suggest that the traffic count on these roads will increase. The Mat-Su Borough engineers calculate that the current traffic count along existing roads is 468 average daily traffic (ADT), and project that next year it will be as high as 756 ADT.

HAZARDS:
Many of the existing roads are not up to Borough standards, and bridge work is needed on both Barge and Yoder Roads. The daily use of these sub-standard roads is a constant threat to the lives of the residents of the area. Yoder Road Bridge washed out last year, and without proper construction work it will certainly do so again this year. The threat of school bus, as well as daily traffic, accidents is constant.

RIGHT-OF-WAYS & FEASIBILITY STUDIES:
The right-of-ways are established for the proposed road projects. The Borough has conducted a feasibility project and their estimates are contained in your committee packets. No DOT/PF estimates have, as yet, been conducted.

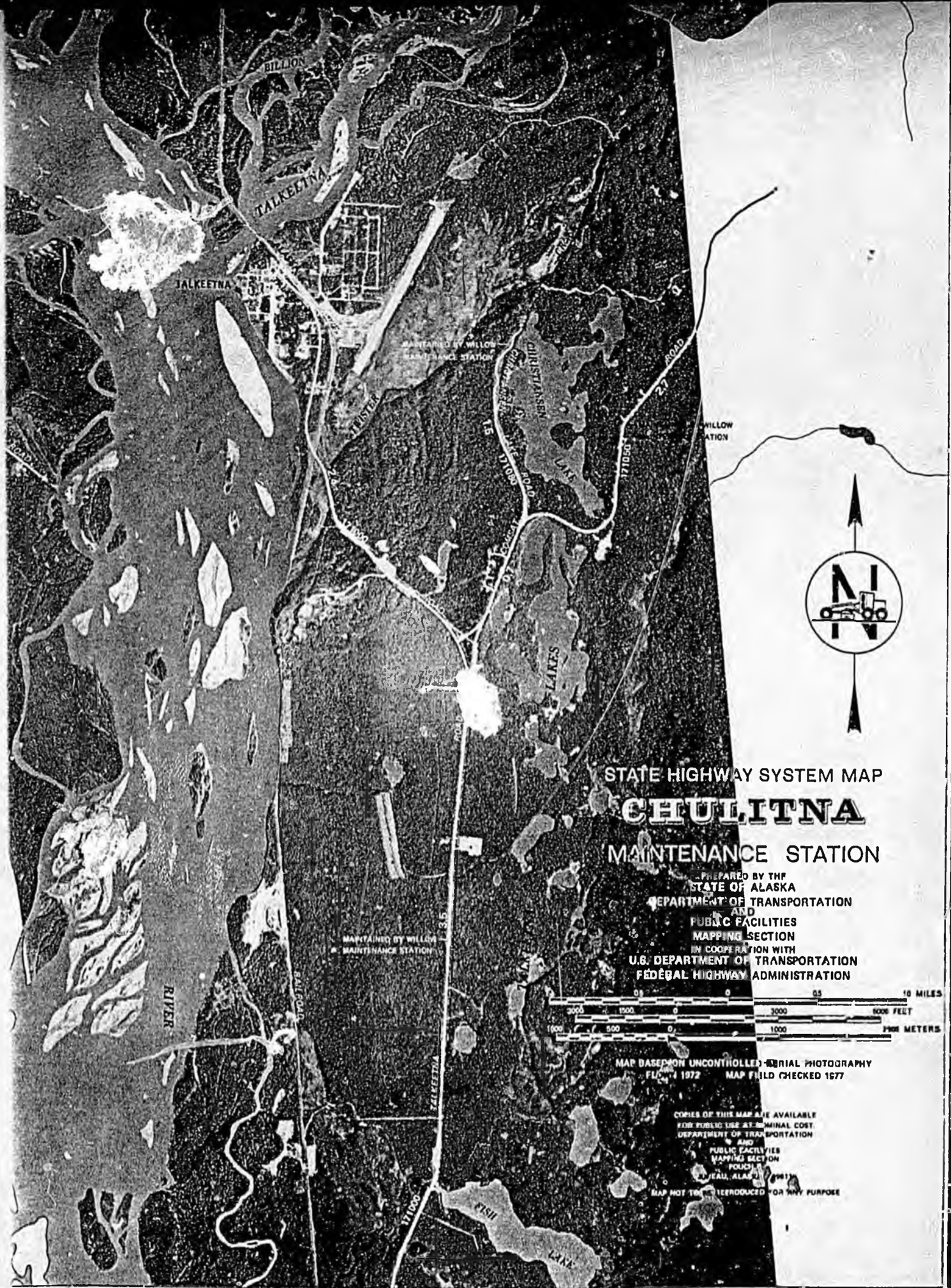
COST:
The appropriation for HB 237 adds to the Borough's Priority List estimate of $761,000.00 to total $1,246,080.00. The cost increase is due to the proposed construction of needed access roads, bridge work, and the upgrade of existing roads.



ROUTE NUMBER	GROUP NUMBER
170000	
171300	
171360	179819
171400	179819
171420	179819

REVIEWED AND FOUND SATISFACTORY BY THE MAINTENANCE DIVISION - AUGUST, 1977

INDEX TO MAP SHEETS



STATE HIGHWAY SYSTEM MAP

CHULITNA

MAINTENANCE STATION

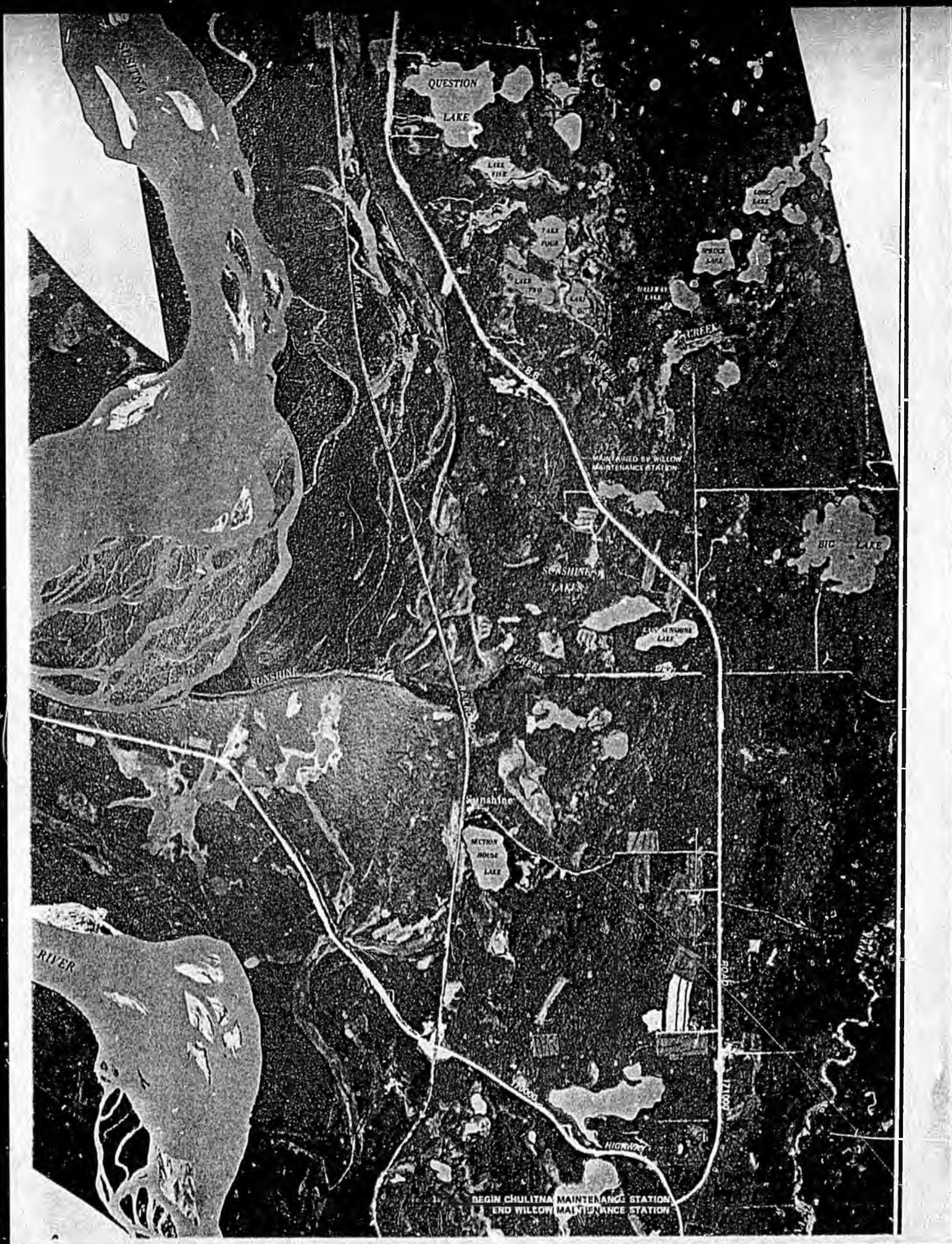
PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND
PUBLIC FACILITIES
MAPPING SECTION
IN COOPERATION WITH
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

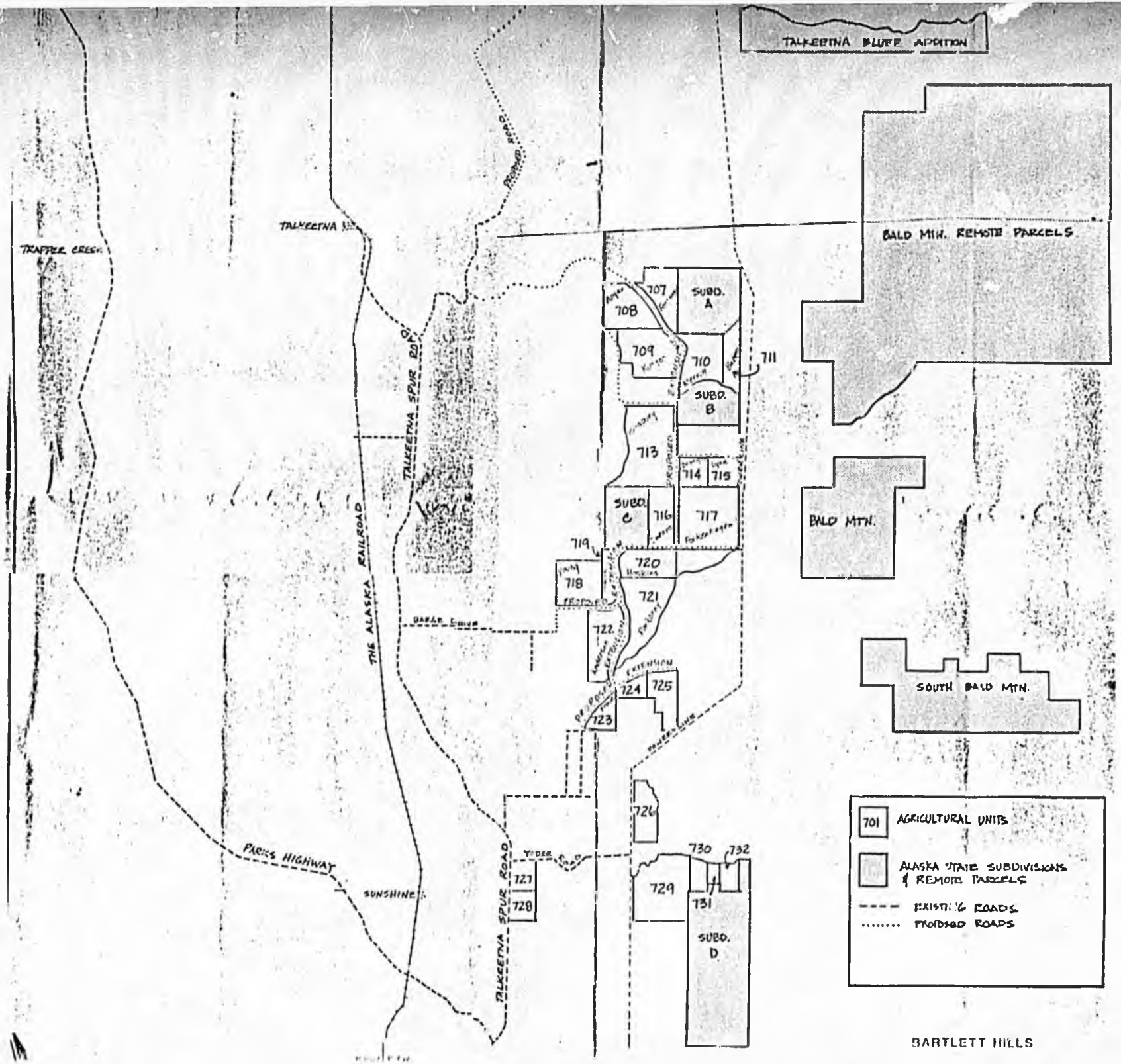
0 0.5 0 0.5 10 MILES
2000 1500 0 3000 5000 FEET
1000 500 0 1000 2500 METERS

MAP BASED ON UNCONTROLLED AERIAL PHOTOGRAPHY
FLOWN 1972 MAP FIELD CHECKED 1977

COPIES OF THIS MAP ARE AVAILABLE
FOR PUBLIC USE AT NOMINAL COST
DEPARTMENT OF TRANSPORTATION
AND
PUBLIC FACILITIES
MAPPING SECTION
POUCH
JUNEAU, ALASKA 99811

MAP NOT TO BE REPRODUCED FOR ANY PURPOSE


SUSITNA
QUESTION
LAKE
LAKE FIVE
LAKE FOUR
LAKE TWO
LAKE
ALASKA
CREEK
MAINTAINED BY WILLOW MAINTENANCE STATION
BIG LAKE
SUNSHINE LAKES
SUNSHINE
CREEK
Sunshine
SECTION HOUSE LAKE
RIVER
ROAD
HIGHWAY
BEGIN CHULITNA MAINTENANCE STATION
END WILLOW MAINTENANCE STATION



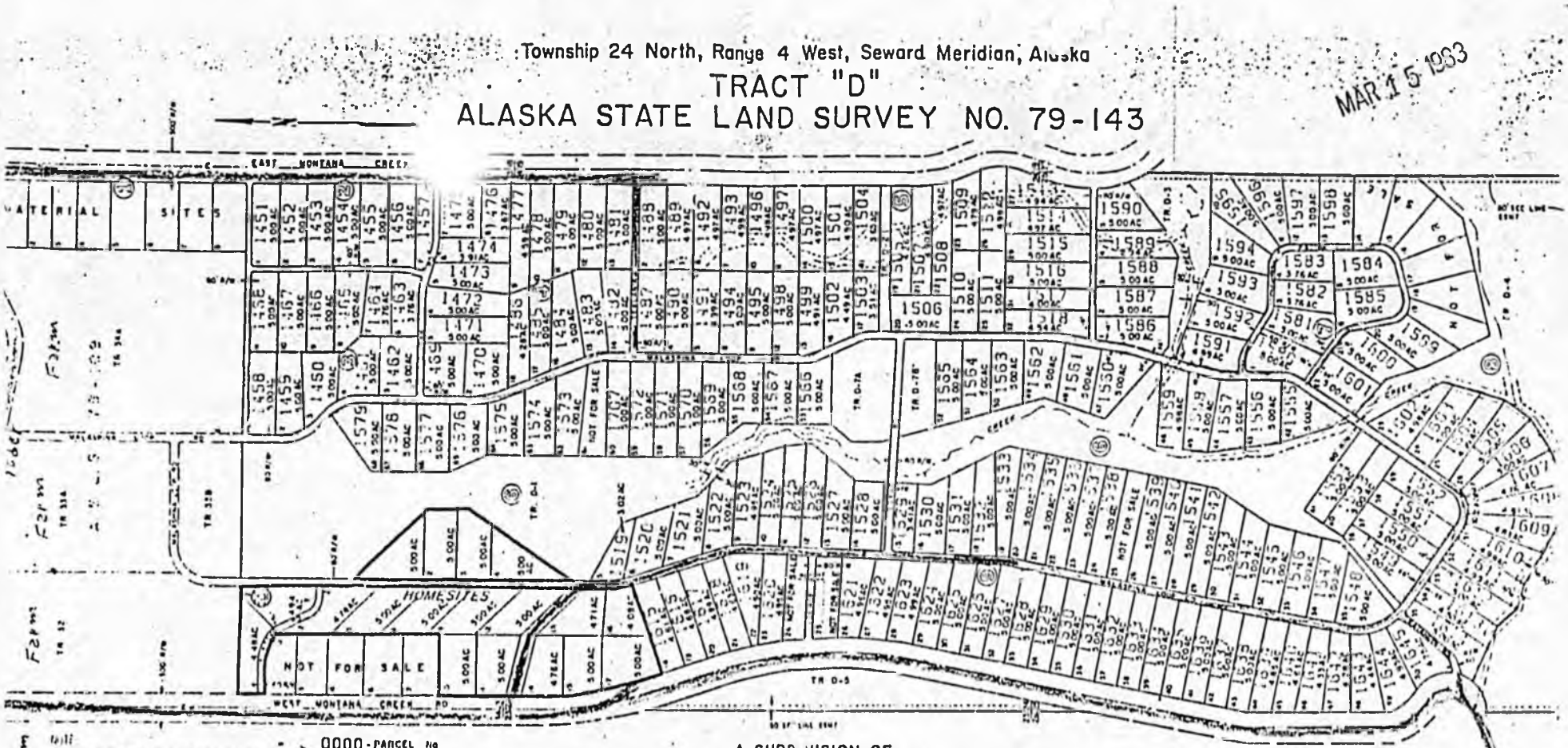
BARTLETT HILLS

7

Township 24 North, Range 4 West, Seward Meridian, Alaska

TRACT "D"
ALASKA STATE LAND SURVEY NO. 79-143

MAR 15 1983



0000 - PARCEL No

A SUBDIVISION OF
TRACTS 34C, 35, 36, 37A, 37B, 38, 39A, 39B, 39C, & 40, ALASKA STATE LAND SURVEY NO. 79-109

BARTLETT HILLS ALASKA SUBDIVISION

MAP NO. 55

FOR VICINITY SEE MAP No 54

NORTH BARTLETT HILLS AGRICULTURAL PROJECT

AT THE PRESENT, THIS IS THE SECOND LARGEST AGRICULTURAL PROJECT IN TH MAT*SU BOROUGH. THE 1979 STATE SALE CONSISTED OF 26 FARM PARCELS TOTALING 7,859 acres. AVERAGE PARCEL SIZE WAS 302 ACRES EACH. THE SALE CONSISTED OF TWO SEPARATE AND DISTINCT AREAS. BOTH AREAS WERE CALLED BARTLETT HILLS. THE SOUTH AREA WAS SOLD WITH EXISTING ROAD ACCESS FROM YODER ROAD. THE NORTH AREA WAS SOLD WITHOUT EXISITING ACCESS. THE NORTHERN FARMS WERE ONE TO EIGHT MILES FROM ANY EXISITING ROADS. THIS REQUEST DEALS ONLY WITH THE NEEDS OF THE NORTHERN AREA OF BARTLETT HILLS AGRICULTURAL PROJECT. IT IS OUR HOPE THAT THE CONCERNS FOR THESE DIFFERANT AREAS WILL BE CONSIDERED AND FUNDED SEPARATELY.

PRIVATELY FINANCED ROAD CONSTRUCTION:

IN THE FALL OF 1980 THE FARMERS TOGETHER WITH A FEW OF THE RECREATIONAL OWNERS COLLECTED VOLUNTARY CONTRIBUTIONS AND CONSTRUCTED 6.5 MILES OF ONE LANE DIRT FARM ACCESS ROADS. AGAIN IN 1982 MORE VOLUNTARY CONTRIBUTIONS WERE COLLECTED AND ALONG WITH ONLY $9,000 (nine thousand dollars) PUBLIC FUNDS We WID THE FIRST TWO MILES TO FORTY FEET PLUS AND IMPROVED OVER THREE MILES OF THE REMAINING ROAD TO ONE LANE GRAVEL. THIS ROAD IS MAINTAINED AND THE SNOW HAS BEEN REMOVED THRU DECEMBER BY THE FARMERS WITHOUT ANY PUBLIC FUNDING. THIS GROUP HAS SHOWN AN INTEREST AND WILLINGNESS TO WORK TOGETHER TO DO WHAT THEY CAN TO HELP THEMSELVES AS MUCH AS THEY ABLE TO.

NORTH BARTLETT HILLS AGRICULTURAL PROJECT

ADDED TRAFFIC AND MAINTAINANCE:

SINCE THE FARMERS PURCHASED THEIR LAND FROM THE STATE IN 1979, THE STATE HAS SOLD THE FOLLOWING TRACTS OF RECREATIONAL LAND ON THIS PRIVATELY CONSTRUCTED AND MAINTAINED ROAD BEING THE NEAREST VEHICLE ACCESS TO THESE TRACTS:

BARTLETT HILLS TRACT A	56 lots
BARTLETT HILLS TRACT B	65 lots
BARTLETT HILLS TRACT C	60 lots
TALKEETNA BLUFFS	80 lots
TALKEETNA BLUFFS ADDITION	59 lots
BALD MOUNTAINS I	218 lots
BALD MOUNTAINS II	103 lots
BALD MOUNTAINS REMOTE (18 sq. mi. of unlimited staking)	
TOTAL OF ADDED OCCASIONAL ROAD USERS	641 lots plus 18 sq miles of remote parcels offered

BARTLETT HILLS TRACTS B AND C ARE IMMEDIATELY ADJACENT TO THIS ROAD AND HAVE BUILT SOME ROADS WITHIN THOSE SUBDIVISIONS. TRACT A AND TALKEETNA BLUFFS ARE SOME DISTANCE FROM THIS ROAD AND MOST ACESS TO THESE TRACTS IS B BY FLOATPLANE OR RIVERBOAT. THE BALD MOUNTAIN OFFERINGS LIE TWO TO THREE MILES EAST OF THE ROAD WITH THIS ROAD BEING THE ONLY PRACTICAL MEANS OF ACCESS.

WITH THIS RECENTLY ESTABLISHED ROAD ACCESS AND THE CHANGE OF LAND OWNERSHIP TO PRIVATE RECREATION , THIS AREA HAS BECOME A POPULAR RECREATIONAL AREA. FISHERMAN ARE ATTRACTED TO LARSON LAKE, BALDY LAKE, BIRCH CREEK, AND ANSWER CREEK. HUNTERS HAVE FOUND THIS AREA TO BE PRODUCTIVE (WAS OPENED TO ANTLERLESS MOOSE THIS SEASON). THIS WINTER A NUMBER OF WEEKEND CROSS COUNTRY SKIERS AND SNOWMOBILERS HAVE ENJOYED WEEKEND GROUP EXCURSIONS INTO THIS SECLUDED BACKCOUNTRY WITH IT'S DEEP ALPINE SNOW, ABUNDANT WILDLIFE, AND SPECTACULAR VIEWS OF MT. MCKINLEY.

NORTH BARTLETT HILLS AGRICULTURAL PROJECT

ESTIMATED ROAD CONSTRUCTION COSTS:

AN AERIAL RECONASANCE ENGINEERING STUDY PREPARED FOR THE MAT-SU BOROUGH IN OCTOBER 1981 BY THE ENGINEERING FIRM OF DOLLERHIDE-DECAMP & BROWN ESTIMATES THE COST OF UPGRADING THIS EXISTING ROAD TO PUBLIC COLLECTOR ROAD STANDARDS AS FOLLOWS:

2.5 miles Question Lake Road (Barge Road) upgrading	$135,600
1.25 miles South Birch Creek Road Upgrading	95,700
4.25 miles Mastadon road upgrading	325,380
Engineering, design, and supervision	205,000
TOTAL COST OF UPGRADING EXISTING ROAD	761,000

Note: Portions of this area lie outside the existing road service area boundaries. Appropriations for those portions must be an line item appropriation.

NOTE: $500,000 has been requested for upgrading of one mile of Yoder Road and three bridge crossings across Montana Creek and its sloughs. This is listed under Local Service Roads.

CONTACT PEOPLE FOR HOMEOWNERS ASSOCIATIONS FOR BARTLETT HILLS PROJECT, BY TRACT

TRACT A

Jim Hale, President
Talkeetna, Alaska 99676

TRACT B

John Davis, Attorney
Wasilla, Alaska 99687

TRACT C

Chuck Griffin, President
4136 San Roberto
Anchorage, Alaska 99504

TRACT D

Betty Ruhle
Box 110102
Anchorage, Alaska 99511

Bartlett Hills property owners and their testimony is set forth in Volume 2 - "Requests of Cities and Others" under the heading "Talkeetna Meeting."

Matanuska-Susitna Borough
BOX B. PALMER. ALASKA 99645 • PHONE 745-4801
DEPARTMENT OF ADMINISTRATION

October 29, 1982

John W. Katz, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear Commissioner Katz:

Re: CHASE AGRICULTURAL SALES

The Matanuska-Susitna Borough objects to any scheme for disposing of agricltural lands in the Matanuska-Susitna Borough where there is no road access or, where the State of Alaska assumes no responsibility for creating access or where there is no substitute for road access.

The State's proposed sale of 6,600 acres of agricultural land north of the Talkeetna River, east of the Alaska Railroad in the Talkeetna area would not make any sense at all unless there was some assurance that the Alaska Railroad could be used as a means of getting clearing and farm equipment to the lands to be developed as farms, materials for operation of farms by means of the railroad such as seed, fertilizer and animals, and a means of loading agricultural crops at a siding off of the Alaska Railroad or through use of the Alaska Railroad to get such crops to the south side of the Talkeetna River.

If you can work out adequate arrangements with the Alaska Railroad, in writing, that would secure the rights of farmers north of the Talkeetna River to access, we would withdraw our objections to a Chase Creek Agricultural Project.

Without provision being made for either road access or arrangements for alternate access through the Alaska Railroad, we believe that any sale of agricultural lands in Chase should be deferred.

We are concerned that a sale of land without access may create the impression that the State of Alaska is accomplishing something in the area of agriculture, when it isn't, and that it will relieve pressure to do something constructive to promote agriculture, such as providing access to agricultural lands.

Bartlett Hills Agriculture Project

To date the State Bartlett Hills Agricultural Project has been a a failure, which can be retrieved only through the State or the Borough seeking and obtaining sufficient funds to provide road access to and through that project. In the past two years no more than 220 acres have

Bartlett Hills Ag Project

been cleared in the 8,000 acre State of Alaska Bartlett Hills Agricultural Project. At this rate it would take 70 years to bring this 8,000 acre project into production. Persons buying farms in that area do not have to begin their farm plan until road access is provided. This type of provision is an open invitation for speculators to bid up the prices of farm land, because they know that they will be under no obligation to engage in farming in the foreseeable future. On Bartlett Hills, a requirement of any agricultural sale should have been that 70% of the Class II and III soils and land to be offered will be in production with say six years from the date of sale.

We believe that the provision of road access to agricultural areas is well within the financial means of the State and that a comparison of costs compared to acreage opened up indicates that the cost benefit relationship is very good.

For example, an investment of approximately a million dollars in Bartlett Hills Agricultural projects, including Yoder Road to the southwest corner of the Bartlett Hills Agricultural Project, a road along the east shore of Montana Creek to the southern end of the Bartlett Hills Agricultural Project and construction of Barge Drive along the middle of the Bartlett Hills Agricultural Project would trigger many farm plans and get a great deal of farm land in production at an early date.

Similarly, construction of a bridge across Moose Creek south of the Petersville Road at an approximate cost of $400,000 would open up about six to eight thousand acres of Class II and III soils between Moose Creek and Kroto Creek and would also provide vehicular access to the recent State subdivision on Amber Lake just south of Moose Creek. As you will recall, the road design within Amber Lake is premised upon vehicular access.

I am enclosing a table which will show how the State of Alaska could increase the agricultural lands in production in this Valley seven fold with a fairly minor investment in agricultural roads, assuming that access is provided to Fish Creek.

We do think that the State has done a very good job in opening up the Point MacKenzie Agricultural Project and providing funds to that project through the funding of a portion of the Point MacKenzie Road and through funding construction of 16.5 miles of farm-to-market roads within the project. We are very proud of having the opportunity to be associated with that project.

And, we are all delighted with newspaper reports that you and Commissioner Ward are proposing that road access into the Fish Creek Agricultural Project be given high priority.

We believe that the Point MacKenzie and Fish Creek Projects are sound precedents for the State to follow and would hope that the planning

CONTACT PEOPLE FOR HOMEOWNERS ASSOCIATIONS FOR BARTLETT HILLS PROJECT, BY TRACT

TRACT A

Jim Hale, President
Talkeetna, Alaska 99676

TRACT B

John Davis, Attorney
Wasilla, Alaska 99687

TRACT C

Chuck Griffin, President
4136 San Roberto
Anchorage, Alaska 99504

TRACT D

Betty Kuhle
Box 110102
Anchorage, Alaska 99511

Bartlett Hills property owners and their testimony is set forth in Volume 2 - "Requests of Cities and Others" under the heading "Talkeetna Meeting."

AGRICULTURAL LANDS IN MATANU..A-SUSITNA BOROUGH AVAILABLE FOR EARLY DEVELOPMENT WITH ACCESS

	Acreages	Percentage Increase	Cumulative
In production now	10,000 acres	150%	
Add Point MacKenzie	15,000 acres	34%	150%
Add Borough 1982 sale	3,400 acres		184%
Total	28,400		
In production plus new lands sold	28,400 acres		
Add Bartlett Hills Agricultural Proj.	8,000 acres	80%	264%
Total	36,400		
In production plus new lands sold	36,400 acres		
Add Fish Creek (MacKenzie #2)	18,000 acres	180%	444%
Total	54,400		
Existing, sold and Fish Creek	54,500 acres		
Add Moose Creek	8,000 acres	80%	524%
Add Deshka Flats	8,000 acres	80%	604%
Add Chulitna Flats	8,000 acres	80%	684%
Total	78,000		

BARTLETT HILLS AGRICULTURE ROAD SYSTEM

AIR PHOTO RECONNAISSANCE

For

MATANUSKA-SUSITNA BOROUGH
ENGINEERING DEPARTMENT
Box B
Palmer, Alaska 99645

By

DOLLERHIDE-DeCAMP-BROWN
ENGINEERING AND SURVEYING CONSULTANTS
P.O. Box 1120
Wasilla, Alaska 99687
Phone 376-3206

BARTLETT HILLS AGRICULTURE
ROAD SYSTEM

AIR PHOTO RECONNAISSANCE

I. PROJECT BACKGROUND

The Bartlett Hills Agriculture project was undertaken by the State of Alaska as a land disposal program designed to promote agricultural development of certain lands. This project comprises several thousand acres of land and is spread in basically a north-south direction for a distance of approximately ten miles. The agriculture parcels are located from the Bartlett Hills on the north to the Montana Creek area on the south; all of which is roughly parallel to and four miles east of the Talkeetna Highway.

In addition to the agricultural land, the State has also developed several small tract (five acres) subdivisions in which parcels have been disposed to the public. These subdivisions are interspersed with the larger agricultural parcels.

None of the above disposal programs provided funds for road construction either within the project areas or for access roads. We are thus beginning to see a demand for roads in this area for both commercial and private uses. The State has platted rights-of-way and road corridors throughout this area and a few property owners are beginning to construct minimal roads for their own access.

II. PROJECT SCOPE

At this time there exists quite a variety of roads and rights-of-way in the project area. There are some access roads that will meet Borough Subdivision Requirements, some that are barely driveable as a one-lane cat trail, and most have no construction at all. There are rights-of-way connecting the agricultural tracts, rights-of-way within the small parcel subdivision and a road corridor three hundred feet wide through which a final right-of-way will be selected. These rights-of-way have various stages of road construction as noted above.

The scope of this project is threefold:

1. Catalog the existing rights-of-way, road construction, and parcels needing access.

2. Analysis of existing conditions and recommendation of routes for road construction after examining alternate routes.
3. Provide cost estimates for the road construction alternatives.

III. EXISTING ROADS AND RIGHTS-OF-WAY

Several roads have been constructed at various locations that provide access to the agriculture and subdivision projects. These roads have mostly been privately constructed and vary considerably as to their quality. The attached map entitled "Bartlett Hills Agriculture Project Road System" shows in detail the road construction and rights-of-way that exist in the area.

The following roads have been constructed:

A. Montana Creek Road. This road begins at the Montana Creek Lodge and generally parallels Montana Creek on the south and ends at the section corner common to Sections 33, 34, 27 and 28, T.24N., R.4W., S.M.. The road length is approximately 3.6 miles. The last 1.5 miles is built to Collector Standards and the initial 2.1 miles almost meets residential standards. This road could be extended 2 miles to the east and would then connect to a State Subdivision, A.S.L.S. 79-143. Part of the Montana Creek Road goes south to access land in Section 3, T.23N., R.4W., S.M.

B. Yoder Road. This road begins at the Parks Highway near the northwest corner of Section 16, T.24N., R.4W., S.M. and continues east across Montana Creek. After crossing Montana Creek, the road continues along the south bank of the south fork of Montana Creek for several miles up into the foothills where it disintegrates into an ATV trail. The first mile of road would meet Access Standards and thereafter it is well below Access Standards. A bridge has been constructed over Montana Creek, but this structure is not adequate in that it washes out periodically. It is built of logs and timber planks and is a minimal structure in terms of a bridge. There are two side channel crossings Yoder Road makes just prior to the bridge and these could be accomplished with adequate culverts. After crossing Montana Creek, Yoder Road provides access to an agriculture tract and the north portion of the State Subdivision, A.S.L.S. 79-143.

C. Moose Meadows Access. This road begins on the ~~Parks~~ TALKEETNA Highway a half mile north of Yoder Road and provides access to Moose Meadows Subdivision. At its terminus it connects to the South Answer Creek Road (not constructed) which provides access to several agriculture tracts. This access to Moose Meadows could provide a loop access to the ~~Parks~~ TALKEETNA Highway near Talkeetna through the South Answer Creek Road, the Mastadon Road Corridor, and the Comsat Road. Road grades here will require some special consideration in there are two 12% to 15% grades. These generally exist over 300 feet in length such that any upgrading would necessitate some substantial cuts and fills.

D. Question Lake Road. This road begins in Section 30, T.25N., R.4W., S.M. at the ~~Parks~~ TALKEETNA Highway and runs 2.5 miles east just north of Question Lake. Question Lake Road exists to Access Standards but does have some serious grade problems that would have to be dealt with in any upgrading work. There are three places with grades in the 10% to 12% range and these grades extend through at least 200 feet of road length. One additional area contains grades in the range of 20% to 25% and this is over a 400 foot length of road. These excessive grades will present some problems in any upgrading, but will not be insurmountable. The Question Lake Road could provide a loop access with the ~~Parks~~ TALKEETNA Highway via the South Birch Creek Road, the Mastadon Road Corridor and the Comsat Road.

E. Mastadon Road Corridor. This 300 foot wide road corridor begins at the Comsat Road near Christianson Lake, on the north, and extends through the Bartlett Hills area to connect to the South Answer Creek Road at its southern terminus. Much of this road has not been constructed. That portion which has been built begins at the South Birch Creek Road and extends some 4.5 miles north to Section 2, T.25N., R.4W., S.M.. This section is generally a one-lane trail that would not meet Access Standards. This corridor provides the main part of any loop system connecting the Talkeetna area with the agriculture tracts to the south.

F. Proposed Anchorage-Fairbanks Power Intertie. The proposed Anchorage-Fairbanks Power Intertie right-of-way is currently planned to traverse this general area. Because this project is still in the planning and design stages, it would be premature to predict the impact of this project on proposed road construction in this area. In our opinion, construction of quality roads into this area could only aid in the future construction of public improvements of any kind.

IV. SOILS AND BORROW SOURCES

The main source of soils information is the Susitna Valley Area Soil Survey published by the Soil Conservation Service and the University of Alaska Institute of Agricultural Sciences. This report contains maps showing the soil types over the entire study area and is therefore an important tool in evaluating the soil conditions.

Generally, the soils in this area are excellent for road construction. About 90% of the existing and proposed road is in the rabideaux (Ra) soils series, which is a gravelly material. Past experience has shown this gravel will meet Borough standards for road material. There will be a few places where less than adequate materials will be encountered but these are relatively insignificant and do not pose any construction problems.

The good quality of materials is further confirmed by examination of cut banks along the existing roadways and by talking with the builder of the few miles of Mastadon Road that was recently constructed. There will be few restrictions on borrow sources as good gravel can be expected along most of the routes. It is anticipated that a good part of the borrow for the roads can be achieved through the balancing of cuts and fills of the road construction. Any additional sources should be readily available.

V. BRIDGE REQUIREMENTS

There are two stream crossings in the study area that require bridge structures. The first and most significant is the crossing of Montana Creek by Yoder Road. A timber structure exists here now but it has had recent problems of washing out and needs to be replaced with a concrete structure. The estimated cost of a bridge structure at this location is $800,000 and this cost has been included in the cost estimates for Yoder Road shown later in this study. It is anticipated a concrete structure would be utilized that would span 75 feet with upstream riprap being required. There are presently two smaller structures just prior to the main channel of Montana Creek and these could be culverted. The second crossing occurs where Mastadon Road crosses Answer Creek. This would be a significantly smaller structure and its estimated cost is $300,000.

It is anticipated that all other water crossings can be made with culverts at relatively minor costs. When considering the various road systems in the study area, it is fortunate there are only two stream crossings involved and their costs are not significant compared to the overall road development.

VI. LOGICAL LOOP ROAD SYSTEMS

As the objective of this reconnaissance has been to consider primary collector access for the Bartlett Hills Agriculture Project, we are only considering major existing access roads and platted rights-of-way that would provide general thoroughfare to the bulk of the agricultural parcels and connection points to the small tract subdivisions in the area. Along with this, evaluation of other factors such

as topography, existing acces road construction, potential major stream crossing structures, Larson Lake access plans and priority based on need have yielded several possible loop road systems into and through the general area. To simplify discussion of these alternatives, the following are the general names and descriptions of the alternates:

"A" ALTERNATIVE

North Mastadon Road - South Birch Creek - Question Lake Loop

Begins on the north at the Bartlett Hills Earth Station Road near Christianson Lake and runs generally east to a point some two miles westerly of Larson Lake along an existing platted right-of-way. The route then runs southerly along a platted right-of-way to South Birch Creek Road, then turns westerly and runs out to the Talkeetna Highway. The southerly portion of this route is constructed to low Access Standards from Section 2, T.15N., R.4W., S.M. back out to the Talkeetna Highway. Total length is approximately 13.5 miles with 8.25 miles of existing constructed access and 5.25 miles without construction.

"B" ALTERNATIVE

Question Lake - South Birch Creek - Mastadon Road - South Answer Creek - Moose Meadows - Benka Lake Loop

Begins on the north at the Talkeetna Highway near Question Lake and runs generally easterly to the Mastadon Road right-of-way; then turns southerly through the Mastadon Road, South Answer Creek Road, and Moose Meadows rights-of-way to a point just northerly of Benka Lake; then runs generally west and south to the Talkeetna Highway near the Sunshine Lakes. The Question Lake, South Birch Creek Road, Moose Meadows and Benka Lake portions of this loop are presently constructed to minimal Access Standards. Total length is approximately 8.75 miles including 6.25 miles to minimal Access Standards and 2.5 miles without construction. Approximately 4.25 miles are included in the "A" Alternative.

"C" ALTERNATIVE

Yoder Road - West Montana Creek Road Right-of-Way - Existing Montana Creek Road Loop

Begins on the north at the Talkeetna Highway near Sunshine Lakes and runs generally east to West Montana Creek Road

Right-of-Way in Tract D of A.S.L.S. 79-143; then turns southerly and runs to the south end of Tract D; then runs generally south and west to the Parks Highway near the Montana Creek Bridge. The Yoder Road portion is constructed to minimal Access Standards and has a major crossing of Montana Creek. The existing Montana Creek Road portion is constructed to varying standards, including some portions that exist to Collector Standards. Total length of this loop is approximately 11.75 miles including 6.75 miles of existing construction and 5 miles without construction. The West Montana Creek Road portion appears to have some clearing in progress.

The two northerly Alternates ("A" and "B"), once completed, would connect in that Question Lake Road and South Birch Creek Road are common to both loops. The southerly Alternate "C" would be an independent loop unless a connection was made between Moose Meadows Subdivision and Yoder Road in the vicinity of Section 10, T.24N., R.4W., S.M.. This connection, at this point in time, does not appear to serve as necessary access to the agricultural or subdivision parcels, thus is considered extraneous to this discussion except to say it is a future alternate if the need arises to connect all three alternate loop systems.

VII. RECOMMENDATIONS

In summary, our recommendations would be as follows:

Phase I - Alternate "A" - Priority 1

Construct Mastadon Road Corridor from the Comsat Road to link up existing access construction from the south to Collector Standard. Improve the existing access road construction to Collector Standard in its entirety out to the Talkeetna Highway. This would accomplish two basic goals:

1. Provide a basic collector that accesses the bulk of the agricultural parcels in the Bartlett Hills Project as well as a connection point for residential systems that will be associated with the small tract subdivisions in the area.

2. Provide a logical "jumping-off" point for access to Matanuska-Susitna Borough land on Larson Lake which would require less construction than a separate road from Talkeetna to Larson Lake.

Phase II - Alternate "B" - Priority 2

Construct Mastadon Road and a portion of South Answer Creek Road southerly from South Birch Creek Road to Moose Meadows Subdivision to Collector Standards. Improve existing construction from Moose Meadows through Benka Lake Subdivision out to the Talkeetna Highway to collector standards.

Phase III - Alternate "C" - Priority 3

Improve existing Yoder Road out to West Montana Creek Road to Collector Standards. This would require a major stream crossing structure and culverts over Montana Creek and its branches.

Phase IV - Alternate "C" - Priority 4

Construct West Montana Creek Road through Tract B, A.S.L.S. 79-145 and westerly to connect with the existing Montana Creek Road to Collector Standard.

Phase V - Alternate "C" - Priority 5

Improve some portions of the existing Montana Creek Road such that its entire length is to Collector Standard.

VIII. COST ESTIMATES

Estimates for the recommended alternatives are shown below. The costs include all construction necessary to bring each alternative to Collector Standards. Note there are some common roads in Loop Alternates "A" and "B" and each loop is estimated as if it were constructed separately. This is done since there is no way of knowing which loop will be built first. Estimates are made for 1982 construction so that construction in later years will require some increases.

Construction Costs:

Alternate Loop "A"

5.25 miles Mastadon (new)	$ 471,240.00
4.25 miles Mastadon (upgrade)	325,380.00
1.25 miles South Birch Creek Rd. (upgrade)	95,700.00
2.5 miles Question Lake Rd. (upgrade)	155,600.00
Engineering Design & Supervision	205,000.00
TOTAL COST	$1,252,920.00

Alternate Loop "B"

2.5 miles Question Lake Rd. (upgrade)	135,600.00
1.25 miles South Birch Creek Rd. (upgrade)	95,700.00
1.5 miles Mastadon Road (new)	154,640.00
1.0 miles South Answer Creek Rd. (new)	89,760.00
2.5 miles Moose Meadows Access	132,000.00
Engineering Design & Supervision	118,000.00
TOTAL ROAD COST	705,700.00
Bridge Structure - Answer Creek	300,000.00
TOTAL COST	$1,005,700.00

Alternate "C"

3 miles [illegible]der Road (upgrade)	138,400.00
2.75 mi. [illegible] W. Montana Creek Rd. (new)	246,840.00
3.75 miles Montana Creek Rd. (upgrade)	82,240.00
2.25 miles Montana Creek Rd. (new)	201,960.00
Engineering Design & Supervision	130,000.00
TOTAL ROAD COST	$779,440.00
Bridge Structure - Montana Creek	300,000.00
TOTAL COST	$1,079,440.00

X. SUMMARY

A reconnaissance project of this scope presents a multitude of variables and possible alternatives. There are some twenty miles of existing roads in the study area that are considered in the various alternatives. These roads have been constructed to varying standards from one-lane trails to Collector Standards.

In examining the existing and potential demand for roads here, it is likely that over a period of, say 15 years, virtually all the rights-of-way in the area will see some road construction. The value in this study will then be the evaluation and recommendation of a priority system that will provide the best access for a given expenditure as funds for construction become available. As noted in our recommendations, we feel the loop system approach is more beneficial than dividing funds between various individual roads on a piecemeal basis. Alternate Loop "A" is recommended because of the large number of parcels it will access and because it will also provide much of the access to Larson Lake (which is the subject of another reconnaissance study). The succeeding order of our recommendations are based on providing access to the greatest number of parcels. It is certainly reasonable to consider other

alternatives and/or priorities depending on the political evaluation of need and changing development patterns.

References:

1. Map of Existing Roads and Rights-of-Way
2. Aerial Photography of October 1981 - General Area

F. R. Dollerhide, P.E.

DOLLERHIDE-DeCAMP-BROWN
P. O. Box 1120
Wasilla, Alaska 99687



HB

238

STATE OF ALASKA
FISCAL NOTE

Revision Date March 16 , 1983

I. REQUEST

Bill/Resolution No.: HB 238
Title: Improvement on Parks Highway
Sponsor: Lacher
Requestor:

II. FISCAL DETAIL

Agency Affected: DOT/PF
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0
CAPITAL		20.0	20.0	107.4	1,385.7	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.0	2.0	10.7	138.6	0.0
FEDERAL FUNDS		18.0	18.0	96.7	1,247.1	0.0
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in HB 238

IV. ANALYSIS: See attachment for Analysis.

Prepared by: William R. Snell Phone: 266-1440
Division: Planning & Programming Date: 2/15/83

Approved by Commissioner: Date: 3/15/83
Department: Transportation and Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

The cost estimates for this project in FY'83 dollars were:

Preliminary engineering	$45,430
Right-of-Way	70,000
Construction	946,463

These costs were assumed to increase at 10% per year through the life of the project.

The preliminary engineering was assumed to take 3 years and was allocated as follows:

FY'84	$20,000
FY'85	20,000
FY'86	14,267

The Right-of-Way acquisition was assumed to be completed in FY'86 for $93,170.

The construction phase was assumed to be initiated and completed in FY'87 for $1,385,716.20.

This project is on a federally designated interstate highway and is assumed to qualify for approximately 90% federal funding. Since this project is a reconstruction of an existing curve, it was assumed that no change would occur in maintenance and operations costs after the project was completed.

HB

248

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

3/11/83

Date: 5-13-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 248

An Act making a special appropriation to the Department of Transportation and Public Facilities for constructinn of a bridge in Eagle River; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 248 (transportation) [ ] same title [X] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible] Do Pass	
[illegible]	
[illegible] Do pass	
M.W. Miller Do pass	
Bette Cato " "	

Bette Cato
CHAIRMAN

H 60

Introduced: 3/11/83
Referred: Transportation
and Finance

Funding Information
General Fund $15,000,000
Other Funds -0-
$15,000,000

IN THE HOUSE BY LISKA

HOUSE BILL NO. 248

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - F ST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of a bridge in Eagle River; and providing for an effective date."

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

* Section 1. The sum of ~~$15,000,000~~ 750000 is appropriated from the general fund to the Department of Transportation and Public Facilities for ~~construction~~ Preliminary Engineering and Design, Engineering & Const. of a bridge in Eagle River.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

Title change

COMMITTEES
Vice Chairman — Judiciary
Vice Chairman — Legislative Regulations Review
Resources
Finance Sub Committee on Labor

Alaska State Legislature

...ife in Session
Pouch V
...tate Capitol
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

May 10, 1983

TO: Transportation Committee

FROM: John J. Liska - Representative District 15

SUBJECT: Packet Materials - House Bill 248, Eagle River Bridge

Attached are materials for the Committee's reference regarding our Bill making a special appropriation to the Department of Transportation and Public Facilities for construction of a bridge in Eagle River, and providing for an effective date.

1. List of witnesses for Committee conference call, 5-13-83:

Vicki Kenard	Dept. of Transportation
Reilly Snell	Dept. of Transportation
Don Morfield	Dept. of Transportation
Dean Reddick	Dept. of Transportation
Mark Mayo	Dept. of Transportation

This may be a partial list because Reilly Snell indicated he would be asking representatives of the Municipality to participate.

2. Fiscal Notes

   a. Fiscal Detail - Prepared by Margaret E. Holland, Planning and Programming, Central Region.

      Approved by David Haugen, Deputy Commissioner, DOT,PF

   b. Preliminary Construction Cost Estimate - Prepared by B. Fredrickson, 4-27-83

   c. Preliminary Construction Cost Estimate - Prepared by John Dickenson, 1-20-83

d. Preliminary Engineering Cost - supplied by David Haugen, 5-6-83

3. Demographic Background in Support of Need for this Bridge

4. Letters in Support:

   a. Senators Halford and Kelly - District H(A & B)

   b. Chip Dennerlein, Executive Manager, Public Services, Municipality of Anchorage

   c. Jerry O'Conner, Assembyman, Eagle River

   d. David Wachsmuth, President, Eagle River Valley Community Council

   e. Board of Directors, Eaglewood Homeowners Association, Eagle River Valley

   f. General Constituent

5. Maps

   a. Vicinity Map

   b. Proposed Road Improvement Plan, 9-82 Summary Report, Municipality of Anchorage, 6 Year Road Improvement Program (Note: in September 1982, no indication of extension of Eagle River Loop Road)

   c. Roadway Projects, April 1983, Anchorage Accelerated Roadway Program, Municipality of Anchorage.
   (Note: Extension of Eagle River Loop Road included)

MAY 1 1 1983

STATE OF ALASKA

Bill Sheffield, Governor

2d

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES

DEPUTY COMMISSIONER - CENTRAL REGION

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1441

May 6, 1983

The Honorable John Liska
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Liska:

In response to your request regarding the Eagle River Loop Road extension project, the cost for preliminary engineering is estimated to be approximately $750,000.

It is assumed that the preliminary engineering will be accomplished by a consultant. The consultant will be responsible for 1) conducting an environmental study which includes mapping of the site, 2) soils and foundation investigations, and 3) design work.

If our office can be of further assistance please call.

Sincerely,

David W. Haugen
Deputy Commissioner
Central Region

DWH:WRS:MM/ey

cc: Emil Notti, Legislative Assistant
Office of the Governor

(3)

See double school enrollment by 1993

School enrollment in Chugiak - Eagle River will double during the next decade, school superintendent E. E. "Gene" Davis told his audience at Monday's Chamber of Commerce luncheon. To meet that increase, he said the district will need to build a new senior high school in addition to a 20-room addition to Chugiak High School which already is on the drawing boards, a second junior high, and four to seven new elementary schools.

Where those schools will go has not been determined, the superintendent stated. He expects locations to become more definite this fall when a committee completes work on a study of site acquisitions and a list of municipal lands which might be traded for surplus school property. Money is already available for one new elementary site somewhere in this area, he said.

Chugiak - Eagle River will continue as the fastest-growing portion of the Anchorage district, Davis advised. Since 1979, the area's population has grown at a pace four times greater than that of the Anchorage bowl -- a fact he said was not recognized until the middle of 1980.

Since his appointment in June of 1981, the superintendent said the district has recognized the growth here, and "I think we're doing a good job of keeping up."

The new Gruening Junior High will open in the fall, Davis said, even though "we may still have to do some painting at night after classes."

He announced that bids for the new Ravenwood elementary school in Eagle River Valley had just been opened and came in at $1 million below the engineer's estimates.

An addition at Chugiak Elementary has begun and will help that school handle its enrollment next year. It experienced the greatest growth of any school in the district over the past two years, the superintendent noted.

Several smaller projects at individual schools are also scheduled, although Davis said some may have to be cut back because of fund shortages unless the legislature eases its plans for a 30 percent reduction in construction rebates. Action by the municipal assembly to cover part of the shortfall avoided some severe problems, it was pointed out. Although the district expects to receive about $2.2 million less than it had budgeted for.

Of significance to his audience was the superintendent's statement that the design used for the new Ravenwood school here, and for the Oceanview and Klatt Road schools, is to be "a prototype for future elementary schools. It's not practical economic sense to redesign each school, only to make it fit the land. (Adopting one standard design means) we don't have to start from ground zero on each school."

Also of specific interest were enrollment projections which show an increase of 7.1 percent expected in Chugiak - Eagle River next year when 600 more students show up than now attend classes here.

Districtwide, he expects a net gain of 5,000 students in a two-year period.

Projections are made, Davis cautioned, "on the best planning information available." They could be on the mark — or vary considerably in either direction depending on conditions. Some people, he said, predict economic factors which will subtract from the population. Still others see growth rates even larger than at present.

Despite the projections, the district does not plan to build new schools "until we see the students. You probably will see the use of more relocatables" to hold the load until schools are built.

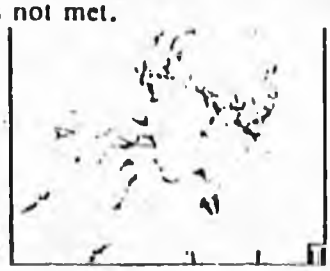
"There are no plans to doubleshift at Homestead," Davis replied in response to a question about overcrowding at that school. Now, he said, 62 percent of families with children in school have two parents working. Doubleshifting would cause problems for families with age spreads from kinde garten to high school which could mean several different daily schedules. "I don't think there are that many babysitters out there," he said, adding that the district "should be responsive to the community" in taking actions with significant social impacts.

Alternatives to doubleshifting, according to Davis, are relocatables or "boundary changes. He indicated he prefers the former.

In answer to a related question, the superintendent said sending sixth grade students to the new junior high in order to ease overcrowding at elementary schools "is not proposed. But I don't think it's a bad option." He said he, too, had heard the idea "as a rumor," but indicated that it was not a specific proposal actually under review at this time.

Davis said the district, under his direction for two years, views Chugiak - Eagle River "as a unique part of the school district," noting that residents take an active interest and have supported local schools.

"We're pleased with the schools, but we intend to do better. Our goal is to improve every year." He invited residents to "tell us" when they feel the goal is not met.



To safeguard against rheumatic fever, consult a doctor when you have a sore throat.

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Valley council views subdivision plans

The rapid multiplying of subdivisions in throughout Eagle River is causing log jams not only within [illegible] departments but in local community councils as well.

Eagle River Valley Community Council members have been swamped with subdivision requests which they've been asked to consider. Several will be up for review when the council holds its May meeting and elects new officers next Thursday at 7:30 p.m. at Joy Lutheran Church.

Dave Wachsmuth, council president, said that council representatives were to make their third attempt last night (Wednesday) to testify before Planning and Zoning on the proposed Snowbird Hill development. Wachsmuth noted that the development is 19th on 26 cases which were on the commission's agenda three meetings ago. They've only been able to discuss five a night, but council members have been on hand for all, waiting for the Snowbird Hill consideration.

The council is recommending that the 80-acre subdivision of 140 lots on the hillside above Pruess subdivision be redesigned to limit lot sizes to no less than half an acre. Currently, Wachsmuth said, a number of the lots are conside[illegible]bly smaller. Council membe[illegible] met with developer Hugh [illegible]rt of Anchorage to re[illegible] change, but were tol[illegible] [illegible]d not be financially fe[illegible]

"We are [illegible] opposed to development," Wachsmuth emphasized, "but we want to see it done in an orderly fashion, and in conformance with the development that already exists in an area."

Wachsmuth said that it was the consensus of members at the April meeting that "some kind of controls are needed to slow down the amount of development that is taking place."

For example, he said, Eagle River Development was granted a variance which will permit it to develop 140 lots for zero lot line construction. The Brendlewood tract approved last week by the Assembly will create 125 lots, to be developed in three phases.

Council members feel the concentrated development of Snowbird Hill is not in keeping with the larger lot construction of the adjoining subdivisions.

They are supportive, however, of another subdivision called Overlook which is proposed for a 60 acre tract at Mile 7. Wachsmuth called it "a nice subdivision", planned by JJJ and K, with 30 lots spread over a 60 acre tract.

Two weeks ago Wachsmuth attended a meeting of the Federation of Community Councils with representatives of the mayor's office, the platting commission and planning and zoning.

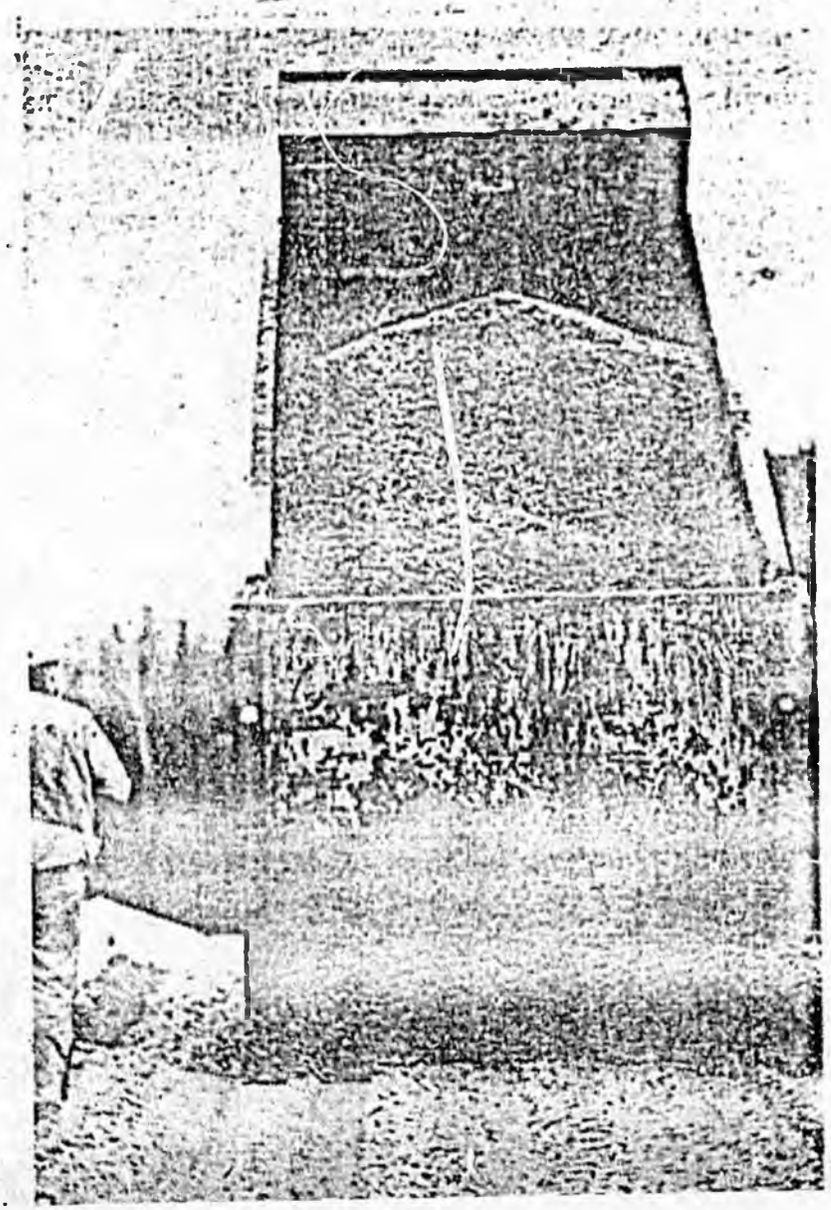
"A lot came out of the meeting," Wachsmuth said. "My belief is that the mayor has already taken steps to improve communication between the municipality and community councils. I hope it will continue.

Subdivision proposals will be reviewed at next week's meeting. Nominated for office are Wachsmuth, president; Jay Davies and Marilyn Hill, vice president; Kathy Boetmann, secretary; and Tom Stewart, treasurer.

P&Z turns down plan 5-acre tract rezoning

A controversial request for rezoning a five acre tract on Eagle River Loop Road was denied by the Municipality's Planning and Zoning Commission Saturday by a unanimous vote.

Commission members turned down the request by Joseph Lecorchik to rezone 5.37 acres



ALASKA STATE LEGISLATURE

SENATOR
RICK
HALFORD
SENATE MINORITY LEADER

Permanent Address
P O BOX 66
CHUGIAK, ALASKA 99567
Phone 907 688 2470

While in Juneau
POUCH V
JUNEAU ALASKA 99811
Phone 907 465 4958

SENATE

4

TO: The House Transportation Committee

FROM: Senator Rick Halford
Senator Tim Kelly

RE: HB 248, construction of a bridge in Eagle River

DATE: May 10, 1983

After careful study of the ongoing problems of traffic congestion in the downtown Eagle River area, I have concluded that there are two projects that can be undertaken at this time to alleviate some of the traffic hazards.

The first and immediate project, for which I have requested funding, is engineering and physical correction of the intersection of Eagle River Road and the Old Glenn Highway.

The second, more long-range project, which I feel should be started as soon as possible, is a bridge over Eagle River to funnel the traffic out of Eagle River Valley over to Hiland Road and out the Hiland Road overpass onto the four lanes to Anchorage.

This bridge seems to be the only feasible solution to the long-range problem of getting the existing traffic out of Eagle River Valley, without going into downtown Eagle River. I feel the sooner we fund and build this bridge, the more money we will save the State. As first designed and considered in 1982, the fiscal note was $12,995,000 and in 1983 it is $15,723,950; each year we wait, the price will be higher.

In conclusion, I strongly recommend your support for HB 248.

Rick Halford
Rick Halford

Tim Kelly
Tim Kelly

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 786-8401

TONY NOWLES,
MAYOR

OFFICE OF PUBLIC SERVICES

April 13, 1983

Rep. John J. Liska
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear John:

You have requested additional back-up information concerning one alternative for improving access to the Eagle River area, that being the construction of a bridge linking Eagle River with Highland Road. The purpose of this letter is to provide you with the basic information to date. In accordance with funds previously provided by the Legislature, the Municipality has been conducting a study of alternatives to improve access to Eagle River. During this past year, the Eagle River area has been brought within the scope of AMATS planning and the study, when finally completed, will receive review by both the AMATS TEchnical Committee and Policy Committee. The access study is in the final phases of staff analysis and computer modeling. There has not been any review by the Technical and Policy Committees. Moreover, detailed engineering has not been done for several of the system alternatives, including the bridge proposal which you favor. I point this out merely so you understand clearly that a decision to favor one alternative over another at this point simply represents best estimate and judgment of the staff prior to final analysis.

All this considered, the construction of a bridge connecting Eagle River Loop Road with Highland Drive does appear to be the forerunner among other alternatives at this time. The bridge would accomplish a major objective of relieving the pressure and demand on the existing Eagle River interchange. The bridge also appears to make sense from an overall traffic grid perspective in that it links the Eagle River community and fits in well with road systems in both the north and south side of the River. Finally, the bridge avoids the future necessity to expand the Glenn Highway between Eagle River and Highland Drive to a six-lane facility. As you can see, such an expansion might also require expensive bridge reconstruction.

While the bridge appears to be the best alternative at present, it is a high capital solution, and full construction funding is probably premature. Preliminary estimates put the facility at 15 million dollars (estimates provided by DOT/PF). This, however, is a ballpark estimate, and some significant preliminary engineering work needs to be done. I have already requested the State to provide me with an estimate on all costs for design and right-of-way acquisition. It is not premature to provide

engineering monies. In addition to the lack of detailed engineering data, the project would involve right-of-way acquisition, environmental assessments, and detailed engineering work regarding any improvements which might need to be made to Highland Road. With respect to federal funds which might be available, the proposed bridge is not on the federal aid highway system. It could certainly be added to this system. The addition would logically occur as a result of highway classification studies which are being undertaken this year through the AMATS process.

There is a need to make some immediate improvements to relieve pressure on the Eagle River interchange. As you know, last year, Anchorage experienced an extremely active building season. Nearly 48% of the housing starts occurred in the Eagle River area. State DOT/PF estimates that more than one-third of the traffic traveling the Glenn Highway to Anchorage enters the Highway at the one location of the Eagle River interchange. The bridge, even if it is the best alternative for a long-range solution, is a high-cost solution which will take several years to construct. In the interim, I suggest that you and the Municipality get together with the State Department of Transportation to decide whether certain improvements can be made to the Eagle River interchange, such as the construction of an additional off lane and through lane. These options, by the way, also are being considered in our Eagle River access study.

Lastly, you asked whether there were substantial federal funds dedicated to the north Eagle River access which could be reallocated to the proposed bridge project. In addition to the fact that the proposed bridge is currently not a part of the federal aid highway system, the State informs me that federal funds for the north Eagle River access are limited to several hundred thousand dollars at this time for the purpose of continuing preliminary engineering on that project.

In summary, while detailed engineering and research is not complete and while the results of the study have not been reviewed by Technical and Policy Committees in the AMATS process, the bridge does appear to be the most favorable alternative for improving access to Eagle River at this time. In addition, certain interim improvements may need to be made at the existing interchange. Depending upon available funds, it would seem most appropriate to provide funds for improvements to the existing interchange and engineering funds for the bridge should you choose to pursue construction of this facility.

Sincerely,

Chip Dennerlein
Executive Manager, Public Services

cc: Sen. Rick Halford
Sen. Tim Kelly
Rep. Randy Phillips

MSG 83-00007647 PRTY 1 04/12/83 14:07:55 ORIG: LA03 IN= 0004 OUT= 011
FROM: JEAN, ANC LIO TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POMS

4/12/83 JEAN, ANC LIO #7647

TO: REPRESENTATIVE LISKA

FROM: ASSEMBLYMAN JERRY O'CONNER
P.O. BOX C
EAGLE RIVER, AK 99577 (H) 694-9400

APR 12 1983

THE LARGE VOLUME OF TRAFFIC COMING FROM EAGLE RIVER VALLEY MAKES IT IMPERATIVE TO START WORK ON THE EXTENSION OF EAGLE RIVER LOOP ROAD TO THE SOUTH FORK - GLENN HIGHWAY INTERSECTION. THE EAGLE RIVER VALLEY COUNCIL HAS DISCUSSED THIS AT NUMEROUS MEETINGS. AND HAS FORMALLY TAKEN THIS PROJECT TO THE AMATS COMMITTEE.

****

4/12/83 JEAN, ANC LIO, #7679

APR 13 1983

TO: REPRESENTATIVE JOHN LISKA

FROM: DAVID WACHSMUTH
SR BOX 144, EAGLE RIVER 99577 (H) 694-2741 (W) 344-0531

WE NEED AN ALTERNATIVE ROUTE OUT OF EAGLE RIVER. THE ONLY VIABLE ALTERNATIVE THAT THE EAGLE RIVER VALLEY COMMUNITY COUNCIL CONCURS WITH IS THE CONSTRUCTION OF A BRIDGE ACROSS EAGLE RIVER, EXTENDING EAGLE RIVER LOOP ROAD ACROSS THE HIGHLAND DRIVE, THUS CONNECTING UP WITH THE GLENN HIGHWAY. SIGNED...DAVID WACHSMUTH, PRESIDENT OF EAGLE RIVER VALLEY COMMUNITY COUNCIL.

****

EAGLEWOOD HOMEOWNERS ASSOCIATION
EAGLE RIVER, ALASKA 99577

MAY 9 1983

May 3, 1983

TO: Mayor Tony Knowles, Municipality of Anchorage
Mr. John Liska
Mr. Randy Phillips
Mr. Rick Halford
Mr. Tim Kelly

We, the undersigned, the Board of Directors of Eaglewood Subdivision, representing the membership of the Homeowners' Association of 411 families, in accordance with a unanimous vote of approval at the April 21, 1983 Homeowners' meeting, do hereby express our complete support to the construction of a bridge across Eagle River connecting Hiland Road and Eagle River Loop South.

Please take this letter of support in consideration during meetings concerning construction of same bridge. It is our feeling that with the expected continued growth of Eagle River toward Chugach State Park (Eagle River Road continues eight miles beyond Eaglewood Subdivision before it reaches the entrance to Chugach State Park) an alternative route will become a necessity to alleviate congestion and thereby keep the area in a less hazardous condition. It is our fear that with the combination of a new Grammar School and a new Jr. High School, the traffic situation will become virtually impossible on Eagle River Road and that eventually an alternative route will become an absolute necessity. Again, please consider this request, and hopefully give it a positive response.

Sincerely,

James L. Harpring

Judy Bailey

Judy Bailey

David Richardson

Ralph E. Crane

Paula H. Hyatt

Paula H. Hyatt

APR 13 1989

REPRESENTATIVE JOHN LISKA

FROM: BILL LYFORD
P.O. BOX 195
EAGLE RIVER, AK 99577 (H) 694-9227 (W) 694-2225

RE: EAGLE RIVER LOOP ROAD EXTENTION AND BRIDGE ACROSS EAGLE RIVER TO SOUTH FORK.

THIS IS A TOP PRIORITY FOR ALL OF EAGLE RIVER VALLEY. PLEASE SUPPORT THE CONSTRUCTION OF IT.

****

MAY 1 1 1983

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES

DEPUTY COMMISSIONER - CENTRAL REGION

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1441

22

May 6, 1983

Bette:
Do you want to consider a
Please fund for $750,000 this year?

The Honorable John Liska
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Liska:

In response to your request regarding the Eagle River Loop Road extension project, the cost for preliminary engineering is estimated to be approximately $750,000.

It is assumed that the preliminary engineering will be accomplished by a consultant. The consultant will be responsible for 1) conducting an environmental study which includes mapping of the site, 2) soils and foundation investigations, and 3) design work.
? all design? - ready for Construction?

If our office can be of further assistance please call.

Sincerely,

David W. Haugen
Deputy Commissioner
Central Region

DWH:WRS:MM/ey

cc: Emil Notti, Legislative Assistant
Office of the Governor

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 248

Title : "...construct bridge ... Eagle River..."

Sponsor : Liska

Sincerely,

Ed Cronick

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

25A-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 248
Title: ...construct bridge...Eagle River
Sponsor: Rep. Liska
Requestor: House Transportation
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Design & Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING			50.0	55.0	60.5	66.5
CAPITAL	305.0	400.0	34,284.0			
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	305.0	400.0	34,334.0	55.0	60.5	66.5
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	305.0	400.0	34,334.0	55.0	60.5	66.5

POSITIONS:

FULL TIME			1	1	1	1
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor of bill

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director
Phone: 266-1462
Division: Central Region Planning & Programming
Date: 11/30/83

Approved by Commissioner: David W. Haugen
Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

FISCAL NOTE FOR HB 248

1. Fiscal Impact on Existing Programs

FY'84 funds were appropriated in Ch 107 SLA 83 page 75 line 16. Funds for FY'85 and FY'86 were not identified in bill. Preliminary Engineering is now underway. The $400,000 shown in FY'85 will be needed to complete preliminary engineering. This amount is now contained in the draft FY'85 CIP.

The Eagle River loop extension is not currently programmed for construction in the FY'84 AMATS TIP or in DOT&PF's draft FY'85 or FY'86 CIP. Construction of this project in FY'86 may delay construction of high priority projects unless additional funding can be secured. DOT&PF will work with the Municipality through the AMATS process to establish the priority of this project relative to other Anchorage projects in the AMATS TIP. DOT&PF's future budget requests will be developed in accordance with this priority ranking.

2. Fiscal Impact on New Programs

Construction of this project in FY'86 may also delay construction of high priority project programmed in the AMATS TIP and DOT&PF FY'86 CIP.

3. Analysis of Cost Estimate

The following cost breakdown was prepared by Central Region Design and Construction. The project includes modification of the Hiland/Glenn Highway Interchange, 2 miles of 40' wide roadway, and a 850' x 50' bridge at Eagle River. This cost estimate updates the January 20, 1982, estimate which underestimated construction and right of way costs. The updated cost estimate is a conceptual estimate and may be 25% higher or 75% lower than the actual construction cost. Further preliminary engineering will yield a more accurate estimate.

Estimated Costs (83 Dollars):

Construction Estimate:		$14,600,000
Construction Administration (12% of 1):		$ 1,752,000
	Subtotal:	$16,352,000
Contingencies (10% of 1):		$ 1,460,000
Construction Total:		$17,812,000
Preliminary Engineering (6% of 1):		$ 876,000
Right of Way		$ 5,070,000
Utilities:	(Assume)	$ 2,000,000
	Project Total	$25,758,000

Project Total (1986 Dollars): $34,283,898
(10% Inflation Factor)

*29 Developed lots at $150,000 each =	$4,350,000
Add 36 Acres undeveloped at $20,000/acre =	720,000
Total	$5,070,000

Previous estimate assumed all necessary right of way was undeveloped and underestimated cost of bridge.

Ongoing operating costs would be $42,000/year. One additional maintenance and Operations position would be added.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 248
Title: ...construct bridge..Eagle River
Sponsor: Rep. Liska
Requestor: House Transportation

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL		15,723.9				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		15,723.9				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Sponsor did not identify source of funds.

IV. ANALYSIS: Attached.

Prepared By: Margaret E. Holland Phone: 266-1499
Division: Planning & Programming, Central Region Date: 4/12/83

Approved by Commissioner: David Haugen, Deputy Commissioner Date: 4/12/83
Department: Transportation & Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS: Fiscal Note for HB 248

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR
EAGLE RIVER LOOP ROAD EXTENSION
*(FY 82 Figures)

Total Length: approximately 2 miles

Location and Description: Begin project - Hiland Drive Interchange at Glenn Hwy. End Project - Intersection of Eagle River Loop Road and Eagle River Road. Includes construction of new bridge over Eagle River, approx. 1.5 miles upstream from Glenn Highway.

Required width: 40 feet top (assume)

*Estimated Costs:

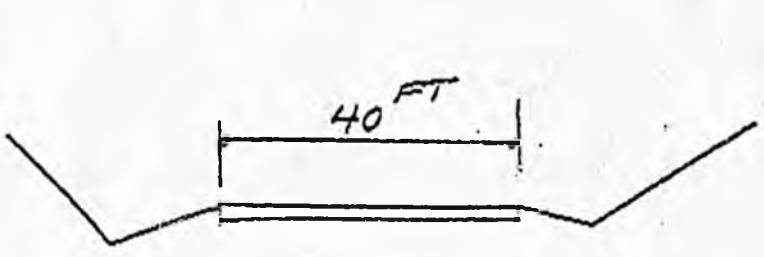
1.	Construction Estimate =	$10,375,000
2.	Construction Administration = (12% of 1)	1,245,000
3.	Subtotal	$11,620,000
4.	Preliminary Engineering (6% of 1)	625,000
5.	Right of Way ($10,000/acre)	500,000
6.	Utilities (assume)	250,000

PROJECT TOTAL = $12,995,000 *(FY '82)

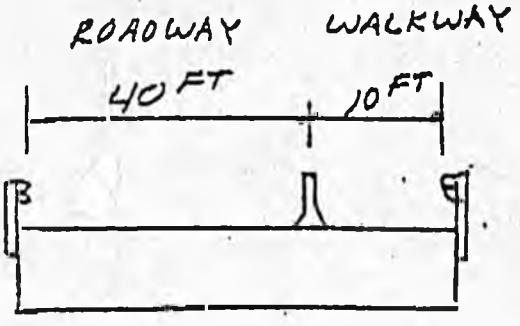
*Fiscal Year 1982 Dollar Figure Inflated 10% each year to Fiscal Year 1984 = $15,723,950

Sheet 2 of 5
Project Name EAGLE RIVER LOOP EXT.
Project Number
Prepared By
Date

TYPICAL SECTION



ROADWAY



BRIDGE

2 MILES ROADWAY AT 2,000,000/MILE = 4,000,000

850' LONG * 50' WIDE BRIDGE AT 150/FT² = 6,375,000

CONSTRUCTION ESTIMATE = 10,375,000

RIGHT OF WAY, 2 MILES * 200' WIDE * 5280/43,560 = 50 AC * 10,000/AC = 500,000

UTILITIES ASSUME 250,000

GENERAL NOTES

1. ROADWAY LENGTHS BASED ON SHORT ROUTE BETWEEN BEGIN AND END OF PROJECT.

2. BRIDGE SITE AT NARROW CANYON DUE SOUTH OF EXISTING EAGLE RIVER LOOP ROAD.

3. OTHER ROUTES AND ALTERNATIVES WILL BE CONSIDERED.

4. IT IS ASSUMED THAT SUFFICIENT TRAFFIC TO JUSTIFY THE PROJECT, WILL REQUIRE A 40' WIDE ROADWAY.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

Date: 4-27-83
Prepared By: B. Fredrickson
Project Number:

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR:

Project Name: Intersection Improvements - Eagle River

From: Old Glenn Hwy (MP) 0.40 to: Eagle River Rd (MP) 0.00

Total Length: 800 feet

Location and Description: Intersection Improvements at the intersection of Old Glenn Hwy & Eagle River Rd. Adding turning lanes and installing pavement markings

Current ADT: 13700 Design ADT:

Required Width: Actual Width:

Assumed Structural Section H.A.P.: in.

C.A.B.: in.

Borrow: in.

Estimated Costs (Dollars) Based Upon Above Assumptions:

1.	Construction Estimate:	$ 89570
2.	Construction Administration (15 % of 1):	$ 13440
3.	Subtotal:	$ 103010
4.	Contingencies (10 % of 1):	$ 9000
5.	Construction Total:	$ 112,010
6.	Preliminary Engineering (10 % of 1):	$ 9000
7.	Right of Way ($ /Acre):	$
8.	Utilities:	$ 4000
9.	Project Total:	$ 125,010

Sheet ____ of ____

STATE OF ALASKA

APR 13 1983

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

JEFF SCHELBARTH
AMATS COORDINATOR
264-4224

Date: JANUARY 1983
Prepared By: JOHN DICKENSON
Project Number: _____

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR:

Project Name: EAGLE RIVER LOOP ROAD EXTENSION

From: _____ (MP) _____ To: _____ (MP) _____

Total Length: 2 MILES ±

Location and Description: BEGIN PROJECT - HILAND DRIVE INTERCHANGE AT GLENN HWY. END PROJECT - INT OF EAGLE RIVER LOOP ROAD AND EAGLE RIVER ROAD. INCLUDES CONST OF NEW BRIDGE OVER EAGLE RIVER APPROX 1.5 MILES UPSTREAM FROM GLENN HWY.

Current ADT: _____ Design ADT: _____

Required Width: 40 FT TOP (ASSUME) Actual Width: _____

Assumed Structural Section H.A.P.: _____ in.

C.A.B.: _____ in.

Borrow: _____ in.

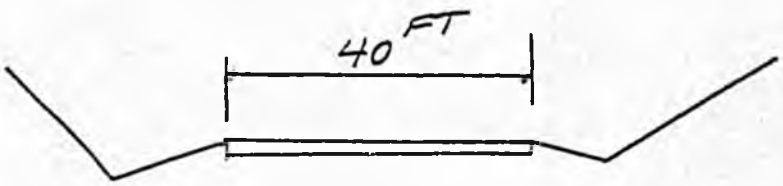
Estimated Costs (1982 Dollars) Based Upon Above Assumptions:

1.	Construction Estimate:	$ 10,375,000
2.	Construction Administration (12 % of 1):	$ 1,245,000
3.	Subtotal:	$ 11,620,000
4.	Contingencies (____ % of 1):	$ _____
5.	Construction Total:	$ _____
6.	Preliminary Engineering (6 % of 1):	$ 625,000
7.	Right of Way ($ 10,000/Acre):	$ 500,000
8.	Utilities: ASSUME	$ 250,000
9.	Project Total:	$ 12,995,000

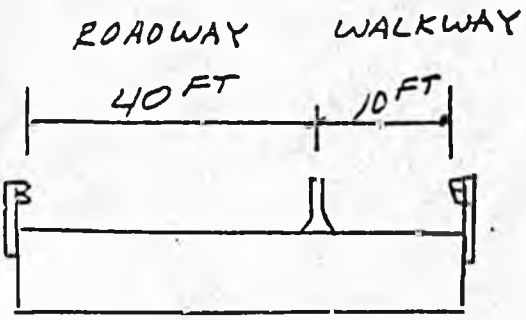
Sheet ____ of ____

Sheet 2 of 5
Project Name EAGLE RIVER LOOP EXT.
Project Number
Prepared By
Date

TYPICAL SECTION



ROADWAY



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CONSTRUCTION ESTIMATE = 10,375,000

RIGHT OF WAY, 2 MILES * 200' WIDE * 5280/43,560 = 50 AC * 10,000/AC = 500,000

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GENERAL NOTES

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2. BRIDGE SITE AT NARROW CANYON DUE SOUTH OF EXISTING EAGLE RIVER LOOP ROAD.

3. OTHER ROUTES AND ALTERNATIVES WILL BE CONSIDERED.

4. IT IS ASSUMED THAT SUFFICIENT TRAFFIC TO JUSTIFY THE PROJECT, WILL REQUIRE A 40' WIDE ROADWAY.

DEMOGRAPHIC BACKGROUND
(House Bill 248 - Eagle River Bridge)

Eagle River/Chugiak is one of the fastest growing areas in the entire State of Alaska. The population of this area has nearly doubled since 1981. With this dramatic increase in population, an alternate access to Glenn Hiway is mandatory to ease the drastic traffic problems which are now occuring. What follows are some statistics which illustrate our District's growth and the urgency with which we need a solution to our traffic problems.

1. Population and Dwelling Unit Forecasts by Community Council (See Attached) prepared for the Municipality of Anchorage, by Alaska Transportation Consultants, Inc., Dated August 1982.

   This table shows the projected increases in population and in dwelling units from 1981 to 1988.

   Note: Of the 27,999 population projected for 1988, 39% (or 10,973) will be in Eagle River Valley.

2. New Construction/Building Permits

   a. "Alaska Economic Report", May 1983:

      This issue reports "A residential building glut" in the Anchorage area with 2,315 buidling permits issued by the end of March this year.

   b. John C. Bishop, Municipal Building Official, Municipality of Anchorage:

      It is estimated that approximately 60% of these permits (or 1,389) were for the Eagle River Area.

3. Traffic Counts - Pete Eckland, Department of Transportation (on Loan to the Municipality of Anchorage)

   a. 10,798 cars enter the Glenn Highway Southbound to go on into Anchorage each day.

      While this has recently been made into a 5 lane highway, it narrows to 2 lanes at the intersection where the heavy traffic flow junctions with Eagle River Road.

b. Officer Jim Meehan, Anchorage Police Department, Commuter Watch:

Meehan in May issue of Anchorage Times reports that Eagle River Road merging into Glenn Highway is a traffic hot spot.

In morning rush hour there are up to 50 cars at one time backed up trying to merge onto Glenn Highway.

4. Additional Responses to Horrendous Growth of Eagle River Area

a. Tom Brigham, Director, People Mover indicates that service to Eagle River has had to double to 24 buses a day to handle the growth, and that additional expansion will be required on Eagle River Loop Road and is planned for this fall.

b. Increased population has required an additional person to be moved in to the Health Department Office in Eagle River to help meet the local demand for increased environmental health services.

TABLE 3-4

POPULATION AND DWELLING UNIT FORECASTS BY COMMUNITY COUNCIL

Council	1981 Population	1981 Dwelling Units	1981 Persons/ D.U.	Platted D.U.'s	1988 Add'l D.U.'s	1988 Total Est. D.U.'s	Pct. of Total D.U.'s	1988 Total Est. Populatn
Birchwood	1755	615	2.85	0	200	815	.09	2326
Chugiak	3783	1318	2.87	605	700	2623	.29	7529
Eagle River	4103	1298	3.16	449	522	2269	.25	7172
Eagle River Valley	4684	1442	3.25	1236	700	3378	.37	10973
TOTALS	14325	4673	3.07	2290	2122	9085	1.00	27999

Police put 'eye' in air to watch commuters

by Mary Kaye Ritz
Times Writer

During those hectic morning rush hours, Anchorage drivers are turning to Commuter Watch, KTNX's 60-minute guide of how to get to work without getting buried in a traffic jam.

The program, which began in March, features officer Jim Meehan of the Anchorage Police Department's community relations division.

It is Meehan who pulls out his radio and earphones, props a phone to dispatchers on his shoulder and lets the show go on.

Reports of traffic from the downstairs office of the police department are made from "traffic central," Meehan said. When he is grounded, he calls both Alaska State Trooper and Anchorage Police Department dispatches to check for traffic hazards and tie-ups.

Reports made from the street are called "mobile" reports.

During mobile reports, the officer drives to some of the most notorious intersections and checks congestion. If everyone in line for a certain traffic light can make it through, or if there is a stalled car blocking any a path, he relays that back to the disc jockey.

He also calls dispatchers of both troopers and police as well as other patrollers to check on hazards and accidents.

Occasionally Meehan gets all the way to Merrill Field for take-off before the decision not to fly is made. The report goes on, with the officer on the phone to dispatchers.

Meehan mentioned these examples of traffic hot spots:

- Eagle River Road merging onto the Glenn Highway.
- Dimond Boulevard between Victor Street and Minnesota Drive.
- Tudor Road and Lake Otis Parkway.

The Eagle River Road merge is horrendous in the mornings, Meehan said, with up to 50 cars trying to enter the highway. When the kind Glenn Highway commuter waves you on in front of him, he said, you take a chance should you accept.

Legally, if you are struck by the courteous driver the ticket goes to you for failing to yield the right of way.

Meehan's cohorts, Officer Jim Reimann and Lt. George Novaky, also do the Commuter Watch spots.



Michael Dinneen of The Times

Officer Jim Meehan does a traffic Commuter Watch from 'traffic central'

City eases enforcement of Eagle River land rule

by Ralph Nichols
Times Writer

Municipal officials have backed away from strict enforcement of the comprehensive plan for property development from Eagle River north to Chugiak and Peters Creek, area residents were told at a "town meeting" Monday night.

Only two questions will now be asked about the development of land with unrestricted zoning, public works director Paul Diener told some 50 persons crowded into the Chugiak Senior Citizens Center:

- Does it create a public health or safety hazard?
- Is it compatible with surrounding land uses?

Area residents last month protested the strict enforcement of the comprehensive plan by municipal officials. They complained that persons seeking land-use permits were being restricted to the requirements of the comprehensive plan, despite the fact they were planning to develop land zoned unrestricted.

Their pleas seemed to fall on deaf ears. They were told by building officer John Bishop that the municipality intended only to toughen its enforcement of the comprehensive plan in issuing land-use permits.

But municipal officials decided late last week, at a subsequent meeting with area residents, to back away from strict adherence to the land use plan in the absence of area-wide zoning.

Diener said after Monday's meeting that the problem occurred largely because "we just recently have begun a systematic zoning review here. We're still working the bugs out."

Mayor Tony Knowles said the municipality is negotiating to retain planner Paul Carr as a consultant to help iron out the Eagle River-Chugiak zoning and development problems. Carr, who worked last year with the New Capital Site Planning Commission, helped draft the area's land use plan.

Diener said he thinks these actions "will resolve the immediate problems on land use."

For example, he continued, under the muncipality's new approach to development, "if you want to build an auto shop in a single-family residential development (zoned unrestricted), you'll be turned down.

"But if you want to build a duplex, and there are other multi-family dwellings there, then you'll probably be aproved."

Eagle River-Chuglak residents have scheduled another meeting to clarify their concerns on this issue for 7:30 p.m. Thursday at the CBA Building in Chugiak. These views will be susbmitted to municipal officials at a May 16 meeting.

Knowles told the gathering that the outer limits of the municipality, with both original homesteading and sophisticated zoning, "is trying to do in a few years what it has taken some communities a generation to do."

As declining oil prices impact municipal revenues, he continued, "we have to rely more on ourselves to provide those services we need . . . you are the ones who must decide which services we should have."

Other issues discussed at the meeting included:

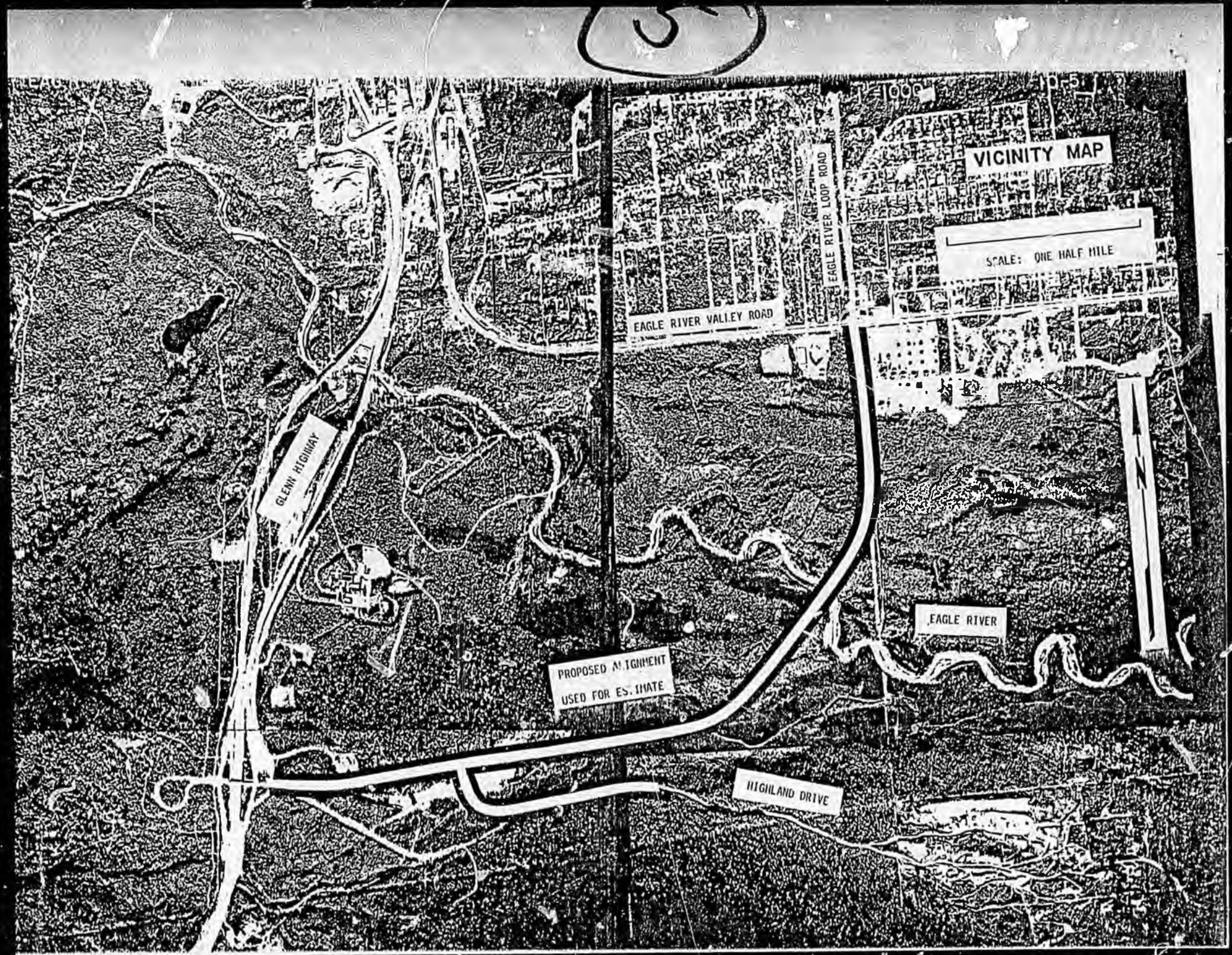
- Improvement of the Eagle River Loop. Assemblyman Gerry O'Connor said that actual expansion of the roadway where it narrows into a bottleneck is probably five to eight years away, and will cost $15-16 million, most of which will come from federal funds.

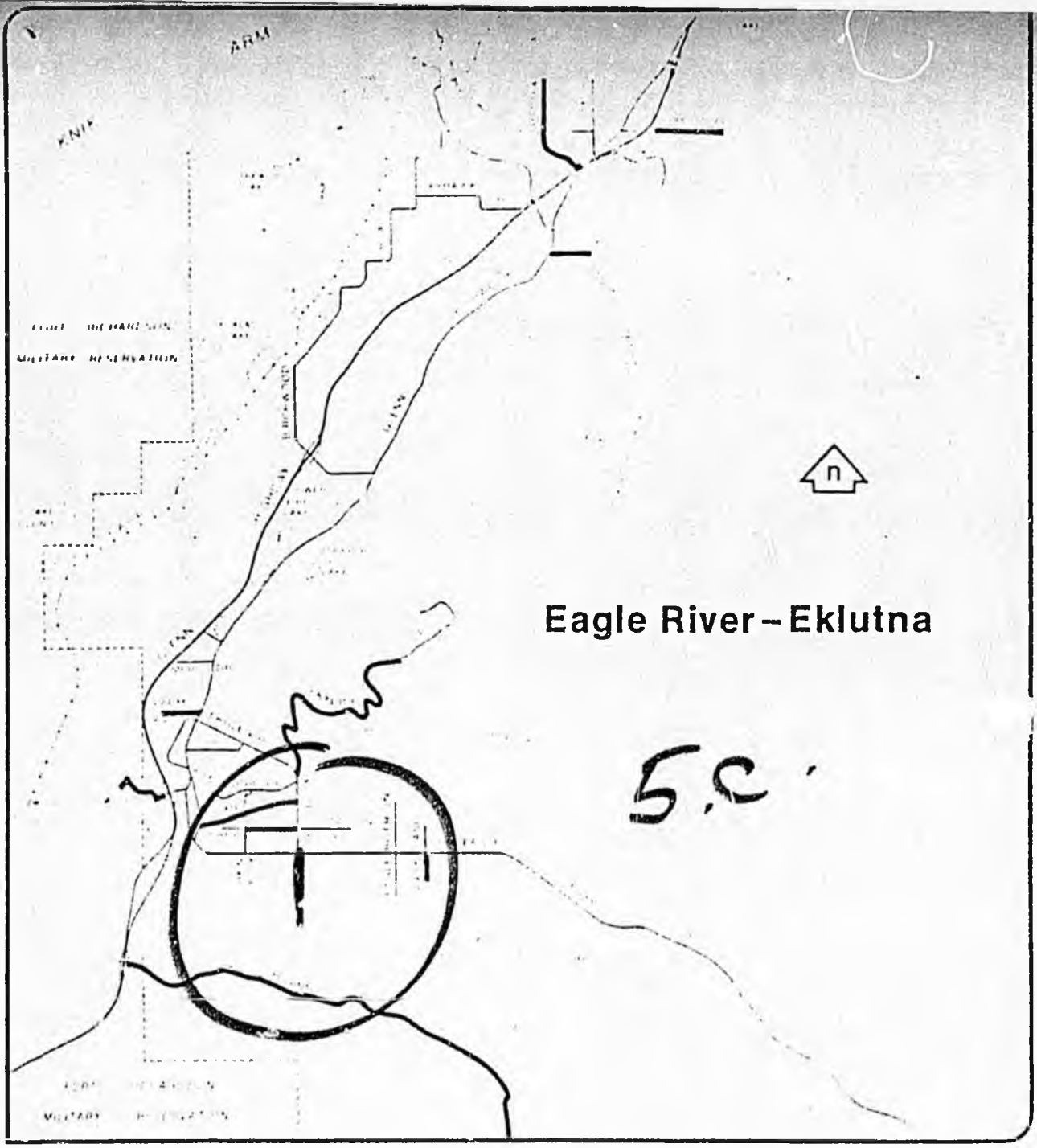
One man suggested that in the meantime, the municipality should lower the speed limit to 35 mph, "and enforce it."

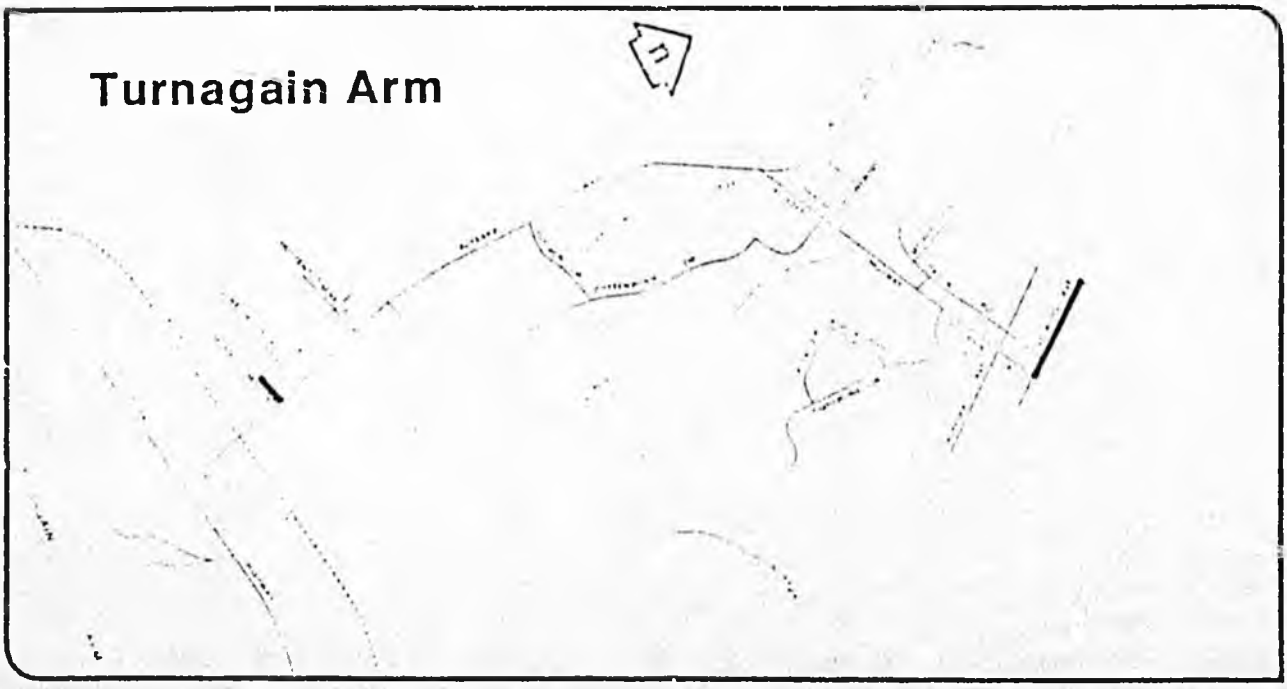
- People Mover director Tom Brigham said service to Eagle River was doubled to 24 buses daily on April 4, and that expanded service on Eagle Loop Road is planned for this fall. 4.a.

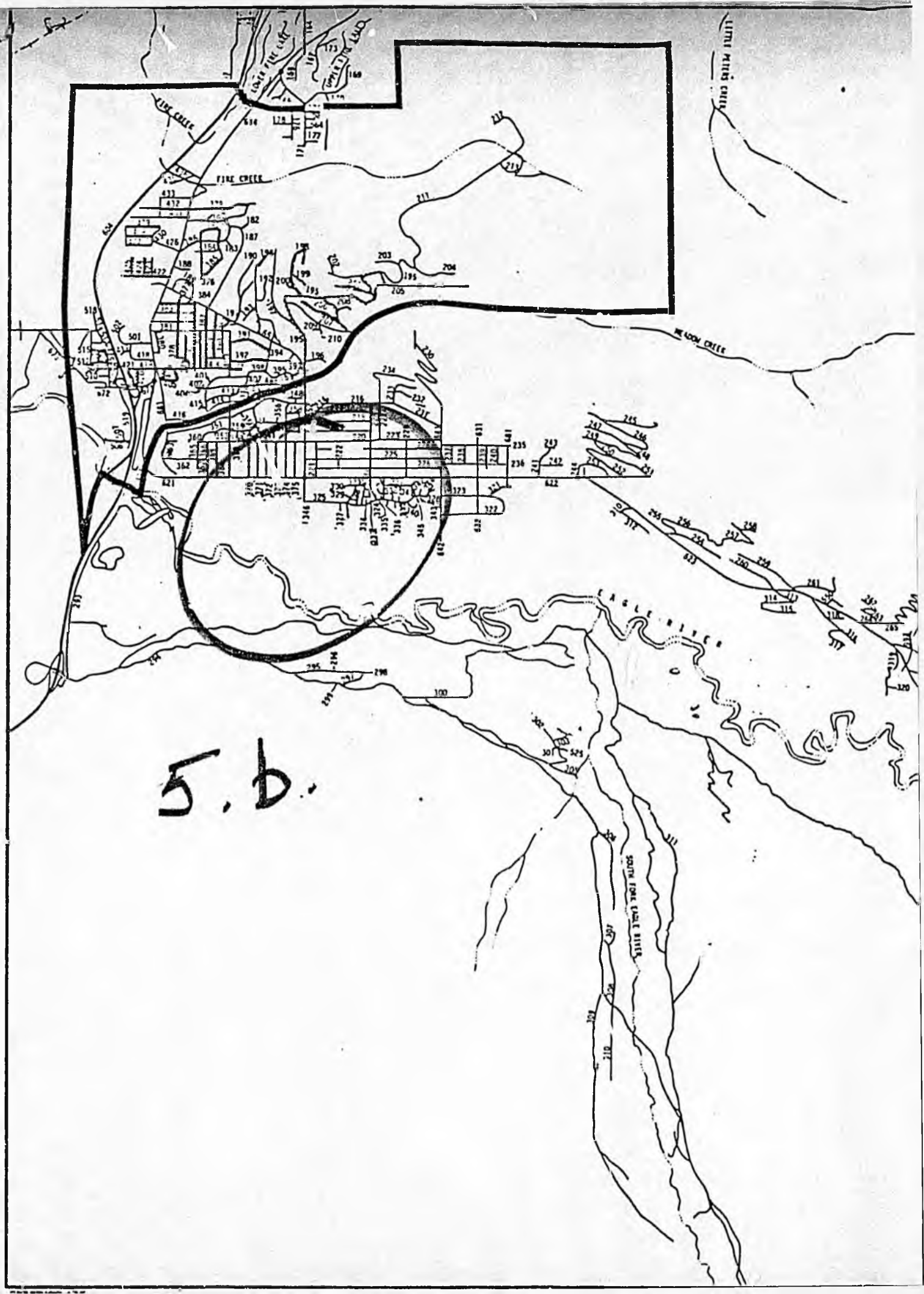
There is "no question" that service will eventually be added to Thunderbird Heights and Eklutna Heights, Brigham added. "It's just a matter of when."

- Public health officer Les Buckholz has moved into the municipality's Eagle River health department office (telephone 694-2131) to help meet the local demand for increased environmental health services created by the rapid growth of the area, it was also announced. 4.b.


VICINITY MAP
SCALE: ONE HALF MILE
EAGLE RIVER VALLEY ROAD
EAGLE RIVER LOOP ROAD
GLENN HIGHWAY
EAGLE RIVER
PROPOSED ALIGNMENT
USED FOR ESTIMATE
HIGHLAND DRIVE


Eagle River–Eklutna
5.c


Turnagain Arm


FIRE CREEK
MEADOW CREEK
EAGLE RIVER
SOUTH FORK EAGLE RIVER
LITTLE PETERS CREEK

5.b.

HB

286

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 286

Title : "...Special appropriation ... design breakwater at Dog Bay..."

Sponsor : Zharoff

Sincerely,

Ed Cronick

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
[redacted] - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

25A-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 286
Title: Spec App/DOT&PF/Design Breakwater at Dog Bay
Sponsor: Zharoff
Requestor: Transportation & Finance
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Design and Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	750.0	21,750.0*	19,972.0*			
* Worst Condition Scenario						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	750.0	21,750.0*	19,972.0*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL						

POSITIONS:

FULL TIME	-0 -	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by bill sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director — Phone: 266-1462
Division: Central Region Planning & Programming — Date: 11/30/83

Approved by Commissioner: David W. Haugen — Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

V. ANALYSIS:

1) Analysis of the fiscal impact on existing programs:

No fiscal impact on existing program is anticipated. The project would be operated and maintained by the community when completed.

2) Analysis of the fiscal impact on new programs or activities:

The expansion of Dog Bay Harbor will facilitate and encourage the increased development of the renewable marine resources throughout the region. Kodiak, the third largest commercial fishing port in the United States, is a world leader in king crab production and ranks among the top four national ports in halibut production. Some 2,000 commercial fishing vessels annually use the small boat basin that has protected moorage for about 200 vessels. Kodiak is also an important cargo port and transshipment center and the channel allows unrestricted access for coastal vessels. This basin and the samll basin at nearby Old Harbor are the only protected basins between Cook Inlet and the Shumagin Islands, so they are important harbors of refuge.

3) Analysis of how the figures in the fiscal note were derived:

The figures are provided by the Buildings and Harbors Section, Design and Construction Division of DOT&PF based on an analysis of March 16, 1983. The Corps of Engineers' Kodiak Harbor Study was a primary source of information. The estimates reflect a $750,000 reduction as a result of a FY'84 appropriation for design.

The cost figures are based on conceptual considerations within an accuracy range of -25% to +75%. A conceptual estimate is based on a design engineer work using existing information without the advantage of a field investigation or a detailed design study. This accounts for the wide range in the degree of accuracy. A detailed design study would be required to increase the accuracy of the project cost estimate and reduce the accuracy range.

Current status of the design project: The present appropriation of $750,000 is being used for preliminary engineering efforts to gather and analyze bathymetric and subsurface soils data. No design work has been undertaken yet. Unused funds from the preliminary engineering effort will be directed toward the design element.

4) Additional information necessary to explain the fiscal note:
Note: $750.0 in design funds was provided in SLA 83 Chapter 107. The original request was for $2,500.0 in design funds. An additional $1,750.0 is needed for adequate design and preliminary engineering work before construction can be effectively employed.

A. Assumptions

The design of the subject project is being viewed as a potential in-house design with the utilization of State materials and geology sections in coordination with outside consultants. Initial estimates propose construction of a 1,900 foot rubble mound breakwater with an entrance channel crossing from Near Island to Grass Island and finally to Gull Island, entirely enclosing Dog Bay. The breakwater would provide year-round protection to Dog Bay from wave and swell action. The following is the design cost breakdown prepared March 16, 1983 by Central Region's Design/Buildings and Harbors.

1.	Aerial photography, mapping and half-tone positive enlargements	$ 35,000.00
2.	Field and office reconnaissance of breakwater and material sites	100,000.00
3.	Geophysical and seismic surveying of material sites	85,000.00
4.	Geotechnical exploration, lab work, core drilling	285,000.00
5.	Bathymetric sounding and bottom contours	86,000.00
6.	Deep water coring, samples and consolidation testing	250,000.00
7.	Model testing and circulation studies, wave hindcasting	206,000.00
8.	Preparation of environmental document	200,000.00
9.	Design: all phases	350,000.00
		$1,597,000.00

The construction scenario could be coupled with the stabilization of Pillar Mountain thus effecting a tremendous cost saving. However, it would not be economically feasible for the same contractor to set up the stabilization effort and the construction of the breakwater at the same time. The production of inner core filler material will occur at Near Island. This condition gives us the best condition scenario and would greatly reduce the cost of the project. Likewise, obtaining the rip-rap material at Near Island will also greatly reduce the cost of the project. Worst case condition scenario would be having to bring the inner core material from Pillar Mountain and the rip-rap material from Anton Larsen Bay Quarry.

The first construction cost estimate is based on the worst condition scenario because the development of material sites on Near Island are unknown with regard to availability, quantity, and quality of the rock. Established sources have known conditions and very likely will be used as alternate site if Near Island proves inadequate.

The following ranges are provided so that all concerned are aware of the great difference in obtaining the material locally on Near Island as compared to alternate sources as indicated above.

1. Near Island, Pillar Mountain and Anton Larsen Bay Material Sources (worst condition scenario)

Material	Quantities (cu.yds.)	Cost/cu.yd.	Total
Armor rock	155,000	$100.00	$15,500,000.00
Inner core	415,000	$50.00	20,750,000.00
		Sub-total	$36,250,000.00
		Mobilization	1,000,000.00
		Design	1,597,000.00
		Contingency 10%	3,625,000.00
		Total	$42,472,000.00

2. Near Island and Pillar Mountain Material Sources
(best condition scenario)

Material	Quantities (cu.yds.)	Cost/cu.yd.	Total
Armor rock	155,000	$50.00	$ 7,750,000.00
Inner core	415,000	$20.00	8,300,000.00
		Sub-total	$16,050,000.00
		Mobilization	1,000,000.00
		Design	1,597,000.00
		Contingency 10%	1,605,000.00
		Total	$20,252,000.00

The design costs are in 1983 dollars and the construction cost estimates are in spring 1984 dollars. No commitment of maintenance or operating funds would be necessary.

5) Program Summary

No new positions are anticipated, nor can any other major expenditure items be identified at this time.

6) Computations

Not applicable.

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 286
Title: Spec App/DOT&PF/Design Breakwater at Dog Bay
Sponsor: Zharoff
Requestor: Transportation & Finance

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	2,500.0	20,000.0*	19,972.0*	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

* worst condition scenario

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,500.0	20,000.0*	19,972.0*	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell Phone: 266-1462
Division: Planning & Programming Date: April 18, 1983

Approved by Commissioner: David W. Haugen Date: April 22, 1983
Department: Deputy Commissioner, Central Region DOT&PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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3/8/83

IV. ANALYSIS (HB 286)

A. Assumptions

The design of the subject project is being viewed as a potential in-house design with the utilization of State materials and geology sections in coordination with outside consultants. Initial estimates propose construction of a 1,900 foot rubble mound breakwater with an entrance channel crossing from Near Island to Grass Island and finally to Gull Island, entirely enclosing Dog Bay. The breakwater would provide year-round protection to Dog Bay from wave and swell action. The following is the design cost breakdown prepared March 16, 1983 by Central Region's Design/Buildings and Harbors.

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5.	Bathymetric sounding and bottom contours	86,000.00
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8.	Preparation of environmental document	200,000.00
9.	Design: all phases	350,000.00
		$1,597,000.00

The construction scenario could be coupled with the stabilization of Pillar Mountain thus effecting a tremendous cost saving. However, it would not be economically feasible for the same contractor to set up the stabilization effort and the construction of the breakwater at the same time. The production of inner core filler material will occur at Near Island. This condition gives us the best condition scenario and would greatly reduce the cost of the project. Likewise, obtaining the rip-rap material at Near Island will also greatly reduce the cost of the project. Worst case condition scenario would be having to bring the inner core material from Pillar Mountain and the rip-rap material from Anton Larsen Bay Quarry.

The first construction cost estimate is based on the worst condition scenario because the development of material sites on Near Island are unknown with regard to availability, quantity, and quality of the rock. Establised sources have known conditions and very likely will be used as alternate site if Near Island proves inadequate.

The following ranges are provided so that all concerned are aware of the great difference in obtaining the material locally on Near Island as compared to alternate sources as indicated above.

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Inner core	415,000	$50.00	20,750,000.00
		Sub-total	$36,250,000.00
		Mobilization	1,000,000.00
		Design	1,597,000.00
		Contingency 10%	3,625,000.00
		Total	$42,472,000.00

2. Near Island and Pillar Mountain Material Sources (best condition scenario)

Material	Quantities (cu.yds.)	Cost/cu.yd.	Total
Armor rock	155,000	$50.00	$ 7,750,000.00
Inner core	415,000	$20.00	8,300,000.00
		Sub-total	$16,050,000.00
		Mobilization	1,000,000.00
		Design	1,597,000.00
		Contingency 10%	1,605,000.00
		Total	$20,252,000.00

The design costs are in 1983 dollars and the construction cost estimates are in spring 1984 dollars. No commitment of maintenance or operating funds would be necessary.

B. PROGRAM SUMMARY

No new positions are anticipated, nor can any other major expenditure items be identified at this time.

C. COMPUTATIONS

Not applicable.

D. Economic Impact

Kodiak Island is located in one of the State's best natural fishing grounds. Currently, 15 shore-based commercial processing plants process crab, salmon, shrimp and halibut. Further Development of the bottomfish industry is being explored and the commercial fishing fleet continues to grow.

E. Impact on Local Governments

No information at this time.

F. Attachments

None.

HB

287

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 287

Title : "...Special appropriation ... stabalization of Piller Mountain..."

Sponsor : Zharoff

Sincerely,

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

25A-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 287
Title: Spec.App/DOT&PF/Stablization of Pillar Mountain
Sponsor: Zharoff
Requestor: Transprtation & Finance
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Design and Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	3,410.0	10,706.0	10,706.0	10,706.0	-0-
* Port of Kodiak Development Plan						
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	3,410.0	10,706.0	10,706.0	10,706.0	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director — Phone: 266-1462
Division: Central Region Planning & Programming — Date: 11/30/83

Approved by Commissioner: David W. Haugen — Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
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Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

ANALYSIS

1) Analysis of the fiscal impact on existing programs:

No fiscal impact on existing programs is anticipated.

2) Analysis of the fiscal impact on new programs or activities:

The size of the financial cost of this project would postpone the development of several smaller, higher priority projects in the State identified through the capital budget development process.

The City of Kodiak has completed Port Development Plan. The Plan identifies Pillar Mountain stablization as a priority project because of its potential impact on other related port development activities (i.e., permanent breakwater and upland staging areas).

3) Analysis of how the figures in the fiscal note were derived:

The figures in the fiscal note are based on the Port of Kodiak Development Plan, 1982. The design costs are in 1984 dollars and the construction cost estimates are in 1985 dollars.

The degree of accuracy in the funding figures is based on conceptual considerations within a range of -25% to +75% accuracy. A conceptual estimate is based on a design engineer's work using existing information without the advantage of a field investigation or a detailed design study. This accounts for the wide range in the degree of accuracy. A detailed design study would be required to increase the accuracy of the project cost estimate and reduce the accuracy range.

4) Additional information necessary to explain the fiscal note:

A. Assumptions

The Stabilization of Pillar Mountain includes three phases: 1) The preparatory accumulation of data identified by the Pillar Mountain Geotechnical Study Committee for the identification of remedial measures for stabilization; 2) Preliminary engineering and design for the stabilization project; and 3) The stabilization project. Preliminary engineer's estimates contained in the Port of Kodiak Development Plan estimates a project cost of approximately $29,600,000. Specifically, this project would produce an estimated 5,400,000 cubic yards of material through excavation and create 35 acres of critical port upland between piers 2 and 3. Estimating engineering design to require ten percent of the project budget, approximately $2.9 million would be required for the data collection and design. No maintenance or operating funds would be involved once the stabilization was complete.

B. Program Summary

No new positions are anticipated, nor can any other major expenditure items be identified at this time. No commitment or operating funds would be necessary.

C. Computations

See Assumptions.

D. Economic Impact

Rock excavated from the slope during the stabilization can be used to improve the commercial rocking areas along Kodiak waterfront, to create additional developable uplands, and to provide a stockpile of fill for future use.

E. Impact on Local Government

No information at this time.

F. Attachments

1. Excerpts from Port of Kodiak Development Plan.

2. Pillar Mountain Stabilization Status Report.

DEC. 22 '83 10:54 STATE OF ALASKA DOT ANCHORAGE AK P.03

HB 287

Peratrovich & Nottingham, Inc.

Kramer, Chin & Mayo, Inc.

Williams-Kuebelbeck & Associates, Inc.

Roy A. Ecklund

Port of Kodiak Development Plan

HB287
P.04
DEC.02 '83 10:59 STATE OF ALASKA DOT ANCHORAGE AK

Pillar Mountain

Located southeast of the City of Kodiak, Pillar Mountain presents substantial limitations and hazards to present and future development. Proximity of the mountain's steep slopes to the waterfront has restricted utilization of important coastal lands and has reduced available staging area for the existing marine facilities. Additionally, the presently active slide area adjacent to City Piers 2 and 3 poses a significant threat to the area. A slope failure and slide involving approximately 4,000,000 cubic yards of rock could produce an extremely damaging splash wave. The resulting damage to persons and property is inestimable.

Fortunately, this potentially hazardous condition can be removed and transformed into the basis for a series of projects which would benefit the entire community. Stabilizing Pillar Mountain is feasible, and the rock excavated from the slope during that work can be used to improve the commercial docking areas along Kodiak's waterfront, to create additional developable uplands, and to provide a stockpile of fill for future use. This project is the recommended first priority of this planning study.

Specifically, the stabilization project would produce an estimated 5,400,000 cubic yards of material through excavation. As part of the stabilization project, 35 acres of critical port upland area can be created by filling between Piers 2 and 3 and along the coast to the entrance of Gibson Cove. This approach allows for disposal of part of the excavated material at no additional cost and provides land adjacent to the port area for container van storage and future construction of an additional cargo dock. Additional projects which may also use Pillar Mountain as a source of inexpensive fill material are the Gull Island breakwater, the Dog Bay waterfront area on Near Island, and Gibson Cove improvements. Each of these projects is discussed later in this chapter.

The stabilization of Pillar Mountain must begin with a staged plan that combines sound engineering and design principles with appropriate construction methods. This work could be accomplished in three years, beginning in 1985 with completion in 1987. Funding for this project should come from the State of Alaska through a Special Emergency Funding Request, a type of funding which can be designated by the state governor in situations where human life is threatened. The Pillar Mountain situation should qualify for special emergency funding due to the present situation which threatens life and property and the fact that slide activity is thought to have been renewed due to construction of the Abbert Highway, a state road.

Much of the potential development recommended in this study would be accomplished most easily and inexpensively by using fill material from Pillar Mountain. Table 27 compares the costs of land and harbor improvements with and without fill from Pillar Mountain to demonstrate the substantial benefits that could be gained from the stabilization project in addition to the advantage of removing a hazard that threatens property and lives. How much the fill will cost depends upon whether Pillar Mountain fill material is available and the distance which fill must be transported for each specific project. Applying the different incremental costs affects the yield and cost/benefit analyses of each project. These analyses are discussed along with the individual project descriptions.

Although Pillar Mountain offers Kodiak a relatively inexpensive souce of fill, it is not so inexpensive as to make those projects requiring fill viable on a cost/benefit basis if the cost of the stabilization project is included. When the cost of stabilizing Pillar Mountain is borne by the state as recommended, the economic

HB287
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viability of some projects is greatly increased. Pillar Mountain stabilization cannot be justified on a strictly economic basis; however, eliminating the present hazard to life and property would be an important public benefit. Using projections about the effects of a Pillar Mountain failure as a measure, the potential damages from that hazard greatly exceed the cost of stabilization.

Table 27 Pillar Mountain Stabilization and Related Projects Comparative Costs

Project	Fill Produced (cubic yards)	Cost
Pillar Mountain stabilization	5,400,000	$29,600,000

Project	Fill Required (cubic yards)	Cost: With Pillar Mountain Fill	Cost: Without Pillar Mountain Fill
Kodiak development Port fill area (state funding)	4,300,000	$ -0- (included in cost of stabilization project)	$60,200,000
Gull Island breakwater (federal funding)	118,000	12,000,000	20,800,000
Gibson Cove fill area* (private funding)	360,000	1,420,000	1,824,000
Near Island development Dog Bay waterfront area (state funding)	770,000	3,080,000	10,700,000
Total Cost of stabilization	5,548,000**	$16,500,000 +29,600,000 $46,100,000	$93,524,000

*Construction of the Gibson Cove fill area and breakwater need not occur at the time of stabilization.
**The 148,000 cubic yards needed in addition to the fill produced by the stabilization project can be obtained from a stockpile area created on Pillar Mountain.

HB281

Department of Transportation and Public Facilities

Central Region Planning & Programming

PILLAR MOUNTAIN STABILIZATION

Status Report

February, 1983

Purpose: The Pillar Mountain Stabilization/Status Report was prepared in response to a request from State Senator Mulcahy.

Background: Pillar Mountain is a 1,300 foot mountain at the southern edge of the city limits of Kodiak, directly above the highway between the city and the airport. The unstable slope of the mountain presents a serious hazard to St. Paul Harbor. The presently active slide area, approximately 1,200 feet high by 1,700 feet long, threatens the Abbert Highway and two city docks with rockfall. A major rock slide in April 1971 followed excavation activities at the toe of the slope and resulted in highway closure for approximately six weeks. Since that time, numerous studies have been conducted by the various governmental units to determine the landslide danger. This report summarizes the available information sources and identifies the various alternatives which have been discussed regarding the mountain. Much of the information is taken from material prepared for the Pillar Mountain Geotechnical Study Committee. The committee was organized by the Borough and City in 1978 to review the problem and recommend an action program.

Issues: Certain issues have been identified relating to the Pillar Mountain stabilization problem. The recently drafted Port of Kodiak Development Plan identifies Pillar Mountain as a serious hazard to St. Paul Harbor, threatening the Abbert Highway and two city docks with rockfall. Specific issues include:

1. Due to the proximity of Pillar Mountain and its steep slopes, coastal development occurring within St. Paul Harbor has been limited to a narrow band of waterfront land.

2. Ground movement has been identified as one cause of cargo dock slippage at City Pier 3. Continued slippage could cause permanent damage to the city docks.

3. Rockfall continues on the Abbert Highway.

4. Massive slope failure could result in a tsunami-like 600-foot splash wave at the base. It is projected the wave would move across the harbor at 100 mi/hour. The height of the landslide-induced wave could reach 87 feet at Near Island and 35 feet approaching the City of Kodiak with run-up approximately equal to the 1964 tsunami.

5. The possibility exists that movement could increase as a result of an earthquake, water saturation of the landslide mass, or other cause.

6. Kodiak's seismic potential is very great given that it sits atop the tectonic plate system where the Continental Plate and the Pacific Plate meet.

Information Sources: Local units of government have invested in numerous studies to determine the landslide danger. A brief chronological history of the list of reports and activities which have occurred follows:

1. Report of Foundation Investigation of Proposed Container Shipping Facility, Kodiak, Dames & Moore, report for the City of Kodiak, December 1971. This report summarizes the results of sub-bottom exploration by seismic surveys and borings which provided information for the siting and design of the container wharf.

2. Consultation & Geotechnical Investigation of Pillar Mountain Slide, Dames & Moore, for Alaska Department of Highways, April 1973.

3. Kodiak Harbor, Alaska, Feasibility Report, Small Boat Harbor Improvement, Corps of Engineers, USAE District, Alaska, May 1975.

4. RM Consultants reoccupy survey points, Spring 1976.

5. Report of Stability Investigation Container Wharf Bulkhead, Converse-Ward-Davis-Dixon Associates, Inc., April 1976. This report contains an epicenter location map, graph of expected recurrence rate versus magnitude, graph of expected number of occurrences versus peak ground acceleration, and a list of instrumentally recorded earthquakes in the area.

5. Aerial photographs dated 30 April 1977, scale 1:100, sheet numbers 30, 36, and 37.

7. Drawing titled: "City of Kodiak Container Shipping Facility," November 1977 (revised November 1978). Identifies new cargo dock slippage to sea at rate of one-inch per year.

8. Map of Mountain, Corps of Engineers, USAE District, Alaska, March 1978.

9. Pillar Mountain Landslide, Kodiak, Alaska, U.S. Geological Survey, "Open File Report" No. 78-217, April 1978. Report evaluated the physical appearance of the mountain, the geology of the slide area and data from a slope indicator. The concern which generated the classification study was that fast moving landslides on oversteepened slopes (about 45°) such as Pillar Mountain have been devastating elsewhere. The report expressed the concern that major ground failure is a distinct possibility. The report recommended a thorough monitoring investigation be initiated over a two to three year period to gauge slippage. USGS estimated the study would cost $900,000. No action was taken.

10. Letter to Reuben Kachadoorian, U.S. Geological Survey, Menlo Park, California, from W.E. Strohm, Jr., USAE Waterways Experiment Station, April 1978.

11. Press release from U.S. Geological Survey, "Landslide Could Endanger Kodiak, Alaska," by Don Kelley, May 1978.

12. Letter to Department of Public Works, Engineering Division, Kodiak, Alaska from Edwin Wald, California, July 1978.

13. Report of Geotechnical Studies Container Wharf Bulkhead, by Converse-Ward-Davis-Dixon, Inc., August 1978. The information in this report consisted of logs of the borings per placement of inclinometer casings in the rockfill and subjacent materials of the container wharf, the records of slope indicator readings, and the surface surveys of movements of the collars of the inclinometer casings.

14. Proposed Geotechnical Investigation Pillar Mountain Slide, Dames & Moore, to the City of Kodiak, October 1978.

15. Memo titled, "Pillar Mountain Instability Problem, Kodiak," Lee McAnerney, Commissioner, Department of Community and Regional Affairs to Jessie Dodson, Special Assistant, Office of the Governor, September 1978. Recommends desirability of inter-departmental discussion of the Pillar Mountain instability problem with participation by the Office of the Governor.

16. Memo titled, "Pillar Mountain Instability Problem, Kodiak," Dennis Dooley, Director, Transportation Planning, DOT/PF, to Lee McAnerney, Commissioner, Department of Community and Regional Affairs, October 1978. Supports legislative action to fund a $60,000 study to determine Pillar Mountain stability.

17. Drawing titled, "Pillar Mountain Slide Area Contour Map, Kodiak, Alaska," by Ron A. Ecklund, November 1978 (revised December 1978). Horizontal location of 35 sectional points.

18. "A Resolution of the Kodiak Island Borough Assembly Creating a Geotechnical Study Committee for the Purpose of Furthering Geotechnical Investigations and Recommendations of the Pillar Mountain Slide Area Problem," Resolution No. 78-76-R, December 1978.

19. Preliminary Report of Pillar Mountain Geotechnical Committee, Pillar Mountain Geotechnical Study Committee, June 1979.

20. Appropriation of $479,000 from State of Alaska through the State Division of Geological and Geotechnical Surveys, monitored by Pillar Mountain Geotechnical Study Committee, June 1979.

21. Evaluation of Ground Survey Program and Surface Movement on Pillar Mountain Slide for City of Kodiak, Kam W. Wong, August 1979.

22. "Offshore Survey," U.S. Geological Survey requested by Geotechnical Study Committee, October 1980. Seafloor deformation was found and interpreted as being related to Pillar Mountain movement.

23. Interim Report on Slope Stability and Possible Remedial Measures, RM Consultants, September 1981.

24. Pillar Mountain Stabilization Bill, introduced by State Representative Zharoff in the amount of $1,000,000, January 1982. Bill died in Finance Committee, February 1982.

Alternatives: The Geotechnical Study Committee, in 1979, considered four possible courses of action regarding the mountain's stabilization. Those alternatives included:

1. Minimal Additional Action

In this approach a minimal slide movement monitoring program would be established, but no additional studies would be undertaken. This type of monitoring program may provide advance warning of additional significant slide movements. However, its ability to predict advance warning of significant slide movements would be limited by the frequency of the observation and by its inability to provide rapid measurements following a rapid slide triggering action such as could conceivably occur as a result of an earthquake. The degree of the hazard presented by a slide would not be significantly altered by the monitoring. This limited monitoring program would not improve the behavior of the slide mass. The actual current hazard level would continue. However, with monitoring, the risk to the people in the community would be somewhat less as warning might be provided for some types of slides. Should remedial action be deemed desirable, then only minimal additional insight into the slide behavior or possible remedial action will have been obtained under this course of action.

2. Remedial Measures Without Additional Studies

In this course of action, remedial measures such as excavation, drainage, or placing buttressing fill could be undertaken without benefit of the results of additional studies. The chief advantages of taking this course of action are that if the work is correctly done, then: 1) it would save the cost of an investigation and, 2) it would eliminate the hazard in the shortest time. However, it is quite possible that a "remedial" excavation in the wrong place could trigger the very slide that is was supposed to prevent. Furthermore, without additional information one cannot judge whether or not enough remedial measures would be either insufficient, overdone, or would increase the hazard.

3. Systematic and Comprehensive Data Collection and Evaluation

A third course of action would be to institute a data collection program and systematically increase information from previous studies to a more comprehensive level. The objective would be to obtain a better understanding of the dynamics of the slide area as well as the reactive behavior of the bay. It is conceivable, although unlikely, that such studies could indicate that the possible development of a rapid deep-seated slide is too remote to be considered a hazard.

The danger of this approach is that the study can become an academic exercise which eventually would lead to a more complete understanding of the slide, but in the meantime, would provide little relief to the community in terms of alleviating the socioeconomic realities now confronting development. Such studies can also lead to the conclusion that further studies would be required to fully understand the slide.

Many of these studies are desirable, but the Geotechnical Committee cautioned that although the outcome of the studies may lead to better understanding, they have the potential of indefinitely maintaining a socioeconomic status quo. Therefore, remedial action is concurrently recommended.

4. Combined Data Collection and a Remedial Program

In this approach it is acknowledged that a potential hazard exists and that the consequences of the possible hazard are such that it may well be necessary to consider remedial measures to minimize or eliminate the hazard. Possible remedial measures include: 1) unloading the top of the slide area; 2) buttressing the base of the slide area; and, 3) improving the surface and sub-surface drainage and thereby reducing the water pressures within the slide mass. It seems possible that the most cost-effective remedial measure would be a combination of unloading the top and buttressing the base in the present slide area and improving drainage within the slide and within adjacent slopes of Pillar Mountain where this measure was found to be desirable.

Preliminary cost estimates and plans are required to determine if these or other remedial measures are viable. Some field data should be obtained to ensure that the plans are reasonable and that the initial cost estimates will not be greatly exceeded during the course of the remedial work. The information required would likely consist of knowledge of the depth of the slide, the shape of the base of the slide, and the hydrologic and structural geologic relationship of the slide mass and the adjacent areas. The data collection investigation in this approach would be limited to those aspects of the slide needed to plan and monitor the remedial measures.

As new data on the slide are obtained, the nature of the hazard and the necessity for remedial measures should continue to be reviewed.

Conclusions: The Pillar Mountain Geotechnical Committee concluded that there was sufficient information available to state that the mountain continues to fail. The data base, however, was insufficient to allow prediction of the magnitude or frequency of failure. Interpretations of the data as it now exists continues to generate a variety of possible consequences and, hence, uncertainty.

The Geotechnical Study Committee concurred that a combined data collection and remedial program was the best course of action and recommended that such a program be implemented as soon as funding could be made available.

The Committee concluded that a major question concerning the shape, and depth of failure must be answered prior to attempts to take remedial steps. The Committee recommended, therefore, that the following studies be initiated to fill data gaps prior to the initiation of remedial action.

1. Preparation of an accurate, large-scale topographic map based on new aerial photography.

2. Preparation of an accurate, large-scale geologic map.

3. Review of existing offshore data not now available to the Committee.

4. a. Continuation and expansion of the Division of Geological and Geophysical Surveys' monitoring system.

   b. Obtain subsurface data and installation of drill hole monitoring devices.

5. Laboratory tests of rocks and other materials.

6. Collection and analysis of existing, and possibly additional seismic data.

7. Collection and analysis of hydrologic data.

The recently completed Port of Kodiak Development Plan has identified the stabilization of Pillar Mountain as a priority project because of the present limitation it poses to port development. Proximity of the mountain's steep slopes to the waterfront has restricted utilization of important coastal lands and has reduced available staging areas for the existing marine facilities. Additionally, the presently active slide area adjacent to City Piers 2 and 3 poses a significant threat to the piers.

The proposed stabilization project would produce an estimated 5,400,000 cubic yards of material through excavation. As part of the stablization project, 35 acres of critical port upland area might be created by filling between Piers 2 and 3 and along the coast to the entrance of Gibson Cove. This approach allows for disposal of part of the excavated material at no additional cost and provides land adjacent to the port area for container van storage and future construction of an additional cargo dock. Additional projects which may also use Pillar Mountain as a source of inexpensive fill material are the Gull Island breakwater, the Dog Bay waterfront area on Near Island, and Gibson Cove improvements.

The advantages of the Pillar Mountain stabilization project include:

1. A hazard which prevents construction of improvements in the immediate port area and threatens human life and property would be removed.

2. Space for over 2,000 linear feet of additional deepwater dock frontage would be created between Piers 2 and 3.

3. Approximately 35 acres of critical port upland area for marine commercial and industrial expansion would be created.

4. Breakwaters to reduce the roll and surge of waves on port facilities could be built.

5. Land to properly access and service the Dog Bay small boat harbor could be created.

6. A reserve stockpile of excess fill material for future use could be made available.

Recommendations: The staff recommendation is to proceed with efforts to stabilize Pillar Mountain. The exact focus of the first phase of this project will be determined by available resources, but should include: 1) the preparatory accumulation of data identified by the Pillar Mountain Geotechnical Study Committee as necessary for the identification of the remedial measures for stabilization, 2) a funding assessment, and 3) securing of funds for the data collection and engineering design phase.

Preliminary engineering projections estimate the Pillar mountain stabilization project will cost approximately $29,600,000. In March, 1981 a state appropriation allocated $1,276,000 for repairs to the Kodiak Highway. The appropriation was authorized to fund emergency repairs for the highway in the area of Pillar Mountain. The project was to use part of the funds to provide an emergency solution to the most critical problem areas ($276,000) and set aside part of the funds until a long range solution could be identified ($1,000,000.) The $1,000,000 set aside for the long-range highway repair project could conceivably be used for the stabilization project. Estimating engineering design to require ten percent of a total budget, approximately $2.9 million would be required for the data collection and design. Consequently, an additional $1.9 million must be secured before initiating the project.

The City of Kodiak is one of ~~Alaska's~~ the Nation's most productive fishing ports and one of Alaska's most important transhipment ports for cargo. Recognizing the significance of the port, it is reasonable that the State of Alaska contribute to the development of the stabilization project. Funds in the amount of $1.9 million should be sought by the City to supplement the currently available $1 million.

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: HB 287
Title: Spec App/DOT&PF/Stabilization of Pillar Mountain
Sponsor: Zharoff
Requestor: Transporation & Finance

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	3,100.0	9,733.0*	9,733.0*	9,733.0*	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

* Port of Kodiak Development Plan

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	3,100.0	9,733.0	9,733.0	9,7330.0	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not Identified.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell Phone: 266-1462
Division: Planning & Programming Date: April 18, 1983

Approved by Commissioner: David W. Haugen Date: April 22, 1983
Department: Deputy Commissioner, Central Region, DOT&PF

Distribution:
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Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions

The Stabilization of Pillar Mountain includes three phases: 1) The preparatory accumulation of data identified by the Pillar Mountain Geotechnical Study Committee for the identification of remedial measures for stabilization; 2) Preliminary engineering and design for the stabilization project; and 3) The stabilization project. Preliminary engineer's estimates contained in the Port of Kodiak Development Plan estimates a project cost of approximately $29,600,000. Specifically, this project would produce an estimated 5,400,000 cubic yards of material through excavation and create 35 acres of critical port upland between piers 2 and 3. Estimating engineering design to require ten percent of the project budget, approximately $2.9 million would be required for the data collection and design. No maintenance or operating funds would be involved once the stabilization was complete.

B. Program Summary

No new positions are anticipated, nor can any other major expenditure items identified at this time.

C. Computations

See Assumptions.

D. Economic Impact

Rock excavated from the slope during the stabilization can be used to improve the commercial rocking areas along Kodiak waterfront, to create additional developable uplands, and to provide a stockpile of fill for future use.

E. Impact on Local Government

No information at this time.

F. Attachments

1. Excerpts from Port of Kodiak Development Plan.
2. Pillar Mountain Stabilization Status Report.

HB

294

COMMITTEE REPORT

HOUSE

5/12

(9)

FURTHER: FINANCE

3/25/83

Date: 5/12/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 294

"An Act establi[illegible] an Alaska Toll Bridge and Causeway Authority."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 294 (TRSP) [ ] same title [X] new title

and recommends Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the ~~Finance~~ already referred to Jim Committee

MEMBERS SIGNING DO PASS

[illegible] Do Pass

[illegible]

[illegible] Do Pass

[illegible] Do Pass

[illegible] Do Pass

M.W. Miller Do Pass

[illegible] Do Pass

MEMBERS HAVING OTHER RECOMMENDATIONS:

~~[illegible]~~

Mike Davis Noreg

[illegible]

CHAIRMAN

H 60

Alaska State Legislature

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Senate

Committee on Resources

April 6, 1983

Memo

To: Senator Bennett, Co-Chairman Finance Committee
Senator Sackett, Co-Chairman Finance Committee

From: Senator Bettye Fahrenkamp

Subject: CSSB 151, Regional Resource Development Authorities

As you know, the Finance Committee has recently received the above bill for consideration from the Resources Committee. This bill would authorize the establishment of authorities in the unorganized borough for the purpose of developing infrastructures for resource development projects. Funding for the developments would primarily come from the issuance of tax-exempt revenue bonds by the authority to be repaid with user fees from the developments.

In testimony and discussion before the Resources Committee several criticisms of the bill as originally drafted surfaced: 1) lack of guarantees of equal access to facilities which may be developed; 2) the possibility of proliferation of authorities throughout the unorganized borough; 3) the encouragement of less-than-sound economic projects by authorities; 4) the possibility that bonds issued by authorities may in some way create a liability to the state or add to the state's overall bond indebtedness; and 5) the possibility that the issuance of bonds by authorities might in some way affect the ability of the state or its political subdivisions to market their revenue bonds.

In response to these criticisms the Resources Committee adopted several major changes and additions to the bill including:

1) Page 2, lines 19-29, the Governor must make a positive finding that an authority's goals and projects would be economically advantageous to the region and state and that the authority is an appropriate and desireable method of accomplishing the goals and projects prior to establishment of an authority.

2) Page 2, lines 8-11, the ability to petition for establishment of an authority expires on July 1, 1986.

3) Page 2, lines 13-14, a petition to call for an election to establish an authority must be signed by 100 persons of a district.

In addition, several technical changes should be made in the bill. The following should be made to correct changes which were made by the Legal Division in the CS:

1) On page 5, lines 12-13, delete the phrase "at a meeting at which a quorum is present". This simply clarifies that a quorum constitutes a majority of the members of the board of governors.

2) On page 6, lines 16-17 delete the phrase "in accordance with the Administrative Procedure Act (AS 44.62)". This phrase was not contained in the CS which passed out of the Resources Committee and could be construed as evidence that authorities are somehow to be viewed as quasi-agencies of the state.

3) On page 8, line 25 delete "AS 30.13.060(f)(1)" and insert in lieu thereof "this subsection". There is no subsection (f)(1).

4) On page 15, line 18, add a comma after the words "rolling stock".

Finally, I would call your attention to the Letter of Intent which was passed out with the bill. This further clarifies that it is the intent that the bonds issued by the authorities not constitute any liability to the state or local governments or taxpayers in a successor government.

I would be happy to appear before your Committee to further explain this legislation and the actions of the Resource Committee. In addition, I have asked my staff to provide whatever assistance you may need on the bill. I remain convinced that this legislation could be of tremendous value in facilitating the development of resource projects in our state which would have tremendous economic and social benefits to regions as well as the state. I would hope the Finance Committee could expedite its consideration of this important legislation.

4) Page 4, lines 26-29, the Board of Governors of an authority shall consist of eight members, five elected locally and three Department heads appointed by the Governor.

5) Page 8, subsection (f), Prior to issuance of bonds an authority must submit an independent economic analysis of a project and its revenues to the state bond committee. The committee must find that project revenues are adequate for payment of the bonds and that the issuance of bonds would not adversely affect the ability of the state or localities to market their bonds.

6) Page 11, subsection (b), bonds issued by an authority do not constitute any liability or indebtedness to the state or political subdivision, nor can an authority pledge the faith or credit of the state or local government.

7) Page 13, subsection (a), ensures fair and equal access and fee assessements for users of facilities.

8) Page 13-14, subsection (b), an authority must find that prior to issuance of bonds that a project would be economically advantageous to the state and general public welfare and that the project is economically viable.

9) Page 14, section 30.13.150 provides that an authority would be integrated into a local government should it be established, but that an indebtedness of an authority does not constitute an obligation of the new government.

I think that these provisions adequately address the concerns that were raised. However, several other possible amendments were suggested that might further clarify the intent of this legislation which were suggested too late to be properly integrated into the committee substitute. I would urge the Finance Committeeto consider the following possible changes:

1) Changing the number of petitioners calling for an election to establish an authority from an absolute number of 100 to a percentage formula similar to other regional elections. (Attached is a possible formula suggested by the Division of Elections).

2) Any monies received by the state may not be used to satisfy bond obligations or collateral by an authority (attached are draft suggestions from the Department of Law).

3) Change a quorum of the Board from a majority to a majority plus one. (Suggested by the Alaska Environmental Lobby; see attached comments).

4) Ensure that proposed projects get fair and equal consideration within a district by an authority. (See attached language submitted by the Alaska Miners Association).

AMENDMENT

OFFERED IN THE HOUSE: Transportation BY: Rep. Jerry Ward

TO: _____ HOUSE BILL No. HB 294

SENATE BILL No. _____

PAGE: 1 LINE: 21

Amend to read:

Sec. 44.57.031 Membership of Authority. The authority shall consist of the Governor, the President of the Senate, the Speaker of the House, and the Mayor of each borough where the toll bridge or causeway is located. Each member of the authority may assign the duties, powers and privileges of membership to a designee. A delegation of membership must be in writing and is effective until the principal executive member revokes the delegation or is no longer qualified to be a member.

AMENDMENT

OFFERED IN THE HOUSE: BY: Rep. Jerry Ward

To: _____ HOUSE BILL No. HB 294

SENATE BILL No. _____

PAGE: 2 LINE: 2

Amend to read:

The authority by the affirmative vote of (AT LEAST FOUR) a majority of the members.

Introduced: 3/25/83
Referred: Transportation and Finance

BY HAYES, WARD, ADAMS, ABOOD, BARNES, BETTISWORTH, BUSSELL, CATO, COWDERY, FLOOD, FRITZ, FULLER, FURNACE, HURLBERT, LACHER, LARSON, LINDAUER, LISKA, MARTIN, M.W.MILLER, PESTINGER, PHILLIPS, RINGSTAD, SHULTZ, SZYMANSKI, TISCHER AND UEHLING

IN THE HOUSE

HOUSE BILL NO. 294

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an Alaska Toll Bridge and Causeway Authority."

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

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 57. ALASKA TOLL BRIDGE AND CAUSEWAY AUTHORITY.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 44.57.011. PURPOSE. The purpose of this chapter is to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of toll bridges and causeways.

Sec. 44.57.021. ESTABLISHMENT OF AUTHORITY. There is established the Alaska Toll Bridge and Causeway Authority. The authority is a public corporation of the state in the Department of Transportation and Public Facilities but with separate and independent legal existence.

Sec. 44.57.031. MEMBERSHIP OF AUTHORITY. The authority shall consist of the governor, the commissioners of transportation and public facilities, commerce and economic development, labor, and revenue; the president of the senate and the speaker of the house of representatives, or their designees and ~~one~~ 3 public member ~~of each borough where the toll bridge or causeway is located.~~ selected from the state at large

Sec. 44.57.041. OFFICERS AND QUORUM. The members shall elect officers they determine desirable. The powers of the authority are vested in the members, and ~~four~~ three members of the authority constitute a

quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of at least four members. The members of the authority serve without compensation, but they are entitled to per diem and travel expenses authorized by law under AS 39.20.180.

Sec. 44.57.051. STAFF. The authority shall employ an executive director who may, with the approval of the authority, employ additional staff as necessary. In addition to its staff of regular employees, the authority may contract for and engage the services of legal and bond counsel, consultants, experts, and financial and technical advisors the authority considers necessary for the purpose of conducting studies, investigations, hearings, or other proceedings. The members of the authority shall establish the compensation of the executive director, who is subject to the provisions of AS 39.25.

ARTICLE 2. POWERS AND DUTIES.

Sec. 44.57.111. POWERS AND DUTIES OF THE AUTHORITY. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers;

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

(4) to acquire, whether by construction, purchase, gift or lease, and to improve, equip, operate, and maintain toll bridge and causeway projects;

(5) to make regulations governing the exercise of its corporate powers;

(6) to issue bonds to carry out any of its corporate purposes and powers, including the acquisition, design or construction of

a project to be owned or leased, as lessor or lessee, by the authority, or the acquisition of any interest in a project or the establishment or increase of reserves to secure or to pay the bonds or interest on them, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers;

(7) to sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the authority, the action is in furtherance of its corporate purposes;

(8) to accept gifts, grants or loans from, and enter into contracts or other transactions regarding them, with any person;

(9) to deposit or invest its funds, subject to agreements with bondholders;

(10) to enter into contracts with the United States or any person and, subject to the laws of the United States and subject to concurrence of the legislature, with a foreign country or its agencies, for the financing, design, construction, acquisition, operation, and maintenance of all or any part of a toll bridge or causeway, either inside or outside the state, and for the security of any bonds of the authority issued or to be issued for the project;

(11) to apply to the appropriate agencies of the state, the United States, and to a foreign country and any other proper agency for the permits, licenses, or approvals as may be necessary, and to design, construct, maintain and operate toll bridges and causeways in accordance with licenses and permits, and to obtain, hold and use the licenses and permits in the same manner as any other person;

(12) to perform reconnaissance studies, feasibility studies,

and engineering, survey and design with respect to toll bridges and causeways;

(13) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;

(14) to exercise the power of eminent domain in accordance with AS 09.55.240 - 09.55.460;

(15) to maintain complete and separate financial account of each toll bridge and causeway;

(16) to utilize a design and construction contract for projects over $100,000,000;

(17) to establish, levy, and collect tolls and other charges it considers necessary for a project sufficient to pay costs of operation, maintenance, rehabilitation and improvement; to pay the cost of acquisition, design or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the authority, together with interest; and to provide reserves for those purposes;

(18) to pledge the tolls and other revenues, subject to prior pledges, as security for the repayment with interest of money borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in regard to loans or advances;

(19) to receive and accept funds from the state or the federal government or a municipality upon a cooperative or other basis for the design and construction of a toll bridge or causeway authorized under AS 44.57.011 - 44.57.331.

ARTICLE 3. FINANCIAL PROVISIONS.

(20) New Acquire - Real property

Sec. 44.57.211. BONDS FOR THE AUTHORITY. The authority may borrow money and may issue its bonds on which the principal and interest are payable from money derived from the tolls, fees, charges and other revenue from projects financed under AS 44.57.011 - 44.57.331 if

(1) appropriations are insufficient to cover the cost of acquiring, designing, or constructing the project; and

(2) the amount of interest the authority will pay on its bonds is not more than alternative costs of securing money to pay for the acquisition, design, or construction of the project.

Sec. 44.57.221. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the authority may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of tolls, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to a project;

(C) the assignment by the authority of its rights in contracts with respect to a project or in a mortgage or other security interest created with respect to a project to a trustee for the benefit of bondholders;

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

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by injunction or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

(b) Notwithstanding any other provisions of this chapter, the trust agreement shall contain a covenant by the authority that it will at all times maintain rates, tolls, fees or charges sufficient to pay, and that a contract entered into by the authority shall contain rates, tolls, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and

payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing any one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money which may be made available to the authority for the purposes of those funds from any other source. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity; however, money in a fund may not be withdrawn from it at any time in an amount which would reduce the amount of that fund to less than the capital reserve requirement set out in (2) of this subsection, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the amount that may be established by resolution of the authority (called the "capital reserve fund requirement"), unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

Std. Notification

(f) The chairman of the authority shall annually, no later than January 2, make and deliver to the governor and the legislature a certificate stating the sum, if any, required to restore any capital reserve fund to the capital reserve fund requirement. The legislature may appropriate a sum, and all sums appropriated during the then current fiscal year by the legislature for restoration shall be deposited by the authority in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

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~~(g)~~ When the authority has created and established a capital reserve fund, the commissioner of revenue may lend surplus money in the general fund to the authority for deposit in a capital reserve fund in an amount equal to the capital reserve fund requirement. The loans shall be made on the terms and conditions that may be agreed upon by the commissioner of revenue and the authority, including

$31M to CFAB

Commissioner of Revenue is on the Authority

Pay back in [illegible] you want not to [illegible]

without limitation terms and conditions providing that the loans need not be repaid until the obligations of the authority secured and to be secured by the capital reserve fund are no longer outstanding.

(h) If the authority decides to covenant to issue or to issue bonds secured by a capital reserve fund, the bonds may not be issued until 10 days after the authority has mailed notification to the State Bond Committee and the Legislative Budget and Audit Committee by certified mail of its intention to establish a capital reserve fund to secure the bond issue. The notification shall include the amount of the capital reserve fund to be established, the amount of bonds proposed to be issued, and the total cost of the project for which the bonds are to be issued. The notification shall be accompanied by an estimate by the authority of the need to withdraw money from the capital reserve fund during the term of the bond issue, the amount that it may be necessary to withdraw, and the time at which withdrawals are estimated to be needed. The authority shall annually prepare a revised estimate, considering the same factors, and a statement of all withdrawals that have occurred from the date of issuance of the bonds to the end of the calendar year. The revised estimate and statement shall be submitted to the State Bond Committee and the Legislative Budget and Audit Committee by January 30 of the succeeding year.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 44.57.311. DEFINITIONS. In this chapter

(1) "authority" means the Alaska Toll Bridge and Causeway Authority;

(2) "design and construction contract" means one contract for both design and construction of a toll bridge or causeway;

(3) "toll bridge or causeway" or "project" means a bridge

or causeway constructed or acquired under this chapter on which tolls are charged, together with all appurtenances, additions, alterations, improvements, and replacements, and approaches, and lands and interests therein used, and buildings and improvements as may be determined by the authority.

Sec. 44.57.321. STATE APPROPRIATIONS FOR TOLL BRIDGES AND CAUSEWAYS NOT AFFECTED. This chapter does not prevent the state from making appropriations from time to time in aid of the acquisition, design, or construction under this chapter of a toll bridge or causeway or property, franchise, or right appurtenant to it, or the transportation facilities of it, or for the purpose of making preliminary surveys, plans, and estimates of the cost of it, and meeting other preliminary expenses the legislature considers proper.

Sec. 44.57.331. CITATION OF CHAPTER. This chapter may be cited as the Alaska Toll Bridge and Causeway Authority Act.

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5/12/83

Original sponsors: Hayes, Ward,
Adams, et al

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 294 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an Alaska Toll Bridge and Causeway Authority; and providing for an effective date."

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

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 57. ALASKA TOLL BRIDGE AND CAUSEWAY AUTHORITY.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 44.57.011. PURPOSE. The purpose of this chapter is to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of toll bridges and causeways.

Sec. 44.57.021. ESTABLISHMENT OF AUTHORITY. There is established the Alaska Toll Bridge and Causeway Authority. The authority is a public corporation of the state in the Department of Transportation and Public Facilities but with separate and independent legal existence.

Sec. 44.57.031. MEMBERSHIP OF AUTHORITY. The authority shall consist of the commissioners of transportation and public facilities, commerce and economic development, and revenue, or their designees and ~~three~~ 4 state residents appointed by the governor.

Sec. 44.57.041. OFFICERS AND QUORUM. The members shall elect officers they determine desirable. The powers of the authority are vested in the members, and ~~three~~ four members of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of at least four

members. The members of the authority serve without compensation, but they are entitled to per diem and travel expenses authorized by law under AS 39.20.180.

Sec. 44.57.051. STAFF. The authority shall employ an executive director who may, with the approval of the authority, employ additional staff as necessary. In addition to its staff of regular employees, the authority may contract for and engage the services of legal and bond counsel, consultants, experts, and financial and technical advisors the authority considers necessary for the purpose of conducting studies, investigations, hearings, or other proceedings. The members of the authority shall establish the compensation of the executive director, who is subject to the provisions of AS 39.25.

ARTICLE 2. POWERS AND DUTIES.

Sec. 44.57.111. POWERS AND DUTIES OF THE AUTHORITY. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

(4) to acquire real or personal property whether by purchase, gift, lease or exchange where in the judgement of the authority the action is in furtherance of its corporate purposes;

(5) to adopt regulations governing the exercise of its corporate powers;

(6) to issue bonds to carry out any of its corporate purposes and powers, including the acquisition, design or construction of a project to be owned or leased, as lessor or lessee, by the authority, or the acquisition of an interest in a project or the

establishment or increase of reserves to secure or to pay the bonds or interest on them, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers;

(7) to sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the authority, the action is in furtherance of its corporate purposes;

(8) to accept gifts or grants and enter into contracts or other transactions regarding them with any person;

(9) to deposit or invest its funds, subject to agreements with bondholders;

(10) to enter into contracts with the United States or a person and, subject to the laws of the United States, with a foreign country or its agencies, for the financing, design, construction, acquisition, operation, and maintenance of all or any part of a toll bridge or causeway, either inside or outside the state, and for the security of any bonds of the authority issued or to be issued for the project;

(11) to apply to the appropriate agencies of the state, the United States, and to a foreign country and any other proper agency for the permits, licenses, or approvals as may be necessary, and to design, construct, maintain and operate toll bridges and causeways in accordance with licenses and permits, and to obtain, hold and use the licenses and permits in the same manner as any other person;

(12) to perform reconnaissance studies, feasibility studies, and engineering, survey and design with respect to toll bridges and causeways;

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(13) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;

(14) to maintain complete and separate financial account of each toll bridge and causeway;

(15) to utilize a design and construction contract for projects over $100,000,000;

(16) to establish, levy, and collect tolls and other charges it considers necessary for a project sufficient to pay costs of operation, maintenance, rehabilitation and improvement; to pay the cost of acquisition, design or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the authority, together with interest; and to provide reserves for those purposes;

(17) to pledge the tolls and other revenues, subject to prior pledges, as security for the repayment with interest of money borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in regard to loans or advances;

(18) to receive and accept funds from the state or the federal government or a municipality upon a cooperative or other basis for the design and construction of a toll bridge or causeway authorized under AS 44.57.011 - 44.57.331.

New Sec. 44.57.121. LIMITATION ON POWERS. An authority has only those powers expressly granted in this chapter, reasonably implied from this chapter, or reasonably necessary or convenient to carry out its corporate purposes and to exercise the powers expressly granted in or reasonably implied from this chapter. An authority does not have

powers of eminent domain, taxation, land use planning, zoning, permitting, or other similar governmental powers.

ARTICLE 3. FINANCIAL PROVISIONS.

Sec. 44.57.211. BONDS FOR THE AUTHORITY. The authority may borrow money and may issue its bonds on which the principal and interest are payable from money derived from the tolls, fees, charges and other revenue from projects financed under AS 44.57.011 - 44.57.331. Before issuing bonds for a project under this chapter an authority shall submit to the state bond committee a description of the bond issue and an independent economic feasibility analysis of the project and expected revenues. This information may be contained in a preliminary prospectus, offering circular or official statement relating to the bond issue. Bonds may not be issued unless the state bond committee finds, based upon the information submitted by the authority under this subsection and other information that is reasonably available to it, that the project revenues can be reasonably expected to be adequate for payment of the principal and interest on the bonds to be issued, and that issuance of the bonds by the authority would not be expected to adversely affect the ability of the state or its political subdivisions to market bonds.

Sec. 44.57.221. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the authority may

(1) make and enter into any and all the covenants and

agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of tolls, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to a project;

(C) the assignment by the authority of its rights in contracts with respect to a project or in a mortgage or other security interest created with respect to a project to a trustee for the benefit of bondholders;

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

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by injunction or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage or assign money, leases, agreements, property or other rights or assets of the authority either presently

in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

(b) Notwithstanding any other provisions of this chapter, the trust agreement shall contain a covenant by the authority that it will at all times maintain rates, tolls, fees or charges sufficient to pay, and that a contract entered into by the authority shall contain rates, tolls, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing any one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money which may be made available to the authority for the purposes of those funds from any other source. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity; however, money in a fund may not be withdrawn from it at any

time in an amount which would reduce the amount of that fund to less than the capital reserve requirement set out in (2) of this subsection, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the amount that may be established by resolution of the authority (called the "capital reserve fund requirement"), unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(f) The chairman of the authority shall annually, no later than January 2, make and deliver to the governor and the legislature a certificate stating the sum, if any, required to restore any capital

reserve fund to the capital reserve fund requirement. The legislature may appropriate a sum, and all sums appropriated during the then current fiscal year by the legislature for restoration shall be deposited by the authority in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(g) If the authority decides to covenant to issue or to issue bonds secured by a capital reserve fund, the bonds may not be issued until 30 days after the authority has mailed notification to the State Bond Committee and the Legislative Budget and Audit Committee by certified mail of its intention to establish a capital reserve fund to secure the bond issue. The notification shall include the amount of the capital reserve fund to be established, the amount of bonds proposed to be issued, and the total cost of the project for which the bonds are to be issued. The notification shall be accompanied by an estimate by the authority of the need to withdraw money from the capital reserve fund during the term of the bond issue, the amount that it may be necessary to withdraw, and the time at which withdrawals are estimated to be needed. The authority shall annually prepare a revised estimate, considering the same factors, and a statement of all withdrawals that have occurred from the date of issuance of the bonds to the end of the calendar year. The revised estimate and statement shall be submitted to the State Bond Committee and the Legislative Budget and Audit Committee by January 30 of the succeeding year.

New Sec. 44.57.231. VALIDITY OF PLEDGE. It is the intention of the legislature that a pledge made in respect of bonds shall be perfected and shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge

without physical delivery or further act; and that the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement or any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be perfected or to be valid, binding, or effective against the parties. This section does not affect title to or conveyances of real property, and does not limit the applicability of AS 34.15.290.

New Sec. 44.57.241. NONLIABILITY ON BONDS. (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond, and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, levy or pledge any form of taxation to the payment of the bond.

New Sec. 44.57.251. PLEDGE OF THE STATE. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a

contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency.

New Sec. 44.57.261. EXEMPTION FROM TAXATION. The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter are exempt from all taxes and special assessments of the state or a political subdivision of the state. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality, and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income, or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

New Sec. 44.57.271. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including without limitation savings and loan associations and building and loan associations, investment companies and other persons carrying on banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may afterward be authorized to invest in bonds or other obligations of the state, may properly and legally invest money including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities that may be deposited with and may be received by all public officers and bodies of the state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may afterward be authorized.

New Sec. 44.57.281. AUDIT. The legislative auditor shall audit or shall cause to have audited annually the financial records of the authority. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any reasonable time.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 44.57.311. DEFINITIONS. In this chapter

(1) "authority" means the Alaska Toll Bridge and Causeway Authority;

(2) "design and construction contract" means one contract for both design and construction of a toll bridge or causeway;

(3) "toll bridge or causeway" or "project" means a bridge or causeway constructed or acquired under this chapter on which tolls are charged, together with all appurtenances, additions, alterations, improvements, and replacements, and approaches, and lands and interests therein used, and buildings and improvements as may be determined by the authority.

Sec. 44.57.321. STATE APPROPRIATIONS FOR TOLL BRIDGES AND CAUSEWAYS NOT AFFECTED. This chapter does not prevent the state from making appropriations from time to time in aid of the acquisition, design, or construction under this chapter of a toll bridge or causeway or property, franchise, or right appurtenant to it, or the transportation facilities of it, or for the purpose of making preliminary surveys, plans, and estimates of the cost of it, and meeting other preliminary expenses the legislature considers proper.

Sec. 44.57.331. CITATION OF CHAPTER. This chapter may be cited as the Alaska Toll Bridge and Causeway Authority Act.

New * Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature
House of Representatives

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMORANDUM

DATE: March 30, 1983

TO: All Legislators

FROM: Representative Jerry Ward

RE: HB 294 and HB 295, prime sponsor Rep. Hayes
SB 211 and SB 212, prime sponsor Sen. Kerttula

A teleconference has been scheduled to discuss HB 294 and HB 295 with members of the Knik Arm boosters. The teleconference will be held on Wednesday, April 13, 1983 at 9:00p in the House Finance Committee Room, C-519.

Knik Arm crossing

IN A PERIOD when state revenues are decreasing and the byword is conserve rather than spend, the Knik Arm crossing could easily be one of those forgotten dreams of yesteryear, not to see the light of day again for decades. State officials several years ago pronounced the project dead.

The fact is that the crossing makes more sense now than it ever has. So it was encouraging to hear that the president of the Senate and the speaker of the House were offering it once again for consideration in the legislature.

A causeway from Anchorage across Knik Arm to the Matanuska Valley has been talked about since the 1950s. Two years ago, the legislature appropriated $5 million to finance a preliminary study. That study is still under way.

THERE ARE obvious reasons that make a crossing desirable. More and more people who work in the Anchorage area are making their homes in the valley. The weekend exodus to Palmer and beyond is heavy in the summertime, when the city folks go that direction to enjoy the natural wonders the valleys offer. Anchorage is running out of space, and the Point MacKenzie area across the arm is the logical area to accommodate future growth both in population and industry. A bridge across the arm would drastically reduce travel time between the two points.

But there are many grounds other than recreational and living opportunities across the arm that make the bridge attractive. There are rich coal deposits at Beluga and there is significant farming at Point MacKenzie, which also has been discussed as the tidewater terminus for an all-Alaska natural gas pipeline.

THE TWO LAWMAKERS who introduced the Knik Arm crossing bills this year would create an Alaska Toll Bridge and Causeway Authority with a $50 million budget. The legislation would have the authority oversee the construction of the Knik span as well as one later across Turnagain Arm southward to the Kenai Peninsula.

If nothing else, the bills introduced in the 1983 session are keeping the matter alive.

Anchorage Times 3-29-83



Associated Press

s lists in Tacoma's industrial area Thursday as a fireboat stands by



Associated Press

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seek Knik bridge funds

by Bill Walte
Times Juneau Bureau

Juneau — The top two legislative leaders today proposed spending $50 million as seed money to build the long-awaited bridges across Knik and Turnagain arms near Anchorage.

"The projects have been studied for years. We have the resources to go forward with these projects now which will benefit all of Southcentral Alaska," said Senate President Jay Kerttula, D-Palmer, and House Speaker Joe Hayes, R-Anchorage, in a statement released jointly.

"The major emphasis would be, first, on the Knik Arm crossing, with the Turnagain crossing to follow as soon as possible," they said.

Two bills were introduced in each house on the crossings.

One bill would create an eight-member Alaska Toll Bridge and Causeway Authority. This agency would fund and oversee construction of the crossings.

The other bill would give the authority $50 million once it's created.

The bills will overcome formidable obstacles if they pass before the end of next year's session.

Lawmakers are wary of creating any independent "authorities" that might start projects they can't afford, and then require a state bailout.

And dwindling oil revenue is putting a squeeze on the money available for state spending. Bush lawmakers especially are uneasy about funding huge projects for the Anchorage area because of the hundreds of millions of dollars already spent or proposed for the Project 80s development effort and the Susitna dams energy project.

Under the proposal, the causeway authority would be empowered to sell bonds, which would be paid off from tolls placed on vehicles using the bridges.

Proposals for the 2.9 mile Knik Arm crossing that would link Anchorage and the Susitna and Matanuska valleys have been debated by lawmakers for two decades.

Anchorage-area leaders look to Point MacKenzie area as the logical site to handle the booming growth in Anchorage.

Kerttula this week compared the Knik Arm crossing with the bridges in San Francisco that link bay-area communities.

This crossing would provide access to the Beluga coal fields, the MacKenzie farm development and residential areas, the two legislators said. The Turnagain crossing would provide a shortcut to popular recreation areas.

Lawmakers appropriated $1.2 million two years ago for preliminary design and environmental studies for the Knik Arm crossing. Those studies should be done next year.

"The completion of these projects would be one of the greatest economic factors for the future of all Southcentral Alaska," Kerttula and Hayes said in their statement.

"The entire state would benefit as well from the resources which would be developed by improving access to these areas. The likely acquisition of the Alaska Railroad by the state gives the projects even greater urgency than previously, as does the continuing effort to build the Susitna hydro project."

Judge says Exxon must repay public

Associated Press

Washington — A federal judge ruled today that Exxon Corp. overcharged the public $395.5 million for crude oil produced from a Texas field and ordered the company to reimburse the public through state-run energy conservation programs.

U.S. District Judge Thomas Flannery ordered the money put into an escrow account in the Treasury Department. From there it will be distributed to the governments of all 50 states.

"Each state must then use the funds under one or m... existing federal ener... vation programs," Fla... in the 90-page ruling.

One program [illegible] dential weatherization... come and elderly peo... second assists them in... ergy bills.

The other prog... s...tes money to de... conservation program... energy consumption ... and hospitals and pr... servation in small bus...

"The broad scatte... ill effects of Exxon's ... renders impossible th... the overcharges to th... victims and the calcu... precise damages ...

YOU CAN HELP BUILD THE BRIDGE!

KNIK ARM BRIDGE

JOIN THE KNIK BOOSTER'S CLUB

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BAND ROOM (USE GYM DOOR)

FOR MORE INFORMATION
CALL DAVE RING 243-4005

TIMES 3/28/83

KNIK ARM BRIDGE

★

KNIK ARM TUBE

★

KNIK ARM TUNNEL

★

KNIK ARM CAUSEWAY

Where? Your Choice.
When? Your Choice.
What? Your Choice.

Only if you make your choice known.

Join the
KNIK CROSSING
BOOSTERS
at Central Jr. High School
Wed., March 2
7:00 p.m. - Room 67/68
Dave Ring
243-4005

TIMES
2/28/93

Called 3/4 left message

Arm bridge funds asked

Turnagain, Knik Arm causeways proposed

JUNEAU (AP) + House Speaker Joe Hayes and Senate President Jay Kerttula on Friday introduced legislation to create an Alaska Toll Bridge and Causeway Authority and appropriate $50 million for design and construction of the Knik and Turnagain Arm causeways.

"The projects have been studied for years," said Hayes, R-Anchorage. "We have the resources to go forward with these projects now which will benefit all of southcentral Alaska," he said.

"The major emphasis would be, first, on the Knik Arm Crossing with the Turnagain crossing to follow as soon as possible," Hayes said.

The legislation is HB294-295 in the House and SB211-212 in the Senate.

According to a press release from Hayes' office, the legislation aims "to develop, stimulate and advance the economic welfare of the state and to further development of public transportation systems.

The authority would be a public corporation of the state within the Department of Transportation. It would have the power to acquire, construct, improve, operate and maintain toll bridge and causeway projects.

The authority would be empowered to collect levies on projects and to pledge them as security or hold them as reserves.

The authority, according the the legislation, also would have the power to borrow money and issue bonds and to establish capital reserve funds.

The Knik Arm Crossing, now undergoing engineering studies, would reach into the Mantanuska-Susitna Borough from Anchorage, and provide access to the Beluga coal fields, the MacKenzie agricultural reserve, and land for recreation, industrial and recreational development, the two lawmakers said.

The Turnagain Crossing would reach the northern Kenai Peninsula and would improve access to the communities of Kenai, oil and gas fields of western Kenai, ports that circle the peninsula and popular recreation areas, the sponsors said.

The measures were sent to the Finance and Transportation committees of each house.

Intertie contract ruling told

ANCHORAGE (AP) — An administrative hearing officer says the contract to provide towers for a power line linking Anchorage and Fairbanks electrical grids should be broken into two parts and awarded to two previously unsuccessful bidders.

Julian Mason recommended Thursday that the Alaska Power Authority give part of the work to International Telephone & Telegraph and part to Combustion Engineering of Houston.

Mason was appointed by the APA to review the contract after questions were raised about the apparent low bidder, Hyundai USA, Inc. He ruled Wednesday that the Korean firm made mistakes on its bid and lacked the experience required by bid specifications.

Federal cost of living pay will rise in Alaska

Knik Arm crossing study may fall with revenues

By STEVE SEPLOCHA
Daily News business editor

Declining oil revenues will mean that most of the projects on municipal priority lists won't be fully funded by the state, says Dan Casey, commissioner of the Alaska Department of Transportation and Public Facilities.

Early casualties could include environmental studies of the proposed Knik Arm crossing in Anchorage.

Casey, in an interview Monday, said legislators and municipal officials in the state must come to grips with the economic realities that face the state and start thinking of other ways to finance needed projects.

Casey said a recent "wish list" prepared by state and municipal officials totalled $6 billion. That, he said, illustrates the gap between what projected state needs and projected state revenues.

"The question is how do we optimize what we have left," he said. "The first thing we have to do is team up with the legislature and municipal officials so that our perceptions of the situation are the same."

He suggested that alternative financing methods, such as a gasoline tax and tolls for road projects, are under consideration. Though the administration is not prepared to recommend such alternatives immediately, Casey said they probably will play a role in projects in the future.

The bright spots in the financing picture include road projects that qualify for federal funding, Casey said. Such projects are primarily funded with federal money with the state kicking in a small percentage.

The A-C couplet, which will make A and C Streets one-way, is fully funded and work will begin this summer, he said. Cost to the state will be $2.3 million and the U.S. Department of Transportation will provide the remaining $27 million.

Casey said the department has stopped a $5 million environmental impact study on the proposed Knik Arm crossing until it is determined how much the project would cost

See Back Page, REVENUES

Revenues

Continued from Page A-1

and whether the state can afford it.

He said cost estimates should be available by the end of April and his department plans to meet with legislative leaders to determine whether to go ahead with the study.

Cost alone should not be the determining factor, he said, because there are benefits that would accrue by opening the west side of Cook Inlet that may justify such a major project.

Bill to fund arm crossings proposed

The Associated Press

JUNEAU — House Speaker Joe Hayes and Senate President Jay Kerttula on Friday introduced legislation to create an Alaska Toll Bridge and Causeway Authority and appropriate $50 million for design and construction of the Knik and Turnagain Arm causeways.

"The projects have been studied for years," said Hayes, R-Anchorage. "We have the resources to go forward with these projects now which will benefit all of southcentral Alaska.

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The authority would be empowered to collect levies on projects and to pledge them as security or hold them as reserves.

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The Turnagain Crossing would reach the northern Kenai Peninsula and would improve access to the communities of Kenai, oil and gas fields of western Kenai, ports that circle the peninsula and popular recreation areas.

Lawmaker pushes for action on Knik, Turnagain crossings

By BETSY BRENNEMAN
Daily News reporter

JUNEAU — Anchorage needs Knik Arm and Turnagain Arm crossings to avoid urban congestion and air pollution, Rep. Jerry Ward, R-Anchorage, told a bipartisan gathering of Southcentral representatives late Friday.

Ward, in calling for immediate construction of the crossings, said time has run out for more studies on the best way to shorten the distances between Anchorage and the surrounding area.

Ward told the caucus that it's time to use unspent planning money to begin building the crossings that he said would cost about $600 million.

For the first time, Ward said, the Southcentral delegation has enough clout in the legislature to force action on the crossings. He said each member should be willing to give up some smaller projects for their district to fund the construction.

"I personally would be proud to forego all projects in my area for the sake of this one," Ward said in his written proposal.

He encouraged the delegation to act agressively to secure at least $300 million this year that he calculated would be less than 40 percent of the Southcentral share of the $1.5 billion dollar capital budget for 1984.

Ward also said Commissioner of Transportation Dan Casey had agreed to freeze about $3.5 million in unspent planning funds and was waiting for legislative direction before deciding how that money would be spent.

Ward said Casey is willing to renegotiate the planning contract and use the money for construction.

Casey could not be reached Friday for comment.

Ward's proposal includes constructing:

- Causeways from Isle to Cape across Turnagain Arm and from Eagle Bay to Goose Bay across Knik Arm;
- Two freshwater lakes above the causeways, one of which, the 100 square mile Knik lake, could eliminate the need for the municipality's Eklutun water project;
- Fish ladders for migrating salmon installed in spillways from the lake and spanned by conventional bridges; and
- Toll booths that would charge less than it currently costs to drive around each arm, but would help pay off the construction costs.

Ward said suitable bases for causeways are already in place and additional rock and sand is readily available.

Although bridges have been included in most past proposals for the crossings, Ward said it is cheaper to run railroad tracks over causeways. The tracks also would last longer and are better able to withstand earthquakes, he said.

The Anchorage freshman said both projects should be paid for now with cash, but he said he will go along with House Speaker Joe Hayes' preference for using bonds to pay off the balance of the project costs.

Ward said he has the support of 60 percent of the caucus. He wasn't sure about the Senate, but said President Jay Kerttula, D-Palmer, favors the idea.

The Southcentral caucus will debate Ward's proposal at a second meeting this afternoon.

Kenai Peninsula Clarion Feb. 14, 83

Turnagain Arm causeway idea taken up in House

An idea spawned by Rep. Milo Fritz, R-Anchor Point, 17 years ago and which has been talked about a number of times since has resurfaced in the state Legislature: A Turnagain Arm causeway.

Freshman representative Jerry Ward, R-Anchorage, informed a bipartisan meeting of Southcentral Alaska representatives Saturday of his intentions to introduce legislation for the construction of crossings of Turnagain and Knik Arms.

Ward said Anchorage needs the crossings to reduce congestion and pollution in the Anchorage bowl, according to a story in the Anchorage Daily News. Fritz, who introduced legislation for studying the crossings in 1968 and 1972, endorses Ward's proposal.

"Both are feasible and extremely useful," said Fritz Sunday. Construction of both crossings is estimated at $600 million.

Ward said he would prefer the state build the crossings with cash, but Fritz said it would be better if voters approved the sale of revenue bonds to be paid off with tolls charged at the crossings.

In the Daily News story, Ward said Commissioner of Transportation Dan Casey had agreed to freeze $3.5 million in unspent planning funds until the Legislature directed how the money should be spent.

"Starting them simultaneously makes sense," said Fritz. In that way, construction equipment would not have to be moved very far from project to project.

Both projects would consist of extending the land on both sides of the arms with elevated causeways but leaving open areas to be spanned with bridges to allow for fish migration.

Fritz said the Turnagain crossing would be from the Potter area on the Anchorage side and would parallel the gas pipeline across the Kenai National Wildlife Refuge. Such a route would cut the drive to Anchorage by about 75 miles.

"We would preserve the moose range, of course," said Fritz. "There wouldn't be a bedroom community sprawled out between the peninsula and Anchorage because it would cross federal lands."

He said the Knik Arm crossing would allow the Anchorage population "to spill over into the Pt. MacKenzie area."

Fritz said he expects there would be opposition from Anchorage realtors because "it wouldn't allow the value of property to increase meteorically."

He also said there would be opposition from people in the Kenai-Soldotna area who wouldn't like to see it because it could encourage further industrial development.

"It would be very practical for the peninsula," he said. "The development of a causeway would help us if we want to see a gas pipeline to Nikiski."

He said supplies could be transported more easily to Nikiski with the new route "rather than that goat trail we have now with snow slides in the winter, mud slides in the summer and construction going on all the time."

The Alaska Railroad could be easily extended to the west side of the peninsula along the Turnagain Arm crossing, he said, as well as additional pipelines and a coal slurry line from the Beluga coal field.

"This is something I've been dreaming about for a long time," said Fritz. "It wasn't cockeyed then and it isn't now."

...State
Continued from Page 1

Studies would indicate that causeways across both Turnagain Arm from Isle to Cape and Knik Arm from Eagle Bay to Goose Bay can be constructed to serve both highway and railroad traffic.

The continued growth of the Mat-Su, Anchorage, Kenai area as the economic hub of Alaska makes the crossings not only desirable but necessary.

The oil, gas, and coal fields and related petro-chemical industries would be drawn together to form a much stronger financial and supply center for Alaska.

The growing population in this area and the increased needs and desire for recreational areas would be best served by causeways which would create an 85 square mile lake above the Turnagain causeway and a 100 square mile lake above the Knik causeway.

Also, the dollare and time savings to Alaskans by cutting 50 miles off a trip to the Mat-Su Valley and over 100 miles off a trip to Kenai for over 10,000 vehicles per day cannot be over emphasized.

For the safety and health of future generations of Alaskans, the Anchorage municipal area must be allowed to expand to the west side of Knik Arm. Pollution and over-crowding cannot be compacted much beyond the present point.

All reports indicate that railroad crossings can be added to the causeways at a fraction of the cost of adding them to bridges. Causeways provide greater stability and safety against earthquakes than a bridge.

The studies indicate that suitable bases are in place for causeways and that rock and sand are readily available. Through the use of barges, end dumps, and cables, these materials could be put in place and a spillway would allow for the over flow of fresh water from the man-made lakes above the causeways. The spillways would be spanned by conventional steel and concrete bridges with fish ladders installed to permit migration of salmon. This type of construction has been carried out in Holland, Canada, Russia, New Zealand, Australia, France and Egypt in the past 50 years. With the advent of larger and more powerful equipment and the experience of Alaskan construction companies gained by building the north slope haul road, we should be able to complete the causeways in 3 years at a cost of 6 to 800 million.

From discussing this with the Department of Transportation I understand that Turnkey projects have been issued in the past to private enterprise in which the concept, architectural design, construction and completion of projects such as this are the total responsibility of the contractor, who is paid only upon successful completion of the project. I believe that there are construction companies who would be willing to build these causeways at a breakeven point for the recognition and enhanced worldwide reputation of successfully building such a showpiece project.

We could finance the project by funding 1/3 or up to 300 million with less than 40% of our share of the Capital Improvement Fund of 1.5 billion of which 53%

or 795 million rightfully belongs to the people of the Mat-Su, Anchorage, and Kenai boroughs. This coalition represents those people and I suggest that we should not agree to fund any projects in our separate districts unless agreed upon by a majority of this coalition. Object being to keep the money for this project. I personally would be proud to forego all projects in my area for the sake of this one. The balance could be funded by General Obligation Bonds. These bonds could be paid off in 20-25 years by tolls charges for the use of the causeway which would amount to less than half the cost of driving around the Knik and Turnagain Arms.

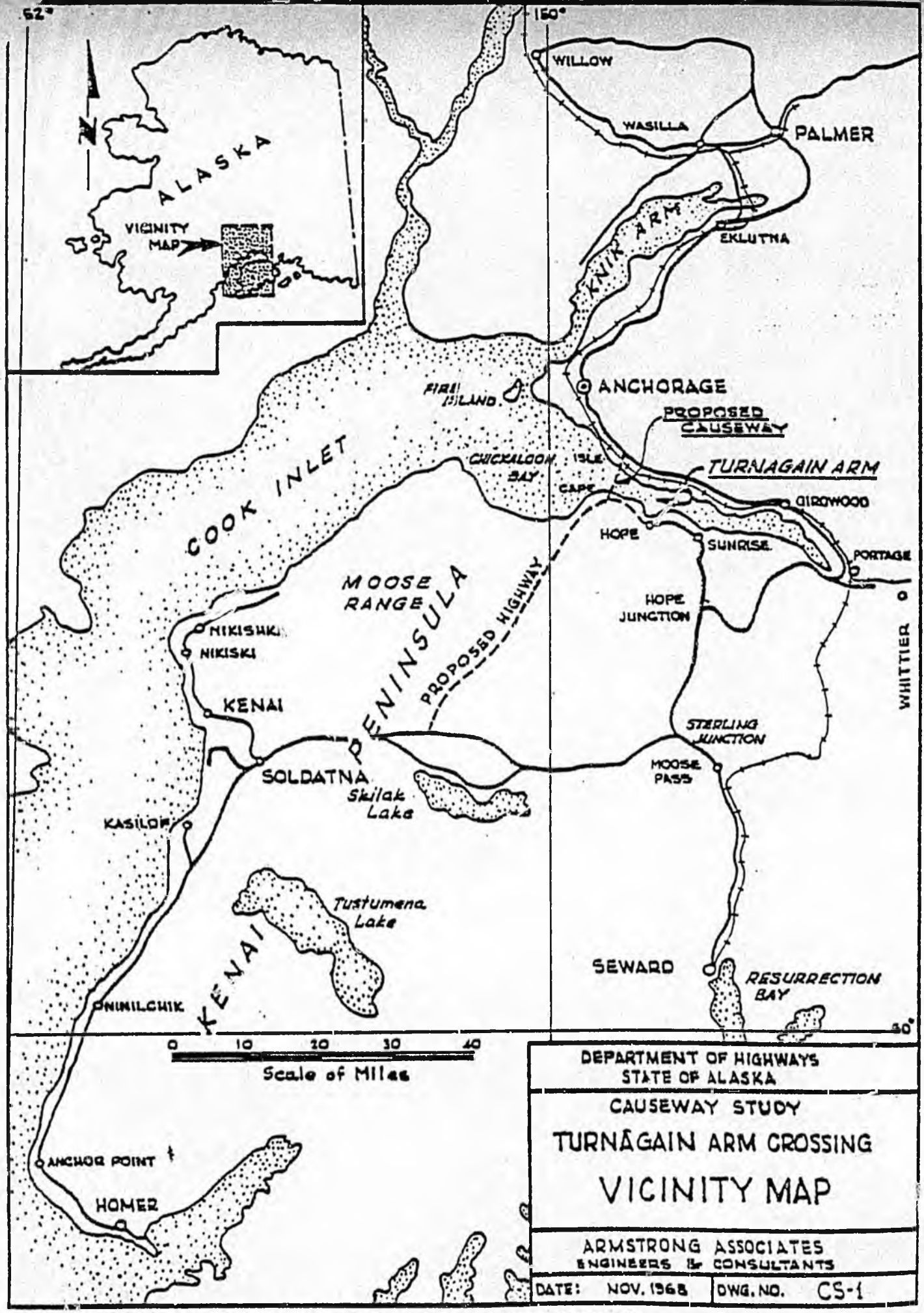
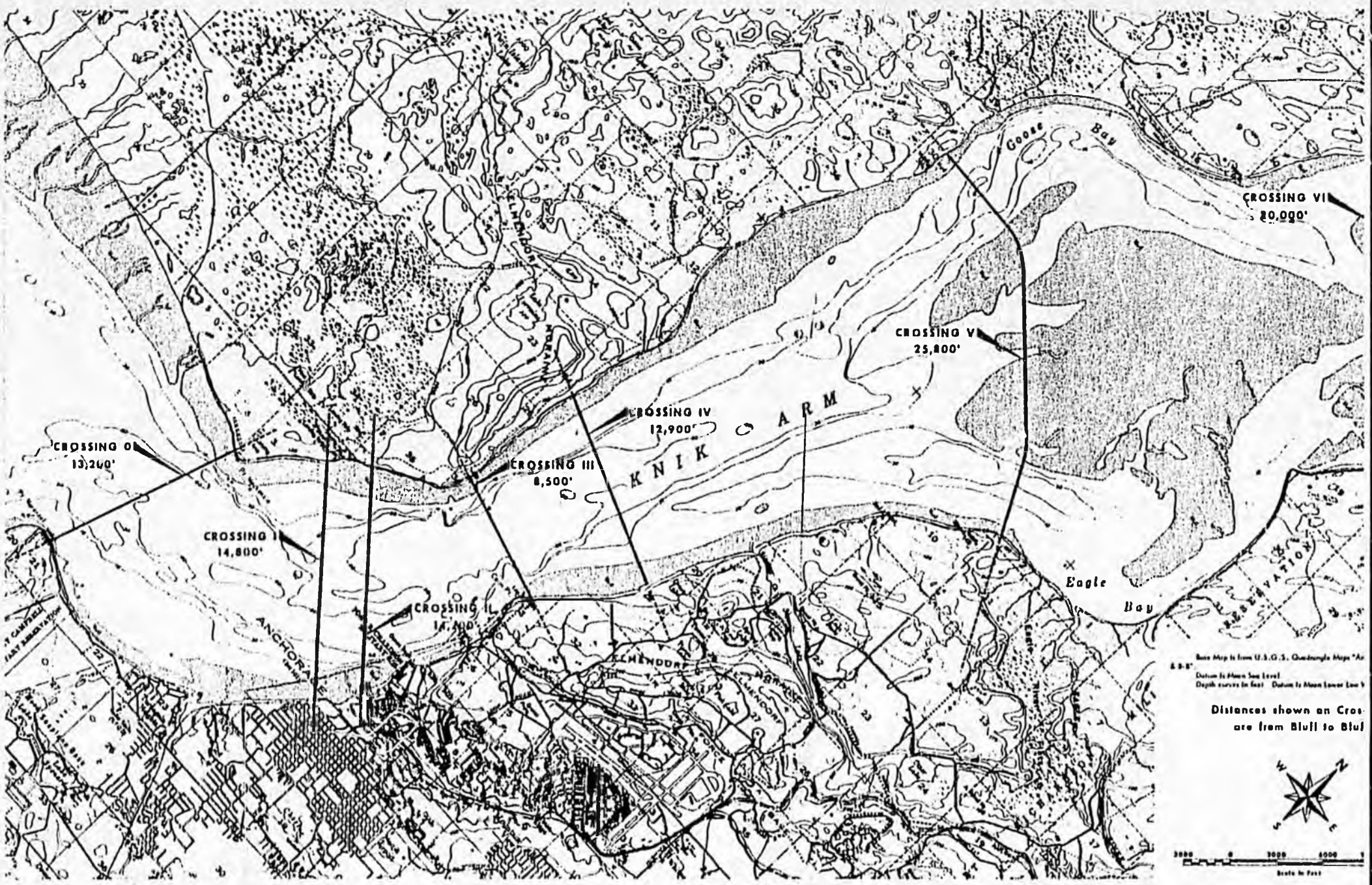


Fig. No. 1—Vicinity map of Cook Inlet area showing Turnagain Arm and proposed Causeway site.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CROSSING IV
12,900'
CROSSING III
8,500'
CROSSING II
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KNIK ARM
Eagle Bay
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ANCHORAGE
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Figure II-1

4-16-83

$631 million Knik crossing plan unveiled

by Bill White
Times Juneau Bureau

Juneau — Gov. Bill Sheffield Friday unveiled a $631 million proposal for a 3-mi bridge across Knik Arm linki Anchorage to the Matanuska and Susitna valleys.

Sheffield gave the go-ahead for the state to explore building the long-awaited crossing with a blend of state and federal money.

Dan Casey, commissioner of transportation, said the state will use a $5.5 million appropriation made two years ago to conduct engineering — including final route selection — and environmental studies for the project over the next year.

If the project is found to be viable, bids could be let as early as next year with actual construction between 1986 and 1989, Casey said.

The proposal drew the tentative endorsements of Senate President Jay Kerttula, D-Palmer, and House Speaker Joe Hayes, R-Anchorage. The two lawmakers have backed the crossing for decades. This year they sponsored identical legislation that would take a different approach to building the crossing.

But, as Kerttula said, "If there's a better mousetrap, I will support it."

The proposal is contained in a 73-page report by EMPS-Sverdrur on the economic feasibility of the project.

The engineering firm looked at 11 crossings of Knik Arm — with accesses to the bridge ranging from downtown Anchorage to Eagle River — to come up with the $631 million proposal that appears to be the best "concept."

The preferred route for the bridge calls for a 43.7-mile highway to be built starting at the junction of the Glenn Highway and Boniface Parkway, and connecting north to the Parks Highway near Houston.

A four-lane, double-deck bridge would cross Knik Arm five miles north of downtown Anchorage.

See Governor, page A-4

Governor reveals bridge plan

Continued from page A-1

The bridge itself would cost about $339 million and would be built by a private firm, Casey said. That firm would make back its construction cost by charging a toll of about $2 per car, he said. Once the builder has recovered its investment, the state would own the bridge, under the proposal.

The state would provide the financing for the highway and bridge approaches, estimated at $180 million. Another $64 million would be needed to relocate facilities at Elmendorf Air Force Base, including an ammunition dump. Inflation would bring the project cost up to about $631 million.

"This approach is very simple," Casey said, "and it's the most cost effective." The options examined included tunneling under the arm, building a causeway and building a suspension bridge.

The bridge should be able to withstand intense pressure from tremendous tidal actions, siltation and ice buildup, Casey said.

EMPS-Sverdrur estimated the Point Mackenzie area would have about 9,000 households 11 years after the crossing is completed. That figure would double within 30 years, the study said.

About 29,000 vehicles would cross the bridge daily in the year 2001 and an estimated 46,000 a day would cross by 2030.

The bridge would cut driving time from Point Mackenzie to downtown Anchorage from about two hours to about 30 minutes, according to the study.

THE SEAL OF THE STATE OF ALASKA

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Alaska State Legislature
House of Representatives

REPRESENTATIVE JERRY WARD
DISTRICT 13
MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

The Anchorage Times

Editorials

Crossing Knik Arm

THERE ARE some events and some projects which seem to develop a momentum all their own. The Knik Arm crossing may be one of those projects.

It has been a matter of discussion for decades, along with a similar proposal for a crossing over Turnagain Arm. Over the years, both of the proposals have blown hot and cold — seemingly almost ready to move ahead, only to be shifted to the back burner.

Now up front and bubbling again is the Knik Arm crossing concept, and this time it appears to have a chance. It would be a good sized project, of course, both from a financial and an engineering standpoint.

But the time now appears ripe. The population has grown to the point where the economics seem feasible, the need to open new land across the Inlet is apparent, and the opportunity looks to be at hand.

The project seems inevitable. The question is simply when.

LETS BUILD IT!

Jerry

State Public Corporations
A guide for decision making

By Annmarie Walsh
and David Mammen
March 1983

Institute
of Public
Administration
New York City • Washington, D.C.

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State Public Corporations
A guide for decision making

Table of Contents

Introduction 5

1. The characteristics of public corporations 6
2. Selecting the corporate form 6
   - The advantages sought
   - The pitfalls to be avoided
   - The alternatives
3. Designing the public corporation 8
   - Legislative intent and oversight
   - The relationship of the corporation to state government
   - Impact on state budgets
   - Impact on capital finance and debt
   - The management capabilities of the corporation
   - Exercising legislative oversight

Public corporations are bodies authorized by legislative action to function outside of the regular structure of state government in order to finance, construct and usually to operate revenue-producing public enterprises. Public corporations have proliferated in the United States; by the late 1970s, at least 6,000 local and regional authorities and 1,000 state and interstate corporations were operating. By 1981 the total was estimated to be close to 10,000, and the revenue bond market, which lends primarily to public corporations, was raising almost twice as much capital as all general obligation state and local bonds in the nation. Expanding from traditional public service toll facilities into increasingly complex lending, investment and enterprise functions, public corporations are consuming larger portions of total public borrowing and having greater impact on regional economies.

As the growth in the use of the public corporation demonstrates, the arguments for their use have been convincing. The single purpose public corporation seems a simple and clear cut solution to many complex government problems. The advantages are relatively easy to list; the disadvantages appear only over time and with experience.

The Institute of Public Administration (IPA) has pioneered research on government corporations and bond markets. In recent years IPA has been asked to apply its research methodologies and findings to public corporations, joint action agencies, and federal, state and local governments operating in many different settings. Our research and our client experience have convinced us that each state must be prepared to take a close look at the implications of its corporations for state government, for state political priorities, and for state finances.

In many states expansion in the number, the activities and the outstanding debt of government corporations or public authorities is reaching a critical threshold at which these implications warrant serious review and continuing attention. Several responses are called for:

- Legislators need better information and assessment of the benefits and risks when judging proposals to create new corporations or to alter the mandates or financial resources of existing corporations;
- Budget officers and financial planners should develop means of monitoring investment and debt transactions, of compiling profiles of revenue backed debt, of tracking contingent liabilities and potential budget impacts and of providing early warning of impending problems emerging from the public corporations;
- State governments need to devise methods for increasing the responsiveness of public corporations to government priorities—including finance for maintenance and replacement of infrastructure—without losing the advantages of flexible management and revenue bonding;
- Public corporations should be subject periodically to management and financial audits. The resources of the boards of directors must be strengthened so that they can provide policy leadership and oversee corporate performance.

The measures described above require special consideration of the context and objectives of corporate activity, which vary from state to state and from corporation to corporation. This Guide provides a checklist of some of the common issues and questions that need to be addressed when decisions are made concerning public corporations. We believe it will be a valuable tool when proposals for new public corporations are being considered. We hope it will be equally useful to those responsible for reviewing and overseeing existing corporations.

The Guide is organized in three sections. Section 1 describes the characteristics of public corporations and authorities. Section 2, 'Selecting the Corporate Form', discusses the advantages that are sought from the corporate form and the potential pitfalls to be avoided. Some alternatives to the corporation are also described. Section 3, 'Designing the Public Corporation', examines specific components of corporations and their relationship to state government.

1. The Characteristics of Public Corporations

Public corporations are government instrumentalities established by legislative statute or charter to operate to some extent outside the regular structure of executive departments, usually to finance, construct or operate revenue producing enterprises. As corporations, they have separate legal existence (to sue, to be sued, and to assume credit obligations in their own name). They are variously called corporations, public authorities, commissions, banks, services or agencies.

Public corporations differ from government itself in these ways:

- Public corporations do not have general government police or reserve powers or powers to tax;
- Public corporations can exercise only those powers and conduct only those activities specifically authorized in their charters or statutes.

Public corporations differ from line agencies of the executive branch of government in the following ways:

- They have separate legal identity (corporate personality);
- They may be exempt from many of the administrative procedures and regulations that apply to line agences, such as civil service and other personnel regulations, procurement and other administrative procedures, rules and controls by central executive staff agencies;
- Their powers and structure can usually be changed only by statutory amendment (not by executive order), and such changes may be limited by legal covenants entered into by the corporation for borrowing and other contracts;
- They are generally permitted business-type budgets without line item or expenditure period limitations, and may be permitted to retain their own earnings, rather than channeling them through Treasury and appropriations processes;
- Public corporations usually have independent borrowing capacities and credit ratings.

2. Selecting the Corporate Form

The advantages sought

The advantages sought from public corporations include the following:

- Managerial and budgetary flexibility for enterprise-type activities that need to be continually adapted to changes in consumer demand, construction contingencies, and other market factors;
- Speed and efficiency of large scale construction using planned funding schedules, flexible contract administration, and non-controlling, multi-year construction budgets;
- Increased access to bond markets;
- Protected, earmarked funding for priority projects and long term debt service, subject to dedicated fund prohibitions;
- Business-like and self supporting management, particularly where the benefits produced go primarily to the persons or organizations who use and can pay for the service;
- Insulation from political influence, for philosophical or other reasons;
- Use of an agency with mixed ownership, with the potential for transfer to the private sector, or with a jurisdiction that spans several government units.

None of the advantages described above can be achieved only through use of public corporations, and none of them are automatically achieved by use of public corporations. The record of public corporations throughout the nation includes examples of political corruption, financial debacle, and construction failure as well as numerous success stories. It is important therefore to keep in mind some of the potential disadvantages when making the initial decision.

The pitfalls to be avoided

Potential disadvantages include the following:

- The accumulation of independent debt burden and other financial obligations and potential claims against future taxes and taxpayers without control, financial planning or early warning. Two facts affect this potential problem. First, high volumes of borrowing through corporate revenue bonds do tend to tighten the market for general obligation borrowing by state and local governments, particularly from the same state. Second, even when the state clearly has no legal obligation for the

debt of its corporations, if those corporations get into financial difficulty the state or units within it will be under severe pressure to help them—by channeling appropriations into corporate reserve funds, by offsetting their operating deficits through subsidies or rate increases, by helping to refinance debt or otherwise avoid default. The credit standing of the state and participating local governments is affected by the credit record of the corporations. Unforeseen changes in interest rates, in economic conditions or in revenues have caused problems with even the seemingly strongest corporations in some states.

- The separation of important development decisions (such as distribution and pricing of transportation, energy, industrial investment and housing) from legitimate political institutions based upon voter support and executive leadership. Conflicts over social, environmental and economic impacts may arise too late, after the corporation has made decisions to which the people's representatives did not have access, even when there are public hearing requirements. Similarly, lack of consistency between corporate programs and departmental programs and plans can increase the costs and reduce the effectiveness of government as a whole.
- Undermining government procedures established for desirable purposes of accountability and legitimacy, including appropriations and budgeting, equitable job classification and salary scales, merit recruitment and promotion, standardized accounting and auditing procedures, and contracting and procurement controls. There is often a temptation to bypass regular government agencies when these procedures seem too rigid and cumbersome for good management. However, reform of procedures is preferable to progressively cutting chunks of government activity out of them altogether.
- Creating pockets of public activity susceptible to narrow special interest control.
- The potential for "creaming", or removing revenue producing activities from government budgets, leaving deficit operations to fall more heavily on taxpayers or appropriations. Many states have tried unsuccessfully, for example, to tap the revenues from successful corporation toll facilities to help finance public roads or transit.

The alternatives

Not all of the differences between public corporations and line agencies are necessary. Indeed, some of the characteristics of public corporations can be given to line agencies in order to allow them to undertake enterprise-type activities efficiently without giving up executive and legislative controls. For example, some of the legislative alternatives to the full blown corporation are the following:

- A separate executive agency or administration, headed by an administrator reporting to the governor (or mayor), with special powers designated by statute but without independent corporate status. This arrangement has been used for enterprises that are funded by appropriations and state bond issues (e.g., transportation bond issues).
- A revolving fund or corporate loan fund within an executive department. This is used for loan and subsidy programs that require protected financial integrity, revenue bonding powers and separate credit obligations, but which do not require separate administrative bureaucracies and which benefit by policy coordination with related programs. Such arrangements have provided revenue streams which are identifiable and protected, allowing for accounting separate from the general agency budget in order to maintain credit ratings for revenue bonds.
- Regional or local enterprises run by representative commissions or intergovernmental boards

In summary, the selection of the corporate form should be based upon consideration of four basic questions:

- What characteristics for financing and management are implied by the mission of the proposed agency?
- What alternative forms of organization can provide these characteristics with minimal loss of democratic control?
- How important is it to relate these activities to political representation? To community preferences? To departmental policies?
- How can a corporation be effectively monitored in terms of financial and administrative impacts on state and local government?

3. Designing the Public Corporation

Careful design of each public corporation to meet the needs of the particular mission, financing situation, and desired patterns of leadership and oversight is crucial if the agency is to live up to the expectations for it, and not prove to be a source of future problems. There are many different ways to organize a public corporation, and the form appropriate for a loan fund may not be appropriate for a power authority, transit system or a local port. This section of the Guide provides a check list of questions and legislative issues to be considered when drafting or amending corporate charters.

Legislative intent and oversight

The corporate mission should be stated clearly enough to provide policy guidelines to the corporation and to provide standards for subsequent legislative oversight. Goals, priorities and performance targets should be expressed clearly so that performance can be judged against them. (For example, are services to be self supporting from revenues? Is the aim to increase production of some unit such as ship maintenance, passenger trips, or kilowatt capacity? To aid or subsidize certain groups?)

The most effective way to hold an enterprise accountable is to measure its performance against targets for that performance. Without targets or priorities, oversight tends to consist of random interchanges between legislators and corporate managers that are frustrating to both sides. If legislative statements of corporate mission are ambiguous or shift from year to year, there is little that the supervising executive officials can do except try to assure that the corporation is acting prudently. It is always difficult to express clear goals and priorities for public programs because the nature of the democratic process is such that they are often the product of shifting compromise. Nevertheless, the exercise of trying to develop coherent statements of mission for each corporation and related departmental programs—however imperfect—can clarify the issues that are relevant to audit and to budget review, and can provide a framework within which requests for statutory amendment can be judged.

- What are the goals and the policy guidelines that the legislature intends for the corporation?
- Are goals and guidelines sufficiently clear and consistent to judge the performance of the corporation in the future?
- Should legislative authorization be required for each major capital project or program expansion? For major project planning efforts? For administrative and public affairs budgets? For salary scales? For fare and rate structures?

The relationship of the corporation to state government

Coordination calls for clarification of the relationship between corporations and the departments of state government.

- What role should the related department play?
- How should departmental programs and policy plans relate to corporate activities?

The use of a governing board for public corporations is derived from the structure developed to represent stockholders in investor owned companies. But experience in federal and state government generally has shown that the ability of part-time boards to provide policy leadership to public corporations is limited, and ex-officio appointment of busy government officials does little to overcome those limitations. Experience has shown that it is difficult for cabinet members to serve both as supervisors of the corporation from general perspectives and be part of corporate management on the board of directors. Problems are compounded if board meetings must cope with managerial detail, or if board members lack timely information on policy and performance.

Other alternatives should be examined. One is to have the corporation headed by a single administrator who reports to a departmental commissioner and who is aided, not by a governing board but by an advisory board that draws primarily from the private sector. This is particularly appropriate for enterprises closely linked to other state services (transit agencies, equipment maintenance agencies, revolving loan funds related to specific economic programs). Advisory boards without direct responsibility for management can be larger and draw on a broader range of expertise and objective opinion. By reporting their assessment of the corporation to the related state department and to the legislature, they can often provide for better accountability than can governing boards that get bogged down in details.

Another alternative, one suitable for regional enterprises, uses a policy council representing local groups or

elected officials together with a strong executive director (see, for example, the public utility districts of the Pacific Northwest).

- If a governing board is to be used, who shall appoint the members? The governor or mayor? The head of an executive department when the corporation is subsidiary to one department? Local representatives? Should the board be representative? Should it be large enough to use special committees (e.g., audit and finance committees typical of the private sector)? If it is large, will it have problems scheduling meetings or assembling a quorum to conduct business?
- Should terms of members be staggered (giving the board added stability and some political insulation, but making it somewhat less responsive to elected leaders in the short run)? Or should their terms coincide with those of the appointing authorities, making them political executives like department heads?
- Has provision been made for removing board members for conflict of interest violations, for non attendence, or for malfeasance?
- Who shall appoint the executive director? The board? The governor? The department head (corporation subsidiary of one department)? Will the executive director serve by contract, or at the pleasure of the appointing authorities? What provision has been made for removal?
- Have means of improving the effectiveness of boards been explored? (e.g., use of working and advisory committees or staff to the board.)

In addition to careful design of the corporate governing structure, three other considerations are important to produce good corporate management with state government leadership.

First, the powers and responsibilities of the general manager, the board or council (if there is one) and of the appropriate government officials must be sorted out clearly and sensibly. The manager should have full responsibility to manage, and can then be held responsible for corporate performance. (See below) The board should not be burdened with detailed decisions and personnel choices below that of the manager. The board should focus on continuing evaluation of what is going on in the corporation. And state officials should have a clear role in decisions that have substantial impact on the public interest.

Second, state officials (including the legislature) need timely information concerning the corporation's programs and plans. Multi-year program and financial plans should be required. So should annual reports showing actual results. Statutes should specify the kinds of information and factors that should be included in plans and reports. They should also specify who is to review those documents and approve them.

Third, statutes should specify key policy decisions by the corporation that will affect public welfare and costs. Shall the governor or a commissioner have certain veto powers, prior approval powers or power to give the corporation certain directions?

Impact on state budgets

There should be provided ongoing means of assessing and controlling the extent to which the corporation may burden the state with direct or indirect financial costs.

- Are the corporation's services likely to be self supporting out of operating revenues? At what price levels? Are services to be provided at below market prices? What interests will be served?
- If operating subsidies are to be provided by appropriations, should there be a ceiling imposed in statute? Absolute or percentage ceiling? What factors will effect the level of subsidies: interest rates, user charges, volume of use, costs? Should prices be regulated? By whom? By what formula?
- Should specific cost controls be imposed (e.g., salary ceilings; executive scale; administrative expense limitations; interest rate ceilings)? How can cost control and efficiency incentives by management be encouraged if deficits are to be absorbed by appropriations?

Impact on capital finance and debt

Corporate financial plans, debt burden, security arrangements and borrowing volume should be continuously monitored together with those of other state corporations and state and local government. Some orderly process should be established to analyse information on current and planned borrowing, lending, investments, and potential demands on capital appropriations, including impacts on the economy and on state credit given varying market trends.

- What security will underlie corporate borrowing? Is the estimated revenue stream adequate to secure the borrowing necessary to complete planned projects?
- What will borrowing costs do to revenue requirements (for example, costs of retail or wholesale electricity, railroad freight and passenger fares, costs of ship maintenance, home mortgage rates, etc.)? What are the fall back resources for debt repayment if the revenue stream diminishes?
- Does the state have a moral obligation (legislative option to keep corporate reserves up to specified levels)? Are earmarked taxes to be pledged to back up debt? Can the corporation's finances be leveraged by federal grants, by state loans or grants, or by other sources? Are lease payments by state or local government agencies pledged to back up debt?
- Where will the liability or risk fall in case of extraordinary circumstances (e.g., impacts of power plant failure, of earthquake or bankruptcies on mortgage and loan obligations, etc.?)
- How will the authorized debt and debt security affect the ratios of debt of and in the state, and the ratings and indices used by the financial community to assess and cost out state and local government borrowings?
- What arrangements have been made for payback of state capital appropriations or loans (interest, time period, enforcement and forgiveness provisions)?
- Regarding nonguaranteed borrowing authority, what ceiling shall be established by statute? What agency of state government shall approve issues after reviewing timing, volume, interest costs, and terms of bond resolutions or official statements?

The management capabilities of the corporation

To do its job well the corporation needs stable financing, concentrated management authority, marketing expertise, high quality labor force, and flexible procurement and contracting capabilities. Sometimes these require exemption from some of the provisions of state administrative law. If such exemptions are applied when they are not needed, however, the public purposes for which the corporations were established are undermined.

- Should the agency's personnel be part of the civil service? Should it have its own, merit-based personnel system? Should it have salary comparability? Should it offer no job security but provide full management prerogatives to hire and fire? If so, what protection from abuses should be provided? Will the agency assume labor agreements from predecessor organizations? Do collective bargaining provisions make civil service regulation unnecessary?
- Should regular provisions for equity, public participation and public information apply (freedom of information, sunshine laws, equal employment opportunity, community reviews, environmental impact statements, zoning approvals, and public notice and hearings, etc.)? In general these should not be waived without strong justification.
- Should regular procurement and contracting procedures be waived for the agency? Rigid competitive bidding requirements may slow down and raise the costs of large scale or repetitive construction projects, and slow procurement procedures are a problem in high technology activities.
- Should the corporation be permitted to promulgate regulations? If so, should all administrative procedures acts apply to it?
- Does the structure of top leadership for the agency assure strong management together with coordination with the executive branch? The full-time executive director is the key to corporate management. Will that position be clearly responsible (e.g., appoint other personnel, have duties clearly distinguished from the chairman of the board, be answerable for the performance of the agency, be subject to incentives and to dismissal by the board, the governor or department head, be expected to testify regularly before the legislature)?
- Should the corporation be required to have organization and management surveys at least once every five years? To have full engineering and economic feasibility studies of its major projects before their authorization? Receive financial advice independent of underwriters and project consultants?
- Should the corporation be required to have approved accounting systems, multi-year financial plans and capital budgets, and annual outside audit of its books? Conflict of interest restrictions should be applied by statute to corporate personnel.
- What kind of budget should the corporation be required to submit annually? Does the nature of its activity require more flexibility that a normal government line item budget? If so, should a business type budget be

specified? Budget estimates with freedom for the corporation to shift funds from category to category? Should Management by Objectives or Zero Based Budget documentation be required? What special provisions are needed for capital and construction budgets?

- Should its entire budget be subject to annual approval, or only the appropriations requested by it? (If only the appropriations, what evidence of cost control and efficiency will be required in the documentation?) Should full budget review be required of all authorities with outstanding loans from the state?
- Who should review corporate budgets? Executive budget office? Legislative auditor? Comptroller? Legislative budget review or appropriations committees?
- What format and time span should be required for the capital budget of the corporation? What provision for depreciation (maintenance or sinking fund) should be made? How should the impact of interest obligations on operating budgets be reported and monitored? How should the borrowing requirements generated by short term debt be reported and monitored? Are there adequate provisions for coordination with other capital programs?

Exercising legislative oversight

- What procedures should the legislature use to monitor the agency's performance with respect to goals? Legislative performance audit? Periodic public hearings or committee investigations (special circumstances only)? Legislative veto of financial plans or budgets which will exceed debt or spending ceilings?

Legislative oversight should not involve intervention in specific management applications of policy (e.g., approval of specific loan applications, personnel actions, contractor selections, detailed budget lines.) If legislative judgment dominates these types of administrative action, the advantages sought from using the corporate form in the first place are lost.

In order for legislative oversight to be effective, legislative staff reviewing and dealing with the corporations must be adequate to keep up with the material coming to it, to analyse, to summarize, and to help distill out the policy implications. Investment in the capacity to continue to evaluate the public corporations would be small in comparison to the state appropriations supporting them.

Legislative oversight tools that have been used recently include public authority control boards, special investigations, assignment of a full-time performance auditor to individual corporations, and codified corporation control acts. In many states, recent initiatives concerning public corporations have been part of broader efforts to strengthen debt management policies generally.

In many cases, however, the initiatives have not provided timely information and in-depth analysis to those responsible for oversight. The future contributions of public corporations to public policy (and avoidance of unanticipated problems) depend in many cities and states on fresh review of the goals and design of these management tools of government.

About the authors

Annmarie Walsh is President of the Institute of Public Administration. She is a leading expert on government organization and public corporations. Dr. Walsh prepared a major study of public corporations in the mid-1970s, published as *The Public's Business: The Politics and Practices of Government Corporations* (MIT Press). She directed the Institute's reorganization study for the Washington Public Power Supply System in 1979—80, co-authored the report *Alaska's Public Corporations: A Framework for Assessment* in 1981, and served on a National Academy of Public Administration panel which studied federal government corporations for the U.S. Office of Management and Budget.

David Mammen is a senior staff member of the Institute. From 1979—1981 he was deputy director of a task force appointed to study and recommend improvements in regional planning for the New York metropolitan area. He conducted the field research for IPA's study of Alaska's public corporations in 1981, and co-authored the report. He recently conducted a three state conference on planning issues.

The Institute of Public Administration (IPA) is a private, nonprofit, educational organization that has provided research and low cost consulting services to governments for over seventy-five years. IPA is chartered under the education laws of New York State. All gifts and grants to IPA are tax deductible by rulings of federal, state and city tax authorities.

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M E M O R A N D U M May 11, 1983

SUBJECT: Legislators serving on the Alaska Toll Bridge and Causeway Authority

TO: Representative Bette Cato
Chairman. House Transportation Committee

FROM: Billy G. Berrier BGB
Director
Division of Legal Services

You have asked whether legislators are constitutionally prohibited from serving on the Alaska Toll Bridge and Causeway Authority under HB 295. In my opinion they would be prohibited from so serving.

Two questions arise relating to the constitutionality of that provision. The first is whether the position is an office or position of profit which a legislator is prohibited from holding under section 5 of Article II of the Constitution of the State of Alaska. The second is whether the Authority exercises functions which are of such an executive nature that appointment would constitute a violation of the constitutional doctrine of separation of powers.

Section 5 of Article II reads:

> Section 5. No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

This provision has been considered by our Supreme Court in Begich v. Jefferson, 441 P.2d 27 (Alaska 1968) where the issue was whether legislators were prohibited from holding positions as school teachers under the State of Alaska while serving as legislators, and Warwick v. State ex rel Chance, 548 P.2d 384 (Alaska 1976) concerning the appointment as Commissioner of Administration when less than one year from the end of his term had elapsed.

The purpose of the prohibition was stated in Warwick to be:

> The terms of art. II, sec. 5 of the Alaska Constitution are clear and unambiguous. The purpose sought to be accomplished by that section is not merely to prevent an individual legislator from profiting by an action taken by him with bad motives, but to prevent all legislators from being influenced by either conscious or unconscious selfish motives.

Section 6 of Article III of the Constitution provides:

> Section 6. The governor shall not hold any other office or position of profit under the United States, the State, or its political subdivisions.

The Court in Begich examined the intended meaning of the term "position of profit" in context of similar prohibitions on the governor and the judiciary saying:

> "We have concluded that the trial court correctly determined that the provisions of article II, section 5 of the Alaska constitution are unambiguous. Upon a reading of the constitution as a whole, we deem it of paramount significance that the phrase 'position of profit,' in addition to restricting members of the legislature, has also been employed as a restriction upon members of the judicial council, justices of this court, superior court judges, and the chief executive officer of the State of Alaska. Use of the term 'position of profit' in these articles of Alaska's constitution illuminates the reach the framers of our constitution intended to impart to this term in article II, section 5. This usage, considered with the fact that the constitution itself provides only two exceptions to the scope of 'position of profit,' namely, Article II, section 5's proviso that the section itself be inapplicable 'to employment or

> election to a constitutional convention,' and article XII, section 3's provision that 'service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this constitution,' indicates to us that the framers intended to prohibit members of the legislature, judiciary, judicial council, and the state's chief executive officer from holding any other salaried non-temporary employment under the United States or the State of Alaska.
>
> * * *
>
> "Our study has convinced us that the framer's choice of 'position of profit' in the various sections of the constitution to which we have referred reflects their intent to adopt a term which was broad in scope. This same analysis results in the conclusion that the phrase 'position of profit' was intended to bar members of the legislature, justices of this court, superior court judges, members of the judicial council, and the governor of the State of Alaska from concurrently holding any other salaried, non-temporary employment under the State of Alaska."

In my opinion membership on the authority by legislators or the governor constitutes dual office holding prohibited by the constitution.

Although the doctrine of separation of powers does not explicitly appear in our constitution, our Court has consistently held the doctrine as applicable in Alaska (e.g., Public Defender Agency v. Super. Ct. 3rd Jud. Dist., 534 P.2d 947 (Alaska 1975); and Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

There is a substantial body of case law holding that legislators may not serve on bodies performing executive functions because of the doctrine of separation of powers. Our Court has held that appointment of executive officers is an executive function saying in Bradner v. Hammond, 553 P.2d 1 (Alaska 1976):

> Appellee [Hammond] contends that the appointment of executive officers is an executive function. We find appellee's contention most persuasive. In addition to vesting the executive power of the state in the

> governor, Section 16 of Article III provides that "[t]he governor shall be responsible for the faithful execution of the laws." In view of the responsibilities imposed by Section 16, and the authority granted by Section 1, the governor is necessarily clothed with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska. Thus we conclude that the appointment of executive officers is an executive function; for without such a power, the responsibility for executing executive duties would be diffused and the goal of separation of branches of government, avoiding too great a concentration of power in one branch, would be defeated.

The United States Supreme Court dealt with the separation of powers question in Buckley v. Valeo, 424 U.S. 1 (1976) which concerned the regulations and the constitutional status of the Federal Election Campaign Act's regulation of federal election campaigns. Among the questions considered was the constitutionality of the appointment of the members of the Federal Election Commission. The committee consisted of six members, four of whom were appointed by Congress.

The Court examined the powers of the commission and found the commission, in addition to record keeping, disclosure and investigative functions, had extensive rule-making and adjudication powers. It also found the commission's enforcement power is "both direct and wide ranging."

The Court stated:

> Congress viewed these broad powers as essential to effective and impartial administration of the entire substantive framework of the Act. Yet each of these functions also represents the performance of a significant governmental duty exercised pursuant to a public law. While the President may not insist that such functions be delegated to an appointee of his removable at will, Humphrey's Executor v. United States, supra, none of them operates merely in aid of congressional authority to legislate or is sufficiently removed from the administration and enforcement of public law to allow it to be performed by the present Commission. These administrative functions may therefore be exercised only by persons who are "Officers of the Untied States".

The Court quoted from Myers v. United States, 272 U.S. 52 (1926). In that case the Court upheld the authority of the President to remove an officer he was initially authorized to appoint. The Court said:

> The vesting of the executive power in the President was essentially a grant of power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them under a system of subordinate . . . As he is charged specifically to take care that they be faithfully executed, the reasonable implication, even in the absence of express words, was that as part of executive power he should select those who were to act for him under his direction in the execution of laws.

The Court held the appointment requirement to be a violation of the doctrine of separation of powers.

The test to determine whether appointment of legislators to serve on a commission is a violation of the doctrine of separation of powers is whether the powers of the commission are executive or judicial in nature. This requires in each case examination of the powers granted to the commission.

Very broad executive authority is granted under Sec. 44.57.111.

In my opinion legislators are clearly prohibited from serving as officers of the authority as contemplated by this bill under the separation of powers doctrine and both legislators and the governor are prohibited from serving under the respective dual office holding provisions of the constitution.

BGB:ljb
19/022

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APR 1 8 1983

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: April 18, 1983

TO: All Legislators

FROM: Representative Jerry Ward JW

SUBJ: Knik Arm Teleconference

At the April 13 teleconference attended by Reps. Tischer, Larson and Ward and by Neil Phelps-Munson from Rep. Hayes' office, 35 people in Anchorage attended, of whom 11 testified, all in favor of the concept. I attach for your information a transcript of that teleconference.

Attachment

KNIK AND TURNAGAIN ARM CROSSING TELECONFERENCE
April 13, 1983
9:00 p.m.

Legislators Present:

Representative Jerry Ward
Representative Mae Tischer
Representative Ron Larson

Teleconference Agenda

The purpose of this teleconference was to discuss the proposed Knik and Turnagain Arm Crossings. HB 294 and HB 295.

Action Narrative

The Knik and Turnagain Arm Crossing Teleconference was called to order at 9:00 p.m. and Representative Ward introduced Representatives Mae Tischer and Ron Larson. The following is a verbatim transcript. (Tape begins here.)

Number 001

Representative Ward: I'm Representative Jerry Ward, I'm from Anchorage also here is Representative Mae Tischer from Spenard, AK and also Representative Ron Larson and we will be taking testimony concerning HB 294 and also 295 which are companion bills and the purpose of these bills are to establish a Alaska Toll Bridge and Causeway Authority for the purpose of building the Knik Arm Crossing. And at this time if the first person who would like to give testimony and ask questions, please step forward. The person I have on my list is Harold Galliett.

Number 027

Harold Galliett: My name is Harold Galliett, I live at 1616 Garden Street in Anchorage and I'd like to state that I favor the construction of the Knik Arm Crossing as far down Knik Arm as is feasible from an economic standpoint, because of the need to simplify traffic to and from Fairbanks and particularly to and from the large areas that can be developed in the Matanuska Valley. The present road and railroad, for that matter, pass along the base of the mountains and the area rapidly pinches out to the point where the amount of developable land is greatly limited. Whereas immediately across the inlet are thousands of acres that would serve for the expansion of Anchorage. It is not a bit to early to think about expanding the area in which Anchorage and its neighbors

can grow. We're becoming a sizable city that doesn't seem to be any signs of a decrease in our growth. Thank you.

Number 054

Representative Ward: Harold, thank you for your testimony, we will make that part of the testimony for tonight and it certainly was a pleasure hearing from you. Would the next person that would like to testify please come forward. I have Dave Ring down here.

Number 069

Dave Ring: This is Dave Ring in Anchorage and I appreciate the opportunity to talk to you folks on the other end about the Knik Arm Bridge. My particular interest has been for some time somewhat the same to get a crossing and I think that a couple of points that have been overlooked in plans that I've had access to and thats the development in Western Alaska. Most of the plans I've looked at have pretty adequately covered the need and the benefit for access to Fairbanks and points in between Anchorage and Fairbanks for the shorter distance that the studies I've had access to they don't emphasize Western Alaska, some don't even mention it. I think I'd like to suggest that we have a realistic possibility of coal development at Beluga that would be extremely enhanced with an access from Anchorage and that in itself might generate enough revenue to pay for a bridge by itself. Second way that this thing might advertise itself, as many people have discussed is a toll bridge. A third way that it might pay for itself and that's the sale of land within a half hours radius from Anchorage. In other words, a half hours driving time. Most of that land in under State ownership and some belongs to the University. Third way that I haven't heard anyone else expound on and thats the idea that gravel in the Anchorage area is becoming a pretty expensive commodity. The pits in the Sand Lake area have been closed, the only thing thats happening there now is a little moonlight and bootleg operation, extended permits perhaps, but the gravel thats in the Elmendorf Marain, which has the nature of some four or five thousand acres to it and its a pretty high quality gravel according to my testing, some of that would almost meet military specks without further processing. But be that as it may, the sand and gravel in that area with the markets that

Anchorage presents in the next 30 years would be one means and by itself would very likely pay for any structure. Thats about four ways to pay for a bridge, I don't know if we need to go a hole lot further that that, I'm sure that there are more ways but we have quite a few possibilities of where to put a crossing and some of them as much as 15 miles north from Anchorage up the Knik Arm. I think that crossings further up would be of less value to Western Alaska, they might have the same value in access to Fairbanks, Talkeetna and points along the existing route, but I think to give the best benefit to Western Alaska it must be as close to Anchorage as possible and if I had to suggest a location it would be in the immediate vicinity of the city docks, say a couple thousand feet north of the city docks but south of Point Karen, that would also keep it outside of the radar range for the military. I want to thank you for your time and your consideration and this is Dave Ring.

Number 158

Representative Larson: Yes, hi Dave, this is Representative Larson and I just wanted to mention one or two little things in relation to your comments. I think you are correct in your site location, the only concern that I have and I think that probably you and I have discussed this before that as we talk about the Knik Arm Crossing we also have to talk about a reason to make it economically feasible and some of the major reasons would be a port development at the Point McKensie area not to compete with the Anchorage port but to facilitate it. One being of course an importing area and the other a potential exporting area and therefore we would have to keep the bridge far enough north so that it would not interfere with the various shipping lanes that would be necessary to utilize both ports at Point McKensie and Anchorage. Do you have any comments on that.

Number 177

Dave Ring: Yes, I have. I've had access the studies conducted by the Mat-Su Borough groups on a location for a port site at Point McKensie. I've also been involved in hydrology work in Knik Arm for roughly six years, I've been involved occasionally in type flow and selenity content of the waters there, I've also been involved in soil sampling of the bottom in Knik Arm and based

on my study of the, or my exposure to these studies, I've haven't really done any formal study of my own, but I've been exposed to these studies as conducted by other people, I think that the choice of port locations has I know them to be by the Mat-Su Borough group is really a little to north for convenient landing of vessels in the winter months in the extreme ice flow conditions that develop there, plus that location has the possibility of continual necessity, like the port of Anchorage for dredging. I think a more southern point for a port site on the far side of the inlet could be located where no dredging would be necessary its more or less a self scouring area of 60 feet drop minus tide water. Over.

Number 205

Representative Larson: Thank you for your comments.

Number 207

Representative Ward: Yes, and the next person that I have on my list, this is Representative Ward, is Kristie Keele.

Number 212

Kristie Keele: This is Kristie Keele. I have a question. A lot has been said about the economic feasibility and affects of a crossing and what I'd like to know something about some of the aesthetic value as far as the pollution problems that any growing community will have and at the rate that Anchorage is growing and what this might do to alleviate or at least help those problems.

Number 221

Representative Ward: Yes, this is Representative Ward and before I start, I'd like to make notice that Neil Phelps-Munson, the Professional Assistant to Speaker Joe Hayes is here and he is also taking testimony with us at this time. But one of the things I think that people of Anchorage are acutely aware of is that we have pollution that has been growing at a alarming amount. There is a report that was just done and issued to the Anchorage Chamber of Commerce approximately six weeks ago, that report stated that there was going to be if the pollution, if an negotiated agreement between the Federal Government and the State and the City of Anchorage as far as the pollution level was not reached that there could be the possibly of a Federal ban on construction in the Anchorage area. This means that there would

be no more construction allowed because of the emissions of carbon monoxide. What we have is a situation where you have 200 people crammed into a little area. Its also been just computed out by the EPA on the State level that in 33 years what we're going to have with the growth of population if it continues at the same level in Anchorage, Alaska in 33 years from today anybody in that town will only live for approximately 30 minutes and then they will die. This sounds a little harsh but if you just look out of your windows tomorrow morning on a nice clear beautiful Alaska day you'll see this kind of a bluish blackish haze and this will continue to be there and I think that this is one of the things that needs to be addressed. Everybody is crowded in their neighborhoods, they're crowed at the 4 and 5 o'clock traffic jam. We can plan ourselves to death but until there is a release valve that lets the people go out of Anchorage and live outside of Anchorage, all we can do is stack up on top of each other and this is one of the major concerns because its the feeling of the body down here and the members I've talked to its time to plan farther ahead that just one budget to the next budget. We want to plan for not only our future but our chi'drens future and this seems like to reasonable way of doing it.

Number 261

Representative Larson: Yes, if I can just add a comment too. Southcentral Alaska is really the fastest growing area and the fastest growing state in the United States. One of the major benefits that I would see for the Knik Arm Crossing is that this would help us to have planned growth which would be very necessary and up realize that when you're in downtown Anchorage, you're less that 3 miles away from the Point McKensie area which basically at this time is uninhabited. We know that the potentials are there because with the Dahl-Shell Petrochemical Industry study we had to do samples for waste disposal, water supply, power potential and so forth. In other words, its just an area within 3 miles of downtown Anchorage thats really itching. And one of the methods of paying that we haven't really mentioned yet but I'm going to suggest to Representative Ward is something that we've used in many occasions in relation to capital

relocation. Once you establish the bridge there across the Knik Arm you have tremendous value added to the land prices on the other side. Most of those lands at this time are owned by the State of Alaska, and with the increased value of those lands, it could go a very long way in helping to offset the cost of the crossing itself. So those are just a couple of philosophical thoughts I had, but I do think they are worth bringing out at this time.

Number 290

Kristie Keele: Well, I would just like to say I am in favor of it and one of the reasons is expanded growth out of the Anchorage area and I do appreciate your comments. Thank you.

Number 293

Representative Ward: Yes, and the next person we have to testify is Jorge Hernandez.

Number 296

Jorge Hernandez: My name is Jorge Hernandez, I'm from Anchorage and one of the things that I would like to know is what is the approximate cost estimations at this point for the Knik Arm Crossing and what is approximately the growing cost of it or the percentage, 10, 15 or 20% eventually its going to have to built (undes.).

Number 308

Neil Phelps-Munson: This is Neil Phelps-Munson from the Speaker's office Mr. Hernandez. At the present time we don't have any current cost figures however, they are being produced by the Department of Transportation. You might recall a couple of years ago, Mr. Hayes was successful in getting 5½ million dollars put in the budget for preliminary work on the Knik Arm project and the Department is presently using part of that money for the purpose of preparing some cost estimates. We expect them very shortly. Now there doubtless are going to be higher prices than any of the previous estimates that have been done. We are encouraged to believe, however, that improvements in technology for this kind of work that have occurred in recent years will tend to hold down the cost more than the escalation that might normally be expected over estimates we've had in previous years. We do expect to have those figures in a fairly short period of time. I don't know precisely what we mean by short but hopefully before this summer.

Number 324

Jorge Hernandez: Another thing is what will be the estimated mileage saved by building the bridge or the approximate amount of time saved in driving distances.

Number 327

Neil Phelps-Munson: If I understand, first you are asking about the length of the crossing. There are, in previous studies that have been done, the most exhaustive study which was done slightly more than 10 years ago if I recall correctly, the block to block distance of the various crossings ranged from 8,500 feet in the shortest case to 25,800 in the longest case. The most likely probability, the one that seems most attractive for all of the reasons involved of these six studies is 12,900 feet long.

Number 339

Jorge Hernandez: I see. Thank you for your time.

Number 342

Representative Ward: Yes, Inez, this is Representative Jerry Ward would you put the next person on that would like to give testimony or ask questions.

Number 346

Ron Windeler: I'm Ron Windeler, I've lived in Alaska for 33 years. I'm very much in favor of the Knik Arm Crossing. My first question is what is the status of the Department of Transportation study that you just mentioned. I had heard recently that the Governor had cut off funding for that or in some way was slowing down that study.

Number 352

Neil Phelps-Munson: Mr. Windeler, what the Governor did instead of using the money to go ahead with the Environmental Impact Statement was make a decision with the concurrence of the leadership of the legislature to go ahead with a portion of that money for estimate work to determine if the project was fiscally feasible before spending the rather larger amount of money to go ahead with the EIS, that is the Environmental Impact Statement. And as I say, preliminary indications on that are that the project will be financially feasible, we don't have definite figures. Therefore, the EIS work will proceed. Now some of that has already been done, some of it is recoverable from previous years and the like. But that would be the next step and no, we don't have any indication that the

Administration is deliberately slowed the project, they have rather changed the direction for that short period of time for the purpose of being sure that we could confidently go ahead with it.

Number 367

Ron Windeler: So we actually just changed the order in which he was spending the money that was appropriated. Okay, my next question is what are the chances of passage of the new bills, I believe its Senate Bill 211 and 212, one of which establishes some kind of a authority to run a bridge and the other one appropriates a really substantial chunk of money to begin construction.

Number 374

Representative Ward: Yes, this is Representative Jerry Ward and it looks like, as they go through the committee process that it should be the Senate Bills, I don't believe, I can't really speak for the other body but I've talked to President Kerttula and he seems to feel very confident that it would go through. We have had a House Concurrent Resolution introduced by the bush delegation on the Senate side endorsing the concept of the Knik Arm Crossing and encouraging it. On the House side, we do have 27 signatures which it takes 21 to pass so we do have the support on the House side but we're still not rushing through the procedure because we want to make sure that the Toll Bridge Authority is set up properly so that has to go through the Committee process but we do have every intention of moving the bills through both bodies and to the desk of the Governor this session.

Number 388

Ron Windeler: Last of all, I have a suggestion, we talked a little bit earlier about paying for this bridge by the sale of State land across the inlet and somebody mentioned that land would increase in value tremendously if the bridge were completed. Unfortunately, it seems like its necessary to have money in advance to pay for the bridge rather that build it first and then realize its value and I was wondering if it would be possible for the State to dispose of some of the State land in the McKensie area in advance of the actual construction but after having announced an exact path and a timetable so that many people would be aware of the potential increased value and would be

willing to bid a great amount of money for land over there, nearly as great as they would be willing to pay at a later date when the bridge was complete. That sort of an approach might be able to raise many millions of dollars in advance to offset the cost of constructing the bridge.

Number 405

Representative Ward: Yes, this is Representative Ward. I have written in your comment and I certainly will put this into the consideration. One of the things that we have done since the Speaker and the President have filed a joint bill as the leadership of the House and the Senate, there have been several proposals come forward which I found, if I can just run those by you very quickly, the land one that Representative Larson and yourself have just brought up is an intriguing idea, the coal and gravel has been brought up several times, not to leave out the fact that it is a toll bridge so just paying from actual passenger traffic can be done in about 10 years, but besides that we also have got phone calls from the electrical utilities, Chugach Electric and Matanuska Electric both are going to be writing letters of support so they can take their underground cables and put those on the bridges. We understand that there is a figure floating around for replacement of 3 of the cables of some $100 million which would go for offsetting the cost of the bridge. We also have had a proposal that has been introduced, at least for discussion purposes by Representative Cowdery for transporting water across the way for the Anchorage area which will be in need of water in about 3-3½ years if the population continues at its present rate. Everything I see says that this bridge should have been built about 10 years ago and the land idea that you have in very intriguing and I think that if my numbers worked in my head as I just added up the amount of State land available, I think we could build about 3 of these.

Number 437

Ron Windeler: Thank you very much, that's all I have to say.

Number 440

Ken Wardwell: Yes, my name is Ken Wardwell and I live at 1444 Hillcrest Drive, Anchorage, and I've lived here since about '66 and I'm also in favor of the Knik Arm

Crossing and I'd like to start with a question. What negative things have you encountered that would hold up the completion or even the beginning of building the bridge?

Number 446

Representative Ward: Yes, this is Representative Ward and I sure hate to be the one to give bad tidings, but the negative things seems to be at this point is I think people when we have been able to get response, it seems to be one way or the other, we should build it or we should not build this bridge because it hurts a program which is they have a feeling that there is a competition for money and that seems to be the overriding thing at this point. And there is a competition for money and thats why we are going on a usery type of basis and I think that this body, and the leadership is decided that if a project cannot stand upon its own, then we really don't want to get behind it and thats why we have gone on the Toll Bridge Authority and we're trying to find creative forms of financing and creative forms to pay for the project so that we can go forward, but the only thing that we have found, or that I have found on a negative note is the fact that people have felt that State government may not be giving out quite as many dollars and they did not want another, did not want any projects if it was going to affect their own personal project that they might have an interest in, so there has been a lot of comparing type of things. I'll turn it over to the other Representatives for there comments on negative.

Number 465

Representative Larson: Yes, this is Representative Larson. I guess I'm going to speak frankly here that the biggest negative isn't that I have seen over the years is been that we've had too many politicians and not enough statesmen. For example, in relation to the Point McKensie road, everyone always says to me why build a road there's nothing at Point McKensie. I say when you build a road there's going to be something at Point McKensie. When you build the bridge there's going to be a lot more.

Number 474

Ken Wardwell: Okay, I guess a comment I'd like to make is there's been some recent proposals to bring natural gas from the north slope to, well there's been several

proposals, one of them is to bring it to Kenai. Has anybody considered bringing it to the Point which would also have a deep water port and it would also be able to service potential users of the population of Southcentral Alaska?

Number 481

Neil Phelps-Munson: Yeah, Ken, this is Neil, good to see you, I haven't talked to you in a long time. The biggest negative as I think two members have expressed here is peoples lack of faith in the capability of the State to tackle a project of this magnitude and serve other needs of so many people or other wishes and needs so many people have at the present time. As far as gas is concerned, Jerry has just added that to his list of ways in which the crossing can be paid for. I've been wrestling with this thing myself for about a dozen years having worked in the Department of Highway some years ago. I've heard it said that if everyone studying the crossing had taken a rock with him, we'd have one by now. That may be a slight exaggeration, but probably not far from the truth. I think the introduction of this legislation is probably most important single step that has been taken in recent years. I think its more important than the $5½ million that the Speaker managed to get into the budget 2 years ago, simply because it will test the public confidence and I think reassure the public confidence that this thing can be done. And of course people who are heartily in favor of the project like those of you there in the room can help a great deal too.

Number 496

Ken Wardwell: Yeah, it seems interesting that in public testimony like this and for several years it seems like everything that comes out seems to positive in favor of it to include newspaper articles and through those years we always see steady groups and little bits of money being put out in some kind of serious or semi-serious study one or another. And then, you know, in a place like LaTouche, where all public testimony comes out negative to building a facility there for boats, and you know, thats trying to go through, trying to put it through. I sell real estate here, have been a broker for several years and we're rapidly running out of property to service the needs of the community and I

think its probable that the bridge will have to be built, or a means to get to the other side to open up that land for the needs of the population of Southcentral Alaska. I think that should be a serious consideration rather than at the last moment say okay, and to just throw money at it, we ought to be prepared with good serious studies and good serious cost amounts and timetables to be able to do that.

Number 517.

Representative Mae Tischer: This is Representative Mae Tischer and I've got to throw my two cents worth in here. While you were talking, something just kind of flashed on me and I'd like to share a kind of correlation, a comparison. It has to with when my kids and I were building our homestead in the Susitna Valley area and we were planning on building x number of square feet and so forth and so on and buying our logs instead of pealing them ourselves. One of the things that was told me, because neither I or my children ever really built a whole house by ourselves, which we ended up doing. What happened was the fellow that was telling me this gave me good advice, he said,"you know, the actual structure won't cost you that much but", he said "you can nickel and dime yourself right down into debt if you don't look out when you start on the interior of your home". And I compare that with what I see as a freshman here in the legislature in looking back in the previous budgets where the State has really nickeled and dimed themselves to death and placed themselves in a real funny position where they have funded little bits and pieces here and there and never really come up with anything really constructive as far as a viable long-range plan for development of the State. Instead, it kind of chips away the bulk of the money and pretty soon you're down to not enough to fund something that is really very important for our development and our progress to prepare for the massive amount of things the State can do for ourselves, in other words, if we build a road as Representative Larson says, there's going to be some productivity coming out of it, its not just for traffic running back and forth for recreation, there's resources to be developed, there's lands to be claimed and there are new horizons out there. This is the only State

in the union, yet, that offers that sort of opportunity and its a terrible, terrible problem in trying to convince people that once you put something out there that will give us a corridor to advance your economic base and broaden our economic base we will back a saddle in square one again like we were six to eight years ago. And this I see as probably the best thing that will happen out of the Knik Arm Crossing outside of saving the Anchorage area from pollution and such things as that, diminish our crime rate and all the things that go with overcrowding. Thank you.

Number 550

Ken Wardwell: Yes, thank you very much.

Number 557

Alfred Mangus: My name is Alfred Mangus and I live at 4805 Mills Drive. I've lived in Anchorage since 1962. I'm an unemployed civil engineer. I'm in favor of the project, certain it will have a great impact on the community, such as many famous bridges have. Brooklyn bridge will be 100 years old here in another month, the Golden Gate Bridge and the Oakland Bay Bridge were both built during the great American depression. They are both toll bridges. The Golden Gate Bridge has been paid off by the Toll Bridge Authority. I feel that if the State doesn't have the capital to directly fund the bridge the Toll Bridge Authority option should be looked at. It would be a means of funding the bridge, I think, and giving them a possibility of raising capital from outside sources. I think that the bridge will come about eventually, I hope that it will have a positive impact on the community and I'd just like to say again that I'm in favor of it.

Number 578

Representative Ward: Well, Alfred, thank you very much for your testimony. This is your Representative Jerry Ward and its sure a pleasure to hear from you. We do have the means to finance it and have it on the form of usery, whether it be people that own coal, gravel, land, gas or water or else the people that actually drive across it, we do have the opportunity to finance the bridge at this time and that's the way we are proceeding and we certainly appreciate your comments. Something that I'd like to make note of right now for any of you in the room and I sure want the next person to testify, but if you

could possibly, there's a phone number that's with the person that's the monitor there at the thing at your end of it and there's a system called public opinion messages. You'll be able to get that phone number and just pick up your telephone, call that phone number and give it to all legislators and state your opinions and this will move more mountains, I've seen it happen on three different issues down here and if 100 of these public opinion messages come in then the project goes. So I hope everybody in the room understands clearly what I'm saying. This is the way the public speaks, there is no charge to you, it is picked by the State, it is a telegram that is paid for through your tax dollars, although we don't pay taxes right now unless we're a corporation, but its paid for by the State, and it is a public opinion message up to 50 words and I would encourage everybody there to please send those to all the Representatives and Senators so that we can compile those into the public input and I'll take the next speaker at this time and then I'll look around for the phone number in case it isn't there.

Number 608:

Jack Spake: My name is Jack Spake and I feel sure that all you people down there on this board know me quite well. I started out working on this Knik study when I was a young man and I've reached the age, soon to be 73 this April and I see that we're not very much farther away from the first stage that we had initiated in 1972. This was quite a comprehensive study and I was also worked on the Chamber of Commerce Highways Board getting the $5 million to continue this study. I think that the study of '72 would just merely have to be updated a little bit and I feel that we studied this thing to death. We have had all kinds of proposals. This first study we had gave you a location, gave you a design that was practical but needs updating a little bit but it just don't seem to be going forward like it should. I think we should make every effort to get the Knik Crossing going, if we don't it going to price us right out of the ball park. Had an estimate of $125 million in '72, I think this wholely approaching estimate and the estimate of time given by this consultant thats being employed now, talking waggle about 1990-1992 before the thing could even

be under construction. You take the inflation rate at the present rate it is, maybe 10% you're talking about a billion dollars or more for the time of '88, '89 and '90, I think its going to price us right out of the ball park if we don't get on the ball and get this thing going. I think that it could be done by this bridge commission you're talking about and I think it could expedite the project as much as 3 or 4 years if the proper people were put on it. And another thing I think is that your legislators there have should assist the Mat-Su Borough, Mr. Larson especially has been a strong advocate of this project for many years getting the $7 or 8 million he needs to complete the road out to Point McKensie, maybe this will stir a little more action on. But this is something it seems to me I spend all my 7 or 8 years when I was Division Engineer for the Department of Highways from '70 to '77 on this project and I just got myself so interested again I come out of the woods and I'm back working on it again and I just feel that every effort should be made by you legislators. Most of the legislators, especially the new ones, on their campaigns promises said more roads, Knik Crossing, Susitna Dam and so forth through the legislature I haven't seen anything in the papers or anything where any effort has made to get some supplemental funding for these projects and I think that it would behoove you and the rest of your legislators to get something going. I feel that you may have a couple of questions, I'll stop now because when I get started on highways, its pretty hard to shut me up.

Number 642

Representative Larson: Yes, this is Representative Larson and I'd like to thank you for your kind words but I'd also like to give due where due is given, Representative Ward has been very, very active on this and is doing a very fine job.

Number 645

Representative Tischer: Amen to that and amen to your comments. This is Mae Tischer speaking. I can't tell you how much I enjoyed listening to what you said about your involvement in the studying of Susitna or the Knik Arm Crossing. I remember when I first came up to Alaska 23 years ago, that's one of the first things I heard talk about and that

was 23 years ago and I agree with you that it has been studied to death and I believe that right now we've got stacks and stacks of actually parked right in front of us here and I agree that its time to move forward. One of the things I think that I recognize at least this year which is different from the last, oh say, 8 years is that we have a new administration and a Governor who is for development and is for this project, its one of his priorities at least to see to it that it is looked into to the point where it can be done or not done. I think he is taking steps to do that and I think he is right and I think the legislature as a whole especially on the House side with 27 sponsors of HB 294 and accompanying bill gives you an indication of how much support it really does have. When people down here put their name on a bill as a sponsor they're committed to that project or to that bill, provided the doggone bill doesn't get changed to a divert or the intent of the legislation remains the same. But anyway, I see this, I'm very excited about the probability of this being accomplished within a very short period of time. The fact that the State has had money in the past 4 years should have made that thing go a long time ago, and we've got a group of new legislators this year that really aren't afraid to step forward and take a stand on something like this and I for one did campaign on the Knik Arm Crossing and the Susitna Dam and roads and so forth and as far as I can see, things are moving along as well as can be expected at this point in time and I think that by the end of the session you'll see some real good action.

Number 673

Jack Spake: We are going through a new era where people are somewhat in favor of highway construction and projects of this size, where back in the 70's the favorite expression that they were given me at all the public hearings that I participated in were quite a few from the first one where we had a 1,000 people and 996 of them were against anything that we were proposing back in the 70's. I think this attitude is changing now toward these types of projects. I think everybody that I've talked to and I think that they are all in favor of this project and I think it would do a great benefit to the Beluga expansion, the coal, the lumber everything over there

and also get some of this traffic congestion out of Anchorage. It won't be too long before you're going to be walking on top of cars to and from work instead of driving them. Its just getting to be ridiculous, we're not doing any advance planning for large construction projects in Anchorage. We're all still working on a program that was conceived back from the (undes.) back in '74, '75 and '76 and they're just merely increasing their present widening the streets and things like this, some interchanges but we've got to come up with some large plans of highways above and highways below or we're certainly going to be in a position where we are going to have to eliminate a few automobiles. I have noticed since 1974 and 75 we had 94% one car occupancy and we still got 94 and maybe 95% one car occupancies and the administration of the city and the state have both tried to get more than one person in a car, and I don't know just what to do. Buses are not going to be the complete answer, we're going to have a system, a monorail, maybe go back to electric cars, something that people really call me a dreamer, but you're going dream up something for Anchorage, you've got to help us. Thank you very much for listening to me, you'll probably here more from me now that I'm back in the saddle again.

Number 695

Representative Larson: You're going to have to listen to one of the things that I've been advocating as a possibility for years, but before I mention that, I do want to mention one more positive step here, and maybe it sounds strange coming from a member of the minority, but I think a positive step here is that the bills that are before us are sponsored by majority, excuse me, the Speaker of the House, Joe Hayes and its also supported, of course, on the Senate side by the President Jay Kerttula, so it does lead me to think that everyones serious down here about these bills this year. But I'll tell you about the monorail some other time.

Number 704

Representative Ward: Thank you very much, this is Representative Jerry Ward and for that phone number for you that were waiting there with the pencils in hand, its 278-3668 and all you need to do is call that number and you can send a 50 word telegram to all

legislators to legislative affairs and that's at no cost to yourself, that is picked up by the State and they are very, very influencial to the decision process down here. Its 278-3668 and we would be glad to take the next person that would like to testify at this time.

Number 711

Pam Schlegel: Hi, my name is Pam Schlegel and I (undes.) believe in that. I think that Alaska been caught in a time where we believed in a boom and bust. We had a boom economy and then we bust and everybody (undes.) I believe I'm one of the first or about the second generation Alaskans other than the traditional Alaska native and I believe that there is a strong pull in this country, Alaska that we all are starting to settle, we're going to stay here, boom or bust, we're going to live here and I believe that the Crossing is a good thing, I think Alaska, Anchorage is a perfect example of boom and bust, it has been built, its design of the city is traditionally not well planned and we're constantly now having to redo things because we're outgrowing the area. I think the bridge is a wonderful idea to open up an area that is fresh and new and that we could maybe better plan for a good living for our families and have land to live on and that and as well as the economical basises for industry and growth. The only real true point I want to state is that I believe that the future you are going to see is that people are going to stick around and that they are going to believe in Alaska and possibly be more active politically and whatever in the growth of our state versus well just staying at home and you've got your cabin and as long as somebody doesn't intrude your land it doesn't bother you. As far as the crossing goes, I really hate to see that we've had 10 years to study and thats it. And we keep studying, and we keep studying and we keep studying and thats all that it goes to and I just think like its been pointed out that the cost keeps getting larger and all we do is study how much its going to cost one more time and I'd sure like to see something more positive go toward this move. And I hope that what I've been reading in the paper, that its not going to be funded is not true.

Number 764

Neil Phelps-Munson: Thanks Pam, this is Neil. We're glad you're in Alaska to stay. As you heard Jack Spake say a few minutes ago we do seem to be coming into an era when development of the kind we're talking about tonight is gathering more favor that it might have in the previous decade, that people are realizing that we can do things like this without destroying the entire countryside, and that we do need them badly. What we need right now, of course is a lot of public support from people like yourself among friends and neighbors to get things like this going because the people down here are required to vote for it and pony up the money for it we'll do what their constituency's tell them they want and we know its possible but requires the public support to do it and I think any member of the legislature would agree with that opinion.

Number 780

Pam Schlegel: I concur too. Thank you.

Number 784

Representative Ward: Yes, if we could have the next speaker at this time. And Pam, thank you very much and also letters to the editor would help quite a bit to both newspapers.

Number 791

Scott Svendsen: My name is Scott Svendsen and I was born and raised in Anchorage. I'm 34 years old now, Jerry I know you know me down there. As I look around the people in this room, I notice that many people here are quite a bit older than I am, I'm 34 at the present time and I would venture to guess that many of the people sitting here who are older than I am have attended many such meeting as this and I would imagine that they have quite a few meetings left in them, but what I want to know is how many more meetings are we going to have to have before we can really get the ball rolling? Like I say, many people have attended a lot of meetings, but I'd really like to see something happen besides just the consultant studies that have been done. You know, I think that the Knik Arm Crossing is an expensive project, it has always been an expensive project and it will continue to be an expensive project but the way that the real estate is developing in Anchorage is that there really is a dwindling amount of land available and it seems to me only logical that we may have some up front

expense in getting that bridge across but for the welfare and the benefit of Alaska residents as well as Anchorage and Mat-Su area residents that this would be a good thing to do. I'm hoping that this is not just another bunch of lip service, that there will be an attempt a serious stride forward and I certainly would lend a hand on a volunteer basis to help this thing become more of a reality. I also have to state at this time that I am not a land owner in the Point McKensie area or anywhere need abouts, but I just feel so strongly that we need to go in this direction that I'm speaking to you today because of that. Jerry, goll darn it, lets get to work.

Number 840

Representative Ward: Well Scott, I sure thank you very much for the other people there, they might as well know my age too, its 34. I was born in Anchorage and grew up with Scott Svendsen and its been about 20 years since I've seen you. I guess our thoughts are running along the same ways from when you used to play down at the trestle and look across there and wonder when they were going to build that bridge. Now we're both 34 years old and I'm down here doing everything I can to get it built and so is the Speaker of the House and the other members that are here, the freshmen members and the other ones and we are going to get it built. We are here to do a job, we want it built we can only do it with public support and the volunteer work that you mentioned Scott, its good to hear your voice again and like I say the phone number is 278-3668 and I don't know other to emphasize that, I've seen it work on Student Loans, I saw it work on Displaced Homemakers, I've seen it work on almost everything and I'm asking anybody that wants that bridge built to get on, get off, get on the stick and send those things down here, I almost said something wrong there didn't I? Its all public opinion at this point. We need your public opinion in the form of some tangible pieces of paper through telegram system that the State has and we will build it. I hate to be, no I don't hate to be optimistic, but I look at this program and I turn key operation and we can not remove it from the Department of Transportation but maybe let them watch over it with a careful eye. I foresee that from

today 3 years from today, I think that we could be driving across there, I really do believe that.

Number 875

Representative Larson: Yes, Scott as long as we are all confessing our age, I might just, this is Representative Larson, I might just as well tell you that I'm 29. I've been stuck on that number for 19 years now.

Number 881

Scott Svendson: Thats too mauy more meetings to go on this. Anyway, Jerry thank you very much and the rest of you down there thanks very much and I appreciate your efforts as well as everyones there.

Number 885

Representative Larson: Scott, in relation to the number of meetings that we are going to have to attend, I guess my answer will be, we'll attend as many as it takes to get the job done soon.

Number 888

Scott Svendson: Okay, great I appreciate that, thanks. I'll be there too.

Number 889

Neil Phelps-Munson: Scott, this is Neil. I'm not going to tell you guys how old I am but I was born in New York and I've been in Alaska darn near as long as you have. Further on Jerry's remarks, public pressure and opinion can get things done. You'll recall three years ago you were paying personal income taxes to the State and today you're not, and it was strictly, believe me, the public outcry that brought that about. There was resistance in the legislature and the administration to the repeal of the personal income tax, but it got done and it was people like you that got it done.

Number 900

Representative Ward: Yes, if we could have the next speaker now.

Number 904

Ron Windeler: Ron Windeler again, we don't seem to have anybody else ready to speak at this time and while I was sitting there listening I was doing a little thinking and developing on the idea that I proposed to help finance this project. My new thought is that if it becomes very difficult or impossible to get the legislature to appropriate $50 million at this time perhaps because our projections for income may slide even further and people may get desperate and

decide that they can't afford this project, would it be possible instead to have the state cede to this bridge authority title to a substantial section of the state land over there and allow the bridge authority to sell the land as they see fit to raise the money to pay for the bridge.

Number 922

Representative Jerry Ward: I have written that right next to your first proposal. I think that it is entirely possible, I don't see why not. The State, the people own the land anyway, its already theirs. I might as well make one thing clear, along with House Bill 295 and 294, there is a letter of intent that is accompanying it at this time and it does appropriate $25 million from FY '83 and the additional $25 million in FY '84. Which would mean $25 million this year and $25 million the following year. This has been proposed by the people that are in the bonding business that would be enough to get the program off the ground and to start the rolling, generatings of the revenue bonds to make it work. But your proposal does sound very interesting and all of these proposals are going to get consideration as this bill passes through the committees.

Number 937

Ron Windeler: Thank you.

Number 940

Representative Ward: Is there anybody else that would like to testify there.

Number 945

Dave Ring: I'm always good at afterthoughts. I don't think I covered this before and thats a matter of establishing priority on State spending. I'm pretty well aware and I'm sure everybody else is that we've got about 100 projects for every dollar laying around. I think it comes down to mentioning a few projects where I would willing put this project first. For one, I'd like to see this project undertaken and completed before we spend $5 billion on a hydro project anywhere or Susitna. I would rather see this job undertaken and funded and built before I see the people of the State of Alaska take over an already operating railroad, and I don't really think that the State has demonstrated the ability to operate that much better than the people that are there. That would dry up a billion dollars worth of state money to buy the railroad. The third idea, I've heard a

couple of our former Governors kick around the idea of spending $25 billion to build a gas line to somewhere. There is some merit in building a gas line all right, I don't deny that at all but I think for the State of Alaska to involve any money in that thing I'd vote for that just right after a Knik Arm Bridge. I don't think I'd want to put that project first. I wouldn't recommend that you put it first either. I think there's good many projects throughout the state that while they do have some merit, they do have some worth, and they'll have a long term benefit I don't think there's any of them that's going to exceed this project. I would willing put education in this state ahead of the Knik Arm Bridge. I would willing see our schools and our colleges come first. I would willing see the health and welfare measures come first. I would like to see construction of a Knik Arm Bridge come right behind them. I wouldn't want to see any major projects in the state come ahead of the Knik Arm Bridge, if they did, I'd sure want to look at it quite a while to see if it really had the merit to give a dollar per dollar return that a Knik Arm Bridge might possess. Thank you.

Number 987

Representative Tischer: This is Representative Mae Tischer and I'd like to add to your comments by saying that its abhorable that the state of Alaska with just a little under 420,000 people have to spend $1.7 billion just to operate state government. That's the first thing I think that surprised the heck right out of me. That's approximately, with state employees running something like 15,000 in total and right now nobody's been able to give us an exact figure of what number the state has in employees, thats about 1 employee for every 23 people in this state. Thats almost like a classroom teacher ratio. And to me, we're spending a lot of money on bureaucracy where we should be taking it and doing something like the Knik Arm Crossing. I believe that that should be looked at too.

Number 001

Dave Ring: Thanks a whole lot.

Number 005

Representative Larson: If I may, maybe I just found the $50 million for us. I agree with Representative Tischer that the population of the State of Alaska is

somewhere in the neighborhood of 415 to 420,000. Yet we're paying out 471,000 dividend checks that means $51 million in fraud. There we go.

Number 012

Representative Ward: Yes, Dave, I'd like to add this to you since you did bring up two things that I basically hold in high esteem because I think that they are worthwhile projects although I haven't had the opportunity to have that legislation in front of me and that is the Susitna and also the railroad, and when I look at those I also want the Knik Arm Crossing. As I look at the bill on the Knik Arm Crossing if it does not stand on its merits, meaning that it will not pay for itself, I will not vote for it, I will not allow it to pass, I'll do everything I can to stop it. I intend to do the same thing on Susitna Dam, I intend to do the same thing on the Alaska Railroad, and I think that is the general error of the peoples thinking down here and I'm sure that this has not always been the case. But the people that are in this room and the sponsors of this bill I would say at least have this fundamental basis philosophy and that is if the project is worthwhile and it will stand on its own merit, then we are going to support. If it isn't then we are going to call it what it is, an idea that its time has not and will come. But I intend to look at all of those things, the railroad, the Susitna and the Knik with that in mind and I do believe that the Knik Arm Crossing absolutely stands upon its own merits and it will pay for itself and it will be one of the generating, income producers for the city of Anchorage and for the State of Alaska much, much longer after I'm gone. I hope that the Alaska Railroad and Susitna Dam will also fit into that category although I do not have the proper numbers for it at this time.

Number 043

Dave Ring: I appreciate your comments. I think I could be more enthusiastic about a Susitna hydro development if it were scaled down, if it were say a billion dollar project I would probably be more enthusiastic about it. I look at a billion dollar project as needing to return about $100 million a year in benefits. I look at a $5 million project as needing to return $500 million a year in benefits. So far, from what I can see it

doesn't make that promise. On the other hand the Knik Arm Bridge promises to return 4 times its cost in a 30 year period from about 4 different ways and if I messed up somewhere along the line there, excuse me for letting a little of my enthusiasm get in there. But I appreciate what you're doing and I appreciate the opportunity for everybody to have a whack at this. Theres quite a few people in the crowd that d[illegible] want to speak and I don't want to take mor[illegible] hoping that somebody else has shown up that will. Thank you again for the opportunity and I hope that we can do this again in the future sometime and maybe involve a few more of the legislators at the same time. Thank you.

Number 067

Representative Ward: Thank you very much Dave, and just for clarification, your arithmetic is exactly the same as mine and I'm hoping that those are the numbers that I've been given and if those numbers retain and the projections retain on Susitna and the railroad, then yes they are in jeopardy at this time but being one thats an optimistic person I always see that the good things have a habit of turning out fine. May we have the next speaker now.

Number 078

Walt Corey: Yeah, this is Walt Corey here and I've been Alaska around 25-26 years and it seems like year after I got here somebody was talking about building a dam thing or some[illegible]hing across the inlet but I wasn't too enthused about it then because I didn't know anything about it. However, the past few years last 10 or 12, 15, I have been quite enthused about it. I think it should have been just like you people said a few minutes ago, it should have been built 10 years ago. The rate things are going, it doesn't look like its going to get built for another 10 years. I'd like to see it finished in 3 but thats well, neither here or there. With the pollution, with the crowded conditions, with everything else thats been brought up here tonight, I am wondering if we have any choice but to build that thing as quickly as we can and thats about all I have to say.

Number 092

Representative Ward: We thank you very much and everybody in this room is shaking their heads, Walt and that is our feeling right now that we feel that it must be built for these

reasons and each person here has a separate reason as far as the economics of why its justifiable and also because of the crime and because of the pollution that you've mentioned and I'm glad that you spoke and you finally said it. Yes, we must build it and we'll be glad to take the next person at this time and we hope that people that are observing would gladly come forward. We work for you. At this time I will say my sign off and turn it over to the other Representatives and my name is Representative Jerry Ward and my sign off will be 278-3668 to send in the free public opinion message, 50 words or less 278-3668 or you can write letters to the editors of the Anchorage Times or News and if anybody wants to get on the 6:00 news and say that they want to build a bridge, that would be fine too. And we will do the work on this end, we're working for you and we're gonna get the project done and good night to you and I'll turn it over to Representative Larson at this time.

Number 115

Representative Larson: Yes, I just want to thank Representative Ward for the opportunity of taking part in this teleconference tonight and I guess if I had any words of wisdom I would say that probably one of our problems at this point is that we've been preaching to the Christians, its time we go out now and make a few converts.

Number 120

Representative Tischer: Thank you Ron, thats an excellent idea and that just spurred a little spark in my head also. Mae Tischer speaking, you know one of the things that I learned over a good number of years when I worked for the Muscular Distrophy Association was that enthusiasm breeds enthusiasm and one of the ways to do that is that you kind of carry the flag and then I learned that while campaigning in this last election myself that visibility has a great deal to do with the success of a job to get done and the visibility can be done in many ways, in a campaign you put yard signs up and bumper stickers out and put flyers out and so forth, some people parade up and down the street, some people have rally's and some people demonstrations. Well I've seen demonstrations down here on the capital steps for various and sundry causes and they're very effective. I've seen demonstrations

down at City Hall in Anchorage, I've seen them on the federal building steps, I've seen car rally's with signs all over them running up and down the street, up and down the highway and so forth and I'm so terribly enthusiastic about the support that so far we've heard and we haven't heard any negativeness coming out and of course, as Ron has said you know there are some converts out there that need some attention. The group that we are speaking to tonight and those that for this project and will favor it have now the opportunity with the enthusiasm that we have down here in the legislature, outside especially the support from the communities is a vital vital portion of getting this job done and any means by which you can foster this project, by means of demonstrations, by the telephone calls and the letters and the public opinion messages and the bumper stickers and whatever else you can think to rally around the flag if you will, I encourage you to do that. It may sound rather light if you will but it has a tremendous impact and it certainly does get in the news and the news has a way of spreading, it has a way of influencing people. The more they hear about it the more they think and the more encouraged we will be than to feel that going ahead is the positiveness and the feeling of and concurrence with the constituents that we represent. So with that I would like very much to thank all of you for coming out tonight and to Jerry for getting this teleconference together and as Ron said earlier, as many meetings and as many things that we need to do we will be there to do it. Thank you and good night.

Number 163

Neil Phelps-Munson: And finally, this is Neil one more time for Speaker Joe Hayes and he asked me this evening to give each of you listening his word that he is certainly four square behind the project and has been for some years and as I mentioned earlier was instrumental in the most recent increment of money to be put forward for the project. I also know that he very clearly recognizes the value as the three members here have said, all public demonstrations behalf of something like this whether it be an actual demonstration in terms of marching on the legislative information office or as Mae,

Jerry and Mr. Larson have said, letters to the editor and practically any way you think of to attract public attention to the project in Juneau, there's no reason it can't be done, there's no reason the legislature cannot be encouraged to go for it this year and as I said the Speaker is certainly four square behind it. After all he is prime sponsor of the two bills before us right now. Again, on his behalf, thanks a lot for participating tonight, we hope you will continue to participate until you can drive across that cotton-pickin bridge.

HB

295

COMMITTEE REPORT

5/12

HOUSE

FURTHER: FINANCE

(9)

3/24/83

Date: 5-11-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 295

"An Act making a special appropriation to the Alaska Toll Bridge and Causeway Authority for the design and construction of Knik and Turnagain Arm Causeways; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB295 (Trans) [X] same title [ ] new title

and recommends [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the [illegible] already referred to Fin Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	[illegible] No Rec
[illegible] Do Pass	[illegible] No Rec
[illegible] Do Pass	M.W. Miller No Rec
[illegible]	
[illegible] do pass	

[illegible]
CHAIRMAN

H 60

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES

DEPUTY COMMISSIONER

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1440

May 3, 1983

The Honorable Bette Cato
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

MAY 11 1983

Dear Representative Cato:

The following analysis gives a breakdown of the costs associated with the Knik Arm Crossing project. The Department anticipates that all of appropriated funds ($5.5 million) will be required to complete the project. The amount of funding actually spent or from the project account as of March 23, 1983 was $931,445.

	Total	Item Allocation	Amount spent as of 3/23/81
Amount Appropriated	$5,500,000		
Funding Allocation	$5,500,000		
1. Overhead, RSA & Contingency	$ 600,000		
a) DOT&PF Overhead		$ 86,575	$ 86,575
b) RSA with University of Alaska for Geotechnical Analysis		70,000	-0-
c) Contingency		443,425	-0-
Sub-Total	$ 600,000	$ 600,000	$ 86,575
2. Design & Construction Division			
Authorization	$4,900,000		
a) Consultant Work Plan		$ 30,000	$ 30,000
b) Consultant Contract for EIS and Preliminary Design (thru Invoice #5)		4,200,000	330,763
c) Department Personnel, Expenses and Other Contracts		670,000	484,107*
Sub-Total	$4,900,000	$4,900,000	$844,870
Total	$5,500,000	$5,500,000	$931,445

* Of this amount approximately $208,431 was for contractual services to provide aerial photography.

Our current consultant contract with Engineering Manpower Services/Sverdrup and Parcel may be summarized as follows:

	Cost Allowance
Cycle 1 - Corridor Identification	$ 1,300,000.00
Cycle 2 - Environmental Investigation	2,400,000.00
Cycle 3 - Preliminary Design	500,000.00
	$ 4,200,000.00

Cycles 1 and 2 involve determining specific location and alignments for the crossing and highway approaches; and obtaining an approved Environmental Impact Statement which is necessary for obtaining required construction permits.

In February, the consultant was directed to temporarily suspend the project work plan, and to focus all efforts on an evaluation of the economics of the crossing. The consultant has completed that evaluation, and its results are included in a report titled, "Economic Feasibility" (April 15, 1983), in which costs, benefits, and environmental impacts are estimated based on conceptual design of a representative alignment. The report concludes that building the Knik Arm Crossing and approach roads is economically feasible.

In light of the report, the Department has directed the consultant to proceed with Cycles 1 and 2 (Corridor Identification and Environmental Investigation) of the original work program. Cycle 3 (Preliminary Design) will be modified to include bid documents for private financing, design, construction and operation. Negotiations for the contract changes are underway and will take several months to complete.

Although some Cycle 3 tasks may be deleted, the requirements for bid documents are essentially an increase in work effort. Additional costs which cannot be absorbed through changes to the current contract will be funded from the contingency allocation of $443,425.00.

If you have additional questions on this matter, please contact me.

Sincerely,

David W. Haugen
Deputy Commissioner
Central Region

WRS/DM/RM/JH/ey/bpa

cc: Dick Armstrong, Director
Design and Construction, DOT&PF

Jerry Hamel, Project Manager
DOT&PF

$631 million Knik crossing plan unveiled

4-16-83

by Bill White
Times Juneau Bureau

Juneau — Gov. Bill Sheffield Friday unveiled a $631 million proposal for a 3-mile bridge across Knik Arm linking Anchorage to the Matanuska and Susitna valleys.

Sheffield gave the go-ahead for the state to explore building the long-awaited crossing with a blend of state and federal money.

Dan Casey, commissioner of transportation, said the state will use a $5.5 million appropriation made two years ago to conduct engineering — including final route selection — and environmental studies for the project over the next year.

If the project is found to be viable, bids could be let as early as next year with actual construction between 1986 and 1989, Casey said.

The proposal drew the tentative endorsements of Senate President Jay Kerttula, D-Palmer, and House Speaker Joe Hayes, R-Anchorage. The two lawmakers have backed the crossing for decades. This year they sponsored identical legislation that would take a different approach to building the crossing.

But, as Kerttula said, "If there's a better mousetrap, I will support it."

The proposal is contained in a 73-page report by EMPS-Sverdrur on the economic feasibility of the project.

The engineering firm looked at 11 crossings of Knik Arm — with accesses to the bridge ranging from downtown Anchorage to Eagle River — to come up with the $631 million proposal that appears to be the best "concept."

The preferred route for the bridge calls for a 43.7-mile highway to be built starting at the junction of the Glenn Highway and Boniface Parkway, and connecting north to the Parks Highway near Houston.

A four-lane, double-deck bridge would cross Knik Arm five miles north of downtown Anchorage.

See Governor, page A-4

Governor reveals bridge plan

Continued from page A-1

The bridge itself would cost about $339 million and would be built by a private firm, Casey said. That firm would make back its construction cost by charging a toll of about $2 per car, he said. Once the builder has recovered its investment, the state would own the bridge, under the proposal.

The state would provide the financing for the highway and bridge approaches, estimated at $180 million. Another $64 million would be needed to relocate facilities at Elmendorf Air Force Base, including an ammunition dump. Inflation would bring the project cost up to about $631 million.

"This approach is very simple," Casey said, "and it's the most cost effective." The options examined included tunneling under the arm, building a causeway and building a suspension bridge.

The bridge should be able to withstand intense pressure from tremendous tidal actions, siltation and ice buildup, Casey said.

EMPS-Sverdrur estimated the Point Mackenzie area would have about 9,000 households 11 years after the crossing is completed. The figure would double within 30 years, the study said.

About 29,000 vehicles would cross the bridge daily in the year 2001 and an estimated 46,000 a day would cross by 2030.

The bridge would cut driving time from Point Mackenzie to downtown Anchorage from about two hours to about 30 minutes, according to the study.

HB

303

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 303

Title : "...Pittman Road upgrade and Paving..."

Sponsor : Lacher, Larson

Sincerely,

Ed Cronick

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

25A-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 303
Title: Pittman Road Upgrade and Paving
Sponsor: Lacher and Larson
Requestor: House Transportation
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:
Design and Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING				60.4	66.4	73.1
CAPITAL			9,877.2			
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			9,877.2	60.4	66.4	73.1
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL			9,877.2	60.4	66.4	73.1

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of funds to offset fiscal impact of bill not identified by sponsors

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director Phone: 266-1462
Division: Central Region Planning & Programming Date: 11/30/83

Approved by Commissioner: David W. Haugen Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

HB 303 Analysis:

A. Impact on Existing Programs: Pittman Road is currently maintained by DOT&PF.

B. Impact of New Programs or Activities: Will compete against other priorities and needs identified in the capital budget development process.

C. Figures in Cost Estimate: Developed from information from the consultant location report by DOT&PF Project Development staff. This preliminary cost estimate range of reliability is -10% to +10%.

D. Additional information: This project was not included in the Department's FY 85 CIP budget request but it is anticipated to be included in the Department's FY 86 CIP budget request. The project preliminary engineering is expected to be completed in FY 84. The road design recommends a 34 foot width ro surface with paving.

Pittman Road preliminary engineering is currently under consultant contract.

The cost estimate in FY 84 dollars for the development of this project is:

Engineering:	550,000
Utilities:	913,000
Right of way:	1,100,000
Construction:	5,600,000
	8,163,000

Cost estimated provided for fiscal not have been inflated to FY86 dollars for a total project cost of $9,135,500 (excluding engineering).

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

3/29/83

Date: 4-20-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 303

An Act making a special appropriation to the Department of Transportation and Public Facilities for the reconstruction and paving of Pittman Road in the Matanuska-Susitna Borough; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [✓] ~~Zero~~ Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

[illegible]

[illegible]

Adelheid Herrmann Do Pass

Barbara Lach do pass

[illegible]

M.W. Miller

MEMBERS HAVING OTHER RECOMMENDATIONS:

M.W. Miller

CHAIRMAN

Vice Chairman

H 60

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 303
Title: Pittman Road Upgrade and Paving
Sponsor: Lacher and Larson
Requestor: House Transportation

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING				3,478.9	31.1	34.3
CAPITAL		263.1	4,000.0			
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		263.1	4,000.0	3,478.9	31.1	34.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None identified in HB 303

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell Phone: 266-1440
Division: Planning & Programming Date: 4/20/83

Approved by Commissioner: David W. Haugen Date: 4/20/83
Department: Deputy Commissioner, Central Region

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3/8/83

PITTMAN ROAD

Analysis

A cost estimate for this project was prepared in 1981 to upgrade Pittman Road to 26 feet in width and pave it. The following cost estimate was made in FY'81 dollars:

Preliminary Engineering	$ 131,040
Right-of-Way Acquisition	75,000
Utilities	10,000
Construction	4,892,160
	$5,619,000

The initial phase of the preliminary engineering on the project is anticipated to be completed under consultant contract by July 1983. One of the tasks to be conducted under this preliminary engineering contract is to develop detailed, reliable cost estimates for the right-of-way acquisition, utililty relocation and construction phases of the project. The Design and Construction Division recommends the funding of this project be based upon these detailed cost estimates.

To obtain a rough idea of what the estimated cost could be in current and future dollars, without the benefit of a detailed cost estimate, the 1981 cost estimate was assumed to increase at 10% per year through the life of the project. The following assumptions were made:

1. The additional preliminary engineering was assumed to be done under consultant contract in FY'84 at a cost of $150,000.

2. The right-of-way acquisition was assumed to be completed in FY'84 for $99,825. The utility phase was also assumed to be completed in FY'84 for $13,310.

3. The construction phase was assumed to be carried out in FY'85 and FY'86 under the following funding:

FY'85	$4,000,000
FY'85	3,478,900

4. Since this project includes the widening of an existing road by approximately one-half lane, maintenance and operations costs are assumed to increase as follows:

FY'87	31,149
FY'88	34,258

The Design and Construction Divison emphasizes they consider the above cost estimates to be unreliable until the detailed cost estimate is completed.

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: Representative Mcbride

FROM: Representative Barbara Lacher

DATE: April 19, 1983

RE: House Bill 303

I. HISTORY

In 1980, the State contracted with M & B Construction Company to upgrade Pittman Road which at that time was little more than a wagon trail. The State had conducted a land disposal program in the area and the population was rapidly increasing.

Portions of the road upgrade work was performed with substandard silt materials that becomes a mire when wet and raises long lasting dust clouds when dry. Since the M & B contract work, the state maintenance workers have continued to use immediately available substandard material to make temporary repairs.

In 1981 the residents along Pittman Road petitioned Representative Pat Carney for assistance in obtaining increased road maintenance. The road use was continuing to increase and the road condition continued to deteriorate. Representative Carney introduced legislation which resulted in paving Pittman Road from Church Road to Fishhook Road. Since 1981 the population and road usage along the unpaved portion has continued to increase and the road has further deteriorated.

II. NEED

The average daily traffic count is highest in the summer months, as sections of the road are impossible to travel along in the winter months. In February 1983 a citizen traffic count was taken along Pittman Road, just north of the Parks Highway Intersection, for a 16 hour period. This is the area of heaviest use along the 15.8 mile length of road. The actual count for this period was 848 vehicles. Traffic counts were taken by the use of a counter by DOT/PF for the years 1977 - 1981. DOT/PF discontinued traffic counts along the road in 1982 and have not been conducting them since.

The area directly impacted by House Bill 303 has 373 permanent dwellings, and a total of 1073 residents who live along the road. This does not include seasonal residents. These figures do not take into account the continued growth due to state imposed requirements for the building of permanent structures, within a specified time limit, according to the provisions of State land lotteries.

Safety hazards along the road are numerous and have every indication of worsening over the next year should this project be delayed. The road is so narrow along many sections that two vehicles cannot pass. Numerous blind curves, and the absence of stop signs at intersections threaten life loss in accidents. Potholes, and dust, and peat quagmires have made sections of the road impassable. School Bus accidents have already occurred on the road this last winter, and it is only a matter of time before a serious accident happens.

DOT/PF maintenance of the road is dependent upon the weather conditions. Grading is impossible unless it follows a rain storm, and when done only lasts for a few days to a week due to the heavy use patterns. From July 1 to September 7, 1982 the road was graded 12 times in the 9 week period. For dust control calcium chloride was placed on the road 3 times during the 1982 summer, and 4,000 gallons of dust oil was spread along the road in the same period. In the winter months, from November 1982 to April 1982 the road was plowed 22 times by the state and 4 times by contract plows. These figures are averages, and DOT informed us that they do not have exact counts for maintenance on this road. Constituent P.O.M. s and letters strongly suggest that: (1) the current maintenance is inadequate and (2) that the need for paving and upgrading is urgent for the Safety of the residents of the area.

III. STATUS

The Pittman road project is on the current Mat-Su Borough priority list. It was included in the DOT/PF TIP recommendations to the Governor, and and is included on the DOT/PF 6-year Transportation Plan prepared this year. Funding for the project is not included in the Governor's FY '84 Budget.

IV. FUTURE

Scheduled land disposals in the area, as well as new construction this year as a result of earlier disposals attest to continued population increase in the area. Traffic counts can only be expected to increase as well. With already unsafe conditions, we can only expect the situation to become more critical.

V. MAPS

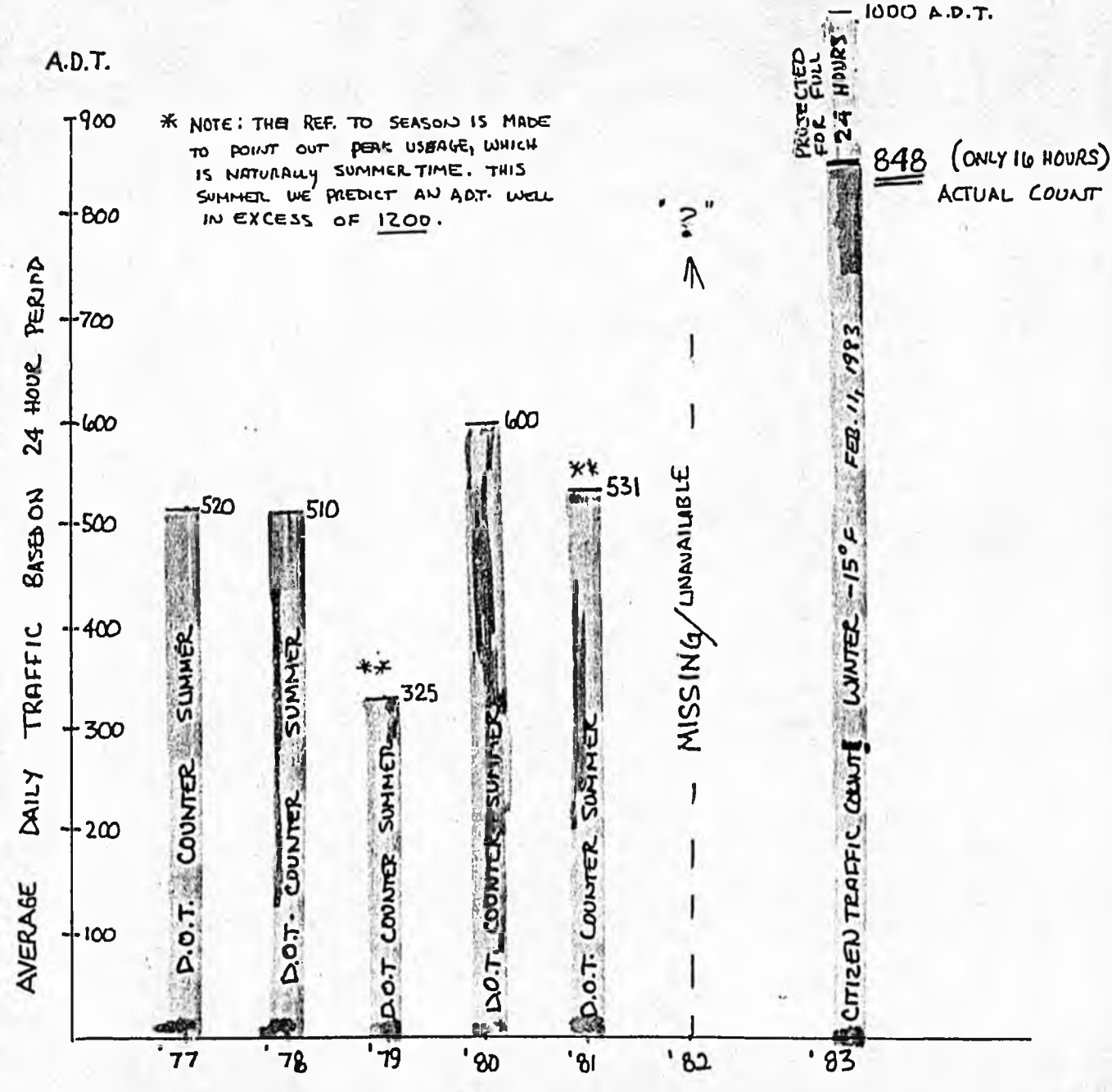
Attached are Borough and DOT/PF Maps of the Pittman Road and surrounding area.

VI. POM'S AND LETTERS

PITTMAN ROAD TRAFFIC DATA

Compiled by Rod Ewing
Feb. 12, 1983

ALL COUNT DATA IS REFERENCED "mp 0". THIS POINT IS JUST NORTH OF THE RAILROAD CROSSING ON PITTMAN ROAD AND APPROXIMATELY ONE HUNDRED YARDS FROM THE INTERSECTION WITH THE PARKS HIGHWAY. THE D.O.T. PROVIDED MECHANICAL COUNTER FIGURES THROUGH 1981, HOWEVER DATA FOR 1982 WAS UNAVAILABLE . THE FIGURE FOR THE 1983 WINTER COUNT WAS OBTAINED THROUGH A VOLUNTEER CITIZEN COUNT WHICH ENCOMPASSED ONLY 16 HOURS ON FEB. 11, 1983.



** THE ACCURACY OF THE '79 & '81 COUNTER TOTALS IS SUSPECT TO BE GROSSLY IN ERROR!

PITTMAN ROAD CITIZEN

TRAFFIC COUNT

FEB 11, 1983

DURATION OF COUNT - 0530 (AM) through 10:00PM

		TOTALS
0530-0800 ROD EWING		95
0800-1000 HANK BOCHENEK		104
1000-1200 RAY KVAMHEIM		111
1200-200PM DIANNA GRAHAM		108
200PM-400PM DIANE McCAIN		117
400PM-600PM T.A. STARR		126
600PM-800PM ROGER BLACK		114
800PM-1000PM PETER DREITH		71
		848

PITTMAN PETITION SPRING 1981

WE, THE UNDERSIGNED, LIVE EITHER ON SCHROCK-PITTMAN ROAD OR USE IT TO ACCESS OUR HOMES DIRECTLY OFF SCHROCK-PITTMAN. WE ARE PETITIONING OUR STATE, THE STATE OF ALASKA, THROUGH OUR ELECTED ~~REPRESENTATIVE~~, ~~PAT CARNEY.~~ WE ARE FACED WITH A DIRE HEALTH AND SAFETY EMERGENCY, BROUGHT ON BY A MAJOR INCREASE IN ROAD USE OVER THE PAST FEW YEARS. COINCIDENT WITH NEW HOUSE CONSTRUCTION, THE CURRENT AND EVER GROWING ROAD USE HAS EXCEEDED THE DESIGN CAPABILITY OF THE ROAD. A MAJOR HEALTH HAZARD EXISTS AS A DIRECT RESULT OF THE HIGH DUST LEVELS. THESE SUSPENDED FINE PARTICLES ARE THE LEADING CAUSE OF EYE IRRITATION AND INFECTIONS, AND, MAY CONTRIBUTE TO RESPIRATORY DISTRESS. THE DUST ALSO POSES A SERIOUS PUBLIC SAFETY HAZARD RESULTING IN REDUCED VISIBILITY DURING PEAK USE PERIODS. IT IS NOT SAFE TO ALLOW CHILDREN TO RIDE BICYCLES/HORSEBACK OR EVEN WALKS TO THE NEIGHBOR'S HOUSE. COINCIDENT WITH THE HEALTH/SAFETY DILEMMA, THE ROAD SURFACE IS RAPIDLY DETERIORATING. PRESENT METHODS OF STATE MAINTENCE ARE ADEQUATE FOR ONLY A FEW HOURS OF USE. WE NEED THE ROAD TO BE WATERED THROUGHOUT THE DAY ON A DAILY BASIS AND GRADED MUCH MORE FREQUENTLY. THANK YOU.

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
ROD EWING JR	MI 1.5 PITTMAN	P.O. BOX 623 WASILLA, AK	376-2229
PETE VADIS	MI 1/8 PITTMAN	Box 1376 Wasilla	
Caryle A Jones		Box 846 mile 1	376-4343
[illegible] M Swing	mile 75	SR. BX 2932 C	Wasilla 376-2[illegible]
Maurice J. Pepert		2850 Wasilla	
[illegible] H. Manning		SR. Box 2870 - Wasilla	
Ann Runian		P.O. Box 620 Wasilla	376-5172 ✓
LELAND D. BOWMAN	1941 EASTRIDGE	ANCH.	
MIKE P. O'NEILL		P.O. BOX 238 WASILLA, AK.	
[illegible]		ST RT Box 2888	Wasilla
Kathy [illegible]		MI-1 Pittman 8420 Pyg Ks PD Anch.	337-2677
Jerri Casquelina	Rainbow lake	P.O. Box 1363	376-5584 ✓
[illegible]		P.O. Bx 983 Wasilla	376-2773 ✓
Henry [illegible]		P.O. Bx 983 Wasilla	376-2773 ✓
Curtis M. Holeman		P.O. Box 846 Palmer	376-562[illegible]
[illegible]		SR Box 2146 Wasilla, AK.	892-2237

Pittman Petiont Spring 81

WE, THE UNDERSIGNED, LIVE EITHER ON SCHROCK-PITTMAN ROAD OR USE IT TO ACCESS OUR HOMES DIRECTLY OFF SCHROCK-PITTMAN. WE ARE PETITIONING OUR STATE, THE STATE OF ALASKA, THROUGH OUR ELECTED REPRESENTATIVE, PAT CARNEY. WE ARE FACED WITH A DIRE HEALTH AND SAFETY EMERGENCY, BROUGHT ON BY A MAJOR INCREASE IN ROAD USE OVER THE PAST FEW YEARS. COINCIDENT WITH NEW HOUSE CONSTRUCTION, THE CURRENT AND EVER GROWING ROAD USE HAS EXCEEDED THE DESIGN CAPABILITY OF THE ROAD. A MAJOR HEALTH HAZARD EXISTS AS A DIRECT RESULT OF THE HIGH DUST LEVELS. THESE SUSPENDED FINE PARTICLES ARE THE LEADING CAUSE OF EYE IRRITATION AND INFECTIONS, AND, MAY CONTRIBUTE TO RESPIRATORY DISTRESS. THE DUST ALSO POSES A SERIOUS PUBLIC SAFETY HAZARD RESULTING IN REDUCED VISIBILITY DURING PEAK USE PERIODS. IT IS NOT SAFE TO ALLOW CHILDREN TO RIDE BICYCLES/HORSEBACK OR EVEN WALKD TO THE NEIGHBOR'S HOUSE. COINCIDENT WITH THE HEALTH/SAFETY DILEMMA, ,THE ROAD SURFACE IS RAPIDLY DETERIORATING. PRESENT METHODS OF STATE MAINTENCE ARE ADEQUATE FOR ONLY A FEW HOURS OF USE. WE NEED THE ROAD TO BE WATERED THROUGHOUT THE DAY ON A DAILY BASIS AND GRADED MUCH MORE FREQUENTLY. THANK YOU.

RESIDENTS NAME	RESIDENCE	Mailing Address	PHONE
Lloyd Rudd	Beverly LK. Rd.	Box 359 Wasilla	None
Kathie Mackey	SR Box 2905	Schrock-Pittman	376-5825
Jerry Phillips	SR Box 2911	Schrock-Pittman	?
Lorraine Dwinger	"	Schrock-Pittman	
Angelika Chevalier	Rainbow Lake	Box 530 Wasilla	376-5366
Roger A Chevalier	Rainbow Lake	Box 530 Wasilla	376-5366
David Phillips	Pittman School	PO Box 429 Wasilla	
Matt Graham	Pittman - Mi 1.2	Wasilla Ak	376-2614
Barbara Bowe	Pitman - Mi 1.2	Wasilla	376-394[illegible]
Rod J Bowe III	" "	" "	" "
Donna Lotta	Seymour Lake	SR Box 2908 Wasilla	376-3[illegible]
Sherri Morgan	Seymour Lake	SR Box 2910	
Evelyn J Copenhaver	Box 1650 Wasilla		
Ray Copenhaver	Box 1650 Wasilla		
David M Lott	MILE 3.8 PITTMAN RD.		
Lola A. Smith	Seymour Lake	P.O. BOX 513 Palmer	376-4358 disconnected
Glenda Beers	Scott Lake	SR 2918 Wasilla	
Leo Anderson	Scott Lake	P.O. BOX 992 Wasilla	376-2870

WE, THE UNDERSIGNED, LIVE EITHER ON SCHROCK-PITTMAN ROAD OR USE IT TO ACCESS OUR HOMES DIRECTLY OFF SCHROCK-PITTMAN. WE ARE PETITIONING OUR STATE, THE STATE OF ALASKA, THROUGH OUR ELECTED REPRESENTATIVE, PAT CARNEY. WE ARE FACED WITH A DIRE HEALTH AND SAFETY EMERGENCY, BROUGHT ON BY A MAJOR INCREASE IN ROAD USE OVER THE PAST FEW YEARS. COINCIDENT WITH NEW HOUSE CONSTRUCTION, THE CURRENT AND EVER GROWING ROAD USE HAS EXCEEDED THE DESIGN CAPABILITY OF THE ROAD. A MAJOR HEALTH HAZARD EXISTS AS A DIRECT RESULT OF THE HIGH DUST LEVELS. THESE SUSPENDED FINE PARTICLES ARE THE LEADING CAUSE OF EYE IRRITATION AND INFECTIONS, AND, MAY CONTRIBUTE TO RESPIRATORY DISTRESS. THE DUST ALSO POSES A SERIOUS PUBLIC SAFETY HAZARD RESULTING IN REDUCED VISIBILITY DURING PEAK USE PERIODS. IT IS NOT SAFE TO ALLOW CHILDREN TO RIDE BICYCLES/HORSEBACK OR EVEN WALK TO THE NEIGHBOR'S HOUSE. COINCIDENT WITH THE HEALTH/SAFETY DILEMMA, THE ROAD SURFACE IS RAPIDLY DETERIORATING. PRESENT METHODS OF STATE MAINTENCE ARE ADEQUATE FOR ONLY A FEW HOURS OF USE. WE NEED THE ROAD TO BE WATERED THROUGHOUT THE DAY ON A DAILY BASIS AND GRADED MUCH MORE FREQUENTLY. THANK YOU.

Pittman Petition Spring 81

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
Kathy Sands	Anch cabin	9599 Brayton	344-099
Gary Gibson	Anch cabin	9599 Brayton	344-0990
Louann O'Connor	Anch cabin	1200 W Dimond #1102	349-61
Clyde W Smith	Anch cabin	1200 W Dimond #1102	349-610
Lane Baier		Box 81 Wasilla	376 58
A. Sandlin		Box 531 Wasilla	376 5
Tonja Parry		SR Box 2320 Big Lake	892
Norman D Walker	Fishing Area	PO Box 752 Chugiak	99
Jerry N Fletcher	Seymour Lake	Wasilla, AK	
Peter Sapaio	Pittman Rd	SR Box 2867 Wasilla AK	
John B. Sapaio	Pittman Rd	SR Box 2867 Wasilla AK	
Patricia Ledbetter	Cabin	Pouch 7-025 Anchorage	99
Gayle M. Janecek	RAINBOW LK.	SR Bx 2864 WASILLA	376-5
Tim C Fowler	Beverly Lake, Lot 8, Wasilla, Ak.		
Herbert Bartl	PO Box 917, Wasilla, AK, 99687		
[illegible]	SR Box 2891 Wasilla AK		
Craig Hampton	PO 214 Big Lake, AK 99687		
Curtis M. Holeman	PO 848 Palmer		376-56

WE, THE UNDERSIGNED, LIVE EITHER ON SCHROCK-PITTMAN ROAD OR USE IT TO ACCESS OUR HOMES DIRECTLY OFF SCHROCK-PITTMAN. WE ARE PETITIONING OUR STATE, THE STATE OF ALASKA, THROUGH OUR ELECTED REPRESENTATIVE, PAT CARNEY. WE ARE FACED WITH A DIRE HEALTH AND SAFETY EMERGENCY, BROUGHT ON BY A MAJOR INCREASE IN ROAD USE OVER THE PAST FEW YEARS. COINCIDENT WITH NEW HOUSE CONSTRUCTION, THE CURRENT A[illegible]ER GROWING ROAD USE HAS EXCEEDED THE DESIGN CAPABILITY OF THE R[illegible] A MAJOR HEALTH HAZARD EXISTS AS A DIRECT RESULT OF THE HIGH DUST LEV[illegible] THESE SUSPENDED FINE PARTICLES ARE THE LEADING CAUSE OF EYE IRRITATION AND INFECTIONS, AND, MAY CONTRIBUTE TO RESPIRATORY DISTRESS. THE DUST ALSO POSES A SERIOUS PUBLIC SAFETY HAZARD RESULTING IN REDUCED VISIBILITY DURING PEAK USE PERIODS. IT IS NOT SAFE TO ALLOW CHILDREN TO RIDE BICYCLES/HORSEBACK OR EVEN WALKING TO THE NEIGHBOR'S HOUSE. COINCIDENT WITH THE HEALTH/SAFETY DILEMMA, ,THE ROAD SURFACE IS RAPIDLY DETERIORATING. PRESENT METHODS OF STATE MAINTENCE ARE ADEQUATE FOR ONLY A FEW HOURS OF USE. WE NEED THE ROAD TO BE WATERED THROUGHOUT THE DAY ON A DAILY BASIS AND GRADED MUCH MORE FREQUENTLY. THANK YOU.

Pittman Rd Petition Spring '81

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
David Ness	Mile 3 Pittman Schrock	St Rt 2928	376-5730
C.R. Mathis Jr.	M 3.2 Pittman Schrock	Box 384	376-2258
Judy L Mathis	M 3.2 Pittman Schrock	Box 384	376-2258
Tim Shine	M 3.5 Pittman Schrock	Box 2930	376-5975
Linda J Shine	M 3.5 Pittman Schrock	Box 2930	376-5975
Tiggy Times	Box 414	Wasilla Alaska	
Colin D. Grandall	SR Box 2880	Wasilla AK	376-3[illegible]
[illegible] B. Grandall	SR Box [illegible]	Wasilla Ak 99687	
Robert N. Walker	St. Rt 2859	Wasilla AK 99687	376-5[illegible]
Charlie A Walker	SR Box 2859	Wasilla, Ak 99687	376-5970
Lois Shoemaker	P.O. Box 596	Wasilla	376 5026
RICHARD D. LEWIS	Bo Box 1492	WASILLA	892 6657
Rosalie Lewis	P.O. Box 1492	" "	892 6657
[illegible] Denny	S.R. Box 2912	WASILLA	376-2[illegible]
Stacey Rigsbee	82015 BOREALIS DRIVE	SAME	272-2822
C. F. McKay	RAIN BO LAKE,		
Belinda T. McKay	" "		
Susan Darby	Box 469	Eagle River, Ak.	

WE, THE UNDERSIGNED, LIVE EITHER ON SCHROCK-PITTMAN ROAD OR USE IT TO ACCESS OUR HOMES DIRECTLY OFF SCHROCK-PITTMAN. WE ARE PETITIONING OUR STATE, THE STATE OF ALASKA, THROUGH OUR ELECTED REPRESENTATIVE, PAT CARNEY. WE ARE FACED WITH A DIRE HEALTH AND SAFETY EMERGENCY, BROUGHT ON BY A MAJOR INCREASE IN ROAD USE OVER THE PAST FEW YEARS. COINCIDENT WITH NEW HOUSE CONSTRUCTION, THE CURRENT AND EVER GROWING ROAD USE HAS EXCEEDED THE DESIGN CAPABILITY OF THE ROAD. A MAJOR HEALTH HAZARD EXISTS AS A DIRECT RESULT OF THE HIGH DUST LEVELS. THESE SUSPENDED FINE PARTICLES ARE THE LEADING CAUSE OF EYE IRRITATION AND INFECTIONS, AND, MAY CONTRIBUTE TO RESPIRATORY DISTRESS. THE DUST ALSO POSES A SERIOUS PUBLIC SAFETY HAZARD RESULTING IN REDUCED VISIBILITY DURING PEAK USE PERIODS. IT IS NOT SAFE TO ALLOW CHILDREN TO RIDE BICYCLES/HORSEBACK OR EVEN WALK TO THE NEIGHBOR'S HOUSE. COINCIDENT WITH THE HEALTH/SAFETY DILEMMA, THE ROAD SURFACE IS RAPIDLY DETERIORATING. PRESENT METHODS OF STATE MAINTENCE ARE ADEQUATE FOR ONLY A FEW HOURS OF USE. WE NEED THE ROAD TO BE WATERED THROUGHOUT THE DAY ON A DAILY BASIS AND GRADED MUCH MORE FREQUENTLY. THANK YOU.

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
Joseph M. Stevens	Mile 3 1/2	2732-C Wasilla, AK	
Helen Allman	Mi 3 1/2	2931-B Wasilla	
Emma Bzinoff	Mi. 4	Box 414 Wasilla Alaska	
Casandra A Bickle	Mi 4	PO Box 1137 Wasilla	
William A Bickle	Mi 4	PO Box 1137 Wasilla	
Hiram C Edmonson	4	ST RT Box 2942 Wasilla	
Charles L Cyr	Mile 2	SR 2945 "	
Kermit L Ketchum	[illegible]	STRT 2955 Wasilla	
John W [illegible]	Mile 6	P.O. BOX 11 Wasilla	
Virginia Ketchum	Mile 5.4	Box 2955 Wasilla	
Ken Shenett	Mile 3.6	S.R. Box 2941 Wasilla	
Michael Shenett	Mile 3.6	S R. Box 2941 Wasilla	
Quentin Shenett	Mile 3.6	S.R. Box 2941 Wasilla	
Tom Pettijohn	mile 3.8	ST RT Box 2940 Wasilla	
Paula Pettijohn	Mile 3.8	SR Box 2940 Wasilla	
Adam Landwehr	Mile 3.5	SR Box 2935 Wasilla	
Bill Reed	Mile 3	SR Box 2928 Wasilla	
Chris Lee	Mile 2	Box [illegible] Wasilla ak	

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Pittman Rd Petition Spring 1981

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
Marshall Evans	Schrock	Rt. 1 Box P.O. Box 376	376-3312
Myrtle Evans	"	"	"
Ronald Clarke	"	Palmer, Alaska	746-1470
Dick Anderson	Palmer	Box 761 Palmer	AK 745-3
Amanda Faye Palmer		Box 479 Palmer	AK
Wayne Hall	Palmer	Box 479 Palmer AK	
Gayle Hall	"	"	"
Larry Ratliff	Schrock	Box 3	745-2
T. O. Bryant	Houston	Box 1204 Wasilla	99687 892-6650
D. E. Bacon	Wasilla	Box 1926 Wasilla	376-4282
Mr. & Mrs. Joe Wilcox	Schrock	RT. 1 Box 322 Wasilla	4756
Mr. Dick D Bunker	Schrock	Box 3295 Wasilla,	AK 99687
James Dragoon	Wasilla	Box 57 Wasilla	AK
Mr. Dennis	Wasilla	Box 507 Wasilla	99687
Leonard M. Rye	Mat-Su Electric	Box Wasilla	99687
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

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Pittman Rd Petition Spring 1981

RESIDENT'S NAME	RESIDENCE	MAILING ADDRESS	PHONE
Steve Johnson	Rainbow Lake	Box 1051 Wasilla, AK.	376 5925
Rose Johnson	"	"	"
Terry Steffenhagen	Rainbow Lake	P.O. 2488 Palmer AK.	37655
Susan Frisby		P.O. Box 504 Palmer Alaska	745-44
Sue Gonzales	Valley T.V.	P.O. Box 45 Big Lake	89264
BETTY BARVE	Ridge Crest DR.	P.O. Box 650 - Wasilla	
LAVON Barve	" " "	P.O. Box 650 - Wasilla	
Daniel Drape	R/V	SR. 3242 WASILLA	
Dolores Colligan	South Lk.	SR 2922 Wasilla	
Linny Pappert	Schrock Pittman	P.O. Box 10-2134 Anch. AK 99511	
Linda M. Schenk	Rainbow Lake	9910 White Fish Anch. Alaska	
Bacel Tellier	Schrock Rd.	P.O. Box 210 Wasilla Alaska	99687
Carson P. Harris	SEYMOUR LAKE	P.O. BOX 637 WASILLA AK	99687
Mary L. Harris	Seymour Lake	P.O. Box 637 Wasilla Ak	99687
Douglas Moslar	Recreation	P.O. Box 10-1731 Anchorage AK 99511	
Cally Tender	Beverly Lake	Box 62 Wasilla	3764335
Marietta Sand	South Lake	Wasilla, AK	99687
Bud Hall	Fuller Lake	Wa P.O. Box 2527 Palmer, A.	7964

Pettman Rd
Spano Petitioner
'81

Bill Bush Dec. 17 OR 18 1-w-
P.O. BOX 1.9 WASILLA AK 9[illegible]
Kelli Mahoney - ST. RT. BOX 2498-A WASILLA
Krupa, Annette, Joseph, Marjorie
POX BOX 158, Wasilla



[illegible] Longbeach Lake Pt. 60 x 3335 Wasilla 376-4242

Rob Cheeley Scott Lake 17-305 99687

Jeniffer Thompson Scott Lake P.O. Box Big 17-305 Lake 99687

Jerry L. McIntire Rainbow Lake Apt 2868 99687

Cw

83-00012706 PRTY: 1 03/03/83 17:34:04 ORIG: LH01 IN= 0001 OUT= 0007
FROM: JUDY/MATSU TO: JUNEAU INFO.
TARGET: LJHL JUNJ: P.D.H.S.

JUDY/MATSU 3/3/83

TO: REPRESENTATIVE LACHER

FROM: DR. VON MITTON

WHAT IS THE STATUS OF PITTMAN-SCHROCK ROAD PAVING PROJECT? IS THERE ANYTHING I CAN DO TO EXPEDITE THE PAVING?

MSG 4848 MARTIE/MATSU 3/31 1:55 PM

TO: REPS. LACHER AND LARSON

FROM: VIRGINIA ELKINS
STAR ROUTE BOX 2941-E
WASILLA
PHONE: 376 3810

THANK YOU FOR HB303, PAVING OF PITTMAN RD. THE ROAD IS DANGEROUS, FALLING APART, FULL OF POTHOLES, AND IS RUINING OUR VEHICLES. IT IS ICY ON THE WINTER AND DUSTY IN THE SUMMER.
LETTERS WILL FOLLOW.

Sharon J. Hess
Star Route, Box 2928
Wasilla, Alaska 99687
April 1, 1983

APR 7 1983

Commissioner Dan Casey
Dept of Transportation
Pouch Z
Juneau AK 99811

Dear Commissioner Casey

I support House Bill 303 concerning paving of the Pittman-Schrock Road.

It has been in serious need for quite a few years. Use of the road has exceeded its capacity. It is now a very serious hazard to drive the three miles that I have to use. There is so much dust that it is almost impossible to breathe. Numerous potholes cause control and front-end problems.

There are three subdivision roads where people do not stop when coming out on the Pittman-Schrock Road. Many do this at 30 or 40 MPH. There are no stop signs. On one blind corner with mailboxes on a curve, people park at the mail boxes. As you drive around the curve, you are confronted with a car in the road with no way of knowing whether you can pass safely. It's a wonder no really serious accidents have occurred at this location yet.

We have one curve that has a steep bank on one side. A trail is worn on the bank where cars are always driving on the bank because of improper banking when the road was built. I hope it won't be the school bus one of these days.

There was a time when the school bus went off the road on a causeway (through a lake) which is almost too narrow for two cars to pass, let alone a bus and truck. Luckily, the lake was frozen at the time.

Many reasons exist why the road should be improved (paved). A large population (because of subdividing mostly) is now using the road.

Sincerely,

Sharon J. Hess

CC: Governor Sheffield
Senator Kerttula
Rep. Lacher
Rep. Larson

SG 83-00008417 PRTY 1 04/14/83 10:03:38 ORIG: LM00 IN= 0002 OUT= 0012
ROM: MARTIE/MATSU TO: JUNEAU INFORMATION
ARGET: LJHL SUBJ: POM'S

C: REPRESENTATIVES CATO, M.W.MILLER, ABOOD, PHILLIPS, LACHER, HERRMANN,
SZYMANSKI, MCBRIDE, DAVIS, AND LARSON

ROM: DR. VON MITTON
PO BOX 2200
WASILLA 99687

APR 15 1983

E: HB 303

SUPPORT THE BILL AND ENCOURGE YOU TO PUSH IT. I WILL DO ANYTHING I CAN
O HELP. LET ME KNOW WHAT WOULD BE BEST.
HE PAVING IS NEEDED FOR SAFETY.

****

MSG 83-00006529 PRTY 1 04/07/83 17:40:55 ORIG: LM00 IN= 0012 OUT= 0139
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA
REP. LACHER
REP. LARSON

APR 15 1983

FR: JERRY L MCINTIRE
TUNDRA TOURS DRIVER & HOME OWNER ON PITTMAN ROAD
SR BOX 2868
WASILLA 99687
HM: 376-4048 WK: 376-5354

RE: UPGRADING OF PITTMAN ROAD

THE ROAD FROM THE PARKS HIGHWAY TO PIG LAKE SAND & GRAVEL (PHILLIPS CORNER), ABOUT 3 MILES IN LENGTH, IS IN VERY ROUGH CONDITION DUE TO THE GRAVEL TRUCKS. IT IS GRADED ONE DAY AND FULL OF HOLES THE NEXT. ON TOP OF THE HILL THERE IS NO ROAD BASE, JUST PEAT. I HAVE HAD A BUS DROOP TO THE AXLES IN THE SPRING TIME. YOU CANNOT PASS TOW BUSES SIDE BY SIDE ON MOST OF THE ROAD. THE ROAD IS TEARING THE BUSES APART.

APR 7 1983

Sharon J. Hess
Star Route, Box 2928
Wasilla, Alaska 99687
April 1, 1983

Commissioner Dan Casey
Dept of Transportation
Pouch Z
Juneau AK 99811

Dear Commissioner Casey

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It has been in serious need for quite a few years. Use of the road has exceeded its capacity. It is now a very serious hazard to drive the three miles that I have to use. There is so much dust that it is almost impossible to breathe. Numerous potholes cause control and front-end problems.

There are three subdivision roads where people do not stop when coming out on the Pittman-Schrock Road. Many do this at 30 or 40 MPH. There are no stop signs. On one blind corner with mailboxes on a curve, people park at the mail boxes. As you drive around the curve, you are confronted with a car in the road with no way of knowing whether you can pass safely. It's a wonder no really serious accidents have occurred at this location yet.

We have one curve that has a steep bank on one side. A trail is worn on the bank where cars are always driving on the bank because of improper banking when the road was built. I hope it won't be the school bus one of these days.

There was a time when the school bus went off the road on a causeway (through a lake) which is almost too narrow for two cars to pass, let alone a bus and truck. Luckily, the lake was frozen at the time.

Many reasons exist why the road should be improved (paved). A large population (because of subdividing mostly) is now using the road.

Sincerely,

Sharon J. Hess

CC: Governor Sheffield
Senator Kerttula
Rep. Lacher
Rep. Larson

ARY/MATSU - 4/8/83 - 6681
O: SENATOR KERTTULA
REP. LARSON, LACHER, CATO, M.MILLER, ABOOD, PHILLIPS, HERRMANN,
SZYMANSKI, MCBRIDE, DAVIS

R: LARRY CARROLL
TUNDRA TOURS SCHOOL BUS DRIVER
P O BOX 67
WASILLA 99687 WK: 376-5354 HM: 745-5456

E: PITTMAN ROAD PAVING
DRIVE ROUTE 57 WHICH INCLUDES DRIVING OVER PART OF PITTMAN ROAD.
T IS MY DESIRE THAT SOMETHING CAN BE DONE FOR IMPROVING THE CONDITION
F THIS ROAD. MY BUS HAS BEEN KNOCKED OUT OF ALIGNMENT RECENTLY ON
HIS ROAD. THE SAFETY OF MY CHILDREN IS MY MAIN CONCERN.

ARY/MATSU - 4/8/83 - 6681
D: SENATOR KERTTULA
REP. LARSON, LACHER, CATO, M.MILLER, ABOOD, PHILLIPS, HERRMANN,
SYMANSKI, MCBRIDE, DAVIS

N: RAY MORGAN
TUNDRA TOURS BUS DRIVER
P O BOX 67
WASILLA 99687

: PITTMAN
TTMAN ROAD IS NOT A VERY SAFE ROAD. THERE ARE AT LEAST FIVE BLIND CURVES
TH BARELY ENOUGH ROOM FOR TWO CARS. THE ROAD HAS SEVERAL LARGE SPOTS THAT
E VERY SOFT CLAY AND, WHEN IT RAINS, THEY BECOME QUAGMIRES. THE ROAD MUST
STRAIGHTENED AND PAVED. IF THE PAVING IS DONE WITHOUT STRAIGHTENING AND
DENING THE ROAD BED, IT WILL BECOME A FAST DANGEROUS ROAD.

MSG 83-00005769 PRTY 1 04/05/83 16:28:20 ORIG: LM01 IN= 0005 OUT= 0148
FROM: JUDY/MATSU TO: JUNEAU INFO.
TARGET: LJHL SUBJ: P.O.MS.

MESS.#5719 JUDY/MATSU 4/5/83

TO: SENATOR KERTTULA
REPRESENTATIVE LARSON AND LACHER

APR - 6 1983

FROM: JOHN BOZINOFF
P.O. BOX 414
WASILLA 99687 PH.376-5746

RE: UPGRADING AND PAVING PITTMAN ROAD

THE INCREASE IN POPULATION IN OUR AREA HAS BROUGHT AN INCREASE IN TRAFFIC. THE POTENTIAL OF AN EVEN HIGHER INCREASE IS DUE TO A LOT OF AVAILABLE LAND. THE HIGHWAY DEPARTMENT COST TO MAINTAIN THE PRESENT INADEQUATE ROAD SHOULD JUSTIFY PAVING.

##########

-- 4:00 PM

REPS. LARSON AND LACHER

OM: PEGGY PUTNAM
GENERAL DELIVERY
WASILLA 99687
PHONE: 376 3432

HB303

ANK YOU FOR HB 303, PAVING OF PITTMAN CHROCK RD. IT IS A DANGEROUS ROAD THE
IT IS NOW WITH ALL THE HILLS AND SHARP CURVES. SOMEDAY A SCHOOL BUS IS GO-
TO GET HIT BECAUSE SOMEONE WILL COME OVER THE HILL AND THERE IT WILL BE-
CK!

****

MARY/MATSU - 4/1 - 5067

TO: SENATOR KERTTULA
REPS. LACHER, LARSON, CATO, MILLER, ABOOD, DAVIS, HERRMANN, MCBRIDE, PHILLIPS, SZYMANSKI

APR - 4 1983

FR: MARGARET LOVEJOY
SR BOX 2924A
WASILLA 99687 PH: 376-6927

I FEEL HB 303, PAVING OF PITTMAN ROAD, IS LEGISLATION OF VITAL IMPORTANCE TO RESIDENTS WHO HAVE ACCESS TO PITTMAN ROAD. THE OVERALL CONDITION OF THE ROAD IS DEPLORABLE. THE TRAFFIC LOAD OF 1100 PER DAY JUSTIFIES A PAVED ROAD, THE DUST CONDITIONS ARE UNDESCRIBABLE. THE PAVING SHOULD NOT BE DELAYED BUT DONE IN 1983. THANK YOU.

****

ARY/MATSU - 4/1 - 5067

O: SENATOR KERTTULA
REPS. LACHER, LARSON, CATO, MILLER, ABOOD, DAVIS, HERRMANN, MCBRIDE, PHILLIPS, SZYMANSKI

R: ED, SHARON & DAVID HESS
SR BOX 2928
WASILLA 99687 PH: 376-5730

APR - 4 1983

E SUPPORT THE PASSAGE OF HB303, PAVING OF PITTMAN ROAD. THE HAZARDS OF HE ROAD INCLUDE, DUST TO POINT CAN NEITHER BREATHE OR SEE, APPROXIMATELY 0' CURVES WITH IMPROPER BANKING, TOO NARROW FOR PARKING BUT PEOPLE DO NYWAY, SUBDIVISIONS WITH NO STOP SIGNS COMING ON TO THE ROAD, AT SOME IMES UNABLE TO HAVE SCHOOL BUSES TRAVEL THE ROAD, OVERTAXED WITH POTHOLES. ETTER FOLLOWS. THANK YOU.

****

Peter E. & Shirley D. Dreith
P.O. Box 404
Wasilla, AK 99687

MAR 8 1983

March 1, 1983

Ronald L. Larson
Box 53
Palmer, AK 99645

Dear Mr. Larson:

Sometime around 1961, the state improved our Homestead Road from Schrock Road to the highway at Pittman (now called Pittman Road). If my memory serves me right, it was done at a cost of only $40,000. It wasn't much of a road, but it was an improvement for several years, until the very thin layer of gravel disappeared and the road wore out. After that it became a nightmare. I remember one time when I had to get a neighbor with a D-8 cat to pull me out at break-up time.

About four years ago, the state upgraded the first five miles of the Pittman end of the road. That section is now fairly stable and does not go out at break-up time. They completely ignored the last four miles that now connects with the church road.

When the state maintenance section grades Pittman Road in the summer, most of the time they do not even put the blade down until they get to the West end of the road that was upgraded. When we ask them why, they tell us that they can do no good on our end because there is nothing but dirt or mud for surfacing.

I believe that in the next two years, approximately thirty-five families are going to have to build and move onto their lots in the state sub-division 'Greensword' or loose them. They must be living on their lots to comply with state lottery regulations. This will again increase the amount of traffic on a road that is not passable in the spring without severe damage to our vehicles.

If we have a bad break-up again this year, the road can become impassable. One of the two school busses that travel the entire length of this road was off the road and in the ditch this winter because of unsafe road conditions. Some curves are banked the wrong way, some not banked at all, and the road is rough and narrow in places.

I would suggest that to get a true picture of the last four miles of this road (East end), you contact the State Division of Highway Maintenance section at Palmer.

We think it is deplorable and a disgrace that with all the money the state has had, and still does this year, to ignore the needs of all the families, and allow a twenty-four year old road to remain in this condition. We don't think it is necessary to wait until some of our school children are killed or injured on

our school busses, to get this road upgraded to a safe driving condition.

Any help we can get on this matter will be appreciated and expected.

Sincerely,

Peter E. & Shirley D. Dreith

Peter E. &
Shirley D. Dreith

PED/ma
cc: Gov. Sheffield
Barbara Lacher
Jalmar Kerttula

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT IN THE ALASKA STATE ARCHIVES

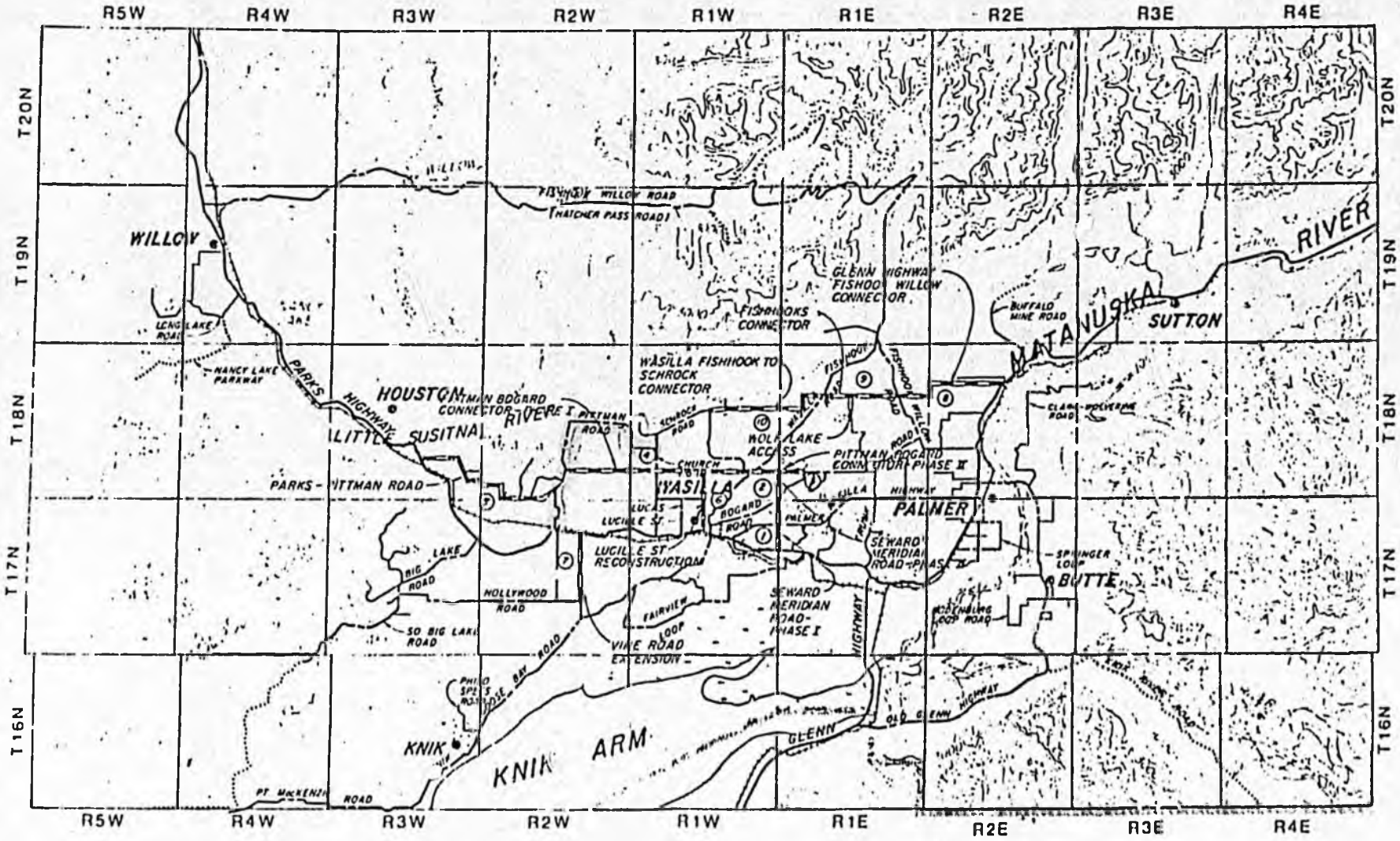
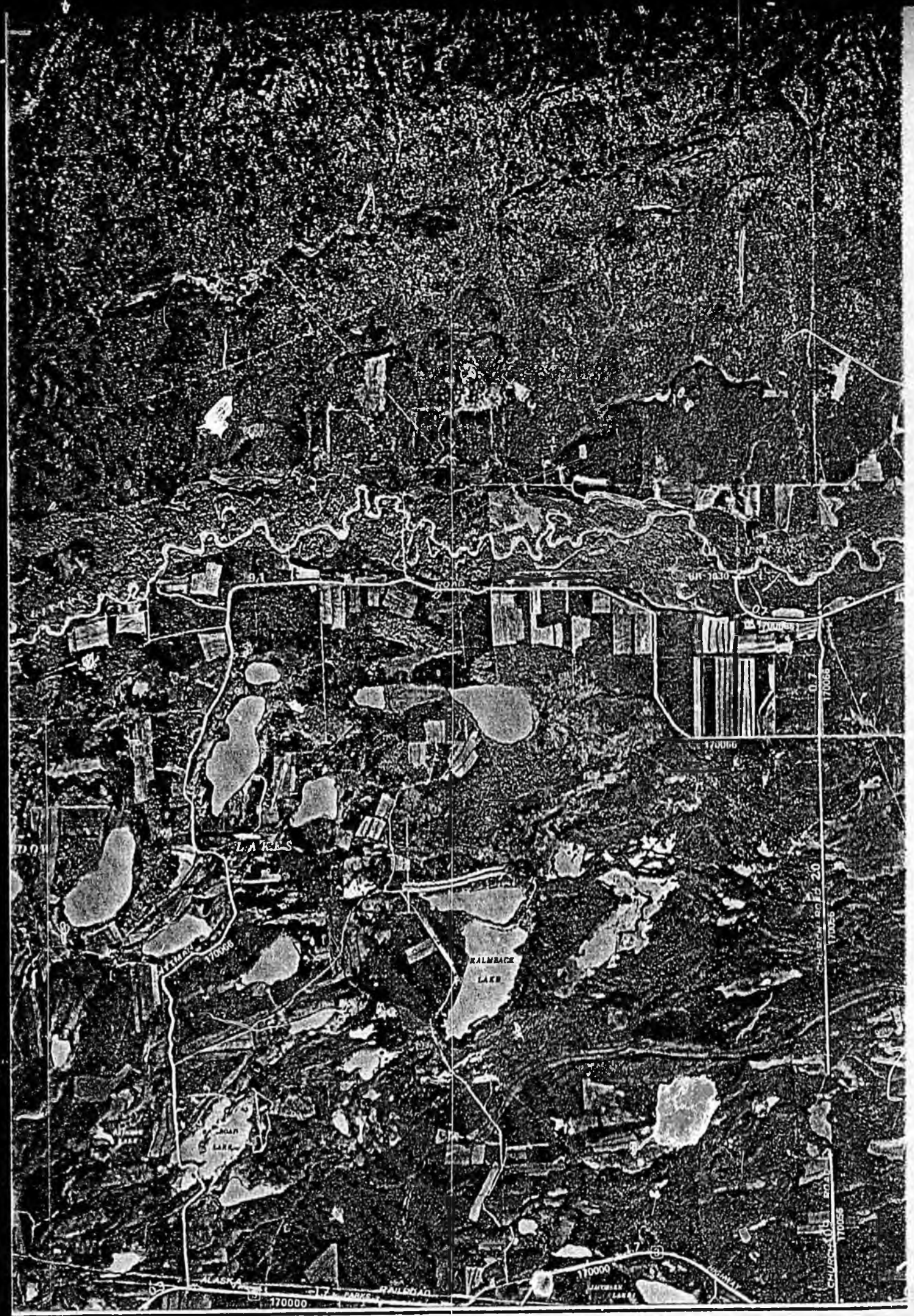


FIGURE 11
6-YEAR CAPITAL
IMPROVEMENT PLAN

MATANUSKA SUSITNA BOROUGH



STATE HIGHWAY SYSTEM MAP
PALMER MAINTENANCE STATION
DOT/PF MAY 1978
SHEET 4 of 10

HB

313

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.

TITLE PAGE ONLY HAS BEEN FILMED.

A PERFORMANCE REVIEW OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT ALASKA TRANSPORTATION COMMISSION

April 1, 1982

Audit Control Number

08-092-0069-R

Commissioner, Department of Commerce and Economic Development	Charles R. Webber
Deputy Commissioner, Department of Commerce and Economic Development	Edward Eboch

Members of the Alaska Transportation Commission

Chairman	Keith Miller
Commissioner	Walter Kubley
Commissioner	H.D. Scougal

STATE OF ALASKA

DIVISION OF LEGISLATIVE AUDIT

Rep Cato
Room 108
Rec'd Act. 3/26 pm.

STATEMENT OF POSITION

offered by

ALASKA TRUCKING ASSOCIATION, INC.

SUPPORTING THE CONTINUATION OF THE
ALASKA TRANSPORTATION COMMISSION

STATEMENT OF POSITION

The Alaska Trucking Association, Inc. (Association) is a non-profit trade organization representing 325 trucking firms and allied industry firms throughout the State of Alaska. Our membership consists generally of two major groups, the For-Hire Carrier and the Private Carrier. The for-hire carrier group includes common carriers, contract carriers and exempt carriers as well as the water carriers. Our membership stretches from the northernmost tip of Alaska (Barrow) to the extreme south and west (Dutch Harbor and Ketchikan), to the Nome/Kotzebue area and to the Canadian border on the west. The largest concentration of membership is in the Southcentral, Southeast and Interior regions.

The Association's purpose is to foster and promote an economically sound transportation system in Alaska.

The regulated motor carrier industry is composed overwhelmingly of small firms with the vast majority grossing less than $500,000 a year. At the other end of the spectrum are the large well-established carriers and included in the group are some of the industry's publicly held firms.

The importance of a regulated motor carriage system, and the trucking industry as a whole to our State's vital transportation system cannot be overstated. Our motto, "If you got it, it came by truck," is not an attempt to overrate our industry. It is simply a fact that goods, supplies and materials are shipped to Alaska by outside manufacturing markets and that shipment always begins and ends with truck movement.

There are approximately 13,281 commercial trucks registered with the State of Alaska and approximately 9,178 commercial trailers. Most of these trucks and trailers are involved with freight movement and these numbers give some indication of the number of jobs offered to Alaskans within the trucking industry. The trucking industry is one of the largest private industry employers in the state.

Recently, Senate Bill 35 was introduced. Senate Bill 35 is an act "relating to transportation merging the Alaska Transportation Commission with the Alaska Public Utilities Commission; and providing for an effective date." Inherent in this bill are some changes in the manner in which motor transportation is regulated in the State of Alaska.

Senate Bill 35 contains a number of items. First, it increases certain weight and application fees for aircraft and motor vehicles. While the state trucking association is cognizant of the need to keep fees in line with inflation, the Association is partially opposing a fee increase at this time because of the recent federal increase in taxes which, in part, are directed exclusively against the motor transportation industry. The association will provide a separate statement dealing with the increased fees portion of the bill.

I. Merger of the Alaska Transportation Commission (ATC) with the Alaska Public Utilities Commission. The Alaska Trucking Association has considered the findings and recommendations of the Division of Legislative Audit in this regard but believes that the merger of the two commissions is not warranted at this time. The Association's reasons for opposing the merger are as follows:

1. The Public Utilities Commission, at the present time, is still assimilating the Alaska Pipeline Commission. It already has an overcrowded docket and the assimilation of another 500 to 600 cases annually would, of necessity, dilute the time spent on transportation matters by the state regulatory commission. The Association believes that the Commission should be directed to refocus its attention on the proper administration of the state Transportation Act. The Association believes that this will best serve the public interest.

2. The saving in space and personnel would, at best, be illusory. Commissioner Miller, in his testimony before this committee, indicated that the Commission was underfunded by over $100,000 in its last budget. The legislative audit report suggests that the change be a reorganization of policies, procedures and staffing. However, based on a review of the recommendations put forth by the report, it would appear that more staff and commission work is needed rather than less; hence, the Association does not believe any real cost savings will result from a merger.

3. Alaska's unique needs and isolation from the contiguous 48 states makes it totally dependent upon motor and air transportation. The previous Governor and the Legislature have already recognized the importance of transportation to the state in forming the Department of Transportation. The same recognition should be given to the regulatory phases of transportation. In fact, it might be noted that the federal government has two agencies dealing with motor and air transportation, to wit, the Interstate Commerce Commission and the Civil Aeronautics Board.

4. Regulatory policies that are necessary in dealing with transportation, i.e., a greater degree of competition in the marketplace, a greater number of carriers, a greater number of diverse needs to be met, are not consistent with the regulatory policies that might be applied for public utility regulation which deal with companies with high fixed assets and, generally, a monopoly or quasi-monopoly service area. This difference was one of the original justifications for splitting the Alaska Transportation Commission from the original Public Services Commission. This difference was true in 1967 when the split occurred and is even more true today in light of Alaska's diverse transportation needs.

II. The Legislature Should Direct the Commission to Undertake Regulatory Initiatives in Three Major Areas, (1) Certificates of Authority, (2) Tariffs, and (3) Safety Inspections.

1. Certificates of Authority. The Association recommends two initiatives in this area.

(A) The legislative audit report, in its Recommendation No. 2, advised the Legislature that temporary authority to motor and air carriers should be granted in accordance with statutes. Discussion of the Commission practices in this regard is already contained in the legislative audit report and will not be further discussed herein. The audit report also directed the Commission to strengthen its review of a carrier's financial fitness. Financial fitness is critical in determining the suitability of a given carrier to provide transportation. If a carrier is in financial trouble, often the first items to go are maintenance and safety procedures. If a carrier's financial capability is more closely examined to begin with, there will be greater assurance that the carrier will have sufficient assets to pay its expenses as they become due. While there is no guarantee in the transportation business that a company will make money, at least a closer financial analysis will insure a greater probability of a financially solvent carrier and will thus enable the carrier to operate properly and safely.

(B) The second aspect of authority certification that is of great concern to the association is dealing with carriers who operate either beyond their authority or who have no authority at all. The legislative audit committee, in its Recommendation No. 4, recommended that the Commission Staff take a stronger position and a stronger enforcement posture. Alaska Transportation Commission Chairman Miller, in testifying before the committee last week, noted that the Commission was aware of 50 unauthorized operations. The committee should realize that the failure to take an efficient enforcement posture ultimately costs every consumer who deals with an authorized carrier more in shipping charges. A carrier's revenue must come through its tariff charges. If the total pool of common carrier traffic is being diverted to non-authorized operations, the authorized carrier, in order to cover its costs, must, of necessity, raise rates. A strong enforcement posture will reduce this illegal siphoning off of carrier traffic revenue and will reduce the pressure to increase transportation charges.

2. Tariffs. Again, the Association recommends two initiatives in this area.

(A) First, the Commission must perform field surveys of regulated motor carriers. The legislative audit report noted that of 630 regulated carriers in 1981, 38 field surveys were performed, all on air carriers. None were performed on any motor carriers. Illegal operations can also include illegal applications of tariffs. Carriers provide services usually below their tariffs, again illegally siphoning off traffic and having the same financial effect on authorized carriers as illegal operations.

The Association would note that some of the smaller carriers may not have experienced tariff personnel. The ATC, in performing its field surveys, can assist the carriers' personnel in the proper application of the carriers' tariffs. The Association is not recommending that a Commission enforcement agent be placed in every trucking concern's office, but rather that the Commission use its best judgment in insuring tariff compliance. Obviously, if a carrier repeatedly violates its tariff or misuses its authority, it should be prosecuted to the full extent of the law.

(B) The second area in tariff regulation is the need by the Commission to propose appropriate cost and accounting regulations in order that it will be able to properly review tariff filings by carriers. Again, the legislative audit report, in its Recommendation 3(B) recommended that the Commission require the carriers to submit appropriate financial data for rate changes. To this, the Association has no objection, per se; however, the Commission must adopt suitable accounting and rate regulations and perform proper cost studies since the filing of raw financial data alone is not enough to review the appropriateness of tariff filings in motor transportation. The Association supports the need for such accounting and cost justification regulations, but the initiative must come from the Commission. Obviously, with 630 motor and air carriers and the recognition that not all of these companies are large companies, the type of information that the Commission will need must be tailored to the competitive needs of the industry and the geographical location. However, something must be done because already there is evidence of predatory pricing which will only further exacerbate the weak financial condition of the motor transportation industry in Alaska. Also, it might be noted that such regulations would give shippers and other members of the public an opportunity to have their input in the regulatory process. The Commission already has powers to prevent predatory pricing by using its minimum rate order powers.

3. Safety Inspections. The Association understands that as of March 11, 1983, money for the safety inspection function of the Commission has run out. It is unthinkable to the Association that Alaskans can think of multi-million dollar capital projects being funded while this important element of public safety is neglected. The Commission is urged to institute and the Legislature is urged to appropriate sufficient funds for safety inspections. Under Recommendation No. 5 of the legislative audit report, it was noted that field surveys should include safety inspections. The Association concurs with inspections because of the obvious benefit of inspections and surveys to both the public and to the motor carrier, i.e., less probability of accidents occurring. Also, such inspections have a more positive effect in that if the number of accidents occurring are reduced, presumably insurance rates would go down and the pressure to raise transportation rates would decrease. Again, the initiative must come from the Commission along with the assistance of both the Legislature and the Alaska transportation industry.

4. Other Matters. In regard to the de-regulation of dump truck operators, the Association believes that this should be a separate subject matter in separate legislation and not in the bill. The Dump Truck Industry has its own association. This Association does perform some services for them such as providing the casualty insurance trust; however, it is believed that the best interests of the public are served by severing this provision from the bill and dealing with it separately and allowing the affected industry to speak for itself.

III. CONCLUSION

THE LEGISLATURE SHOULD EXTEND THE ALASKA TRANSPORTATION COMMISSION FOR FOUR (4) YEARS AND SUPPORT THE COMMISSION WITH ADEQUATE FUNDING.

The Alaska Trucking Association generally endorses the results of the legislative audit. However, it believes that a merger of the Alaska Transportation Commission with the Alaska Public Utilities Commission will only exacerbate the problems set forth in the legislative audit report rather than solve them. For example, the legislative audit Recommendation No. 6 suggests that commissioners and hearing examiners write all of the formal orders of the Commission. Obviously, the suggestion of transferring only one commissioner who has a background in transportation to the Public Utilities Commission if merger is approved and attempting to comply with this recommendation is inconsistent. What the Alaska Transportation Commission needs is more help and not less.

Generally, the suggestions made by the legislative audit and endorsed by the Alaska Trucking Association all require time to implement. Tariff regulations are needed on costs and accounting. The legislative auditors noted several areas in which the Commission must improve its internal procedures. The Association believes that what is needed is suitable financial support for the Commission and not merger of the Commission with the Public Utilities Commission.

It is, therefore, the recommendation of the Alaska Trucking Association that the Alaska Transportation Commission's term be extended under the Sunset Law for four (4) years. Coupled with that should be a legislative committee report urging the Commission to comply with the recommendations of the legislative audit. Legislative direction should be given with adequate and sufficient financial support, both from manpower and budgetary standpoints, to enable the Commission to effectively do its job. The Association does not think it is necessary to have a Commission enforcement agent threatening civil penalties to insure compliance with the Commission's regulations. For the most part, most air and motor operators try diligently to comply with the law. However, because transportation regulations, as in any other regulated field, are often complicated, Commission guidance is needed to assure that operators comply with the law. However, where appropriate, the full enforcement capability of the Commission should be brought to bear on those operators who refuse to comply with the law.

Good regulation should be continued in the public interest. It assists the public, which, after all, involves each of us as consumers; it assists shippers; and it assists those connected with the motor carrier industry.

Thank you for the opportunity to provide this statement of position.

ALASKA TRUCKING ASSOCIATION, INC.

By H. L. Brasher
Its Managing Director

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

OFFICIAL BUSINESS

4/12/83

LETTER OF INTENT
FOR
CSSB 184

During the scheduled hearings in which the Alaska Transportation Commission (A.T.C.) was discussed and reviewed, many problem areas were identified. The Performance Review of the Alaska Transportation Commission conducted by the Division of Legislative Audit, April 1, 1982, concluded that the functions of A.T.C. could be better performed if A.T.C. were to merge with the Alaska Public Utilities Commission.

However, several questions were raised which remain unanswered:

1) Is State involvement in the Essential Air Service Program required?

2) Does the State want to deregulate surface and air transportation within Alaska?

3) What method does the State wish to employ to assure the public that air and motor carriers have sufficient insurance coverage to protect the public's interest?

4) What is the role of the Alaska Transportation Commission in regard to a commercial vehicle safety program?

5) Would a citizen's board be an appropriate mechanism to perform the oversight functions which are currently the responsiblity of the Commissioners of the Alaska Transportation Commission.

With the passage of this legislation, it is the intent of the Senate Labor and Commerce Committee that the Office of Management and Budget conduct a thorough performance review of the functions of A.T.C. The review will include, but will not be limited to, the scope of areas previously outlined.

The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Respectfully submitted,

Sen. Dick Eliason, Chair

MAR 2 1983

ATC

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE ALASKA TRANSPORTATION COMMISSION

Notice is hereby given that the Alaska Transportation Commission, under authority vested by AS 42.10, proposes to repeal regulations in Title 3, Part 6 of the Alaska Administrative Code, dealing with forwarders, to implement AS 42.10.070, .080 as follows:

> 3 AAC 64.340 is repealed. This section is replaced by 3 AAC 69.020(c) and is therefore no longer necessary.

Notice is also given that any person interested may present written statements or arguments relevant to the action proposed by delivering a copy of his comments to the Alaska Transportation Commission, Frontier Building, 3601 C Street, Suite 778, Anchorage, AK 99503, before April 1, 1983.

Any person who believes that oral hearing is necessary to resolve this matter shall in writing set out the reasons why they believe oral hearing is necessary and submit them to this Commission on or before March 20, 1983. If no requests for oral hearing are received, the Commission shall proceed on written submission.

This action is not expected to require an increased appropriation.

The Alaska Transportation Commission upon its own motion or at the instance of any interested person, may after April 6, 1983 adopt the proposals substantially as described above without further notice or may decide to take no action on them.

DATED at ANCHORAGE, ALASKA, this 24th day of February 1983.

Keith H. Miller
Commissioner

All correspondence refer to Docket 82-630-RR/O

3 AAC 64.340 SECURITIES OR SURETY BONDS REQUIRED FOR BROKERS AND FORWARDERS. Repealed.

Authority: 42.07.121
42.07.141
42.10.050
42.10.070
42.10.100
42.10.110
42.10.420

C E R T I F I C A T I O N

I HEREBY CERTIFY that I have this date mailed a true and correct copy of the NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA TRANSPORTATION COMMISSION in Docket 82-630-RR/O, postage prepaid to the following parties of record:

Hon. Mitchell E. Abood, Jr.
House of Representatives
Pouch V
Juneau, AK 99811

Hon. Albert P. Adams
House of Representatives
Pouch V
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DATED at ANCHORAGE, ALASKA, this 25th day of February 1983.

ALASKA TRANSPORTATION COMMISSION

Carolyn J. Homme

Carolyn J. Homme, AST

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

DATE: 20 April 1983

TO: REP. WALTER FURFACE, CHAIRMAN
Labor and Commerce Committee

REP. AL ADAMS, CHAIRMAN
Finance Committee

FROM: Rep. M. W. Miller, Acting Chairman
House Transportation Committee

RE: HB 313

It is the recommendation of the House Transportation Committee that it is in the State's best interest to continue the Alaska Transportation Commission (ATC) because of the importance of the ATC in order to provide for the enforcement of surface and air transportation regulations. Alaska has seen a substantial increase in the surface and air transportation in recent years.

In testimony before the House Transportation Committee, several witnesses said that the reason the Alaska Transportation Commission has not been able to implement recommendations from previous audits, is that they have not received sufficient funding from the legislature to hire personnel necessary to accomplish the recommendations.

In testimony, several witnesses also said that the ATC has been neglectful in following practices to ensure an efficient operation. This was supported by the findings in the legislative audit.

It is further suggested that the qualifications of the Commissioners and the number of Commissioners setting on the ATC should be reviewed to ensure a more efficient operation both for the benefit of the carriers and the public in the area of safety.

The Alaska Transportation Commission is a most important link or buffer between the Federal government, the State and the industries, therefore, the ATC should be continued after having been fully reviewed.

COMMITTEE REPORT

HOUSE

FINANCE

(9) FURTHER:

4/4/83

Date: 4-18-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 313

An Act extending the termination date of the Alaska Transportation Commission; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M.W. Miller Vice Chairman
CHAIRMAN

H 60

Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under AS 42.07.011 — 42.07.191 shall continue in office for terms of two, four and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and his finding based on the charges, together with a complete record of the proceedings. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)

Revisor's notes. — In this section "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Sec. 42.07.031. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission, except as provided in AS 42.07.181(d). (§ 2 ch 104 SLA 1969; am § 19 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment added "except as provided in AS 42.07.181(d)" to the end of the section.

Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.

(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting.

(c) Members of the commission shall be qualified as follows:

(1) one member shall be a graduate of an accredited university with a major or degree in economics and have experience in the economics of public transportation;

(2) one member shall have substantial experience in transportation and

(A) be a graduate of an accredited university with a major or a degree in financial management or business administration; or

(B) have six years of experience in business or financial affairs;

(3) one member shall have 10 years management experience in a field of transportation. (§ 2 ch 104 SLA 1969; am § 20 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (c).

Editor's notes. — Section 30, ch. 115, SLA 1980 provides: "Notwithstanding the provisions of AS 42.07.041(c), enacted in sec. 20 of this Act, the members of the Alaska Transportation Commission may continue in office for the remainder of their terms."

Sec. 42.07.061. Restrictions. A commissioner, employee or agent of the commission may not have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under AS 42.07.011 — 42.07.191, 02.05.010 — 02.05.260, or 42.10.010 — 42.10.430. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. A commissioner may not, for two years after leaving his position as a commissioner, act as a representative of a business or agency in a matter before the commission. (§ 2 ch 104 SLA 1969; am § 21 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment in the first sentence, substituted "A commissioner" for "No commissioner" at the beginning of the sentence, inserted "not" preceding "have an official" and added "02.05.010 — 02.05.260, or 42.10.010 — 42.10.430" to the end of the sentence. The amendment also added the last sentence.

Sec. 42.07.071. Compensation. Members of the commission are in the exempt service and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976; am § 16 ch 263 SLA 1976; am § 11 ch 80 SLA 1978; am §§ 12, 27 ch 3 SLA 1980)

Effect of amendments. — The second 1976 amendment substituted "as established under AS 39.23" for "equal to that of a district court judge payable in equal monthly installments."

The 1978 amendment substituted "set by AS 39.27.011(a) for Range 27, Step C of the state pay plan" for "as established under AS 39.23."

Section 12, ch. 3, SLA 1980, retroactive to January 1, 1979, and applicable to calendar year 1979, substituted "and are entitled to an annual salary of $49,000, payable monthly in 12 equal installments" for "under AS 39.25 and shall receive an annual salary set by AS 39.27.011(a) for Range 27, Step C of the state pay plan." Section 27 of ch. 3, retroactive to January 1, 1980, substituted "and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska" for the language substituted by § 12.

Sec. 42.07.101. Employment of commission personnel. (a) The commission may employ an executive director who shall have at least five years of experience in public transportation management or regulation, law, accounting, or an allied field. A member of the commission may act as executive director for no longer than 90 days. The commission may employ engineers, hearing officers, staff legal counsel, experts, clerks, accountants, and other agents and assistants it considers necessary. The executive director, his deputy, and staff legal counsel, and hearing officers to the commission are in the partially exempt service under AS 39.25.120. All other employees and agents of the commission are in the classified service under AS 39.25.100.

(b) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants and experts the commission considers necessary. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970; am § 22 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

The legislature intended the use of hearing officers without commissioners. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Such use held lawful. — The Alaska transportation commission's use of a hearing officer, without the presence of the individual commissioners, violated neither the applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Article 2. Powers and Duties of Commission.

Section
121. General powers and duties
126. Exempt transportation carriers
131. Authority limited by federal law
136. Requirements for exempt carriers
171. Enforcement authority
181. Stop orders
191. Definition

Sec. 42.07.121. General powers and duties. The commission shall supervise and regulate transportation in the state as provided in AS 42.07.011 — 42.07.191 and in AS 02.05.010 — 02.05.260 and

42.10.010 — 42.10.430, and may do all things, whether specifically designated in AS 42.07.011 — 42.07.191 or in AS 02.05.010 — 02.05.260 or 42.10.010 — 42.10.430, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972; am § 23 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "commission" for "Alaska Transportation Commission" and deleted "AS 42.15 and AS 42.25" following "AS 02.05.010 — 02.05.260 and 42.10.010 — 42.10.430" and "AS 42.15 or AS 42.25, or in addition thereto" following "AS 02.05.010 — 02.05.260 or 42.10.010 — 42.10.430."

Sec. 42.07.126. Exempt transportation carriers. Except as provided in AS 42.07.136, the jurisdiction of the commission does not extend to the regulation of ferry or bus transportation. (§ 24 ch 115 SLA 1980)

Sec. 42.07.131. Authority limited by federal law. The provisions of AS 42.07.011 — 42.07.191 and 02.05.010 — 02.05.260 and 42.10.010 — 42.10.430 apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969; am § 25 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "and AS 42.15" following "AS 42.10.010 — 43.10.430."

Sec. 42.07.136. Requirements for exempt carriers. The commission shall require carriers exempted under AS 42.07.126 and AS 42.10.020(5) to file information necessary to carry out AS 42.07.011 — 42.07.191 and to procure and maintain appropriate bodily injury and property damage liability insurance and cargo insurance from a company licensed to write insurance in the state or deposit security for the limits of liability and upon the terms and conditions the commission determines necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of its operation. Evidence of the required insurance shall be filed with the commission. (§ 26 ch 115 SLA 1980)

Sec. 42.07.141. Administrative authority, regulations and hearing procedures.

NOTES TO DECISIONS

Effect of exemption, etc.

In accord with original. See Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Use of hearing officer without commissioners. — The Alaska Transportation Commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the

applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Sec. 42.07.151. Application of Administrative Procedure Act.

NOTES TO DECISIONS

Effect of subsection (a), etc.

In accord with original. See Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Subsection (a) of this section specifically exempts the Alaska transportation commission from the requirements of both AS 44.62.340, forbidding the delegation of the hearing power absent express statutory authorization, and AS 44.62.500, requiring the hearing officer to prepare a proposed decision and forbidding members of the applicable government agency from voting on the decision if they have not heard the evidence. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Use of hearing officer without commissioners. — The Alaska transportation commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Cited in Keystone Servs., Inc. v. Alaska Transp. Comm'n, Sup. Ct. Op. No. 1485 (File No. 3151), 568 P.2d 952 (1977).

Sec. 42.07.161. Investigations and hearing.

NOTES TO DECISIONS

Use of hearing officer without commissioners. — The Alaska transportation commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Sec. 42.07.171. Enforcement authority. An enforcement officer authorized and designated by the commission or by the Department of Public Safety has the authority set out in this section to enforce regulations and orders of the commission and to enforce the statutes that the commission administers. The commission may authorize the enforcement officer to

(1) require the operator of a surface or air vehicle which may be subject to the authority of the commission to present documents of vehicle registration, ownership, or other documents required by regulation to be in the possession of the operator;

(2) stop a surface or air vehicle which may be subject to the authority of the commission and request the right to inspect cargo within the vehicle to determine whether the operation of the vehicle violates a regulation or order of the commission or a statute which the commission administers; if the operator of that vehicle refuses to permit inspection of the vehicle or its cargo, the enforcement officer may, by

placing a seal on or around the cargo, prohibit the discharge of the cargo except at a point of destination and in the presence of an authorized enforcement officer of the commission;

(3) detain or remove from service a surface vehicle which may be subject to the authority of the commission when it reasonably appears to an enforcement officer of the commission that the continued operation of the vehicle would jeopardize the public safety; if an enforcement officer discovers a safety violation which in his opinion will not cause an accident or breakdown, he may order the vehicle to proceed to a designated repair area where the violation shall be corrected before the vehicle departs the area;

(4) issue citations for a violation of a regulation, order, or statute administered by the commission; and

(5) apply to a court for an appropriate order. (§ 26 ch 115 SLA 1980)

Sec. 42.07.181. Stop orders. (a) The commission may, following a hearing under its regulations, issue a stop order directed to a person violating or aiding or abetting a violation of a regulation, order, or statute administered by the commission.

(b) The commission may issue a stop order on its own motion before a hearing if it finds that immediate and irreparable harm is likely to occur to the public if the order is not issued. In addition, the commission may issue a stop order on its own motion if it finds that the party to whom the order is directed

(1) has failed to file required insurance or surety bonds;

(2) is no longer fit, willing and able to operate properly;

(3) is operating without an appropriate certificate or permit allowing him to conduct the transportation in question; or

(4) is operating a surface vehicle in a manner that will jeopardize the public safety if such an order is not issued.

(c) A stop order issued by the commission on its own motion and without a hearing is effective for 10 days and the order shall provide the respondent a hearing within 10 days. If requested by the respondent, the hearing shall be held in the judicial district in which the principal place of business of the respondent is located. If a hearing has been provided within 10 days, the commission may extend the stop order an additional 10 days in order that the commission may decide the matter.

(d) A single commissioner may issue a stop order without a hearing if he finds that a person engaging in surface transportation regulated under AS 42.10.010 — 42.10.430 does so in a manner that jeopardizes the public safety if a stop order is not issued. A stop order issued by a single commissioner is effective for 48 hours or until a stop order is issued by the commission under (c) of this section.

(e) A respondent subject to a stop order shall be given the opportunity to have the stop order rescinded because he has complied with its requirements.

(f) If, after a hearing, the commission finds that a respondent violated the stop order, the commission may fine that person not more than $1,000 for each day the violation of the stop order continues or an amount equal to revenue that person earned as a result of violating the stop order, whichever is greater.

(g) A person who refuses to allow an enforcement officer of the commission to examine his vehicle or cargo within the vehicle upon request under AS 42.07.171(2) and who is subsequently determined to have been in violation of a regulation, order, or statute under the jurisdiction of the commission may be fined $1,000 a day for each day of the violation or fined an amount equal to the gross revenue earned by the violator in that particular operation, whichever is greater.

(h) In this section, "respondent" means a person against whom a stop order or citation is directed. (§ 26 ch 115 SLA 1980)

Sec. 42.07.191. Definition. In AS 42.07.011 — 42.07.191, "commission" means the Alaska Transportation Commission. (§ 26 ch 115 SLA 1980)

Chapter 10. Alaska Motor Freight Carrier Act.

Article 1. Scope and Application.

Section
20. Exempt vehicles

Sec. 42.10.020. Exempt vehicles. AS 42.10.010 — 42.10.430 shall apply to all vehicles unless specifically exempted by this section. AS 42.10.010 — 42.10.430, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding an unladen total gross weight of 16,000 pounds, owned by a person deriving his primary source of livelihood from the operation of a ranch, farm, or dairy and which vehicle is used exclusively to transport his own ranch, farm, or dairy products to and from the market or to transport supplies, commodities, or equipment to be used on his ranch, farm, or dairy; motor vehicles driven under this classification shall be identified as farm vehicles in

Dec. '76 Statute

or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters and separators;

(10) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of other states, of any pipeline, as the term is defined in this section, or any interest in it;

(11) "regulation" includes rules;

(12) "tariff" means a rate, charge, toll, rule or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation. (§ 1 ch 139 SLA 1972; am §§ 7, 8 ch 6 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote paragraphs (4) and (8).

Sec. 42.06.640. Short title. This chapter may be cited as the Alaska Pipeline Commission Act. (§ 1 ch 139 SLA 1972)

Chapter 07. Alaska Transportation Commission Act.

Article
1. Establishment of Transportation Commission (§§ 42.07.011 — 42.07.111)
2. Powers and Duties of Commission (§§ 42.07.121 — 42.07.161)

Repeal of former chapter. — Section 1, ch. 104, SLA 1969, repealed former Chapter 07, entitled "Alaska Transportation Commission." The former chapter consisted of §§ 42.07.010 — 42.07.150, and derived from § 1, ch. 139, SLA 1966.

Article 1. Establishment of Transportation Commission.

Section
11. Creation and composition
21. Term of office: vacancy
31. Quorum
41. Qualifications
51. Oath of office
61. Restrictions
71. Compensation of members of the Alaska Transportation Commission
81. Principal office and seal
91. Legal counsel
101. Employment and compensation of personnel
111. Annual report

Sec. 42.07.011. Creation and composition. (a) There is created the Alaska Transportation Commission within the Department of Commerce and Economic Development. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for

a term of two years, but may be appointed for successive terms. (§ 2 ch 104 SLA 1969; am § 86 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" at the end of the first sentence of subsection (a).

Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under this chapter shall continue in office for terms of two, four and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the secretary of state a complete statement of all charges made against the commissioner and his finding based on the charges, together with a complete record of the proceedings. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

Sec. 42.07.031. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission. (§ 2 ch 104 SLA 1969)

Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.

(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting. (§ 2 ch 104 SLA 1969)

Sec. 42.07.051. Oath of office. Each commissioner, before entering upon the duties of his office, shall take the oath prescribed for principal officers of the state. (§ 2 ch 104 SLA 1969)

Cross reference. — For further provisions as to oaths of office, see AS 39.05.040 and AS 39.05.130.

Sec. 42.07.061. Restrictions. No commissioner, employee or agent of the commission may have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under this chapter. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. (§ 2 ch 104 SLA 1969)

Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary equal to that of a district court judge. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

Editor's note. — Section 16, ch. 263, SLA 1976, amends this section to read as follows: "Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary as established under AS 39.23."

Section 21, ch. 263, SLA 1976, provides that this section takes effect "on the effective date of the first recommendations submitted to the legislature under AS 39.23.080(c)."

Sec. 42.07.081. Principal office and seal. (a) The commission shall establish a principal office. For the convenience of the public or of parties to a proceeding the commission may hold hearings or other proceedings at another location.

(b) The commission shall have an official seal. (§ 2 ch 104 SLA 1969)

Sec. 42.07.091. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. The attorney general may represent the public interest in any proceeding before the commission.

(b) The commission may employ temporary legal counsel in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission. (§ 2 ch 104 SLA 1969)

Sec. 42.07.101. Employment and compensation of personnel. (a) The commission may employ engineers, hearing officers, experts, clerks, accountants, and other agents and assistants it considers necessary. Employees and agents of the commission, other than legal counsel, are in the classified service under AS 39.25.

(b) In addition to its staff of regular employees the commission may contract for and engage the services of the consultants, experts and hearing officers the commission considers necessary for the purpose of developing information or conducting studies, investigations, hearings or other proceedings. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

Sec. 42.07.111. Annual report. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. In addition, the report shall contain information and data which bear a significant relationship to the development and regulation of transportation in the state. (§ 2 ch 104 SLA 1969)

Article 2. Powers and Duties of Commission.

Section
121. General powers and duties
131. Authority limited by federal law
141. Administrative authority, regulations and hearing procedures
151. Application of Administrative Procedure Act
161. Investigations and hearing

Sec. 42.07.121. General powers and duties. The Alaska Transportation Commission shall supervise and regulate transportation in the state as provided in this chapter and in AS 02.05 and chs. 10, 15 and 25 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10, 15 or 25 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "chs. 10, 15 and 25" for "chs. 10 and 15" and substituted "chs. 10, 15 or 25" for "chs. 10 or 15."

Editor's note. — Section 4, ch. 104, SLA 1969, provides: "All litigations, hearings, investigations and other proceedings whatsoever, pending under any law repealed by this Act, shall continue in full effect, and may be continued and completed under the provisions of this Act. All certificates, orders, rules, regulations, or tariffs made, issued, or filed under any law repealed by this Act, and in full effect upon May 21, 1969, shall remain in full effect for the term issued, or until revoked, terminated, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into or created under any law repealed by this Act, and in effect upon May 21, 1969, shall remain in full effect and shall continue to be performed by the commission."

Sec. 42.07.131. Authority limited by federal law. The provisions of this chapter and AS 02.05 and chs. 10 and 15 of this title apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969)

Sec. 42.07.141. Administrative authority, regulations and hearing procedures. (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common law and statutory rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court of this state to enforce its subpoenas or other process. (§ 2 ch 104 SLA 1969)

Cross reference. — See Editor's note to AS 42.07.121.

Legislative policy behind subsection (b). — See Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

The legislature has in subsection (b) explicitly expressed a policy requiring compliance with due process guarantees. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Commission cannot conduct procedures on ad hoc basis. — The legislative policy behind subsection (b) clearly suggests that the commission should not conduct its procedures on an ad hoc basis. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

A consistent application of regulations giving parties adequate notice of internal policies and procedures would preclude ad hoc considerations and create standards that could be judicially reviewed in accordance with the due process guarantees anticipated in subsection (b). Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Section imposes mandatory obligation to adopt procedural regulations. — Although the adoption of regulations is under subsection (a) discretionary, subsection (b), on the other hand, deals specifically with regulations governing practice and procedure. Hence, this section imposes a mandatory obligation on the commission to adopt procedural regulations. Mukluk Freight Lines v. Nabors Alas Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Subsection (b) requires the commission to adopt rules of procedure as a prerequisite to the use of a modified procedure. The ad hoc application of the modified procedure to an application for transfer of operating authority is improper. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Effect of exemption in AS 42.07.151(a) on obligation. — It is significant that AS 42.07.161(a) exempted the commission's adjudications from nearly all of the standard procedural safeguards of the Alaska Administrative Procedure Act (AS 44.62). However, this exemption should not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since subsection (b) requires the promulgation of procedural regulations consistent with due process. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather AS 42.07.151 and this section should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.151. Application of Administrative Procedure Act. (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44.62.560 — 44.62.570.

(b) AS 44.62.10 — 320, 44.62.640 and 44.62.650 apply to regulations adopted by the commission. (§ 2 ch 104 SLA 1969)

Rules for transfer of permits must be consistent with Administrative Procedure Act. — It is incumbent upon the commission to adopt rules for the transfer of permits consistent with the requirements of the Administrative Procedure Act (AS 44.62). Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Effect of subsection (a) on commission's obligation to promulgate procedural regulations. — It is significant that subsection (a) exempted the commission's adjudications from nearly all of the standard procedural safeguards of the Alaska Administrative Procedure Act (AS 44.62). However, this exemption should not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since AS 42.07.141(b) requires the promulgation of procedural regulations consistent with due process. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather, this section and 42.07.141 should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.161. Investigations and hearing. An investigation or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any one or more commissioners designated for the purpose by the commission. The testimony and evidence in an investigation or hearing may be taken by the commissioner to whom the investigation or hearing has been assigned. All investigations or hearings before or by commissioners are considered to be the investigations and hearings of the commission. A determination or order of commissioners upon such an investigation or hearing, so undertaken, is not effective until approved and confirmed by the commission. Upon confirmation, the determination or order is the determination or order of the commission. (§ 2 ch 104 SLA 1969)

Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

Section

10. Termination of state boards and commissions

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

(1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1983;

(2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;

(3) State Board of Parole (AS 33.15.010) — June 30, 1982;

(4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1985;

(5) Repealed by § 20 ch 110 SLA 1981.

(6) Alaska Council on Science and Technology (AS 44.21.241) — June 30, 1983;

(7) Alaska Resources Corporation (AS 37.12.010) — June 30, 1992;

(8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1985;

(9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987;

(10) Older Alaskans Commission (AS 44.21.200) — June 30, 1985;

(11) Council on Domestic Violence and Sexual Assault — June 30, 1985.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under AS 44.66.010 — 44.66.060 may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 3 ch 101 SLA 1981; § 20 ch 110 SLA 1981; am Executive Order No. 48, § 5 (1981); am § 1 ch 65 SLA 1982; am § 31 ch 142 SLA 1982)

Revisor's notes. — In subsection (a)(6), the reference "AS 44.21.241" was substituted for "AS 44.21.200" to reflect the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The first 1981 amendment substituted "1982" for "1980" in paragraph (3) of subsection (a).

The second 1981 amendment substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment repealed

paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment substituted "AS 44.21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

The first 1982 amendment substituted "1985" for "1982" in paragraph (8) of subsection (a).

The second 1982 amendment, effective July 1, 1982, deleted "Renewable" preceding "Resources Corporation" and substituted "June 30, 1992" for "June 30, 1982" in paragraph (7) of subsection (a).

Part 6. State Property.

Chapter

68. State-Owned Vehicles (§ 44.68.020)
74. Management and Disposition (§§ 44.74.010, 44.74.040, 44.74.070)

Chapter 68. State-Owned Vehicles.

Article

1. Use of State-Owned Vehicles (§ 44.68.020)

Article 1. Use of State-Owned Vehicles.

Section

20. Rules regarding the use of state-owned vehicles

Sec. 44.68.020. Rules regarding the use of state-owned vehicles. The Department of Transportation and Public Facilities shall prescribe rules which

(1) define what is the use of state-owned automotive and mechanical vehicles in the conduct of state business and distinguish this use from misappropriation for private use;

(2) prescribe use governing the storage of state-owned vehicles in those locations where storage space, under the jurisdiction of the Department of Highways, is available for storage of state-owned vehicles;

(3) provide for the marking of state-owned vehicles as property of the state and for the use of distinctive license tags for state-owned vehicles. (§ 2 ch 178 SLA 1959; am § 1 ch 12 SLA 1960; am § 50 ch 127 SLA 1974; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Highways."

Oct. 80 Statutes

The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Dec. '76 Statute

or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters and separators;

(10) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of other states, of any pipeline, as the term is defined in this section, or any interest in it;

(11) "regulation" includes rules;

(12) "tariff" means a rate, charge, toll, rule or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation. (§ 1 ch 139 SLA 1972; am §§ 7, 8 ch 6 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote paragraphs (4) and (8).

Sec. 42.06.640. Short title. This chapter may be cited as the Alaska Pipeline Commission Act. (§ 1 ch 139 SLA 1972)

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Article 1. Establishment of Transportation Commission.

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(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for

a term of two years, but may be appointed for successive terms. (§ 2 ch 104 SLA 1969; am § 86 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" at the end of the first sentence of subsection (a).

Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under this chapter shall continue in office for terms of two, four and six years, respectively. All their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the secretary of state a complete statement of all charges made against the commissioner and his finding based on the charges, together with a complete record of the proceedings. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

~~**Sec. 42.07.031. Quorum.** Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission. (§ 2 ch 104 SLA 1969)~~

Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.

(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting. (§ 2 ch 104 SLA 1969)

Sec. 42.07.051. Oath of office. Each commissioner, before entering upon the duties of his office, shall take the oath prescribed for principal officers of the state. (§ 2 ch 104 SLA 1969)

Cross reference. — For further provisions as to oaths of office, see AS 39.05.040 and AS 39.05.130.

Sec. 42.07.061. Restrictions. No commissioner, employee or agent of the commission may have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under this chapter. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. (§ 2 ch 104 SLA 1969)

Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary equal to that of a district court judge. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

Editor's note. — Section 16, ch. 263, SLA 1976, amends this section to read as follows: "Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary as established under AS 39.23."

Section 21, ch. 263, SLA 1976, provides that this section takes effect "on the effective date of the first recommendations submitted to the legislature under AS 39.23.080(c)."

Sec. 42.07.081. Principal office and seal. (a) The commission shall establish a principal office. For the convenience of the public or of parties to a proceeding the commission may hold hearings or other proceedings at another location.

(b) The commission shall have an official seal. (§ 2 ch 104 SLA 1969)

Sec. 42.07.091. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. The attorney general may represent the public interest in any proceeding before the commission.

(b) The commission may employ temporary legal counsel in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission. (§ 2 ch 104 SLA 1969)

Sec. 42.07.101. Employment and compensation of personnel. (a) The commission may employ engineers, hearing officers, experts, clerks, accountants, and other agents and assistants it considers necessary. Employees and agents of the commission, other than legal counsel, are in the classified service under AS 39.25.

(b) In addition to its staff of regular employees the commission may contract for and engage the services of the consultants, experts and hearing officers the commission considers necessary for the purpose of developing information or conducting studies, investigations, hearings or other proceedings. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

Sec. 42.07.111. Annual report. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. In addition, the report shall contain information and data which bear a significant relationship to the development and regulation of transportation in the state. (§ 2 ch 104 SLA 1969)

Article 2. Powers and Duties of Commission.

Section	Section
121. General powers and duties	151. Application of Administrative Procedure Act
131. Authority limited by federal law	161. Investigations and hearing
141. Administrative authority, regulations and hearing procedures	

Sec. 42.07.121. General powers and duties. The Alaska Transportation Commission shall supervise and regulate transportation in the state as provided in this chapter and in AS 02.05 and chs. 10, 15 and 25 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10, 15 or 25 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "chs. 10, 15 and 25" for "chs. 10 and 15" and substituted "chs. 10, 15 or 25" for "chs. 10 or 15."

Editor's note. — Section 4, ch. 104, SLA 1969, provides: "All litigations, hearings, investigations and other proceedings whatsoever, pending under any law repealed by this Act, shall continue in full effect, and may be continued and completed under the provisions of this Act. All certificates, orders, rules, regulations, or tariffs made, issued, or filed under any law repealed by this Act, and in full effect upon May 21, 1969, shall remain in full effect for the term issued, or until revoked, vacated, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into or created under any law repealed by this Act, and in effect upon May 21, 1969, shall remain in full effect and shall continue to be performed by the commission."

Sec. 42.07.131. Authority limited by federal law. The provisions of this chapter and AS 02.05 and chs. 10 and 15 of this title apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969)

Sec. 42.07.141. Administrative authority, regulations and hearing procedures. (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common law and statutory rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court of this state to enforce its subpoenas or other process. (§ 2 ch 104 SLA 1969)

Cross reference. — See Editor's note to AS 42.07.121.

Legislative policy behind subsection (b). — See Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

The legislature has in subsection (b) explicitly expressed a policy requiring compliance with due process guarantees. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Commission cannot conduct procedures on ad hoc basis. — The legislative policy behind subsection (b) clearly suggests that the commission should not conduct its procedures on an ad hoc basis. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

A consistent application of regulations giving parties adequate notice of internal policies and procedures would preclude ad hoc considerations and create standards that could be judicially reviewed in accordance with the due process guarantees anticipated in subsection (b). Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Section imposes mandatory obligation to adopt procedural regulations. — Although the adoption of regulations is under subsection (a) discretionary, subsection (b), on the other hand, deals specifically with regulations governing practice and procedure. Hence, this section imposes a mandatory obligation on the commission to adopt procedural regulations. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 416 P.2d 408 (1973).

Subsection (b) requires the commission to adopt rules of procedure as a prerequisite to the use of a modified procedure. The ad hoc application of the modified procedure to an application for transfer of operating authority is improper. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Effect of exemption in AS 42.07.151(a) on obligation. — It is significant that AS 42.07.151(a) exempted the commission's adjudications from nearly all of the standard procedural safeguards of the Alaska Administrative Procedure Act (AS 44.62). However, this exemption should not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since subsection (b) requires the promulgation of procedural regulations consistent with due process. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather, AS 42.07.151 and this section should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.151. Application of Administrative Procedure Act. (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44.62.560 — 44.62.570.

(b) AS 44.62.10 — 320, 44.62.640 and 44.62.650 apply to regulations adopted by the commission. (§ 2 ch 104 SLA 1969)

Rules for transfer of permits must be consistent with Administrative Procedure Act. — It is incumbent upon the commission to adopt rules for the transfer of permits consistent with the requirements of the Administrative Procedure Act (AS 44.62). Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Effect of subsection (a) on commission's obligation to promulgate procedural regulations. — It is significant that subsection (a) exempted the commission's adjudications from nearly all of the standard procedural safeguards of the Alaska Administrative Procedure Act (AS 44.62). However, this exemption should not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since AS 42.07.141(b) requires the promulgation of procedural regulations consistent with due process. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather, this section and 42.07.141 should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.161. Investigations and hearing. An investigation or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any one or more commissioners designated for the purpose by the commission. The testimony and evidence in an investigation or hearing may be taken by the commissioner to whom the investigation or hearing has been assigned. All investigations or hearings before or by commissioners are considered to be the investigations and hearings of the commission. A determination or order of commissioners upon such an investigation or hearing, so undertaken, is not effective until approved and confirmed by the commission. Upon confirmation, the determination or order is the determination or order of the commission. (§ 2 ch 104 SLA 1969)

HB

321

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(9)

4/4/83

Date: 4-26-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 321

An Act making a special appropriation to the Department of Transportation and Public Facilities for improvements and expansion of the terminal at the Anchorage International Airport; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Milt Wood

[illegible]

[illegible] do pass

M. W. Davis

M. W. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible] No Rec.

M. W. Miller Vice Chairman
CHAIRMAN

H 60

BILL SHEFFIELD
GOVERNOR

HB 321 and
HB 322

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 31, 1983

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills to accomplish the first phase of a comprehensive remodeling and expansion program for the domestic terminal at the Anchorage International Airport. This program is consistent with the comprehensive analysis of air traffic trends and corresponding facility needs for our traveling public.

The first bill will increase the revenue bond authorization contained in AS 37.15.410 by $28,000,000. The second bill will appropriate the proceeds of the sale of this additional amount of bonds. The appropriation is to the Department of Transportation and Public Facilities for the purpose of making the improvements at the Anchorage International Airport and other expenses required to accomplish the sale of the bonds.

The need for this project is well recognized and I request that you work with me so that these improvements may begin this spring.

Sincerely,

Bill Sheffield
Governor

HB

322

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

4/4/83

Date: 4-26-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 322

An Act increasing the bond authorization for international airport revenue bonds for $62,825,000; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Admiral Norman, No Rec.

M.W. Miller Vice Chairman

CHAIRMAN

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
DEPUTY COMMISSIONER

Bill Sheffield, Governor

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1440

MAY 20 1983

May 18, 1983

Re: Anchorage International
Airport Ramp Congestion

Representative Bette Cato, Chairman
House of Representatives
House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

During the House Transportation Committee Hearing on HB 321 and 322, several committee members expressed concern about congestion on arrival and departure ramps at Anchorage International Airport (AIA). As stated at the hearings, the major cause of the congestion is insufficient curb space on both ramps. AIA curently has 420 feet of curb space on the upper level and 430 feet at the lower level. Based on forecast aviation activity we estimate a need for 555 feet on the upper level and 805 feet on the lower level by 1985. The curb space on the lower ramp does not even meet the 1981 demand and with traffic increasing every year the facilities are becoming more and more inadequate.

Given the fact that the facilities are not adequate to meet the demand for curb space, the airport management is faced with making the best of a poor situation. Representative Abood mentioned the need for striping to delineate the lanes on each ramp. This is imperative. The lanes are re-striped every year as a part of routine maintenance. The cross-walks were repainted two weeks ago. The lane striping has been completed on the lower ramp and will be completed within the next couple of days on the upper ramp.

The local People Mover buses do not utilize either the arrival or departure ramp area. Instead, their stop is located west of the approach ramps in front of the old terminal building. Tour buses are a different matter. After much negotiation with the tourism industry and the Anchorage Convention/Visitor's Bureau, a specified area for the buses was designated on the far south portion of the arrival ramp. This space is beyond terminal doors and out of the main traffic lanes. The buses are permitted to utilize this space only after their passengers have claimed their luggage and can stay only for the time taken to load the baggage and passengers.

The Servair buses have apparently caused some problems in the past by utilizing the arrival ramp, however, Servair does not operate at the Domestic Terminal now that the new International Terminal is open.

Taxiis queue north of the terminal and no more than two are allowed on the ramp area simultaneously. I am told that airport security policy monitor this closely to prevent abuse. I will request that they pay special attention in the future.

Rental car agencies do have prime parking spaces directly in front of the terminal. The Department of Transportation and Public Facilities (DOT&PF) has notified the agencies that their ready-car parking will have to be relocated. That relocation has been delayed pending the recommendations of a Surface Transportation Study for the airport area. Those study recommendations will be available in July of this year. The decision to move rental cars has been made. The only question remaining is a selection of the new site. DOT&PF is evaluating a couple of options for utilizing the existing rental car area for an additional loading area once the rental agencies are relocated.

Another concern expressed by the Committee was the poor attitude and lack of courtesy on the part of the airport police and security guards. I have notified the Airport Manager of this problem. The Airport Manager has spoken to the airport security force requesting strict adherence to polite and courteous interaction with the public. I would encourage the public to call the Airport Manager (William Chambers) if specific officers are being discourteous. The officers are posted on the ramps in order to assure curb service for all who need it. Their attitude should be one of public service at all times -- most especially when it is necessary to ask a traveller to move his car so someone else can use the space.

I realize the airport's attempts to keep cars from parking too long at the curb is an unpopular action. However, as the Committee pointed out, some times their are so many cars double and triple parked that there isn't even on through lane. In the absence of adequate curb space, assuring timely turnover of cars is DOT&PF's only recourse to assure that no one monopolizes the curb.

Thank you very much for your interest in the airport and for suggestions for improving facility operations. If you need additional information or have additional suggestions for improving airport operations, please let me know.

Sincerely,

William L. Snell

for David W. Haugen
Deputy Commissioner

DWH:GML/sg

cc: Representatives Mike W. Miller, Mitchell Abood, Barbara Lacher, Randy Phillips, Adelheid Herrmann, Mike Szymanski, Jack McBride

William Chambers, Anchorage International Airport Manager

RAA REEVE ALEUTIAN AIRWAYS, INC.



April 20, 1983

Honorable Betty Cato
Chairman, House Transportation Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Before your committee are House Bills 321 and 322 relating to appropriations and authorization for bond sale for improvements at Anchorage International Airport. Reeve Aleutian Airways urges the committee's favorable consideration of both bills.

We have had the opportunity to review the plans for renovation and new construction at Anchorage International. Contemplated improvements at the terminal will benefit the entire state by enhancing traffic capability, passenger convenience, and freight handling in Anchorage.

Our transport system is by-in-large intra-state. The Aleutians and Western Alaska rely heavily on the commerce that Anchorage provides. Passage of HB321 and 322 will favorably affect development needs of fisheries, agriculture, and oil/minerals extraction industries; all of which are active in Western Alaska and the Aleutians.

Sincerely,

David A. Jensen
Vice-President

cg

4700 W. INTERNATIONAL AIRPORT RD. • ANCHORAGE, ALASKA 99502

Anchorage International Airport
Domestic Terminal Expansion & Renovation

The proposed project involves construction of approximately 65,000 square feet of new terminal area and remodeling and renovation of approximately 96,000 square feet of existing terminal area. The estimated cost is $23.1 million calculated at 1983 construction costs and includes the following:

Extend existing terminal 100 feet to the east (both levels). The first level will house additional baggage claim and make-up areas, and mechanical room. The second level will provide additional counter space, snack bar, storage, elevator and gate lobbies.

Construct a new two-level commuter concourse providing passenger waiting space, equipment storage, crew lounge area, restroom facilities, snack bar, baggage makeup, baggage claim, and 8 gates.

Preliminary engineering and construction for remodeling Concourse B to accommodate domestic carrier operations. Remodeling includes electrical system upgrades, installation of a fire suppression system and conversion of customs area to office lease space.

Purchase and installation of a backup emergency power system.

Preliminary engineering and construction of apron utility work required with the terminal remodeling such as construction of hardstands, relocation of fire hydrants, water supply, air start and guidance systems.

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 322
Title: Anch Int'l. Terminals Improvements
Sponsor: Governor Sheffield
Requestor:

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Anchorage International Airport

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING:						
100 PERSONAL SERVICES				500.0	530.0	560.0
200 TRAVEL				250.0	265.0	280.0
300 CONTRACTUAL				58.0	63.0	67.0
400 COMMODITIES				2.0	2.0	3.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING				810.0	860.0	910.0
CAPITAL		28,000.0				
REVENUE				500.0	500.0	500.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)*IARF				810.0	860.0	910.0
INT'L AIRPORT REVENUE BONDS		28,000.0				

*Inernational Airport Revenue Fund

POSITIONS:

FULL-TIME				8.0	8.0	8.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

This project will be paid for through revenue generated at the Anchorage Inernational Airport. The revenue projection does not assume any change in rates and fees, but does include anticipated revenue from the expansion, calculated at present terminal rental rates.

IV. ANALYSIS: Attached.

Prepared By: William R. Snell
Phone: 266-1440
Division: Acting Deputy Commissioner
Date: 3/30/83

Approved by Commissioner: [signature]
Date: 3/31/83
Department: Transportation and Public Facilities

PROJECT NEED:

Existing facilities in the passenger terminal complex are undersized. Facilities are not adequate for present domestic aviation traffic needs. Continued growth in aviation activity is anticipated, therefore, pressure for expanded facilities will increase. Existing international facilities have been relocated to the new international terminal, thus freeing space for domestic aviation needs. The west concourse must be remodeled before use by the domestic air carriers. Additional landside facilities, airport ticket offices, baggage claim and public areas are needed to accommodate domestic flight traffic. Air commuter facilities are minimal. New facilities are essential to provide adequate service to this growing segment of the aviation market. Construction of a new concourse off the east terminal expansion will accommodate commuters. Utility work airside is required in order to make the terminal expansion usable for the air carriers and commuter planes.

PROJECT DESCRIPTION:

Funding requested is for the first phase of a comprehensive remodeling and expansion program, at an estimated cost of $23.1 million. The project includes the following:

Extension of existing terminal 100-feet to the east (both levels). First level to house additional baggage claim and makeup areas and mechanical room. Second level to provide additional counter space, snack bar, storage, elevator and gate lobbies.

Construction of a commuter concourse providing passenger waiting space, equipment storage, crew lounge area, restroom facilities, snack bar, baggage makeup and baggage claim.

Preliminary engineering and construction to remodel west concourse to accommodate domestic carrier operations.

Preliminary engineering and construction of apron utility work required with the terminal remodeling.

PROJECT COST:

Bond sale costs at 3% to take care of closing costs, audit costs, fees to rating agencies, financial advisor, etc.

$28,000,000 x 3% = $840,000

In addition, an estimated $3 million was assumed for immediate deposit into the bond reserve fund. This is approximately 1 year's principal and interest on the bonds.

The estimated cash available after obligations is $24,160,000:

$28,000,000 - ($840,000 + $3,000,000) = $24,160,000

Capitalized interest during project construction has not been estimated. Depending on investment yield, interest earned on the cash could roughly equal or exceed interest obligations on the bonds. If, however, capitalized interest payments are required, DOT&PF will utilize International Airport Revenue Fund (IARF) cash for such payments. This is consistent with how capitalized interest was treated in earlier revenue bond issues.

OPERATING COSTS:

Costs identified are based upon our current costs for maintenance and custodial. which approximate $11 per square foot.

Added 66,000 sq. ft. x $11 = $726,000

1983 cost $726.0

1986 cost $810.0. Inflation is estimated at 6% per year.

No estimate is provided for the debt service since the yearly cost would vary so greatly based upon the interest rate and term of bonds.

HB

335

Sec. 43.31.171. Civil penalties.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220.

Editor's notes. — The repealed section derived from § 2, ch. 24, SLA 1970; § 3, ch. 166, SLA 1976.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Secs. 43.31.360 — 43.31.390.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed sections derived from § 2, ch. 24, SLA 1970.

Chapter 35. Coin-Operated Devices and Punchboards.

Article 1. Coin-Operated Amusement and Gaming Devices.

Section

80. [Repealed]

Sec. 43.35.080. Penalties.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning civil penalties, see AS 43.05.220. For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-3-3 ACLA 1949; § 3, ch. 142, SLA 1960; § 2, ch. 58, SLA 1971.

Chapter 40. Motor Fuel Tax.

Article 1. General Tax Levy on Transfers or Consumption of Motor Fuel.

Section

10. Tax on transfers or consumption of motor fuel and expenditure of proceeds
20. [Repealed]
30. Refund for nonhighway use
35. Other refunds and credits
40. [Repealed]
50. Refund claim by affidavit
80. Examination of books and records
90. [Repealed]
100. Definitions

Sec. 43.40.010. Tax on transfers or consumption of motor fuel and expenditure of proceeds.

(a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all motor fuel which he has distributed or used during the month.

(d) Repealed by § 3 ch 166 SLA 1976.

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Public Works directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by §§ 10 -- 100 of this chapter shall perform, when feasible, all construction or reconstruction projects by

contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of public works may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Public Works shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under §§ 10 — 100 of this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under § 40 of this chapter, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Highways for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(*l*) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel, The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970;

am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 4, 1982, added subsection (*l*).

Editor's notes. — Section 15, ch. 82, SLA 1982, provides: "The Department of Revenue may not collect the motor fuel tax from a dealer, as defined in AS 43.40.100(1), on a sale or transfer of motor fuel that occurs before the effective date of this Act [June 4, 1982] if the dealer did not collect the tax from a purchaser or transferee because of a reasonable belief that the fuel was not to be used as motor fuel, as that term is defined in AS 43.40.100(2), or if the dealer relied upon the purchaser's representation that the fuel would not be used as motor fuel. This section is intended to clarify ambiguities in the existing language of AS 43.40 concerning the party responsible for collecting the tax and to resolve an administrative dispute between certain fuel dealers and the Department of Revenue. For this reason, this section serves the general public interest in the fair and equitable administration of AS 43.40."

Sec. 43.40.020. Penalty for violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 48-5-3, ACLA 1949; § 4, ch. 153, SLA 1972; § 3, ch. 116, SLA 1977.

Sec. 43.40.030. Refund for nonhighway use.

(a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to operate an internal combustion engine is entitled to a refund of six cents a gallon if —

(1) the tax on the motor fuel has been paid;

(2) the motor fuel is not aviation fuel, or motor fuel used in or on watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

(b) The entire tax levied by this chapter shall be refunded to the purchaser on that part of the motor fuel used in a foreign country on which the tax has been paid when the fuel is sold and delivered in the state for non-highway use in a foreign country.

(c) The department shall establish the necessary regulations and prescribe the appropriate forms to prove that the motor fuel is taken to and used in foreign countries.

(d) If a person obtains motor fuel on which the tax levied by this chapter has been paid and the motor fuel is exempt from the tax, the person is entitled to a refund of the tax paid. (§ 2 ch 47 SLA 1955; am § 3 ch 27 SLA 1957; am § 2 ch 136 SLA 1961; am § 4 ch 158 SLA 1970; am § 3 ch 124 SLA 1971; am § 4 ch 125 SLA 1971; am § 4 ch 116 SLA 1977; am §§ 35, 36 ch 113 SLA 1980; am § 5 ch 82 SLA 1982)

Effect of amendments. — The 1980 amendment substituted a reference to this chapter in subsection (b), and added subsection (d).

The 1982 amendment, effective June 4, 1982, substituted "the tax has been" for "duty is" in subsection (b).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.035. Other refunds and credits. (a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and a certificate of use is acquired under AS 43.40.010(1); or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

(b) A reseller may elect, with the express written consent of the supplier of the resaler, to receive the credit or refund under this section directly from the supplier rather than by filing a claim for the credit or refund with the department. When an election is properly made under this subsection, the supplier may claim the credit or refund from the department. To be effective an election under this subsection must be signed in quadruplicate by the reseller and by the supplier. The reseller and the supplier shall each file one copy of the election, with original signatures, with the department. The reseller and supplier shall each retain a copy of the election with original signatures for audit review by the department. If an election is made under this subsection, it may not be revoked without the express written consent of the supplier. (§ 6 ch 82 SLA 1982)

Effective dates. — Section 19, ch. 82, SLA 1982, makes this section effective June 4, 1982, in accordance with AS 01.10.070(c).

Sec. 43.40.040. Applications and permits for refund.

Repealed by § 45 ch 113 SLA 1980.

Cross references. — For present provisions concerning contents of applications for refunds, see AS 43.40.050(a).

Editor's notes. — The repealed section derived from § 3, ch. 47, SLA 1955; § 4, ch. 131, SLA 1962.

Section 52, ch. 113, SLA 1980 makes the repeal of this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.050. Refund claim by affidavit. (a) A person who claims a refund under AS 43.40.030 shall present the claim for the refund to the commissioner of revenue by affidavit upon a form provided by the commissioner. The claim shall include the name, address and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the machinery or equipment in which the motor fuel for which the refund is claimed was used.

The claim shall be accompanied by each invoice issued to the claimant at the time the motor fuel was purchased. The commissioner may require any additional information which the commissioner considers necessary for the administration of this subsection.

(b) A claim for refund under AS 43.40.030 or 43.40.035 shall be filed within one year from the date of the purchase of the motor fuel as indicated on the invoice, and failure to file within the one-year period is a waiver of the right to the refund. A claim is considered to be filed when the claim is mailed or personally presented to an office of the department.

(c) A reseller who claims a refund or credit under AS 43.40.035 shall present the refund claim to the department or to the supplier of that reseller by affidavit on a form provided by the department. The claim shall include the name, address, and occupation of the applicant, the nature of the business of the applicant, and a description sufficient to identify the reason for the refund or credit. The claim shall be supported by documentation required by the department. (§ 4 ch 47 SLA 1955; am § 1 ch 139 SLA 1960; am § 37 ch 113 SLA 1980; am §§ 7—9 ch 92 SLA 1982)

Effect of amendments. — The 1980 amendment in subsection (a), changed a reference to this chapter at the beginning and at the end of the subsection, substituted the present second sentence for the former material, which read: "with the information the commissioner requires", and substituted "was" for "is" preceding "purchase" at the end of the present third sentence.

The 1982 amendment, effective June 4, 1982, substituted "under AS 43.40.030" for "as provided in AS 43.40.010 — 43.40.100" and "the claim for the refund" for "his claim" in the first sentence of subsection (a), substituted "the commissioner" for "he" and "this subsection" for "AS 43.40.010 — 43.40.100" in the last sentence of subsection (a), inserted "under AS 43.40.030 or 43.40.035" in the first sentence of subsection (b), and added subsection (c).

Editor's notes. — Section 52, ch. 113, SLA 1980 makes this section applicable to tax years beginning after December 31, 1979.

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) Repealed by § 46 ch 113 SLA 1980. (§ 5 ch 47 SLA 1955; am § 46 ch 113 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (b).

Sec. 43.40.090. Criminal violation.

Repealed by § 46 ch 113 SLA 1980.

Cross references. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's notes. — The repealed section derived from § 11, ch. 47, SLA 1955; § 4, ch. 27, SLA 1957.

Sec. 43.40.100. Definitions. In AS 43.40.010 — 43.40.100

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by AS 43.40.010 — 43.40.100 have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights to foreign countries;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel which is at least 10 percent alcohol by volume;

(G) fuel sold or transferred between qualified dealers;

(H) fuel sold to federal, state, and local government agencies for official use;

(I) fuel used in stationary power plants that generate electrical energy for private residential consumption;

(J) fuel used to heat private or commercial buildings or facilities, or;

(K) fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(3) "user" means a person consuming or using motor fuel, who either

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

(4) "qualified dealer" means a person who (A) refines, (B) imports, (C) manufactures, (D) produces, (E) compounds, or (F) wholesales motor fuel, who satisfies criteria for qualified dealers established by the department by regulation and who obtains a qualified dealer's license from the department. (§ 48-5-1 ACLA 1949; am § 1 ch 56 SLA 1949; am § 9 ch 47 SLA 1955; am § 26 ch 70 SLA 1964; am §§ 6, 7 ch 158 SLA 1970; am § 1 ch 74 SLA 1972; am § 5 ch 116 SLA 1977; am § 10 ch 83 SLA 1980; am §§ 10—12 ch 82 SLA 1982)

Effect of amen — The 1980 amendment adde agraph (F) in paragraph (2).

The 1982 amendment, effective June 4, 1982, in paragraph (2), added subparagraphs (G)-(K); in paragraph (3) added the subparagraphs (A) and (B) designations, substituted "personal use" for "his own use" and deleted "or" from the end, in subparagraph (A), added "or" to the end of subparagraph (B), and added subparagraph (C); and added paragraph (4).

Chapter 45. School Tax.

Section
10—60. [Repealed]

Secs. 43.45.010 — 43.45.060. Tax imposed; persons exempt; record of withholding; overpayment, credit and refund; failure to file return; penalties.

Repealed by § 3 ch 166 SLA 1976; § 2 ch 64 SLA 1980; § 46 ch 113 SLA 1980.

Editor's notes. — The repealed chapter derived from §§ 37-4-3 — 37-4-6, ACLA 1949; § 1, ch. 41, SLA 1957; § 1, ch. 175, SLA 1957; § 1, ch. 149, SLA 1959; §§ 1—5, ch. 179, SLA 1960; § 111, ch. 127, SLA 1974.

Section 3, ch. 64, SLA 1980 makes the repeal of this chapter applicable to tax years beginning after December 31, 1979.

Section 4, ch. 64, SLA 1980 provides: "The Department of Revenue shall establish procedures for refunding to a taxpayer amounts received in payment of the school tax levied under AS 43.45 for the 1980 tax year and shall refund to the taxpayer the tax which was withheld for the 1980 tax year by an employer and paid to the department under AS 43.45.010(c). Other tax money paid to the Department of Revenue under AS 43.45 for the 1980 tax year shall be refunded to the taxpayer who made the payment."

Chapter 50. Tobacco Tax.

Article 1. Cigarette Tax Act.

Section
10. License
100. Civil penalties
150. Administration
160. [Repealed]

Sec. 43.50.010. License. (a) No person may sell, purchase, possess, or acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested of him to determine his eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

Sec. 43.40.060. Separate invoices. The Department of Revenue may require the issuance of separate invoices for fuel sold, distributed, or transferred when the invoices will be the basis for a refund claim. (§ 6 ch 47 SLA 1955)

Sec. 43.40.070. Refund warrants. Upon approval of a refund claim by the Department of Revenue, a warrant shall be drawn on the highway fuel tax account in the general fund in favor of the applicant in the amount of the claim. (§ 7 ch 47 SLA 1955; am § 5 ch 131 SLA 1962)

Sec. 43.40.080. Examination of books and records. (a) To determine the validity of a claim for refund, the Department of Revenue may examine the books and records of the claimant and the books and records of a distributor of motor fuel. The Department of Revenue may cancel the refund permit of the claimant relying upon a fraudulent invoice for a period of not more than one year.

(b) If an invoice relied upon for a refund claim is fraudulent, the claimant is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 5 ch 47 SLA 1955)

Sec. 43.40.085. Preservation of books and records. Dealers and users shall preserve for three years all books and records pertaining to sales, transfers, and uses of motor fuel which are taxed under this chapter. (§ 5 ch 158 SLA 1970)

Sec. 43.40.090. Criminal violation. A person who uses motor fuel with knowledge that the tax has not been paid is guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both. (§ 11 ch 47 SLA 1955; am § 4 ch 27 SLA 1957)

C.J.S. reference. — 53 C.J.S. Licenses § 66.

Sec. 43.40.100. Definitions. In §§ 10—100 of this chapter

(1) "dealer" means a person who sells or otherwise transfers in this state motor fuel upon which the taxes imposed by this chapter have not been paid;

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, and fuel used in and on watercraft for any purpose, or in a stationary engine, machine or mechanical contrivance which is run by an internal combustion motor; "motor fuel" does not include

(A) fuel consigned to foreign countries,

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(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public,

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

November 15, 1983

Representative Bette Cato
House Transportation Committee
Pouch V
Juneau, AK 99811

Dear Bette:

The House Transportation Committee is the prime sponsor of the following legislation, which is currently in the House Finance Committee:

HB 335 - Amend state motor fuel tax statute

As you know, many bills are carried over into the second session that have already been dealt with in other vehicles, or for other reasons, are no longer priorities of the prime sponsor. This is especially true of bills that come to Finance (particularly single subject appropriation bills) since so much legislation is referred to us. Therefore, please let me know which legislation you consider "active" for the upcoming session by responding to my Anchorage office no later than December 10th.

I appreciate your attention to this matter.

Sincerely,

Al Adams, Chairman
House Finance Committee

COMMITTEE REPORT
DO PASS: ABOOD, HERRMANN, PHILLIPS, LACHER, MILLER
DO NOT PASS: SZYMANSKI

→ YES - ACTIVE

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STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: The Honorable Representative Robert Bettisworth

FROM: Robert R. Kessel
Director, Audit Division
Department of Revenue

RE: Amendments to Motor Fuel Law

DATE: February 16, 1983

The Department of Revenue has conducted public meetings with motor fuel dealers and other interested parties in Fairbanks, Anchorage and Juneau. In the opinion of the Department of Revenue, if the following changes could be made to Chapter 40, Title 43 of the Alaska Statutes, the motor fuel dealers would feel satisfied with the existing law.

1. Eliminate the certificate of use requirement, in total, for fuel used exclusively for heating a private residence.

2. Eliminate the certificate of use requirement, in total, for fuel which is at least 10% alcohol by volume.

3. Require only an annual certificate of use for almost all other exempt sales, reserving some discretionary judgement for exempt sales handled on an individual basis under sub-paragraph (A) of Section 43.40.100(2).

In addition we believe that motor fuel dealers should be granted a 1% commission, limited to $100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

Tax To Be Remitted	Commission
$ 600	6 (1%)
5,000	50 (1%)
10,000	100 (1%)
20,000	100 (1%-limited to $100)

dealers extra work and yet would not be costly to the state. There are a limited number of dealers.

The recommended change to AS 43.40, per attached Exhibit 1, would provide for the above recommendations; the changes could very well be incorporated into Senate Bill 117 (By the Rules Committee by Request of the Governor) which is "An Act making technical amendments relating to state taxation."

AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

AS 43.40.035(a) is amended to read:

(a) A person who resells fuel on which the tax under AS 43.40.010(a) or (b) was previously paid is entitled to a credit or refund of the tax if (1) the resold fuel is not motor fuel and the requirements prescribed by AS 43.40-.010(L) have been fulfilled [A CERTIFICATE OF USE IS ACQUIRED UNDER AS 43.40.010(1)]; or (2) the amount of tax previously paid exceeds the tax due on the resale. The amount of the credit or refund under this section is equal to the amount of tax previously paid on the resold fuel less the amount of tax prescribed by AS 43.40.010(a) or (b).

AS 43.40.100 IS AMENDED TO INCLUDE:

(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises;

STATE OF ALASKA
DEPARTMENT OF REVENUE

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In addition we believe that motor fuel dealers should be granted a 1% commission, limited to $100, to compensate them for collecting the tax and for the demands required in maintaining records. Alaska currently allows a commission for cigarette taxes and most other states have similar provisions. I believe the motor fuel dealers would, obviously, like this change. For example, application would be as follows:

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AS 43.40.010(c) is amended to read:

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the Department of Revenue by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by him during each month. <u>If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of $100, can be deducted and retained to cover the expense of accounting and filing the monthly tax return.</u> At the time the remittance is made, each dealer or user shall submit a statement to the Department of Revenue showing all [MOTOR] fuel which he has distributed or used during the month.

AS 43.40.010(l) is amended to read:

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The Department of Revenue may not collect the motor fuel tax from a dealer for fuel for which a certificate of

use has been properly obtained under this subsection. A Certificate of use is not required for fuel used to heat a private residence or for fuel which is at least 10% alcohol by volume. An annual certificate of use is required for all other exemptions, as listed under AS 43.40.100(2), except sub-paragraph (K) where certificate of use needs will be determined by the Department of Revenue. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the Department of Revenue. The form of a certificate of use may be prescribed by regulation adopted by the Department of Revenue.

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(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises;

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

April 11, 1983

SUBJECT: Motor fuel tax provisions
(HB 335)

TO: Representative Bette Cato
Chairman, House Transportation Committee

FROM: Richard C. Folta
Legislative Counsel

In response to your request on the above referenced bill, I would suggest the following:

(1) On page 2, line 3, "a private residence" could be deleted and the words "a residential housing accommodation, defined in AS 34.06.050(3)" could be inserted. I believe this change would clarify what is meant.

(2) AS 43.40.010(a) and (b) could be amended by adding a new paragraph (4) as follows:

> (a)(4) The tax on diesel fuel used in vehicles defined in AS 28.10.011(1) and (7) is two cents a gallon.
>
> (b)(4) The tax on diesel fuel used in vehicles defined in AS 28.10.011(1) and (7) is two cents a gallon.

(3) AS 43.40.100 could be amended by adding a new section to read:

> (L) fuel used in stationary power plants of 100 KW or less that generate electrical power for commercial enterprises not for resale.

HB 335
Statutes Affected

(1) **(AS 34.06.050 (3)"residential housing accommodations" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, other condition of tenancy, that is used for dwelling purposes.)

(2) **(AS 28.100.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(7) driven or parked only on private property;)

**existing statute

HB 335
CONCEPTUAL AMENDMENTS

Amendment 1

AS. 43.40.100 is amended to read:
(L) fuel used in stationary power plants that generate electrical energy which is not for resale.

Amendment 2

AS 43.40.010 is amended by adding after (a) and (b), a new subsection (4)

(4) the tax on diesel fuel used in vehicles as specified in AS 28.100.011 (1) and (7) is two cents a gallon

**(AS 28.100.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is
(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;
(7) driven or parked only on private property;)

Amendment 3

Page 2, Line 3 delete "private residence" and insert residential housing accommodations as defined in AS 34.06.050(3).

**(AS 34.06.050 (3)"residential housing accommodations" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, other condition of tenancy, that is used for dwelling purposes.)

**existing statute

Amendment 1

AS. 43.40.100 is amended to read:
(L) fuel used in stationary power plants that generate electrical energy for commercial enterprises.

Amendment 2

AS.. 43.40.010 is amended by adding after (a) and (b), a new subsection (4)

(4) the tax on diesel fuel used in unlicensed or farm equipment is two cents a gallon

Amendment 3

Page 2, Line 3 delete "private residence" and insert <u>"all residential units"</u>

COMMITTEE REPORT

HOUSE

FINANCE

(9)

FURTHER:

4/7/83

Date: 4/12/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 335

An Act amending motor fuel tax provisions; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 335 [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

_____

M.W. Miller Vice-Chairman
CHAIRMAN

H 60

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: HB 335
Title: Amending Motor Fuel Tax
Sponsor: Transportation Committee
Requestor: Transportation Committee

II. FISCAL DETAIL

Agency Affected: Department of Revenue
Program Category Affected: Rev Coll & Mgmt
BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	(60.0)	(48.0)	(48.0)	(48.0)	(48.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert R. Kessel
Phone: 465-2320
Division: Audit Division
Date: April 11, 1983

Approved by Commissioner: Ralf O Hoot
Date: 4/11/83
Department: Revenue

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. Analysis

It is assumed in this fiscal note that about 100 dealers per month would take advantage of the 1% deductible allowance to cover the accounting expense of filing timely monthly tax returns.

It is also assumed that the average monthly deduction would be about $40.00 per month.

Although the bill is retroactive to April 1, 1983, we assume that the refunding for the period April 1 through June 30, 1983 would not occur until FY84 and that is why the FY84 impact is greater than subsequent years.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: CS HB 335
Title: Amending Motor Fuel Tax
Sponsor: Transportation Committee
Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Department of Revenue
Program Category Affected: Rev Coll & Mgmt
BRU, Program of Subprogram(s) Affected:
Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	(60.0)	(48.0)	(48.0)	(48.0)	(48.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Robert R. Kessel
Phone: 465-2320
Division: Audit Division
Date: April 15, 1983

Approved by Commissioner:
Date: 4/18/83
Department: Rev

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

IV. Analysis

It is assumed in this fiscal note that about 100 dealers per month would take advantage of the 1% deductible allowance to cover the accounting expense of filing timely monthly tax returns.

It is also assumed that the average monthly deduction would be about $40.00 per month.

Although the bill is retroactive to April 1, 1983, we assume that the refunding for the period April 1 through June 30, 1983 would not occur until FY84 and that is why the FY84 impact is greater than subsequent years.

HB

349

COMMITTEE REPORT

HOUSE

FINANCE"

FURTHER:

(9)

4/12/83

Date: 3/14/84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 349

An Act making a special appropriation for payment as a grant to the City of Kenai for construction of a harbor bulkhead and boat ramp; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

Rhonda

City of Kenai

called - John Williams

will be here tomorrow

to testify on the

Kenai Harbor bill

coming in tonite -

staying at the

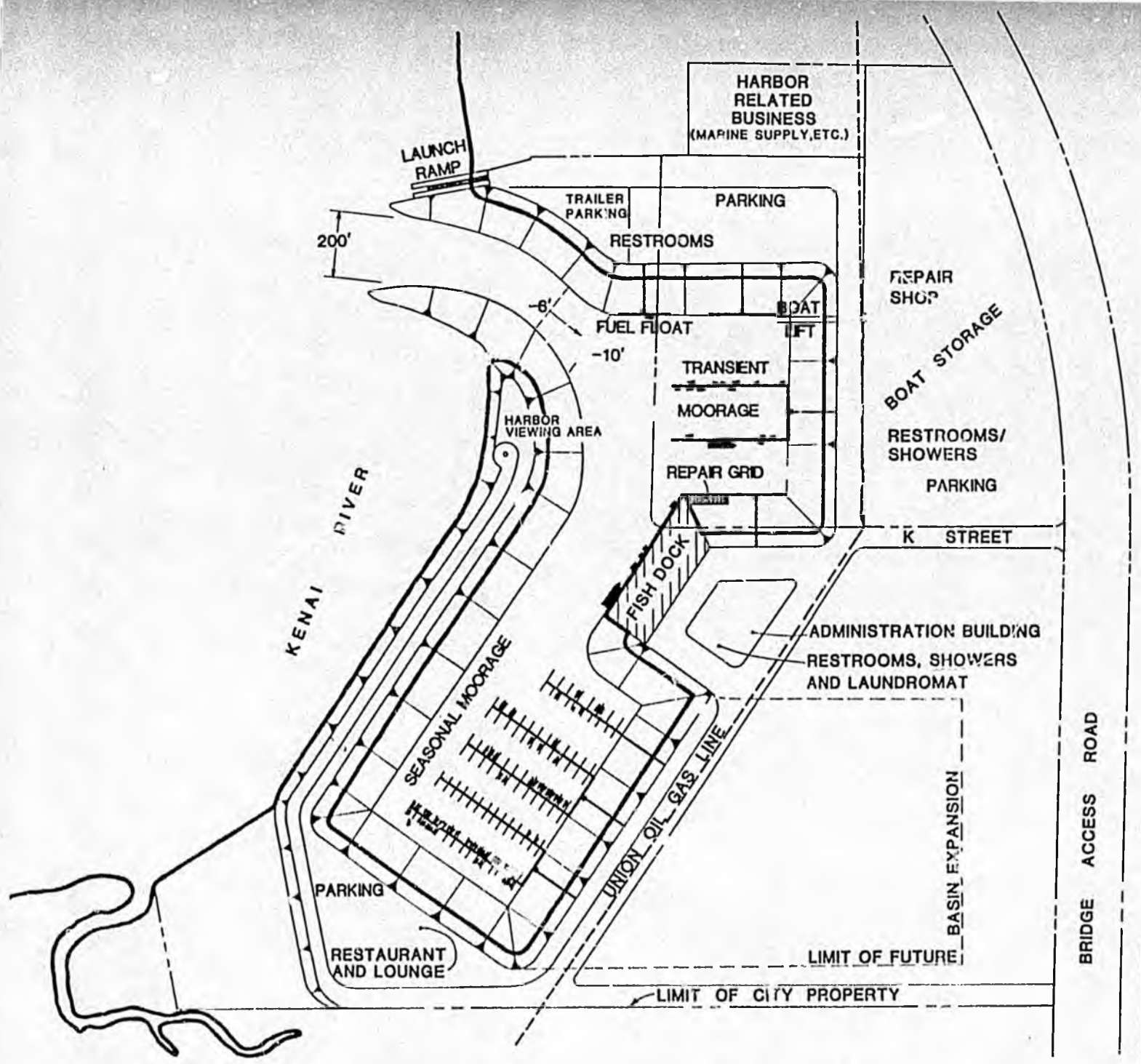
Baranof

Status of studies, engineering and/or design
initial stages of small boat harbor -
so will fit into design

Funds to accomodate harbor bulkhead, dock & fueling facilities — under const?
const. begins?

Out-of-town witnesses?

All ready to go?



SMALL BOAT HARBOR CONCEPTUAL ALTERNATIVES

CITY OF KENAI
SMALL BOAT HARBOR

ALTERNATE NO. 2

FIGURE 4-3

TAMS ENGINEERS
A PROFESSIONAL CORPORATION

SPEACH BEFORE
THE
HOUSE TRANSPORTATION COMMITTEE
MARCH 14th. 1984

CHAIRMAN CATO AND MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE. THANK YOU FOR ASKING ME HERE TO DAY TO SPEAK TO YOU ON MATTERS CONCERNING THE FUNDING OF WORK RELATING TO THE CONSTRUCTION OF HARBOR FACILITIES IN THE KENAI RIVER FOR THE CITY OF KENAI.

THE LOWER KENAI RIVER HAS SERVED AS A SHELTERED HARBOR AND PROCESSING BASE FOR ONE OF THE LARGEST COMMERCIAL FISHERIES IN THE STATE OF ALASKA FOR NEARLY 80 YEARS. CURRENTLY NEARLY 700 LICENSED BOATS LIST KENAI AS THEIR HOME PORT, AND AT THE PEAK OF THE SALMON SEASON SEVERAL HUNDRED LOCAL AND NON-RESIDENT VESSELS ARE MOORED IN THE MAIN CHANNEL OF THE LOWER RIVER WAITING FOR FISHERIES OPENINGS.

IN SPITE OF THE INTENSE BOATING ACTIVITY THERE ARE CURRENTLY NO HARBOR FACILITIES IN THE LOWER RIVER AVAILABLE FOR USE BY THE BOATING PUBLIC. ALTHOUGH SOME OF THE MAJOR PROCESSORS PROVIDE SERVICES FOR THE FISHERMAN SELLING THEIR CATCHES TO THEM, THEPE ARE NO PUBLICLY ACCESSIBLE FACILITIES FOR MOORAGE, FUELING, REPAIRS OR OTHER SERVICES THAT ONE WOULD EXPECT IN A COMMUNITY WHERE THE COMERCIAL FISHERY IS A MAJOR SOURCE OF JOBS AND INCOMES.

A NUMBER OF STUDIES BY THE CORP OF ENGINEERS, THE STATE OF ALASKA, AND OTHERS HAVE BEEN UNDERTAKEN IN THE PAST SEVERAL YEARS TO REVIEW THE FEASIBILITY OF PROVIDING A SMALL BOAT HARBOR FOR KENAI. A RECURRING THEME RESULTING FROM THESE STUDIES IS THAT A HARBOR IS NEEDED TO SERVE THE COMMERCIAL AND RECREATIONAL BOATERS IN THE UPPER COOK INLET AND KENAI RIVER. MAJOR REASONS ADVANCED FOR DEVELOPING THE HARBOR INCLUDED; EXCESSIVE CONGESTION AND NAVIGATIONAL DELAYS AND HAZZARDS IN THE RIVER, LIMITED ACESS TO PRIVATE DOCKS RESULTINC IN LONG DELAYS PREVENTING RAPID OFF-LOADING OF FISH, DAMAGE TO VESSELS NESTED IN THE RIVER DUE TO STRONG TIDAL AND WIND INFLUNCE, DANGER IN LITERING SUPPLIES AND PERSONEL BACK AND FORTH BETWEEN BOATS AND SHORE, THE LACK OF A PROTECTED AND COAST GUARD APPROVED MARINE FUELING TERMINAL, AND THE POTENTIAL FOR GROWTH OF A LOCAL MARINE SERVICE AND SUPPLY INDUSTRY RESULTING IN A POSITIVE ECONOMIC STIMULUS TO THE REAGON.

EACH OF THE PREVIOUS STUDIES HAS CONCLUDED THAT THERE IA A NEED FOR A PROTECTED HARBOR, AND HAS INDICATED THAT A HARBOR COULD BE DESIGNED AND BUILT USEING EXISTING TECHNOLOGY. THE MAJOR OBSTACLE TO CONSTRUCTION AND OPERATION OF A FACILITY HAS BEEN THE CONCLUSION THAT HEAVY SILT LOAD IN THE ESTUARY WOULD NECESSITATE AN EXCESSIVELY BURDENSOME MAINTENANCE DREDGING PROGRAM. AS A RESULT VERY LTTTLE HAS BEEN ACCOMPLISHED IN THE PAST TO OBTAIN FUNDING AND CONSTRUCT A HARBOR.

THERE HAVE BEEN MANY OPINIONS VOICED AS TO THE CORRECTNESS OF PAST STUDIES AND MANY ASPECTS OF THE STUDIES HAVE BEEN QUESTIONED BECAUSE OF THE NON SIENTIFIC APPROACH THAT HAD BEEN

USED. FOR EXAMPLE THE UNITED STATES CORP OF ENGINEERS ONCE PRODUCED A STUDY INDICATING TWICE AS MUCH SILTING IN THE RIVER AS WE HAVE RECENTLY CONCLUDED ACTUALLY TAKES PLACE. OUR CONCLUSION IS BASED UPON LENGTHLY PHYSICAL SAMPLING AND PROFESSIONAL COMPUTER MODELING BY A LEADING COMPUTER MODELING LABRATORY. BEACUSE OF THESE MANY DESCREPENCYS IN REPORTING AND THE VARITY OF DIFFERENT OPINIONS AS TO THE POSSIBILITIES, FORMER MAYOR VINCENT O'RILEY, WHO HAS BEEN APPOINTED S MOST OF YOU KNOW, TO A POSITION IN JUNEAU BY GOVERNOR SHEFFIELD, APPOINTED THE PRESENT HARBOR COMMISSION TO FULLY INVESTIGATE THE ENTIRE MATTER OF A HARBOR FACILITY FOR THE CITY OF KENAI.

THE HARBOR COMMISSION FIRST CONVEINED UNDER CHAIRMAN ROBERT PETERKIN ON MARCH 21ST. 1979. I WAS ELECTED VICE CHAIRMAN OF THE COMMISSION AND SERVED UNDER CHAIRMAN PETERKIN UNTILL FEBRUARY 1982 WHEN MR PETERKIN RESIGNED BECAUSE OF PERSONEL REASONS AND AT THAT TIME I ASSUMED THE CHAIRMANSHIP AND HAVE

SERVED EVERY SINCE.

DURING A RECENT SENATE SUB COMMITTEE HEARING ON SB417, A BILL TO CREATE A CONSERVATION CORRIDOR 1/4 MILE WIDE ON EACH SIDE OF THE KENAI RIVER ALL THE WAY TO THE MOUTH OF THE RIVER, IT WAS STATED THAT ONE REALLY KNEW MUCH ABOUT THE KENAI RIVER. MEMBERS OF THE COMMITTEE, I CAN ASSURE YOU THAT THE CITY OF KENAI KNOWS MORE ABOUT OUR PORTION OF THE KENAI RIVER THAN ANY OTHER AGENCY OR GOVERNMENT GROUP IN THE ENTIRE UNITED STATES OF AMERICA. IN ORDER TO INSURE THAT ANY HARBOR BUILT WOULD MEET ALL REQUIREMENTS OF GOOD ENGINEERING, SOUND FISCAL MANAGEMENT AND LONG RANGE PLANNING THE CITY OF KENAI UNDERTOOK A LONG SERIES OF STUDIES THAT WERE FUNDED BY THE STATE OF ALASKA. WE HAVE WORKED FOR FIVE YEARS TO PRODUCE THE MOST COMPREHENSIVE STUDIES EVER COMPLETED ON OUR PORTION OF THE KENAI RIVER.

IT IS OUR BELIEF THAT THE CONSTRUCTION OF A HARBOR FACILITY WILL RELIEVE THE CONGISTION WITHIN THE RIVER THAT IS CREATED EACH SEASON WITH HUNDREDS OF BOATS MOORED EVERY WAY POSSIBLE IN THE MAIN CHANNEL. IN ADDITION THE CONSTRUCTION OF A COAST GUARD APPROVED FUELING FACILITY WILL PREVENT COSTLY DAMAGE TO THE RIVER ENVIRONMENT IN THE EVENT OF FUEL SPILLS.

FOR ALL OF YOU WHO HAVE LIVED WITH THE HIGH COST OF FREIGHT AS LONG AS I HAVE IN ALASKA YOU WILL RECOGNIZE THE BENIFIT OF DIRECT BARGE SHIPMENT TO ANY POINT IN ALASKA ACCESSABLE BY WATER. BY CONSTRUCTING A HARBOR WE WILL RID THE RIVER OF DANGEROUS HAZZARDS TO NAVAGATION. AFTER HAVING ACCOMPLISHED THIS TASKTHE CITY CAN PROCEED TO PARTICIPATE IN THE DEVELOPEMENT OF BARGE OFFLOADING FACILITIES THAT WILL BE USED BY COMPANIES NOW HESITTANT TO CALL AT THE PORT OF KENAI BECAUSE OF THE HAZZARDS OF ATTEMPTING TO DOCK A BARGE IN AMONGST A SWARM OF SMALL FISHING CRAFT. ADDITIONAL FREIGHT FACILITIES WILL CONTRIBUTE TO THE GROWTH OF THE AREA IN A VERY POSITIVE MANNER AND WILL BE A MAJOR BENIFIT TO ALL THE CITIZENS OF THE AREA AND THUS THE PROJECT BECOMES BENIFICAL TO ALL AND NOT JUST TO A SELECT GROUP.

DURING THE LEGISLATIVE SESSION OF 1980, THE HARBOR COMMISSION

WORKED WITH OUR LEGISLATIVE DELEGATION AND OBTAINED A GRANT OF $500,000.00 TO DO A COMPLETE STUDY OF THE KENAI RIVER AREA WITHIN THE CITY AND TO DEVELOPE A PLAN FOR A HARBOR. WE WERE ALSO CHARGED WITH THE RESPONSIBILITY OF COMPLETING A STUDY OF THE BLUFF ERROSION PROBLEM ALONG THE RIVER BANK IN THE OLDER PART OF KENAI. THIS SUDY WAS COMPLETED AND COPIES OF THE REPORT ARE AVAILABLE FROM THE CITY HALL.

IN FEBRUARY 1981 WE ENTERED INTO A CONTRACT WITH THE ENGINEERING FIRM OF CH2M HILL THE CONTRACT CALLED FOR SITE DETERMINATION STUDIES AND SOILS INVESTAGATIONS. THESE STUDIES WERE COMPLETED IN FEBRUARY OF 1982.

LATER THAT YEAR WE BEGAN A SERIES OF CONTRACTED WITH OUR PRESENT ENGINEERING FIRM, TIBBITS, ABBOTT, MC CARTHY, AND STRATTON WHO CAME WELL RECOMMENDED AND ARE A WORLD WIDE FIRM WITH SPECIALTYS IN HARBOR DESIGN. THE CONTRACTS ENTERED INTO INCLUDED A COMPLETE SILT AND SEDIMENTATION STUDY, THE BLUFF ERROSION STUDY, THE DESIGN OF ALTERNATIVE MARINE FACILITIES INCLUDING THE NEW BOAT RAMP,AND MOST RECENTLY THE FINANCIAL ANALYSIS AND CONCEPTUAL DESIGN STUDY.

DURING THE INTERVINING YEARS THE HARBOR COMMISSION HAS SECURED ADDITIONAL FUNDS FROM THE STATE TO CONTINUE THE ENGINEERING AND TO CONSTRUCT SOME INTERM FACILITIES. WE WERE SUCCESSUFUL IN OBTAINING $700,000.00 FROM THE 1974 PORT FACILITIES GRANT THAT WAS BONDED BY THE PEOPLE OF THE STATE OF ALASKA, AND LATER DUE TO EFFORTS BY OUR LEGISLATIVE DELEGATION AND CITY ADMINISTRATION, WE ALSO RECEIVED AN ADDITIONAL $300,000.00 FOR CONSTRUCTION OF THE BOAT RAMP. IN TOTAL WE HAVE RECEIVED SOME $1,515,000.00 OF THAT AMMOUNT WE HAVE SPENT APROXIMITLY $830,200.00 DOLLARS AND HAVE REMAINING IN OUR ACCOUNTS SOME $684,790.00

THE STUDIES ARE NOW COMPLETE AND WE HAVE OBTAINED A CONSIDERABLE AMOUNT OF INFORMATION FROM THEM. FOR EXAMPLE WE HAVE LEARNED THAT THERE ARE 1346 REGISTERED UNITS IN THE GILLNET FISHERY IN COOK INLET.THE COMERCIAL FISHING FLEET BASED IN THE LOWER KENAI RIVER INCLUDED SOME 680 VESSELS REGISTERED IN KENAI AND ANOTHER 255 REGISTERED IN SOLDOTNA INCLUDING 335 BOATS IN EXCESS OF 26 FEET LONG.

THESE BOATS ARE ENGAGED IN FISHERIES OTHER THAN SALOMON AND INCLUDE HALIBUT, BOTTOM FISH AND THE SPORT FISHERY.

THE STUDY FURTHER INDICATED THAT AT PRESENT THE USERS OF THE HARBOR FACILITY WOULD FOLLOW A MIX OF 257 PERMANANT AND 187 TRANSIENT MOORINGS. HISTORY OF ALL SMALL BOAT HARBORS INDICATE THAT WHERE SPACE IS AVAILABLE, BOATS WILL BE MOORED. PRESENTLY THERE WAITING LISTS AT ALL OF THE SMALL BOAT HARBORS IN SOUTH CENTRAL AND SOUTH EASTERN ALASKA. BOATS REGISTERED TO KENAI RESIDENTS ARE NOW MOORED AS FAR AWAY AS SELDOVIA.

THESE FIGUERS ALONG WITH THE TRANSIEANT FIGUERS INDICATE A NEED FOR A HARBOR LARGE ENOUGH TO HANDLE UP TO 440 VESSELS. AND THAT THE HARBOR SHOULD HAVE AVAILABLE FOR THE VESSEL OPERATORS RESTROOMS AND SHOWERS, BILGE AND SANITARY FACILITIES

FOR BOATS, DOCKSIDE UTILITIES, AND NET AND GEAR STORAGE YARD. WE MAY EXPECT TO SEE PRIVATE ENTERPRISE BE INVOLVED IN BOAT REPAIR FACILITIES, MARINE SUPPLY RETAILERS, RESTRAUNTS, LOUNGE AND SNACK BAR, LAUNDRAMAT, AND OVERNIGHT AND LONGER TERM RECREATIONAL VEHICLE AND TRAILER CAMPING.

IN ADDITION TO THESE FACILITIES THAT WOULD DEVELOPE IF A HARBOR WERE AVAILABLE IT WAS ALSO FOUND THAT THERE IS A GROWING MOVEMENT BY FISHERMEN TO OPERATE AS INDEPENDAT OPERATORS OR TO FORM CO-OPERATIVES WHICH IS A BREAK IN THE TRADITIONAL LINK BETWEEN PROCESSOR AND THE FISHERMAN. WHERE ALTERNATIVE FACILITIES ARE PROVIDED FISHERMEN CAN SELL DIRECTLY TO CASH BUYERS AND MAKE ARRAINGMENTS FOR THEIR OWN MOORAGE AND SUPPORT SERVICES THUS ELIMINATING THAT BURDEN FROM BEING THE RESPONSIBILITY OF THE PROCESSOR.

CONSIDERATIONS WITHIN THE STUDY CONCLUDE THAT A HARBOR DESIGN OF THE TYPE MOST SUITABLE FOR OUR PURPOSES WOULD REQUIRE THE AQUSITATION OF SOME ADJOINING PROPERTY. IN ADDITION THE DESIGN ALSO PRECLUDES THE NEED TO MOVE A HIGH PRESSURE GAS MAIN PRESENTLY LOCATED ON CITY PROPERTY. THE SAVINGS IN NOT MOVING THE GAS LINE MORE THAN OFFSET THE COST OF THE PROPERTY NEEDED TO BE AQUIRED.

THE STUDY ALSO INDICATED THAT THE DESIGN MUST INCLUDE A CLOSURE TYPE ENTRANCE TO THE HARBOR. THIS CLOSURE SYSTEM WILL PREVENT UP TO 50% OF THE SILT FROM ENTERING THE HARBOR. SINCE AS MUCH AS $190,000.00 IS EXPECTED TO BE SPENT ON AN ANNUAL BASIS FOR DREDGING, THE CLOSURE SYSTEM IS ALMOST A MANDATORY FEATURE. THE CLOSURE WOULD BE IN PLACE FROM LATE OCTOBER UNTILL SOME TIME IN APRIL GIVE OR TAKE A WEEK OR TWO.WITH THIS DESIGN INCORPORATED THE HARBOR CAN EXPECT TO GENERATE IN THE NEIGHBORHOOD OF $391,000.00 PER YEAR IN INCOME TO THE CITY AND IS EXPECTED TO COST THE CITY APROXIMITLY $365,000.00 TO OPERATE OF WHICH $115,000.00 WILL BE IN PAYROLL TO DIRECT EMPLOYEES OF THE HARBOR. THE REST WILL BE FOR DREDGING, REPAIRS AND MAINTENANCE WHICH WILL ALSO BE VERY LABOR INTENSIVE. THE PRIMARY OBJECTIVE OF THE DESIGN IS THAT THE HARBOR BE ABLE TO SUPPORT ITS SELF AFTER IT IS CONSTRUCTED.

UP TILL NOW I HAVE ATTEMPTED TO BRING YOU UP TO DATE ON WHAT WE HAVE DONE WITH PAST FUNDING AND WHERE WE ARE IN THE OVERAL PLAN OF THE HARBOR FACILITIES. I WILL NOW FILL YOU IN ON THE DETAILS OF OUR PRESENT REQUEST FOR FUNDING. I WOULD LIKE TO POINT OUT THE FACT THAT ALL OF THE FUNDS THAT HAVE THUS FAR BEEN SPENT WERE SPENT IN SUCH A MANNER AS TO GAIN THE MAXIMUM AMOUNT OF INFORMATION POSSIBLE FOR THE CITY OF KENAI. NONE OF THE FUNDS WERE RELAGATED TO ANY OTHER PROJECT AND ALL CONTRACTS ENTERED INTO ARE NOW COMPLETE.

RECOGNIZING THAT A HARBOR IS A COSTLY ITEM AND ALSO RECOGNIZING THAT THERE ARE A GREAT MANY NEEDS TO BE FILLED IN THE STATE WE ARE NOT YET PREPAIRED TO REQUEST FULL FUNDING FOR THE MAIN HARBOR PROJECT. WE ARE HERE TODAY TO ASK THAT THE LEGISLATURE CONTINUE FUNDING IN INCREMENTAL STEPS AS IT HAS IN THE PAST THREE SESSIONS. OUR REQUEST BEFORE YOU IS IN THE AMOUNT OF 1.9 MILLION DOLLARS. IT IS THE INTENTION OF THE CITY

OF KENAI TO USE THE 1.9 MILLION DOLLARS TO FUND THE CONSTRUCTION OF SOME INTERIUM FACILITIES THAT WILL CONSIST OF A TURNING BASIN, FUEL FACILITIES, REPAIR GRID AND OFF LOADING FACILITIES. ALL OF THE FAILIITIES TO BE CONSTRUCTED WILL BE ENGINEERED IN SUCH A MANNER AS TO BE USABLE IN THE FUTURE AS PART OF THE OVERALL HARBOR FACILITIES. OUR PRIMARY OBJECTIVE IN REQUESTING THIS FUNDING NOW IS TO ALLOW CONSTRUCTION INITALLY A FACILITY THAT WILL TEST ALL OF THE THEORIES THAT HAVE BEEN PROPOUNDED BY THE ENGINEERING FIRMS AND CONSULTANTS. BY CONSTRUCTING A MINI FACILITY WE CAN TEST THE SILTATION LOADS, TRAFFIC PATTERNS, USE FACTORS AND EQUIPTMENT TO INSURE THAT ALL WILL FUNCTION AS PREDICTED BY THE MATHMATICAL MODEL AND COMPUTER PREDICTIONS. BY APROACHING THE PROBLEM IN THIS MANNER WE HOPE TO SAVE MANY MILLIONS OF DOLLARS IN THE FUTURE.

THE FUNDING REQUESTED TODAY WILL BE USED FOR THE CONSTRUCTION OF THE FACILITIES DETAILED ABOVE. BASIC ENGINEERING AND SITE PLANNING HAVE ALREADY BEEN COMPLETED. SOILS ANALYSIS HAVE TAKEN PLACE AND THE GROUND WORK FOR IMPLIMENTING THE PROGRAM HAS BEEN PREPAIRED WE ONLY AWAIT THE ACTUAL FUNDING AND ACTUAL CONSTRUCTION COULD BEGIN THIS SEASON.

EARLIER I MENTIONED THAT IT IS THE INTENTION OF THE CITY TO PURCHACE ADDITIONAL LANDS TO ACCOMODATE THE FUTURE CONSTRUCTION OF THE MAJOR HARBOR FACILITY. I WOULD LIKE AT THIS TIME TO OFFER FOR YOUR CONSIDERATION AN ADDITIONAL REQUEST IN THE AMOUNT OF $600,000.00 TO FUND THAT LAND AQUSITION. WHILE THIS AMOUNT HAS NOT PREVIOUSLY BEEN REQUESTED I AM SURE THAT YOU WILL AGREE THE REQUEST IS CONSISTANT WITH GOOD PLANNING AND WILL IN THE FUTURE BE A MAJOR ASSET TO THE CITY OF KENAI. tHE ADDITIONAL FUNDING WILL BRING THE AMOUNT REQUESTED TO 2.5 MILLION. I AM SURE YOU WILL ALL AGREE THAT LAND INVESTMENT IS A PRUDENT USE OF MONEY IN LIGHT OF THE ASTRONOMICAL PRICESES RECENTLY PAID FOR VARIOUS PARCELS PURCHACED IN SEVERAL LOCATIONS THROUGHOUT THE STATE. THE PARCEL IN QUESTION IS 37 ACRES IN SIZE AND CONSISTS OF PRIME COMERCIAL AND INDUSTRIAL LANDS IN THE HEART OF THE HARBOR AREA.

ONE OTHER VERY IMPORTANT POINT TO MAKE IS THAT THE HARBOR IS CONSIDERED A REGIONAL PROJECT BY THE CITY IN THAT IS IS EXPECTED TO SERVE A WIDE DEMOGRAFIC AND GEOGRAPHIC AREA. SINCE THE LOCATION IS SO IDEALY SITUATED , BOAT OPERATORS FROM STERLING TO NORTH KENAI AND FROM SOLDOTNA TO KASELOFF ARE EXPECTED TO BE ITS ULTIMATE USERS. BECAUSE OF THE REGIONAL ASPECT OF THE PROJECT, THE CITY HAS ASKED THAT IT BE CONSIDERED UNDER A SPECIAL CATAGORY OF PUBLIC WORKS PROJECTS AND THAT ANY FUNDS CONSIDERED FOR THE CITY OF KENAI NOT BE CONSIDERED IN THE SAME CATAGORY BUT SHOULD BE CONSIDERED SEPERATELY FOR FUNDING PURPOSES.

THANK YOU MEMBERS OF THE COMMITTEE FOR BEING SO PATIENT DURING MY PRESENTATION. I WOULD LIKE TO TAKE JUST A FEW MOMENTS TO RECAP WHAT HAS BEEN SAID AND THEN ALLOW OTHERS TO BRING THEIR THOUGHTS ON THE SUBJECT TO YOU.

IN RECAPING I WOULD SAY;

#1....THE HARBOR FACILITIES OF THE CITY OF KENAI ARE REGIONAL IN NATURE IN THAT THEY SERVE ALL AREAS OF THE CENTRAL PENINSULA.

#2....FUNDING IN THE AMOUNT OF 2.5 MILLION WILL ENABLE THE CITY TO PUCHASE THE NEEDED ADDITIONAL LAND TO PROCEED WITH A COMPLETE HARBOR FACILITY AT A LATER DATE.

#3....ENGINEERING HAS BEEN COMPLETED FOR THE CONSTRUCTION OF THE INTERIUM HARBOR FACILITIES AND CONSTRUCTION CAN START AS SOON AS FUNDING IS COMPLETED AND BIDS ARE LET.

#4....THE STATE OF ALASKA HAS FUNDED THE PROJECT IN THE AMOUNT OF 1.25 MILLION DOLLARS SO FAR AND RECOGNIZES THE NEED FOR IMPROVED TRANSPORTATION FACILITIES IN THE AREA.

#5....THESE FACILITIES WHEN COMPLETED WILL BENIFIT THE ENTIRE CROSS SECTIONAL GROUP OF CITIZENS IN THE CENTRAL PENINSULA AREA BY ALLOWING ADDITIONAL TRANSPORTATION FACILITIES TO BE DEVELOPED THUS ADDING TO A MORE STABLE FUTURE ECONOMY.

MEMBERS OF THE COMMITTEE, I THANK YOU FOR YOUR TIME AND I WISH TO EXPRESS MY APPRICIATION ON BEHALF OF THE CITY OF KENAI FOR HAVING BEEN ALLOWED THE OPORTUNITY TO BRING THIS IMPORTANT PROJECT TO YOUR ATTENTION. I RESPECTFULLY URGE YOUR SUPPORT IN FUNDING THE AMOUNT REQUESTED.

THANK YOU;



MAR 5 1984

CITY OF KENAI

"Oil Capital of Alaska"

210 FIDALGO KENAI, ALASKA 99611
TELEPHONE 283-7535

February 28, 1984

The Honorable Bette Cato, Chairman
House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Chairman Cato,

You have in your committee House Bill No. 349 sponsored by Representative Hugh Malone and introduced during the last session of the Alaska General Assembly. House Bill No. 349 carries a price tag of $1.9 million dollars and is for constructing a harbor bulkhead, a docking facility, fueling facilities and public restroom facilities on the Kenai River to service the fishing fleet in Cook Inlet.

This facility will service 500 - 600 commercial fishing vessels providing fish to 14 area processing plants. At the present time there are no public facilities for loading or unloading either fish or freight in the Kenai River or in the mouth of the Kenai River in Cook Inlet.

To give you a little background, Kenai has been trying to build a small boat harbor for 25 years. Kenai is probably the largest fishing and fish processing area in the State of Alaska that has no harbor facilities. As a consequence, there are no public docking facilities and no fueling facilities. Therefore, the fisherman must establish ties with one of the local processing plants in order to have fuel made available for themselves and to permit them to off-load their fish.

The City has expended several hundred thousand dollars in doing studies, engineering, and/or design in trying to accomplish a small boat harbor primarily for the fishing fleet in northern Cook Inlet. House Bill No. 349 is a measure that will permit reasonable access to the fishing and/or pleasure boating public in the Kenai area. It is a project that can stand alone or will be compatible and represents the initial stages of a small boat harbor for Kenai.

The public, at a special election in the City of Kenai, voted overwhelmingly to support the efforts of the City to acquire funding for a small boat harbor on the Kenai River. We are not at this time requesting funds for a small boat harbor, only funds to accommodate the harbor bulkhead, the dock and fueling facilities for our fishing fleet.

If there is any way possible that you feel you could hold a public hearing on House Bill No. 349, the City Council and the fisherman from this area would be extremely appreciative. If you could hold a public hearing and there was enough time between the announcement and the public hearing to permit several people from Kenai to come to Juneau to testify on House Bill No. 349, I can guarantee you there will be representatives from municipal government, the fishing industry, the processing industry and the Harbor Commission from the City of Kenai.

This facility is important not only to the City of Kenai but to the State of Alaska in that it would be an amenity encouraging and helping the commerce of this State.

Sincerely,

Wm. J. Brighton
City Manager

cc: Governor Bill Sheffield
Representative Mike Miller
Representative Mitch Abood
Representative Robert Bettisworth
Representative Mike Davis
Representative Joe Flood
Representative Adelheid Herrmann
Representative Jack McBride
Representative Mike Szymanski
Senator Don Gilman
Senator Paul Fischer
Representative Milo Fritz
Representative Hugh Malone

WJB/kh

POSITION PAPER

HB 349

"An Act making a special appropriation for payment as a grant to the City of Kenai for construction of a harbor bulkhead and boat ramp; and providing for effective date."

This bill provides for payment of $1,750,000 General Funds under A.S. 37.05.315, by the Department of Administration. Historically, the Department has not "held back" any portion of any grant under A.S. 37.05.315 for administrative costs, including the legislated audit function. We have found efficiency measures in other areas that permit us to devote some operating staff resources to the administrative tasks of the Municipal grants program. One more grant, such as proposed by this bill, will not over-burden our resources, but one hundred will. If the number of grants under A.S. 37.05.315 becomes significant, additional operating costs by the Department will need to be budgeted by the Legislature to ensure that the full value of the grant reaches the intended recipient.

Kenneth R. Ryals — 3/8/84

Kenneth R. Ryals
Director
Division of Administration
Department of Administrative
Services

Date

Lisa S. Rudd — 3/8/84

Commissioner Lisa Rudd
Department of Administration

Date

3/0307-01/BDGSF3/?

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984
Page 1 of 1

REQUEST
Bill/Resolution No.: HB 349
Title: Grant for City of Kenai for Boat Ramp and Bulkhead.
Sponsor: Malone and Fritz
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL	0	1,750.0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,750.0	0	0		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Christine L. Dooley Christine L Dooley Phone: 465-4418
Division: Adminstrative Services KM Date: March 7, 1984

Approved by Commissioner: Lisa Rudd LSR Date: March 7, 1984
Agency: DEPARTMENT OF ADMINISTRATION

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HB

361

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: HB 361
Title: Akutan, Nelson Lagoon, Pilot Pt, Port Heiden Docks
Sponsor: Herrmann
Requestor: Herrmann

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		-0-	-0-			
CAPITAL		1,578.0	-0-			
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,578.0	-0-			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME		-0-	-0-			
PART TIME		-0-	-0-			
TEMPORARY		-0-	-0-			

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

This was not provided by the requestor.

IV. ANALYSIS: Attached

Prepared by: William R. Snell, Director — Phone: 266-1440
Division: Central Region Planning & Programming — Date: 4/28/83

Approved by Commissioner: David W. Haugen — Date: 5/3/83
Department: Deputy Commissioner, Central Region

Distribution:
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Copy to Office of Management and Budget (for Legislature introduced bills)
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Copy to Requestor (if different from Sponsor)

3/[illegible]/83

Fiscal Note for HB 361 (cont'd)

Analysis

The funding at Akutan will be sufficient to locate and develop a preliminary design of an Akutan dock.

Nelson Lagoon, Pilot Point, and Port Heiden all experience shallow water and strong tides. The proposed feasibility study will determine location and preliminary design parameters and conceptual dock layouts would be provided, as well as firm design costs and construction cost estimates. A more detailed design effort would be the next appropriate step if the projects prove feasible.

The funding for Levelock dock expansion and the design and construction of Newhalen/Iliamna dock facilities will be grants to communities through DCR&A. These projects will have no fiscal impact on DOT&PF's capital or operating budgets.

HB

390

STATE OF ALASKA
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE:

May 23, 1983

Ms. Sarah Robinson
Representative Lacher's Office
Pouch V
Juneau, Alaska 99811

Dear Ms. Robinson:

Several important questions need to be addressed in legislation to create a scenic highway system, as proposed in HB 390 and 391.

What qualities define a scenic highway (definition of purpose)?

Does a scenic highway incorporate adjacent lands?

What are management standards for scenic highways and adjacent lands?

Which agency will manage the system?

Other questions pertain to the discussion leading up to legislation. Will designation affect road maintenance or federal highway funding? Should the Legislature designate scenic highways? What are the experiences of other states in creating and managing scenic highways?

At this point it would be difficult for the Administration to evaluate the proposed system. I suggest that Legislative staff and members of the Administration work together to provide more definition. This cooperation could best be accomplished during the interim, as we have discussed. Perhaps it would be appropriate to hold the bills in Committee while we work on them.

10-J9 LH

Thanks for your attention.

Sincerely,

John Bates

John Bates
~~Deputy Commissioner~~ DIRECTOR
Department of Transportation
and Public Facilities

Ned Fruehauf, sp. asst.

Robert D. Arnold
Deputy Commissioner
Department of Natural
Resources

cc: Steve Soenksen, House Transportation Committee
Judith Anderegg, Senator Kerttula's office

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: House Transportation Committee Members

FROM: Representative Barbara Lacher

DATE: May 17, 1983

SUBJECT: HB 390, HB 391

House Bill 390 is the enabling legislation for the designation of State scenic highways. House Bill 391 makes a special appropriation to the Department of Transportation and Public Facilities to study the Glenn Highway between Palmer and Glenallen for scenic highway designation.

HISTORY:
The Sheep Mountain Coalition, a group of local citizens who live in the Glenn Highway area, organized two years ago and contacted the Department of Natural Resources with a concern over the effect of the land disposal program in the area. The Department of Natural Resource's intention to realign the Highway was also a concern voiced by the Sheep Mountain Coalition at that time. The Coalition requested that the State develop a land use plan for the area. Talk emerged at this time for a scenic highway plan.

The State's response to this request emerged in the form of the Susitna Basin Plan. This plan was, in part, cooperative with the Matanuska-Susitna Borough. The Susitna Basin Plan is not as yet adopted, although it has been approved by the Mat-Su Borough. Public hearings are still being held on this plan which addresses a wider regional plan than the Genn Highway area. The plan addresses issues including tourism, year-round recreational use, land disposals, timber and mineral use, scenic preservation, and a trail system.

The Sheep Mountain Coalition then approached Representative Pat Carney, last Session, with the request that he introduce legislation to establish a recreation area along the Gelnn Highway, in the Sheep Mountain area. Carney sponsored this legislation but it died in committee, as the political climate was not good for the creation of another state park. In particular there was serious objection to the restrictions on land use that the proposed park would mandate.

The Coalition then reassessed its position and shifted towards the current legislation which proposes a public use area in the scenic highway bill. The current proposal would not disallow timber or mining use of designated areas. In fact the designation of a scenic highway does not mandate restrictions of any of the other categories of land use, it simply restricts their location in relation to the valued visual resource of the area so designated. This current legislation would also require less active management than a state park.

The Division of Parks of the Department of Natural Resources supports this current plan and do not foresee any major conflict between the proposed legislation and the final form of the Susitna Basin Plan.

SUSITNA BASIN PLAN:
The four alternatives proposed in the Susitna Basin Plan are germane to a discussion of this legislation. The first alternative proposes a higher density land disposal with more lands in private ownership. This alternative plan provides for a protective corridor along the Glenn Highway. The second alternative is a moderation of the first, with fewer land disposals, fewer areas designated for woodlots, and generally more protected trails and lakes. The third, or the "green" alternative places a greater emphasis on forestry, mining, recreation, scenic protection, an increase in the number of trails, and wider trail corridors. The fourth alternative plan is similar to the third except that a stronger emphasis on economic development, especially in the area of tourism and its support industries is included. This alternative plan places tourism as a first priority, but also permits restricted loging and mining. Emphasis is placed in this proposal for both winter and summer recreation, with a number of cross-country ski trails designated in addition to the more familiar summer recreational uses.

LOCAL SUPPORT:
Petitions have been circulated, and a recent public meeting at the Glacier Elementary School demonstrated very strong support for the Susitna Basin Plan, especially alternatives three and four. The Sheep Mountain Coalition also holds this view, as well as the Mat-Su Borough. Strong local opinion centers on the need for both visual resources and protected trails. The scenic highway legislation proposed is in keeping with the interests of the residents of the area, as well as the Borough as a whole.

SCENIC HIGHWAY STUDIES:
The Department of Natural Resources has conducted two studies for scenic highway feasibility. These are the Parks Scenic Highway study completed four years ago, and the Denali Scenic Highway study completed this year. The DNR has informed the sponsor of this legislation that the Glenn Highway is a prime candidate for a designated scenic highway in Alaska. Passage of this legislation would permit the State to designate all three of these highways as scenic highways, if the Administration so desired.

I. REQUEST

Bill/Resolution No.: HB 390

Title: Designation of Scenic Highways

Sponsor: Lacher

Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF

Program Category Affected:

BRU, Program of Subprogram(s) Affected: Planning and Maintenance & Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		37.0	74.0	77.7	81.6	85.7
200 TRAVEL		13.0	25.5	12.6	13.2	13.9
300 CONTRACTUAL		7.0	14.0	*Unknown	*Unknown	*Unknown
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
	Minimum impact given. See analysis in Sec. IV					
TOTAL OPERATING	-0-	57.0	113.5	90.3	94.8	99.6
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	57.0	113.5	90.3	94.8	99.6
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not identified by the sponsor.

*[NOTE: "Unknown" means that it is impossible to predict how much it will cost the state to make highways meet scenic standards, erect signs and upgrade maintenance facilities and equipment to meet scenic standards, because we do not have standards yet, and do not know how many miles will be designated as scenic, or where they will be located.]

IV. ANALYSIS: See Attached for Analysis.

Prepared By: Paula Ramsey Phone: 465-4060

Division: Standards and Statewide Programs Date: May 23, 1983

Approved by Commissioner: Date: 5/23/83

Department: Transportation and Public Facilities

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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3/8/83

IV. ANALYSIS

Designation and maintenance of scenic highways will have a fiscal impact on the DOT&PF beyond the figures given in Section I. Accordingly, the present fiscal note should be regarded as an underestimate, including only the minimal costs which we can predict -- primarily, the costs for the Scenic Resources Expert.

The DOT&PF suggests however, that the bill not require the Department to hire the Scenic Resources staff person. In our projection of ongoing need for such expertise, we do not anticipate that the program will require a full time permanent staff member. The Department could more efficiently contract with one or more consultants and train current DOT&PF employees for both the design and planning, and maintenance and operations functions necessary for the program.

We also suggest that the bill specify particular coordinative actions to insure fulfilling the intent of the legislation. First, the Department of Natural Resources (DNR) should be explicitly involved in establishing regulations for the development of state lands adjoining scenic highways, consistent with the intent of the scenic highways program. Second, the DNR should be required to send to all pertinent federal agencies an official notification of highways designated as state scenic highways. The notification should also request that such federal agencies as the Bureau of Land Management, Department of Agriculture, and National Park Service adopt procedures which would conform to the general guidelines established for state scenic highways. Moreover, if the scenic highways bill is passed by the legislature, the DOT&PF would request a delay in implementing the program until the U.S. Congress has acted on the Denali Scenic Highway Study.

In further consideration of the fiscal impact of this bill, it should be understood that the cost of constructing highways will increase over time, such that the amount of construction which can be done with the same money will decrease. It should also be understood that the regulations we develop will have to conform to Federal Highway Administration (FHWA) Standards to the extent that will allow us to continue leveraging the maximum amount of FHWA funds for highway construction.

The cost estimates in Section I reflect only the following:

		FY 85
Personal Services		
(Scenic Resources Expert)		74,000
Travel		
(for Scenic Resources Staff)	12,000	
(for 15 public meetings on regs at $300 air fare & per diem each, for 2 staff and 1 secretary)	13,500	
Subtotal		$ 25,500

Contractual

Minimal costs for signing, and Maintenance and Operations		Unknown*
Secretarial transcription for 18 public meetings at $500 each	9,000	
Dept. Law Review of regs establishing standards	5,000	
Subtotal		14,000
TOTAL FY 85		$113,500 PLUS

FY 84 estimates represent six months of personnel and supporting costs. Personal services cost for a Scenic Resources Expert, and that employee's estimated travel for inspection and design purposes are inflated at 5% per annum. The second part of the estimated travel cost is for regional staff to travel to the sites of the public hearings required for adoption of regulations as mandated in the bill.

The estimate of twelve public meetings statewide is provided as a conservative estimate, based on a review of the minimal number of hub communities located on the highways most likely to be designated as scenic.

The estimated contractual cost for secretarial services to transcribe meeting tapes was derived by scaling down the average cost for this service following hearings on the proposed time zone changes. We assumed eighteen total public hearings. Travel costs for the public meetings assume two Department staff and one contract secretary traveling at an average air fare of $220 round-trip and one day's per diem at $80.

The final contractual cost, for the Department of Law to review regulations proposed by the Department, is also a rough estimate. This figure could be as low as $3,000 or could be much higher.

It is anticipated that much of the work involved in establishing standards and adopting regulations can be accomplished within the normal functions of the Department. Additional costs would arise in conducting studies for determining scenic highways; however, those costs are anticipated to be funded by the legislation that would also request the scenic studies be done (e.g. HB 391).

* "Uknown" means that the substantial fiscal impact this bill will have on DOT&PF for maintenance and operations to meet scenic standards cannot be predicted.

HB

391

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: SB 284/HB 391
Title: Glenn Hwy Scenic Designation
Sponsor: Kerttula/Lacher
Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	2.7	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None identified

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director Phone: 266-1440
Division: Central Region Planning & Programming Date: 5/16/83

Approved by Commissioner: David W. Haugen Date:
Department: Deputy Commissioner, Central Region

Distribution:

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3/8/83

HB

399

3/27

COMMITTEE REPORT

HOUSE

(9)

FURTHER:

5/5/83

Date: 3/22/84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 399

"An Act naming A and C streets in Anchorage Wickersham Boulevard and Eisenhower Boulevard."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[x] replace with CS for HB 399 (transportation) [ ] same title [x] new title

and recommends

[ ] AND attaches a "Letter of Intent" [x] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING DO PASS

[signature]

[signature]

[signature]

[signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature] No Rec

[signature] Do Not Pass

[signature] Do Not Pass

[signature] Do Not Pass Shouldn't Name Anchorage Streets

M.W. Miller - No Rec.

[signature] Do Not Pass [illegible] Name [illegible] Wisdom of [illegible]

[signature]

CHAIRMAN

H 60

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 399
Title: Naming "A" Street
Eisenhower Blvd.
Sponsor: Haves & Martin
Requestor: House Transportation
Date of Request: March 22, 1984

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: D&C
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		15.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1.5				
FEDERAL FUNDS		13.5				
OTHER						
TOTAL		15.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: William R. Snell
Phone: 266-1462
Division: Planning - Central Region
Date: March 23, 1984

Approved by Commissioner: R. J. Knapp
Date: March 27, 1984
Agency: Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Analysis - CSHB 399

Naming "A" Street Eisenhower Blvd.

1. Analysis of the fiscal impact on existing programs.

   The Department of Transportation of Public Facilities has completed the design work for the A-C Couplet and the project is ready to bid.

   The fiscal impact would be accommodated through a construction charge order.

2. Analysis of fiscal impact of new programs or activites.

   No impact.

3. Analysis of cost estimate:

   The cost of street signs is dependent upon the square footage of the signs. There are three types of signs that will be used as part of the A-C Couplet project: Street name signs, overhead signs, and advanced notice street signs. The square footage of the total signs for "A" Street were pulled from the project plans. The square footage for similar signs for the name "Eisenhower Boulevard" was estimated. The difference in square footage for the two names was multipled by the cost per square foot (approximately $40).

   Cost Estimate: $15,000.00

The Department can absorb this cost; however, the Commissioner is review y the cost per square foot for the signs.

Department of Transportation & Public Facilities

CS HB 399

An Act naming "A" Street in Anchorage
to Eisenhower Boulevard and designating
the Eisenhower Corridor

Background

Names of many north-south aligned roads in Anchorage conform to an alphabetical sequence, for example, roads west of "A" Street are known as "B" Street, "C" Street, "D" Street, etc. Roads east of "A" Street use proper names in alphabetical sequence such as Barrow, Cordova, Denali, Eagle, etc. These names, in combination with the numerical names (3rd, 4th, 5th Avenues, etc.) used for east-west streets, have been helpful for the public in finding the physical location of a specific address.

Legislative Authority

Alaska Statute 19.10.085 gives the Legislature the authority to name highways constructed by the Department of Transportation and Public Facilities (DOT&PF).

Analysis

Portions of "A" Street (such as 4th to 9th Avenues) were built by the Municipality of Anchorage. Because the statutes give the Legislature the power to name highways constructed by the DOT&PF, there may be a question on the Legislature's authority to rename the street.

The Municipality of Anchorage (MOA) prefers not to rename the street. The Zoning and Platting Manager for the MOA stated that the assembly voted not to approve a resolution renaming the streets; however, the assembly did pass a resolution encouraging the naming of the Eisenhower Corridor. The Zoning and Platting Manager also stated that the name Wickersham would duplicate an existing street name and that the U.S. Post Office would not deliver mail to a Wickersham address if there were two streets of the same name.

There would be a cost increase of approximately $15,000 to the A-C Couplet project as a result of a name change. Street name sign costs are based on the square footage of the signs - the larger the name, the greater the square footage.

Conclusion/Recommendations

1. Because the MOA and the State have constructed different sections of "A" Street, there may be a question of Legislative authority in renaming the street. A legal review may be appropriate.

2. The MOA prefers not to rename the street. Even though the A-C Couplet will be a part of the State Highway System, the DOT&PF recommends local concurrance before legislative action.

3. The Department concurs with the MOA's support in naming the Eisenhower Corridor.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 399

Title : "...A Street/C Street Rename..."

Sponsor : Hayes, Martin

Sincerely,

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

254-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 399
Title: A Street/C Street Rename
Sponsor: Haves & Martin
Requestor: House Transportation
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:
Maintenance and Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Speci Source)						
TOTAL						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director Phone: 266-1462
Division: Central Region Planning & Programming Date: 11/30/83

Approved by Commissioner: David W. Haugen Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

1. An analysis of the fiscal impact on existing programs: No impact.

2. An analysis of the fiscal impact on new programs or activities: No impact.

3. An analysis of how the figures in the Fiscal Note were derived: Capital costs for sign material could be incorporated into the schedule federal-aid project.

4. Additional information necessary to explain the Fiscal Note: The Department has no objection since the change would cause only a minimal increase in maintenance costs; however, we recommend assessing public sentiment first.

* Capital costs for sign material could be incorporated into the schedule federal-aid project.

Alaska State Legislature

FEB 8 1984

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 7, 1984

TO Rep. Bette Cato
House Transportation Committee

FROM Rep. Joe Hayes
Speaker

RE: HB 399/ Eisenhower Blvd.

It's my understanding that this bill was held in committee for further direction from my office.

After talking with proponents of this legislation, I stll desire legislation to name A street Eisenhower Boulevard.

At this time, I do not desire the renaming of a street to Wickersham because of potential confusion with Wickersham subdivision in Anchorage. However, the renaming of A street to Eisenhower Boulevard, in my opinion, would not disrupt the addressing system to a major degree, nor would it be a severe inconvenience on businesses and residents along the street. There are significantly fewer businesses along A street than there are along C street.

I would appreciate the committee considering this bill for movement out of committee as soon as convenient.

Thanks.

1. An analysis of the fiscal impact on existing programs: No impact.

2. An analysis of the fiscal impact on new programs or activities: No impact.

3. An analysis of how the figures in the Fiscal Note were derived: Capital costs for sign material could be incorporated into the schedule federal-aid project.

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Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

JANUARY 23, 1984

To: Rep. Bette Cato
Transportation Committee

From: Jeff Day
Assistant to the Speaker

Re: HB 399/ Substitute

Following discussions with the backers of HB 399, we would like to propose a committee substitute which would be in keeping withthe Anchorage Assembly's desires.

CSHB 399 (Transportation)

For an Act entitled: An Act naming A Street in Anchorage Eisenhower Boulevard and designating the Eisenhower Corridor.

Section1. AS 35.40 is amended by adding a new section to read:

Sec. 35.40.020 EISENHOWER BOULEVARD AND CORRIDOR. In Anchorage, from its northern end to the 36th Avenue intersection, A Street is named Eisenhower Boulevard and the system of parks, trails and buffering between and along Eisenhower Boulevard and C Street is named the Eisenhower Corridor.

APPROVED
Date: 10-25-83

Submitted by: Assemblywomen Flynn and Angvik
Prepared by: Clerk's Office
For Reading: October 11, 1983

ANCHORAGE, ALASKA

RESOLUTION NO. AR 83-248(S)

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY ESTABLISHING THE EISENHOWER CORRIDOR CONSISTING OF THE PARK, TRAILS AND BUFFERING BETWEEN AND ALONG THE A/C COUPLET AS WELL AS SUPPORTING NAMING THE PARK AT THE NORTHERN TERMINUS OF THE COUPLET, EISENHOWER PARK.

THE ANCHORAGE MUNICIPAL ASSEMBLY RESOLVES:

WHEREAS, the Municipality of Anchorage and the State of Alaska are planning road improvements to A and C Street, located within the Municipality; and

WHEREAS, said improvements will create a major north/south transportation corridor spanning the city of Anchorage; and

WHEREAS, this is an appropriate time to consider naming the corridor because the project will alter the complexion of businesses and residences along its route; and

WHEREAS, it is fitting to name the corridor in honor of those who have contributed substantially to the history of the Municipality of Anchorage and the State of Alaska.

NOW, THEREFORE BE IT RESOLVED:

1. The Eisenhower Corridor is estabilshed. The corridor shall consist of the park, trails and buffering between and along the A/C Couplet.

2. The Anchorage Assembly supports naming the park at the northern terminus of the couplet, Eisenhower Park.

3. The Municipal Clerk forward copies of this resolution to Governor Sheffield, the Anchorage Legislative delegation, Commissioner of the State Department of Transportation and Public Facilities, AMATS Policy Committee, and the Chairman of the Municipal Parks and Recreation Commission.

AR 83-248(S)

PASSED AND APPROVED by the Anchorage Assembly this 25th day of October, 1983.

Chairman

ATTEST:

Municipal Clerk

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

January 10, 1984

Re: Fiscal Note Transmittal

Distribution

The Department of Transportation and Public Facilities hereby transmits the fiscal note and supporting documentation for the legislation identified below. This transmittal supersedes all previous distributions.

Bill No.: HB 399

Title : "...A Street/C Street Rename..."

Sponsor : Hayes, Martin

Sincerely,

Ed Cronick
Legislative Liaison
Department of Transportation
& Public Facilities

DISTRIBUTION:

Legislative Finance
Legislative Sponsor
Requestor - House Transportation
Office of Management and Budget - Lisa Emerson
Impacted Agency(ies) Attn: Legislative Liaison - N.A.
Regional Directors of Administrative Services - J. Merrill
Regional Director P&P - R. Snell

25A-T1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date: 11/30/83

I. REQUEST

Bill/Resolution No.: HB 399
Title: A Street/C Street Rename
Sponsor: Hayes & Martin
Requestor: House Transportation
Date of Request: 10/1/83

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Maintenance and Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						
TOTAL						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: William R. Snell, Director
Phone: 266-1462
Division: Central Region Planning & Programming
Date: 11/30/83

Approved by Commissioner: David W. Haugen
Date: 11/30/83
Department: Deputy Commissioner, Central Region

Distribution:
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9/14/83

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4. Additional information necessary to explain the Fiscal Note: The Department has no objection since the change would cause only a minimal increase in maintenance costs; however, we recommend assessing public sentiment first.

* Capital costs for sign material could be incorporated into the schedule federal-aid project.

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HB 399
Title: A Street/C Street Rename
Sponsor:
Requestor:

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	*-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in bill.

IV. ANALYSIS: Attached.

Prepared by: William R. Snell, Director Phone: 266-1440
Division: Central Region Planning & Programming Date: 5/10/83

Approved by Commissioner: David W. Haugen Date: 5/10/83
Department: Deputy Commissioner, Central Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Fiscal Note for HB 399 (Cont.)

Analysis:

The Department has no objection since the change would cause only a minimal increase in maintenance costs. However, we recommend assessing public sentiment first.

*Capital costs for sign material could be incorporated into the scheduled federal-aid project.

Sec. 19.10.060. Regulation of weight and load of vehicles and use of highways during certain seasons. The department, with respect to highways under its jurisdiction, may

(2) Repealed by § 25 ch 144 SLA 1977.

(am § 25 ch 144 SLA 1977)

Effect of amendments. — The 1977 amendment repealed paragraph (2), which read "issue special written permits authorizing the operation of overweight vehicles."

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 19.10.085. Naming of a highway. (a) A highway constructed by the department under AS 19.05.010 — 19.40.210 may be given a name only by law.

(b) This section does not apply to

(1) a road constructed by a municipality under a grant authorized by AS 19.05.010 — 19.40.210;

(2) local service roads and trails. (AS 19.05.150; § 1 ch 4 SLA 1981)

Effective dates. — Section 3, ch. 4, SLA 1981, makes this section effective March 24, 1981, in accordance with AS 01.10.070(c).

Editor's notes. — As enacted, this section was designated AS 19.05.150 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Article 3. Construction.

Section
170. Construction by department
190. Advertisement, bids, contracts, and informal bids
280. Local control of state transportation corridors

Sec. 19.10.170. Construction by department. (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, subject to the provisions of (b) of this section, when the estimated cost of a construction project is less than $100,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

(b) Construction or professional services in connection with the construction of highways performed by the department under (a) of this section which have an estimated cost exceeding $5,000 may not be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

HB

400

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

Date: 2-1-84

5/5/83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 400

An Act making a special appropriation for payment as a grant to the Kenai Peninsula Borough for construction of the Greer Road phase II project; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

M.W. Miller

Mike Szymanski

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bette Cato
CHAIRMAN

H 60

AMENDMENT

OFFERED IN THE HOUSE: BY: Transportation

TO: _____ HOUSE BILL No. 400

SENATE BILL No. _____

PAGE: 1 LINE: 11

delete $200,000

insert $100,000

Introduced: 5/5/83
Referred: Transportation
and Finance

Funding Information
General Fund $200,000
Other Funds -0-
$200,000

IN THE HOUSE BY MALONE AND FRITZ

HOUSE BILL NO. 400

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation for payment as a grant to the Kenai Peninsula Borough for construction of the Greer Road phase II project; and providing for an effective date."

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

* Section 1. The sum of ~~$200,000~~ 100,000 is all that's needed is appropriated from the general fund for payment as a grant to the Kenai Peninsula Borough for construction of the Greer Road phase II project.

* Sec. 2. The appropriation made by this Act shall be disbursed in accordance with AS 37.05.315 - 37.05.319.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Bon. LSR+I
Leg. last yr.
Balance needed $100,000

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB400
Title: Grant for Greer Creek Rd to Kenai Penn. Borough
Sponsor: Malone & Fritz
Requestor: H. Transportation Committee
Date of Request: Jan. 31, 1984

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL	$200.0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	$200.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kenneth R. Ryals KRR Phone: 465-2277
Division: Administrative Services Date: 1/31/84

Approved by Commissioner: Date: 2/1/84
Agency: Administration

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB 400

"An Act making a special appropriation for payment as a grant to the Kenai Peninsula Borough for construction of the Greer Road phase II project; and providing for an effective date."

This bill provides for payment of $200,000 General Funds under A.S. 37.05. 315, by the Department of Administration. Historically, the Department has not "held back" any portion of any grant under A.S. 37.05.315 for administrative costs, including the legislated audit function. We have found efficiency measures in other areas that permit us to devote some operating staff resources to the administrative tasks of the Municipal Grants program. One more grant, such as proposed by this bill, will not over-burden our resources, but one hundred will. If the number of grants under A.S. 37.05.315 becomes significant, additional operating costs by the Department will need to be budgeted by the Legislature to ensure that the full value of the grant reaches the intended recipient.

District: CENTRAL Name of Route: Greer Road, Phase II

Termini: From Greer Road, Phase I To Hulter Road Length of Project .6 mile
(INCLUDE MAP SHOWING PROJECT LIMITS)

Type of service to be provided: Construct an extension of Greer Road, currently maintained by the Department to connect with Hulter Road

Describe Existing Facility: non existant

Proposed Facility: 24 foot wide gravel road

Present System: non existant No. of persons served: 25

Location of materials sources: Anchor Point

Estimated Costs

P.E.	R/W	Construction	Constr. Engineering	Total
25,000	0	250,000	25,000	300,000

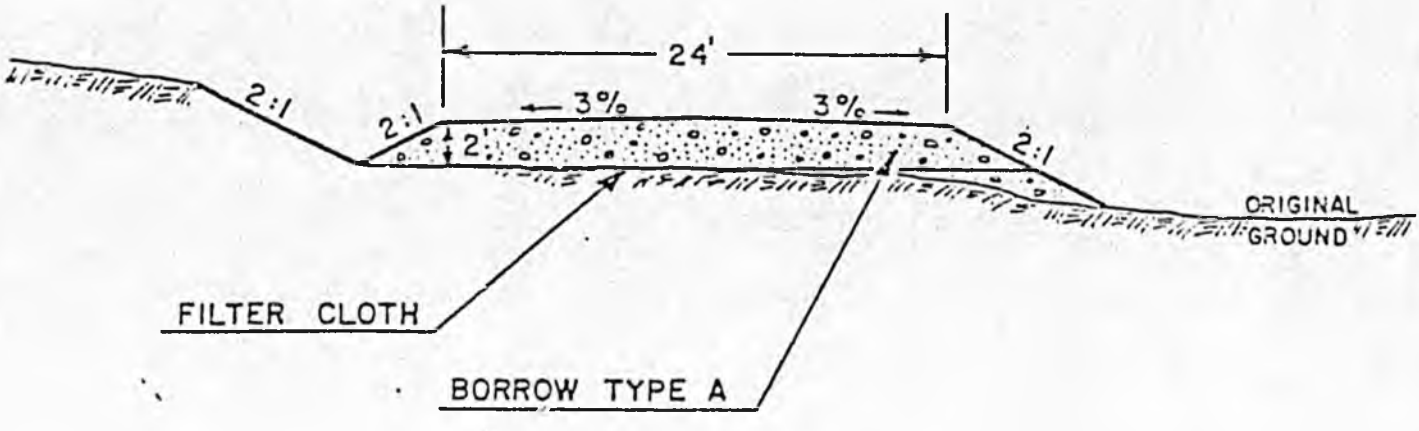
Type of R/W to be acquired: 100 foot wide right-of-way

Name of Head of Local Government: Mayor Stan Thompson

Remarks (possible causes of delay, e.g. R/W, land claims, materials, etc.)
additional funding required for construction

Construction Site Access: along Greer Road

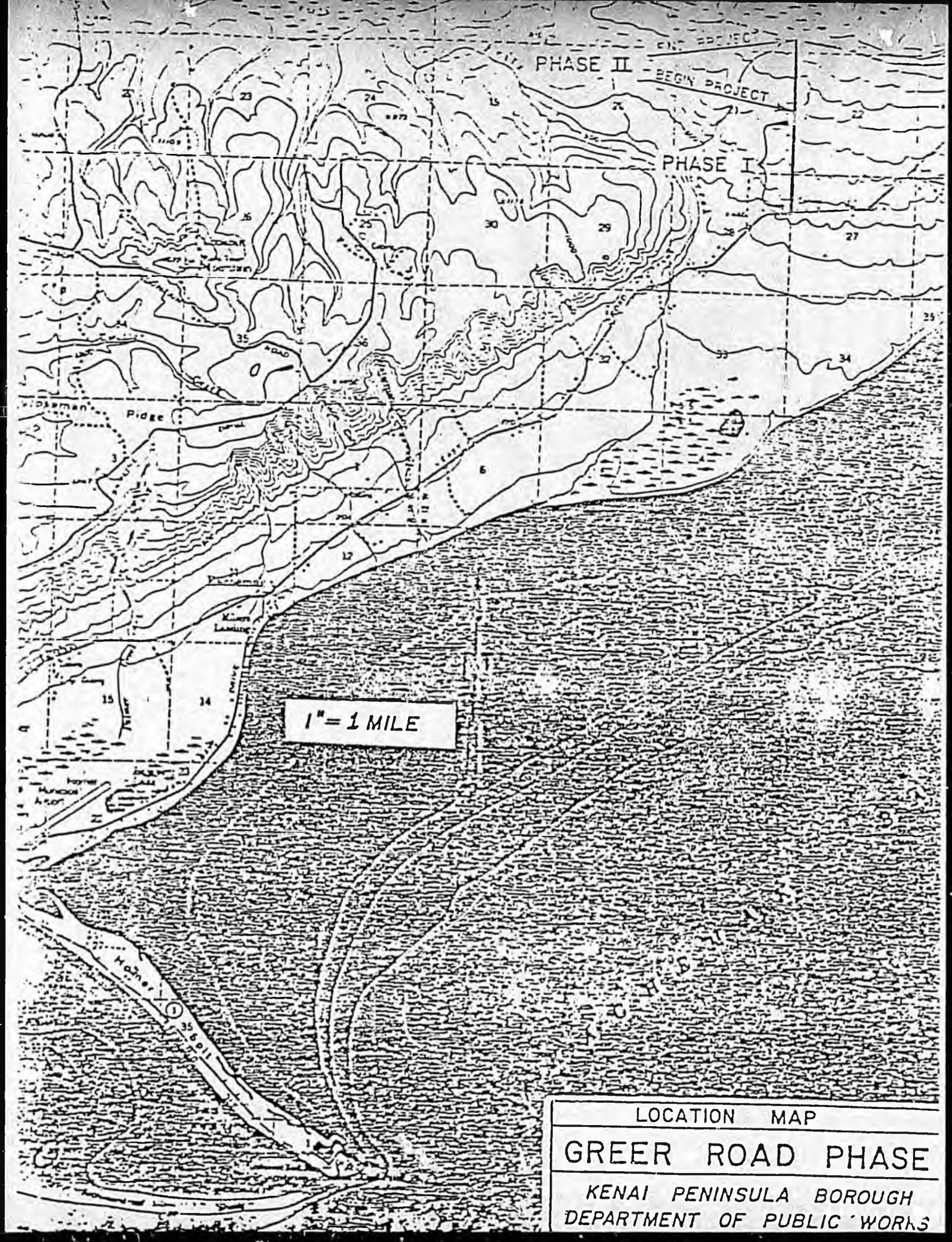
William J. Conyers
Borough Engineer
NAME & TITLE



TYPICAL SECTION

GREER ROAD PHASE II

KENAI PENINSULA BOROUGH
DEPARTMENT OF PUBLIC WORKS
MAY—1983



LOCATION MAP

GREER ROAD PHASE

KENAI PENINSULA BOROUGH
DEPARTMENT OF PUBLIC WORKS

Introduced by: Dimmick, Keene
Date: Apr. 19, 1983
Vote: Unanimous
Action: Adopted as Amended

KENAI PENINSULA BOROUGH

RESOLUTION 83-95 (SUBSTITUTE)

AUTHORIZING THE EXPENDITURE OF $106,121 OF L.S.R.T. FUNDS FOR THE PURPOSE OF DESIGNING AND CONSTRUCTING THE ~~REMAINDER OF GREER ROAD~~

WHEREAS, the Borough Administration has received a petition to upgrade the Greer-Hutler Loop Road; and

WHEREAS, access to the affected residents during the winter and spring is difficult; and

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the amount of ~~$106,121~~ be transferred from the Contingency Account No. 07-21001-9007 to the Greer-Hutler Loop Road Project Account No. 07-21052-9007.

Section 2. That the Borough Administration is authorized to proceed with soliciting proposals for the design and construction of the ~~Remainder of Greer Road to the intersection with Hutler Road~~ including a turnaround adequate for a school bus.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 19TH DAY OF APRIL, 1983.

Donald L. McCloud

Donald L. McCloud, Assembly President

ATTEST:

Frances Bryner

Borough Clerk

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF PARKS

STATE
PUBLIC WORKS DEPARTMENT
K. P. B.
JAY S. HAMMOND, GOVERNOR
Terry A. McWilliams, Di
Division of Parks
619 Warehouse Dr., Suite 210
Anchorage, Alaska 99501

July 5, 1978

Re: 1141-6

Mr. Ronald D. Rice
Assistant Borough Engineer
Kenai Peninsula Borough
P.O. Box 850
Soldotna, Alaska 99669

Dear Mr. Rice:

This office has reviewed the proposal to construct Greer Drive, as per your letter of 20 June 1978. The proposed action will have no effect on any property listed on, or determined eligible for listing on, the National Register of Historic Places. There is no objection to the project on these grounds provided that you contact this office should any cultural materials be discovered during the course of the work.

Sincerely,

Douglas Reger Deputy SHPO

William S. Hanable
State Historic Preservation Officer

TLD:clk

DUPLICATE ORIGINAL

FAST Form #40

Recommended
Allocation District Kenai Peninsula
Project Number
Project Name Greer Road, Phase II
Local Governing Body Kenai Peninsula B
Address Box 850, Soldotna 99669
Phone 262-4441

Project Agreement
Local Service Roads and Trails
Contract/Force Account
Local Governing Body

Under the authority granted by Chapter 84, Sessions Laws of Alaska 1971, this project agreement is entered into by and between the State of Alaska, Department of Transportation and Public Facilities; hereinafter called the Department, and Kenai Peninsula Borough, hereinafter called the Local Governing Body, for the purpose of constructing the following described project:

A. OBLIGATIONS OF THE LOCAL GOVERNING BODY

To further accomplish the construction of the project, it is agreed that the Local Governing Body shall:

1. construct the above-described project, which is more fully described by Appendixes "A" and "B" attached hereto and made a part hereof, consisting of a location plat (Appendix "A") and a typical cross-section (Appendix "B");

2. provide all funds necessary to construct the project;

3. cause the project to be constructed by one of the following methods unless the Department expressly approves an alternate method: (a) award of a contract by the Department or the Local Governing Body for construction of the project to the lowest responsible bidder through the competitive bidding process, or (b) through the use of local or state equipment and employees.

B. IF THE PROJECT IS ADMINISTERED BY THE LOCAL GOVERNING BODY, THE LOCAL GOVERNING BODY SHALL:

1. execute a written contract with a contractor for the project if a contract is awarded.

2. maintain accurate, daily written records of all costs for which reimbursement is requested, which records shall be made available for inspection by the Department upon request, and preserve such records for a period of three years following

final acceptance of this project by the Department or termination of this agreement, after which they may be destroyed except for the project history, project engineer's diary, photos and the correspondence folder;

3. promptly pay in full all legitimate claims for services or material provided for construction of this project and hold the Department harmless from any claims or costs arising from the Local Governing Body's failure or refusal to pay claims, whether or not those claims are legitimate;

4. the Local Governing Body agrees to pay all federal, state and local taxes and social security (FICA) withdrawals for wages paid on this project.

C. FURTHER CONDITIONS

1. Local Service Roads and Trails funds are obligated for this project in an amount as shown on the attached funds authorization, which is made a part of this agreement.

2. Expenses incurred by the Local Governing Body prior to the date of execution of this agreement will not be reimbursed by the Department.

3. The determination must be made prior to beginning construction that adequate right-of-way and material are available for the project.

4. The Department will not be obligated to reimburse the Local Governing Body for costs which cannot be adequately verified as a necessary cost of construction.

5. Prior written Departmental approval of the following is required:

CONTRACT CONSTRUCTION ADMINISTERED BY THE LOCAL GOVERNING BODY

a. Plans, specifications and estimate prior to advertising.

b. Award of the construction contract.

c. Any changes which reflect a change increasing the total contract by more than 10%.

CONSTRUCTION BY THE LOCAL GOVERNING BODY

a. Estimated costs, including engineering, equipment, labor and closing costs after construction is complete.

b. Plans or typical section of improvement.

6. The Department has the right to make periodic inspections during the course of work, and a final inspection upon completion of construction, for the purpose of certifying that the funds expended by the Local Governing Body on this project qualify for reimbursement under this agreement.

7. When the construction of this project has been completed and duly accepted, the responsibility for maintaining the facility shall be borne by the Department of Transportation .

   If the Local Governing Body is to bear the maintenance responsibility, the Local Governing Body agrees to indemnify, defend, and hold harmless the Department and the State of Alaska from any and all claims arising in connection with or related to the maintenance function. If the Department agrees to perform the maintenance, the Department reserves the right to issue utility, driveway and encroachment permits.

8. The Local Governing Body agrees to indemnify, defend, and hold harmless the Department from all liability, claims and demands arising from the work undertaken by the Local Governing Body, its employees, agents or representatives, or arising out of any operation, no matter by whom performed or on whose behalf, whether or not in conjunction with work to be coordinated by the Department.

9. This agreement may not be modified except by written agreement between the Department and an authorized agent of the Local Governing Body.

10. The parties to this agreement shall obey all federal, state, and local laws and regulations.

11. This supersedes any and all other agreements expressed or implied between the Department and the Local Governing Body with respect to this project and this agreement contains the entire agreement between said parties.

Project No. _____
Project Name Greer Road, Phase I

To witness this agreement, the Department and the Local Governing Body have affixed hereto the signatures of the Deputy Commissioner, Design and Construction, and Mayor Stan Thompson, the duly authorized signatory for said Local Governing Body.

DATED this _____ day of _____, 19___.

Kenai Peninsula Borough
(Name of Local Governing Body)

LOCAL GOVERNING BODY

BY Stan Thompson
Attach the completed resolution, (attached) approved by the Local Governing Body

ATTEST:

_____

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RECOMMENDED FOR APPROVAL:

_____
Regional Director

APPROVED AND EXECUTED BY:

_____
Deputy Commissioner
Design and Construction

_____
Date

Subscribed and sworn to before me this 4th day of May, 1983.

Elizabeth A. Culbeck
Notary Public for Alaska
My Commission expires: 1-4-87

GREER-HUTLER ROAD PROSPECTUS

Proposal: To extend Greer Road up the 100' wide right of way on the section line between sections 21,22 to Hutler Road, then easterly along the dedicated right of way for Hutler Road out to East End Road.

Engineering: Hutler Road is an extremely well-drained road with a very low grade (0-2%). The proposed Greer Road extension could be built to a maximum grade of 9% with some cut and fill (see attached grade sheet). There are no right of way problems.

Supporting Reasons:

Increased accessibility to the slaughterhouse on Beaver Creek Road. This is the only slaughterhouse on the southern Kenai Peninsula. Ranchers efforts are hindered now because of poor road conditions. A loop road would provide a means for increased local slaughter, would facilitate agriculture in Alaska, would lower operating costs, would increase tax revenues, would provide more local jobs, and would set a positive tone between government and farmers.

There are at least 120 small parcels of land in the area that would benefit. Many of these already have dwellings and children on them. Large tracts in the area could be better utilized with a loop.

Presently, the school buses have limited access to Greer Road due to the fact that there is no turnaround or exit. A loop road would substantially improve the bus service offered to these children as well as provide bus service to children living on Hutler Road. One child on Hutler presently has to travel 3 miles to catch the bus.

It would also provide a 'loop' for service vehicles. At present, these vehicles have difficulty going up improved Greer Road due to the lack of an exit. Power, phone, and emergency agencies must use track vehicles during much of the year to enter areas on the unimproved sections of Greer and Hutler Roads.

Borough land in the area would become accessible for use. There are approximately 1260 borough acres that could be utilized with a Greer-Hutler loop.

Increased access to renewable resources such as timber, beef production, and hay fields.

Increased access to University of Alaska lands which they plan to use for grazing within the next two years.

Significant reduction of travel time to Homer. The distance to Homer would be reduced by three and four miles from most locations along Hutler Road.

Increased access to the new Elementary School at McNeil Canyon. The eastern end of the Greer-Hutler Loop would be only .2 mile from the school.

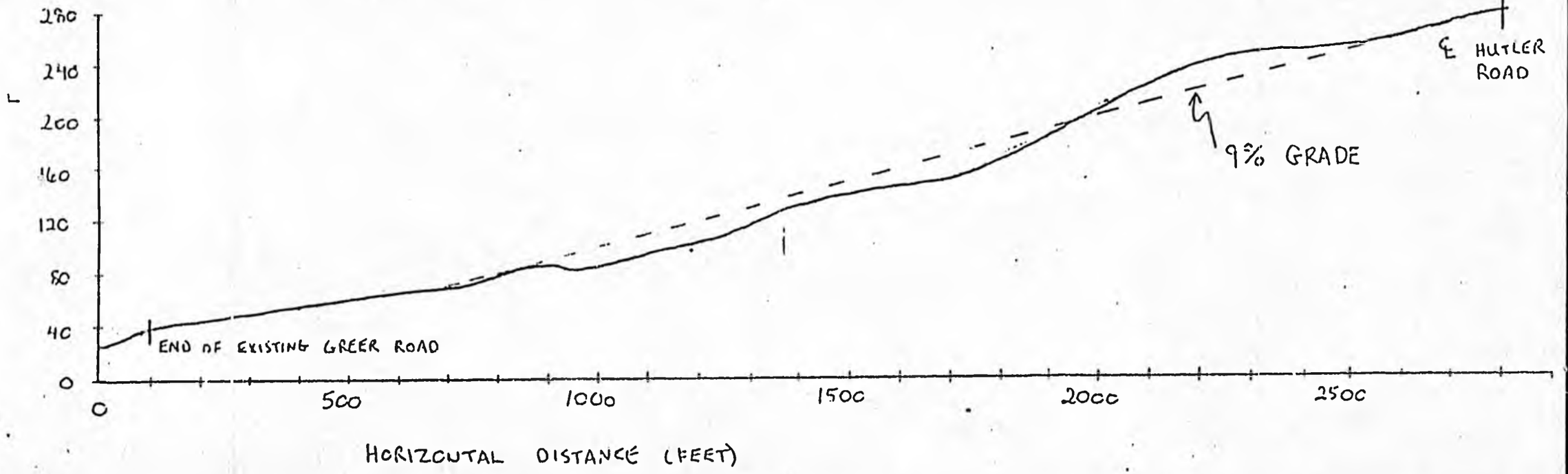
Increased access to snowmachine, ski, and hunting areas.

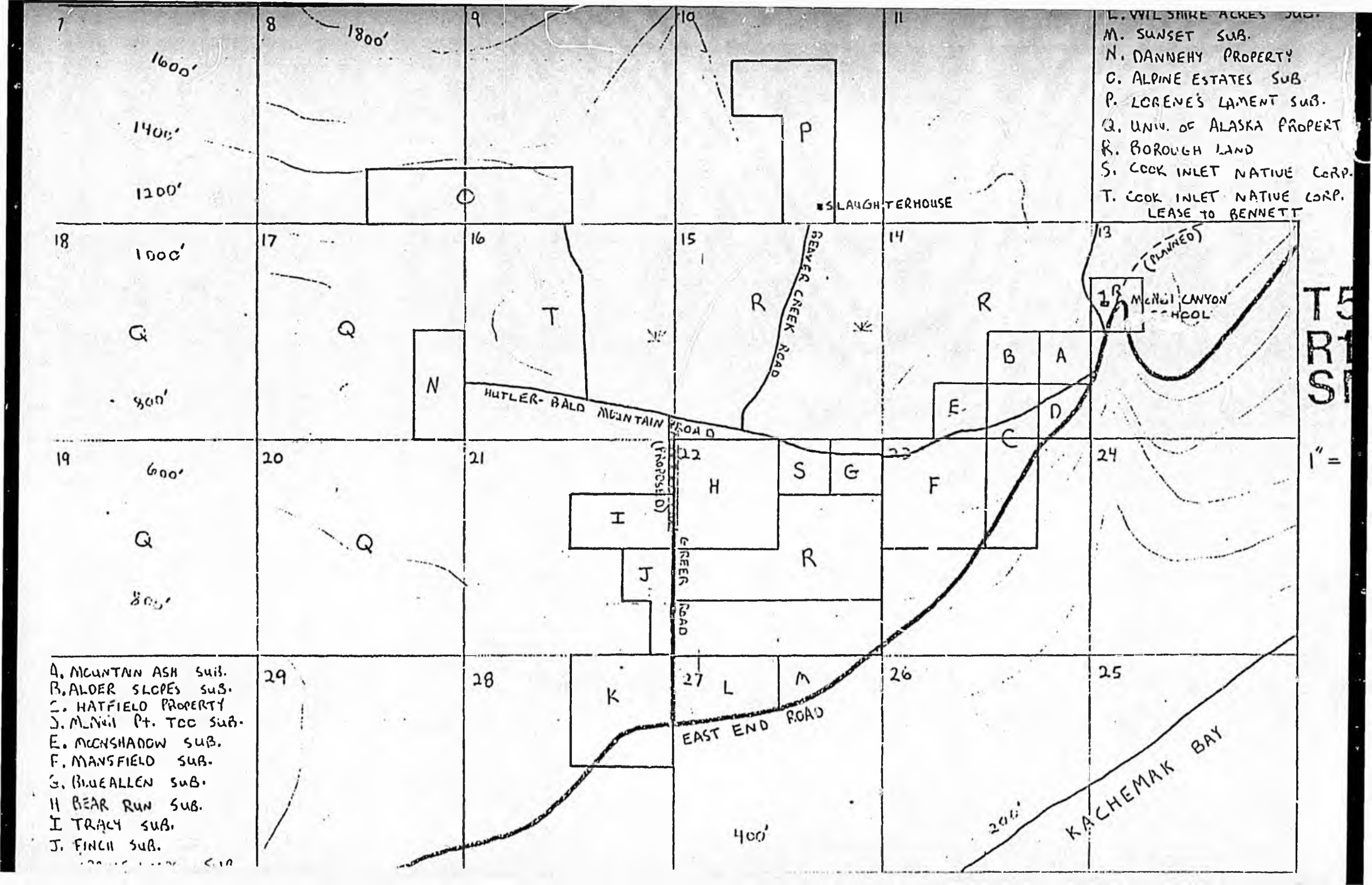
The demand for this project will grow yearly. The cost of building this loop will also grow yearly.

SLOPE OF PROPOSED GREER ROAD EXTENSION

1" = 250' HORIZONTAL

1" = 100' VERTICAL




L. WILSHIRE ACRES SUB.
M. SUNSET SUB.
N. DANNEHY PROPERTY
O. ALPINE ESTATES SUB
P. LORENE'S LAMENT SUB.
Q. UNIV. OF ALASKA PROPERT
R. BOROUGH LAND
S. COOK INLET NATIVE CORP.
T. COOK INLET NATIVE CORP. LEASE TO BENNETT
A. MOUNTAIN ASH SUB.
B. ALDER SLOPES SUB.
C. HATFIELD PROPERTY
D. MCNEIL PT. TCC SUB.
E. MOONSHADOW SUB.
F. MANSFIELD SUB.
G. BLUEALLEN SUB.
H BEAR RUN SUB.
I TRACY SUB.
J. FINCH SUB.
SLAUGHTERHOUSE
HUTLER-BALD MOUNTAIN ROAD
REEVES CREEK ROAD
(PLANNED)
McNEIL CANYON SCHOOL
(PROPOSED)
GREER ROAD
EAST END ROAD
KACHEMAK BAY
1600'
1400'
1200'
1800'
1000'
800'
600'
400'
200'

HB

401

COMMITTEE REPORT

HOUSE

FINANCE

(9) FURTHER:

5/5/83 Date: 2-2-84

Mr. Speaker

The Committee on TRANSPORTATION has had HB 401

"An Act making a special appropriation for payment as a grant to the City of Kenai for extension of the municipal airport main apron; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[x] replace with CS f HB 401 (Transportation) [x] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Adelaide Hermann Do Pass	R. Betterworth No Rec.
Mike Davis Do Pass	M.W. Miller No Rec
[illegible] Do Pass	
Mike Szymanski Do pass	

M.W. Miller
CHAIRMAN

H 60

Introduced: 5/5/83
Referred: Transportation
and Finance

Funding Information
General Fund $2,500,000
Other Funds -0-
$2,500,000

IN THE HOUSE BY MALONE

HOUSE BILL NO. 401

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

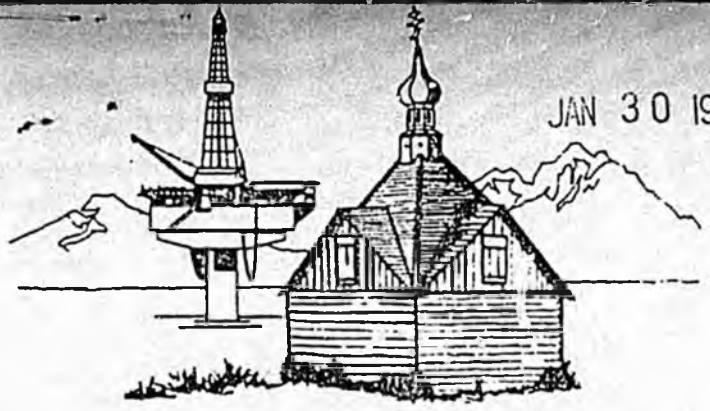
For an Act entitled: "An Act making a special appropriation for payment as a grant to the City of Kenai for extension of the municipal airport main apron; and providing for an effective date."

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

* Section 1. The sum of $2,500,000 is appropriated from the general fund for payment as a grant to the City of Kenai for extension of the municipal airport main apron.

* Sec. 2. The appropriation made by this Act shall be disbursed in accordance with AS 37.05.315 - 37.05.319.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).



JAN 30 1984

CITY OF KENAI

"Oil Capital of Alaska"

P. O. BOX 580 KENAI, ALASKA 99611
TELEPHONE 283 - 7535

January 25, 1984

Honorable Bette Cato
Chairman, House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Chairman Cato:

It is our understanding that your committee will be holding hearings on HB 401 sponsored by Representative Malone requesting $2.75 million for ramp/apron extension at the Kenai Airport. As per your request to provide back-up material justifying the request, please refer to the following:

1. Kenai Airport is a municipally owned and operated airport.

2. State contributes nothing to the operation or maintenance.

3. Fourth busiest airport in Alaska. 209,000 passengers were processed through the Kenai Airport during fiscal 1983. At the present time there are 56 passenger flights to and from Anchorage per day and eight (8) to and from Homer for a total of 128 commercial flights per day. During the summer months there are 70 flights a day to and from Anchorage which increases the daily total to 156 daily commercial flights. During calendar year 1983 there were 84,363 landings and takeoffs at the Kenai Airport.

In addition, over the past three years the fish processors in the Kenai area (there are 14) are dramatically increasing the amount of fresh fish being flown in from Bristol Bay and other areas for processing. During the 1983 fishing season 15 million pounds of fish were brought in and the processors anticipate future increases. This has resulted in locating as many as 24 aircraft varying in type and size from C-130 Hercules, C-119's, DC-6's, DC-7's, DC-3's and Electra's on the airport ramp/apron. The increase in these activities have resulted in congestion of major proportions. Consider for just a moment the magnitude of the traffic problem complicated by semi-trucks (fuel and freight), front end loaders, fork lifts and all sorts of trucks running around and through moving and parked aircraft on the apron/ramp.

It is in effect a catastrophe waiting to happen. All of the aforementioned commerce is beneficial not only to Kenai, but also to the State of Alaska. I'm sure you are aware Kenai over the last four years has been growing at the rate of 10% per year and we can't keep up with the growth without State help.

It should be noted that the Kenai Municipal Airport acts as an alternate for Anchorage International when Anchorage is closed down. In such cases, it is not unusual to find 2-4 Wien, 2-4 Alaska, and perhaps Western airlines planes sitting on our airport awaiting clearance from Anchorage.

The resolution of this problem will be extremely beneficial to the commerce of the State of Alaska.

The City has already done the engineering on this project, therefore, if the legislature approves HB 401, the City can immediately go to bid and construction.

If additional information is needed, please do not hesitate to call.

Sincerely,

Wm. J. Brighton
City Manager

WJB/dg

cc: Governor Bill Sheffield
Glen Glenzer, Acting Commissioner, Dept. of Transportation
Representative Mike Miller, House Trans. Committee
Representative Mitch Abood, House Trans. Committee
Representative Adelheid Herrmann, House Trans. Committee
Representative Mike Szymanski, House Trans. Committee
Representative Jack McBride, House Trans. Committee
Representative Mike Davis, House Trans. Committee
Representative Joe Flood, House Trans. Committee
Representative Bob Bettisworth, House Trans. Committee
Representative Hugh Malone
Representative Milo Fritz
Senator Don Gilman
Senator Paul Fischer

CITY OF KENAI ALASKA



1984-85 CAPITAL IMPROVEMENT PROJECTS



Kenai City Hall
210 Fidalgo St., Kenai AK 99611
(907) 283-7535

REQUEST FOR STATE GRANTS

FUTURE PROJECTS PRIORITY

STATE GRANT FUNDING - 1980-81

2-029	Care Center	$150,000	Building	Completed	0
8-054	Harbor Study	500,000	Feasibility & Siltation Study	67% Comp.	168,000
2-030	Youth Center	600,000	New Building	Completed	0
4-046	Water & Sewer	750,000	Through Section 36	Completed	0
8-055	Road Grid	2,100,000	Fidalgo Subdivision Spur Frontage Rd.	Completed Completed	0 0

STATE GRANT FUNDING - 1981-82

8-283	Road Funds & Municipal Aid	2,272,000	Candlelight & Linwood	Completed	0
		2,313,340	N. Dogwood, N. Lupine Phillips	Completed	0
			Spruce	Completed	0
			Main St. & Barnacle	Completed	0
			Forest Dr. & Gill	Completed	0
			Lawton, Tinker Walker, Rodgers	Completed	0
			Birch, 4th, 1st	Completed	0
			2nd & 3rd	Completed	0
			Ballfields, Youth Center	Completed	0
			City Park Imp.	Completed	0
2-208	Care Center	82,000	Workshop	Completed	0
8-282	A.P. Terminal	2,000,000	Expansion & Renovation	Completed	0
2-209	Senior Citizen Center	1,000,000	New Building	Completed	0

STATE GRANT FUNDING - 1982-83

8-474	Road Funds & Municipal Aid	2,690,000	Candlelight, Linwood	Completed	0
			Aurora, Kaknu, Kiana		0
			Evergreen, Haller	Completed	0
		1,113,434	McKinley, 3rd, 4th, 27th		
			2nd Ave	Completed	0
4-460	Parks & Rec.	100,000	Ryans Cr. Park	50% Comp.	0
			Ft. Kenay Restoration	90% comp.	0
7-456	Youth Center Phase 2	800,000	Gymnasium	Completed	0
4-459	Boat Ramp Imp.	300,000	Misc. Improvements	Complete	77,000

STATE GRANT FUNDING - 1983-84

8-581	Road Funds	1,487,000	1st & 2nd St. Pave	Designed	71,000
			Thompson Park	Designed	708,000
8-742	Road Funds	600,000	Allak, McCollum, Cinderella, Fox, Princess, & Linwood Ext. - G	Designed	572,000

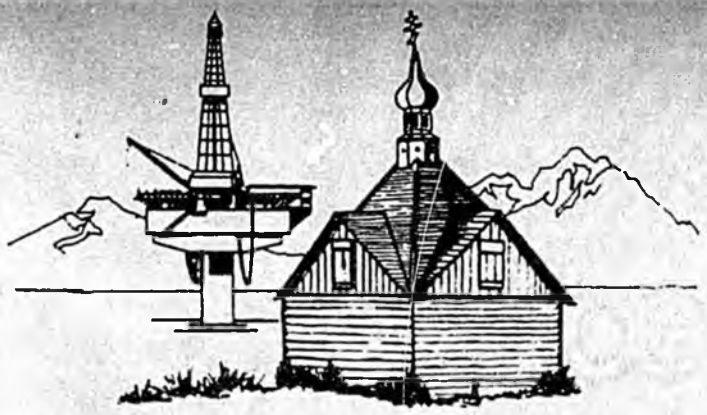
CITY OF KENAI
1984 - 85
CAPITAL IMPROVEMENT PROJECTS
REQUEST FOR STATE GRANT FUNDING

Project Priority	Project Catagory	Project Name and Legend R = Road Improvements G = Gravel P = Paving B = Buildings P & R = Parks & Rec. Improvements A.P & H. = Airport & Harbor	Project Cost Est. X $1000
1.	B	Police Station Renovation & Addition (Schematics completed)	$814
2.	R	Standard, Richfield, Thompson Place - G (Engineering completed)	300
3.	B	Library Addition (Schematics completed)	700
4.	R	S. Highbush, Davidson, Bumblebee, E. Aliak, Swires, Highbush - G	880
5.	R	VIP - Lora, Sunrise, Ketch - G	500
6.	R	Lake, Marine, Granite Point, F.B.O., Main Street Loop - P (Engineering completed)	900
7.	R	Spruce, Second, & Third - P (Engineering completed)	800
8.	R	Old Town - P	400
9.	R	Robin, Kenaitze, Eagle Rock, Sandpiper, Tern, S. Strawberry - G	300
10.	A.P. & H.	Extend Main Apron at the Airport - P (Engineering completed)	2,750
11.	A.P. & H.	Harbor/Bulkhead, Dredging, Dock, & Fueling Facility	1,900
12.	R	Juliussen, Ames, Barabara, Angler - G	750
13.	B	Community Center - (Multi-purpose)	2,125

Project Priority	Project Catagory	Project Name and Legend R = Road Improvements G = Gravel P = Paving B = Buildings P & R = Parks & Rec. Improvements A.P & H. = Airport & Harbor	Project Cost Est. X $1000
14.	A.P. & H.	Extend N. Taxiway Airport - P	1,700
15.	B	Beaver Creek Fire Station	280
16.	A.P. & H.	Runway Extension at the Airport - P	5,500
17.	R	Alpine - G	70
18.	R	Kaknu Way - P	300
19.	R	Spruce Street - Spur to Beach -P	400
20.	P.&.R.	R.V. Camper Park - Spruce & Beach	500
21.	R	Cook Inlet View Drive & Lilac Street - P	600
22.	P. & R.	Ryan's Creek Trail Extended	100
23.	B	Addition to City Hall	500

This pamphlet was produced under the direction and approval of the Mayor and Council of the City of Kenai. Public meetings were held on September 15, 20, 27 & 29; October 10, 12, 13, 21, 25, 26, 27, 28 & 31; November 2, 4, 8, 9, 18, 21 & 30.

The Mayor and the Council of the City of Kenai pledge their affirmative vote for maintenance and operational costs of the projects listed. Resolution No. 83-156 of the City of Kenai adopted this 1984-85 Capital Improvements Priority List.



CITY OF KENAI

"Oil Capital of Alaska"

P. O. BOX 580 KENAI, ALASKA 99611
TELEPHONE 283 - 7535

January 24, 1984

Honorable Bette Cato
Representative, State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

We wish to thank you for taking time from your busy schedule of Friday, January 20 in Juneau to confer with us on HB 401 regarding the airport ramp extension bill upon which you will be holding hearings in the near future. Please be advised being sent under separte cover is back-up material relevant to that bill. Also, as stated during our meeting, we would be anxious to know at the earliest possible time the hearing date on this bill so that we can attend and speak on its behalf.

attached

Thank you in advance for your continued assistance and cooperation in this matter.

Sincerely,

Wm. J. Brighton
City Manager

Tim Rogers
City Attorney

WJB/dg

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: , 1984

REQUEST
Bill/Resolution No.: HB 401
Title: "Grant for Kenai City Airport"

Sponsor: Malone
Requestor: House Transportation Committee
Date of Request: January 31, 1984

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Transportation

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	2,500.0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	2,500.0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth R. Ryals, Director KRR Phone: 465-2277
Division: Administrative Services Date: February 1, 1984

Approved by Commissioner for Lisa Rudd Coleman Cochrane Date: 2/1/84
Agency: DEPARTMENT OF ADMINISTRATION

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB 401 Analysis

"An Act making a special appropriation for payment as a grant to the City of Kenai for extension of the municipal airport main apron; and providing for an effective date."

This bill provides for payment of $2,500,000 General Funds under A.S. 37.05.315, by the Department of Administration. Historically, the Department has not "held back" any portion of any grant under A.S. 37.05.315 for administrative costs, including the legislated audit function. We have found efficiency measures in other areas that permit us to devote some operating staff resources to the administrative tasks of the Municipal Grants program. One more grant, such as proposed by this bill, will not over-burden our resources, but one hundred will. If the number of grants under A.S. 37.05.315 becomes significant, additional operating costs by the Department will need to be budgeted by the Legislature to ensure that the full value of the grant reaches the intended recipient.

7/1D1/0201-17/2

HB

405

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

KENAI PENINSULA BOROUGH'S

ROAD PROGRAM

PREPARED BY:

KENAI PENINSULA BOROUGH

DEPARTMENT OF PUBLIC WORKS

JANUARY 1983

WILLIAM CONYERS
BOROUGH ENGINEER

STAN THOMPSON
MAYOR

HB

452

HB 203

HB 203 - AN ACT MAKING A SPECIAL APPROPRIATION TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR PHASE I OF THE NOME PORT FACILITY.

CHAIRMAN ADAMS INDICATED THAT CSHB 203 (FINANCE) WOULD MAKE A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR EXPENSES RESULTING FROM AN INCREASE IN PRISON POPULATION.

ROGER LANGE, DIVISION OF ADULT CORRECTIONS, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, PROVIDED AN OVERVIEW OF THE COMPONENTS OF THE SUPPLEMENTAL REQUEST TOTALING $1,972.7 (SEE ATTACHMENT #1). REPRESENTATIVE WARD QUESTIONED THE AMOUNT NEEDED FOR ONE MONTH TO MEET REQUIREMENTS OF THE CLEARY SETTLEMENT. MR. LANGE RESPONDED THAT THERE WAS A PARTIAL SETTLEMENT AGREEMENT MADE IN JANUARY WHICH COVERED "NON-LARGE COST ITEMS". HE SAID THERE ARE 10 POSITIONS INCLUDED OF WHICH SEVEN WOULD BE FOR MONITORING TO REPORT BACK TO THE COURT WITH REGARD TO THE PERFORMANCE BY THE DIVISION IN MEETING THE PARTIAL SETTLEMENT AGREEMENT. THERE WAS DISCUSSION CONCERNING THE AGREEMENT AND PARTIES WHICH SIGNED THE AGREEMENT. REPRESENTATIVE WARD ASKED IF THE AMOUNT INCLUDED IN

THE SUPPLEMENTAL WOULD SATISFY THE PARTIAL AGREEMENT. MR. LANGE SAID IT WOULD AND THAT THE DEPARTMENT'S FY 84 REQUEST INCLUDES PART OF THE ASSOCIATED COSTS REQUIRED UNDER THE PARTIAL SETTLEMENT. HE SAID PERSONNEL COSTS WILL BE ANNUALIZED. MR. LANGE SAID THE NUMBER WHICH WOULD BE ANNUALIZED WOULD BE $57.5.

(REPRESENTATIVE PESTINGER ARRIVED AT THIS TIME.)

CHAIRMAN ADAMS NOTED PROBLEMS WITH INCLUDING WITHIN THE SUPPLEMENTAL $161,476 TO FUND SALARIES AND RELATED COSTS FOR THE ANTICIPATED DEPARTMENTALIZATION OF THE DIVISION OF ADULT CORRECTIONS TO FUND 10 NEW POSITIONS AND INCREASES FOR SIX EXISTING POSITIONS. HE NOTED THAT POSITIONS HAVE BEEN INCLUDED WITHIN HB 103 AS WELL AS THE ADDITION OF 18 POSITIONS WITHIN THE HOUSE BUDGET FOR FY 84. MR. LANGE SAID THE POSITIONS ARE COVERED IN THE FY 84 BUDGET; HOWEVER, THE DEPARTMENT IS TRYING TO COMPLETE THE PAPERWORK ON NEW POSITIONS DURING THE CURRENT FISCAL YEAR TO AVOID AN INUNDATION OF WORK ASSOCIATED WITH ESTABLISHING NEW POSITIONS. CHAIRMAN ADAMS SAID HE ALSO HAD A PROBLEM WITH THE CAPITAL ACCOUNTS CHARGEBACK REQUEST FOR $312,086. HE ASKED WHY THE DEPARTMENT COULD NOT UTILIZE HB 309 AND REAPPROPRIATE CAPITAL FUNDS TO THE OPERATING SECTION. CHAIRMAN ADAMS FELT THE

SUPPLEMENT IS NEEDED BUT DID NOT FEEL THAT THESE TWO ITEMS SHOULD BE INCLUDED.

CHAIRMAN ADAMS SAID IT WOULD BE HIS SUGGESTION TO THE COMMITTEE THAT THE SUPPLEMENTAL BE REDUCED TO $1,499,140 REPRESENTING A DECREASE OF $312,088 FOR CAPITAL ACCOUNTS CHARGEBACKS AND $161,476 FOR THE DIRECTOR'S OFFICE DEPARTMENTALIZATION.

REPRESENTATIVE BETTISWORTH MOVED TO REPORT OUT OF COMMITTEE CSHB 203 (FINANCE) IN THE AMOUNT OF $1,499,140. THERE BEING NO OBJECTION, IT WAS SO ORDERED. CSHB 203 (FINANCE) WAS REPORTED OUT OF COMMITTEE WITH A "DO PASS" RECOMMENDATION.

SSHB 346

SSHB 346 - AN ACT EXEMPTING PUBLIC UTILITY INCOME FROM THE NET INCOME TAX.

CHAIRMAN ADAMS READ A STATEMENT PREPARED BY THE SPONSOR OF THE LEGISLATION, REPRESENTATIVE BETTE CATO (SEE ATTACHMENT #2).

COMMISSIONER BOB HEATH, DEPARTMENT OF REVENUE, STATED THAT THE DEPARTMENT IS OPPOSED TO THE BILL. HE SAID THEY OBJECT TO A SPECIFIC SUBSIDY WHICH WILL NOT EFFECT ALL COMMUNITIES WITH ANY DEGREE OF SIMILARITY. COMMISSIONER HEATH SAID THIS WOULD BE A WINDFALL FOR CABLE T.V. SYSTEMS IN AS MUCH AS THEY ARE NOT

REP. JOHN G. (JACK) FULLER

DISTRICT 22

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER
FINANCE COMMITTEE
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

March 3, 1983

The Honorable Bette Cato
House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Bette:

Attached for your review and information is a copy of the preliminary statement of fiscal impact on House Bill 203 - Phase I of the Nome Port Facility, a color coded map of the area determined to be the best location for the causeway and bridge, and a brochure which outlines the proposed Nome Port Facility.

On March 4 at 8:30 a.m., I have arranged to show a video-tape of the proposed Nome Port Facility. The tape is 10-1/2 minutes long.

Thank you for taking the time to review the packets of information I have sent to you.

Sincerely,

Rep. Jack Fuller

cc: Transportation Committee Members

HOME
P.O. BOX 689
NOME, ALASKA 99762
(907) 443-2968

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789
465-3764 465-3765

PORT OF NOME

Unlocking the resource wealth of the northwest region for all Alaskans to share.

ECONOMICS and TRANSPORTATION

Nome is the regional distribution center for most of the Seward Peninsula and the southern coast of Norton Sound. This area is rich in natural resources such as offshore oil and gas, hardrock minerals and fisheries. A modern, medium draft port at Nome will offer lower shipping costs to and from the area, thus helping to make development of these resources more economically feasible.

The port will be a transshipment center for materials and equipment used in offshore development. Increased activity in the area will require incoming shipments of fuels, supplies and equipment, and by the turn of the century the mines are projected to generate large volumes of bulk ore shipments. The proposed port will also encourage the development of a more efficient regional fishing operation.



MAJOR IDENTIFIED MINERAL PROSPECTS AND DEPOSITS, NORTHWEST ALASKA

Today the port at Nome serves as the distribution center for supplies to villages throughout the region — an estimated population of over 11,200. By the year 2000, that service area will include more than 15,000 people. This population will rely more and more on a cash economy and larger volumes of incoming and transshipped cargoes.

Economic development in northwest Alaska has been hindered by the high cost of transportation. Access is available only by sea and air.

Today, ocean-going vessels must anchor one mile off the shore at Nome. From there, cargoes are "lightered" ashore: transported to the Snake River harbor and then to coastal villages. The current harbor is subject to considerable siltation and must be dredged each year to a depth of 8 feet by the U.S. Army Corps of Engineers.

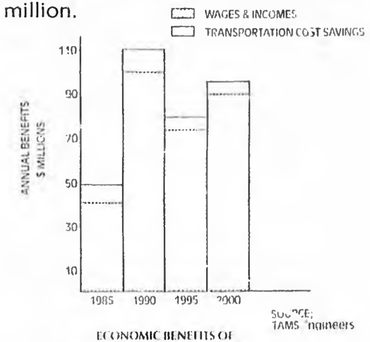
Northwest Alaska has no link to the railbelt. Any plan to extend the Alaska Railroad into the region would take considerable time and money, since right-of-ways would be needed across federal, state, and native lands. The cost alone makes rail construction questionable in the foreseeable future.

Therefore, a medium draft port at Nome is the most economical alternative to bring low cost, viable transportation to an area of the state on the verge of very significant economic development.

STATEWIDE BENEFITS

The statewide economic benefits of the proposed project are measured in terms of wages and salaries. As the port helps to spur development of the area's vast natural resources, these activities will expand the employment base in the region and throughout the state. When the total employment in offshore oil and gas, minerals and fisheries development is combined, more than 1,400 jobs will be created by the Nome port within its first decade. This will generate more than $101.5 million statewide in direct, indirect and induced incomes by 1990.

The port will also reduce the cost of living and doing business in the northwest by lowering shipping costs to Nome. A summary of the total economic benefits for selected years ranges from a low in 1985 of $48.3 million to a high in 1990 of $115 million.



ECONOMIC BENEFITS OF THE PROPOSED NOME PORT

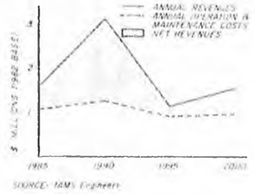
OPERATION and MAINTENANCE

The proposal calls for the port facility to be owned and operated by the City of Nome, in order that a break-even price structure to minimize transportation costs can be established.

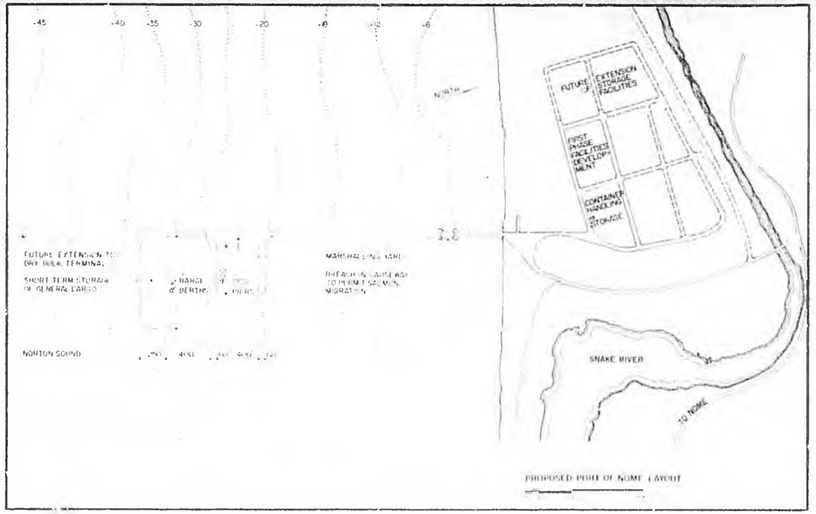
Using a schedule of tariffs similar to rates at other Alaskan ports, the Nome facility will generate 75 percent of its total revenues from wharfage and handling tariffs. Equipment rentals, storage and dockage fees will provide the balance, for a total estimated revenue each year that will exceed the annual operation and maintenance costs.

Operational costs include salaries for a harbormaster and longshoremen, equipment for cargo handling and utilities. Maintenance costs include repair to buildings and yards, periodic resurfacing and repair of the causeway, etc..

Assuming the state provides capital funds for construction, the Nome port will be a self-supporting facility from the very first year of service.



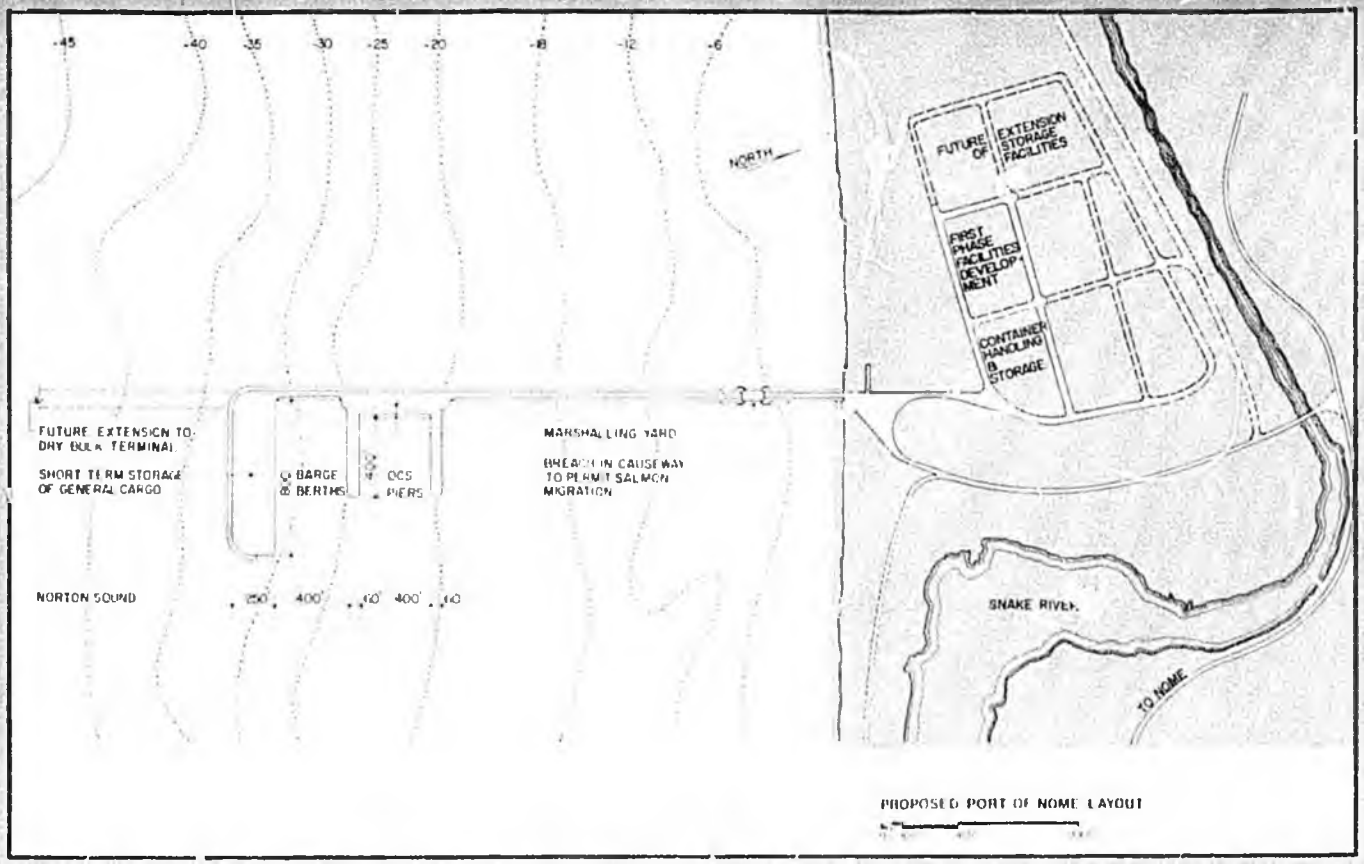
PROPOSED NOME PORT ANNUAL REVENUES AND EXPENSES



The layout of Nome's port features a 3,600 ft. causeway with a bridge near shore to permit fish migration. At the seaward end, in water 30 feet deep, the causeway design shows barge berths and a short term cargo storage area. The design allows for later construction of piers for work boats servicing Outer Continental Shelf oil platforms, and the causeway can also be extended 1,000 to 1,500 feet to provide a dry bulk terminal for deeper draft vessels. Onshore facilities will include container handling and storage facilities on 10 acres of land, with an additional 50 acres available for future storage expansion.

HOW YOU CAN HELP SUPPORT THE PROJECT

As the State Department of Transportation and Public Facilities' number one marine construction priority for the northern half of Alaska, funds for the Nome port will be included in the 1983 budget proposal sent to the governor. You can help make sure those funds are not cut from the budget by contacting legislators and the governor. Tell them you support the project because a modern port at Nome will benefit all Alaskans.



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The City of Nome produced this brochure to outline its plans for a modern port that could serve as the key to economic development in Alaska's northwest. By allocating a small portion of its oil revenues to construct the port, the state of Alaska can take the vital first step toward development of the vast natural resources in the region. This development will benefit all Alaskans for many years to come.

ALASKANS SUPPORT NOME PORT PROJECT

Grass roots support for the Nome port project is growing across the state. The Bering Straits Regional Corporation endorses the plan, as does the local Chamber of Commerce. Miners and business people are eager to see the project complete because of the economic development it will bring to the state. Voters have put their initial stamp of approval on the project in two separate statewide bond votes. Recognizing the potential impact of a modern facility at Nome, the state Department of Transportation and Public Facilities has included construction funds for the project as northern Alaska's number one marine construction priority in its 1983 budget for the governor's consideration.



For more information about the port proposal, contact:

Ivan Widom
City Manager
P.O. Box 281
Nome, AK 99762
(907) 443-5242

HB 202 (cont'd)

other beverages of 21 percent alcohol by volume or less from 60 cents a gallon to $1 a gallon; other beverages having a content of more than 21 percent alcohol by volume from $4 a gallon to $5.75 a gallon. Changes wording in AS 43.60 from "intoxicating liquors" to "alcoholic beverages". Provides the increase takes effect on the first day of the month after the month in which the law takes effect. Provides Act takes effect immediately.

Introduced February 15 and referred to State Affairs, then to Finance.

Appropriation (special) (Nome Port Facility)

HOUSE BILL NO. 203, by Reps. Fuller and Bussell. Makes a special appropriation in the amount of $12,000,000 to the Dept. of Transportation and Public Facilities for Phase I of the Nome Port Facility. Provides appropriation is for a capital project and does not lapse. Provides Act takes effect July 1, 1983.

Introduced February 16 and referred to Transportation, then to Finance.

Fish & Game Licenses/Tags (compensation for sale of)

HOUSE BILL NO. 204, by Rep. Duncan. Amends section of the Fish & Game Code relating to compensation and fees for the issuance of fish and game licenses and tags (AS 16.05.390), by stating that the provisions relating to payment of fee for the sale of licenses and tags does not apply to ". . . the sale of a license or tag by a person during the course of and within the scope of the person's employment with the state . . . ." (current law states the payment of fees does not apply to ". . .a state employee appointed by the commissioner of revenue under AS 16.05.380 to sell licenses and tags."). Does not provide for an effective date (becomes law 90 days after approval by the Governor).

Introduced February 16 and referred to Resources, then to Finance.

State Agencies (interest payments by)

HOUSE BILL NO. 205, by Rep. Duncan. Relates to interest payments by state agencies on obligations not timely paid. Provides: "A state agency that, without reasonable cause, fails to make payment for goods or services acquired by that agency within 30 days of the invoice date of a properly completed invoice and the receipt of the goods or services, shall pay interest on the balance due in the amount of one and one-half percent a month or portion of a month, computed from the later of the date of the invoice or the date of receipt of the goods or services." Would apply to goods or services acquired by a state agency, but does not apply to services performed by an individual. Defines "reasonable cause." Provides Act takes effect immediately.

Introduced February 16 and referred to State Affairs, then to Finance.

HB 49, (cont'd)

within the second degree of kindred . . . ."

State Employees (limitation)

HOUSE BILL NO. 93, (see page 57). Reported back to the House on February 28 by Labor & Commerce with a majority of the committee recommending it do pass. Concurring: Furnace (Chmn.), Koponen, Ringstad, Uehling and Cowdery. Not concurring: Malone had no recommendation. To State Affairs.

Child Prostitution (raising penalties)

HOUSE BILL NO. 128, (see page 97). Reported back to the House on March 2 by Health, Education & Social Services with the committee recommending it do pass. Concurring: Fritz (Co-Chmn.), Tischer (Co-Chmn.), M. W. Miller, Davis, Cato, Koponen and Goll. To Judiciary.

Appropriation (supplemental) (school construction debts)

HOUSE BILL NO. 137, (see page 99). Reported back to the House on March 4 by Health, Education & Social Services with the committee recommending it do pass. Concurring: Tischer (Co-Chmn.), Fritz (Co-Chmn.), Koponen, Cato, Davis, M. W. Miller and Goll. To Finance.

State Grain Reserve Program

HOUSE BILL NO. 156, (see page 125). Reported back to the House on March 2 by Resources with the committee having no recommendation. Concurring: Goll, Bussell, Liska, Cowdery, Uehling and Larson. Not concurring: Ringstad (Co-Chmn.) and Shultz (Co-Chmn.) who signed "do pass." To the House Special Committee on State Loans.

Appropriation (special) (AK Aviation Training Program)

HOUSE BILL NO. 160, (see page 127). Reported back to the House on March 4 by Health, Education & Social Services with the committee recommending it do pass. Concurring: Tischer (Co-Chmn.), Fritz (Co-Chmn.), M. W. Miller, Davis, Cato, Koponen and Goll. To Finance.

Forfeited Aircraft (transfer of)

HOUSE BILL NO. 195, (see page 179). Reported back to the House on March 4 by Resources with the committee recommending it do pass. Concurring: Shultz (Co-Chmn.), Ringstad (Co-Chmn.), Bussell, Liska, Uehling and Cowdery. To Judiciary.

Note: On March 2, Rep. Abood was added as a co-sponsor on HB 195.

Appropriation (special) (Nome port facility)

HOUSE BILL NO. 203, (see page 181). Reported back to the House on March 4 by Transportation with the committee recommending it do pass. Concurring: Cato (Chmn.), Phillips, Szymanski, Lacher, Herrmann, McBride and Davis. To Finance.

Sport Fish/ Hunting & Trapping Licenses (sr. citizens)

HOUSE BILL NO. 206, (see page 182). Reported back to the House on March 4 by Resources with a majority of the committee recommending it be replaced with Resources Committee Substitute and that it do pass. Concurring: Ringstad (Co-Chmn.), Larson, Bussell, Liska, Uehling and Cowdery. Not concurring: Shultz (Co-Chmn.) who had no recommendation. To Rules.

Resources CS would provide free sport fishing, hunting or trapping licenses to Alaskans who are over 60 years of age and have lived in

SB 303, (cont'd)

Within 30 days after the effective date of this Act the Governor is required to appoint the initial members to the Board of Social Workers. Provides Act takes effect July 1, 1983.

Introduced May 27 and referred to Health, Education & Social Services, Finance.

INTRODUCTION OF RESOLUTIONS (Senate)

Small Business Development

SPONSOR SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 18, by Senator V. Fischer (see page 562, original version). Requests the Governor to appoint a task force to assess state policy in contracting, local hire, and small business advocacy, and to recommend measures that will emphasize and promote small business development and maintenance in Alaska; assist in securing adequate sources of bonding, credit, and loans for small, Alaska-owned businesses; assure, wherever possible, that state-funded construction projects are specified, modified, and contracted in a manner to assure a reasonable proportion of state-funded construction projects are performed by small, Alaska-owned businesses.

Further requests the Governor to direct the Attorney General to investigate and recommend measures available to the state to assure that a reasonable portion of state-funded construction and procurement dollars be contracted through small Alaska-owned businesses, consistent with provisions of the constitutions of the United States and the state of Alaska.

Introduced May 26 and referred to Labor & Commerce.

HOUSE BILLS RECEIVED IN THE SENATE

Auto Liab. Insurance (req'd under state law)

CS FOR SS FOR HOUSE BILL NO. 7 (FINANCE), (see pages 27;105; 415;496;610;655;758;818). Received in the Senate on May 23 and referred to Labor & Commerce and Finance.

AK Marine Highway Auth. (establishing)

CS FOR HOUSE BILL NO. 68 (FINANCE)(AMENDED), (see pages 49; 387;541;868). Received in the Senate May 27 and referred to Transportation, Finance.

Appropriation (supplemental) (increased prison pop.)

CS FOR HOUSE BILL NO. 203 (FINANCE), (see pages 181;258; 870). Received in the Senate on May 25 and referred to Health, Education and Social Services and Finance. On May 26, at the request of Senator Josephson, the HESS referral was waived. To Finance.

CSSSHB 105 (Fin) (cont'd)

By transferring these hatcheries to the perspective non-profits the fisheries enhancement program remains on-going, while alleviating F.R.E.D. Division. Our intent is to enhance Alaskan fisheries, transferring hatchery facilities is the most viable and expedient option we have.

In addition to transferring hatchery facilities, a southeastern regional pathology lab should be setup within F.R.E.D. This is a service which the private hatchery operators cannot provide nor afford. It's also a beneficial service for the state facilities, but must be provided in a timely and expedient fashion to eliminate the possibility of loosing large numbers of eggs.

There are still a number of incomplete hatcheries. The F.R.E.D. Division has been in place for a number of years, with a number of engineers working for the division. The Legislature would strongly suggest that these plans be finished by the end of calendar year '83.

The Yukon River King salmon run has the potential to greatly enhance our King salmon fishery. It is the Legislature's suggestion that the F.R.E.D. Division work with officials in the Yukon Territory to determine how the State of Alaska might assist the enhancement of the Yukon King salmon specie, and designated streams for rehabilitation.

The Finance CS represents the House version of the budget and appropriates $2,295,959,600 for fiscal year 1984 operating expenses and $347,968,800 for FY 84 capital expenses, for a total budget of $2,643,928,400.

Before the House on May 27. The Finance CS was adopted by unanimous consent. Passed the House on May 27, 28-11-1-0, after a series of minority amendments (1 - 19) were all defeated. Nays: Clocksin, Davis, Duncan, Goll, Koponen, Larson, Malone, McBride, M. M. Miller, Vaska, Zharoff. Excused: Wendte. The effective date was adopted.

Appropriation (supplemental) (increased prison population)

CS FOR HOUSE BILL NO. 203 (FINANCE), (see pages 181;258; 834). Reported back to the House on May 24 by Finance with the committee recommending it be replaced with a Finance CS and that it do pass. Concurring: Adams (Chairman), Pestinger, Duncan, Ward, Zharoff, Lindauer and Bettisworth.

The Finance CS is a completely new bill (original contained a $12 million appropriation to the Dept. of Transportation & Public Facilities for the Nome Port Facility). Makes a $1,499,140 supplemental appropriation to the Dept. of Health & Social Services to pay expenses resulting from an increase in prison population for fiscal year 1983. Effective immedintely.

Before the House on May 24. The Finance CS was adopted and the bill passed, 35-0-4-1. Excused: Bettisworth, Grussendorf, Szymanski, Vaska. Absent: Cowdery. The effective date was adopted.

Witness:

Glen Glenzer
Acting Commissioner
DOTPF
Pouch Z
Juneau 99811

602 Chairman Cato called the meeting to order. Members present were Reps. Abood, Fuller, Herrmann, Hood and Davis. Staff present Rhonda Cargill and Ponch Prosed.

Brought HB 452 before the Committee

HOUSE TRANSPORTATION

STANDING COMMITTEE

January 17, 1984

8:30 a.m.

Members Present: Cato, Abood, Herrmann, Miller, Flood, Davis

Members Absent: McBride, Bettisworth, Szymanski

HB 452:

Previous Action: None

Glenzer, Acting Comm DOT Pouch Z

Witness: Rep. Jack Fuller, Sponsor, in favor of the bill

Tim Holder POB 281, Nome, AK 99762, 443-5242 in favor

Jay Lyman 3320 Ranier Bank Bldg, Seattle TAMS Engineers 206-624-3532.

602 Cato - Called meeting to order
members present
" excused
Staff present
NIPS

staff

Tape # side 1 0027

Fuller: John Fuller, Representative for District 23, thanked the Chairman and members of committee for prompt scheduling of this bill. ~~appreciate it.~~

House Bill 452 makes a special appropriation to the Department of Transportation and Public Facilities for Phase I of the Nome Port Facility in the amount of $12 million. This project has been the city of Nome's number one priority for a number

of years. There has been alot of money spent on engineering and study.

As you may recall, I introduced House Bill 203 last session, which passed this committee and went to the House Finance Committee for consideration. However, after meeting with the Governor and being assured that the Nome Port Facility would be included in the Governor's capital budget, I allowed House Bill 203 to be used as a vehicle for a supplemental appropriation to the Department of Health and Social Services to pay expenses resulting from an increase in the prison population. Until near the end of that last session, the port project was included in the Governor's capital budget, but was removed before the budget was finalized.

A great deal of time, money and effort was put into planning, engineering and economic analysis of the port facility. Copies of this information have been placed in your packet.

Today, as Chairman Cato introduced several of the people that are here who are really the expertise on all the phases of the study and so forth are here to answer any questions you may have. Probably when I'm through here I would like to ask Commissioner Glenzer to be the lead-off man and he's been in on this thing all the way along the line and understands all the phases of it; also Jim Holder, Acting City Manager of Nome; Jay Lyman is here from the engineering firm TAMS.

The Nome Port Facility would have a significant impact on the freight cost savings in Northwest Alaska and also bring economic stability to the region. I recognize that probably most of us sitting around the table today might not be around when the real impact of a port facility in Nome takes place; and that is the development of the minerals of the most highly mineralized individual area in the State of Alaska and that's the Seward Peninsula. I think that alot of it depends on the oil company and the gas which I think we can get, ~~better it'll get better, maybe it'll get worse.~~ But I think that we've got to get started if we're going to think about the future of this state on the development of the mineral indu. ry. This certainly would be a real forward step in prior planning as far as the development of the State goes.

If you have any questions, I'd be happy to answer them, if you don't I would like to pass the ball to Commissioner Glenzer.

#108 Rep. Abood: How does this differ from HB 203?

#110 Rep. Fuller: There isn't alot of difference, we're just talking about dollars, but the new plan basically is that the City of Nome is going to be involved in revenue bonds.

116 Rep. Abood: There isn't any distinguishable difference in the design or the cost factors as we once looked at them. Probably a little bit more I would assume.

120 Rep. Fuller: There's been some changes, and if you read this last night you would understand that, but I'll leave that up to ....

125 Commissioner Glenzer: I guess it's probably appropriate that I do this because starting way back in 1946 I came up there and landed in front of the then Federal Bldg. in Nome and made a telephone call to my wife in San Diego and left a helicopter running while I was sitting there and wondered why we couldn't get in closer to the city of Nome. The day the budget came out I was in Nome, it wasn't much better to have been in Valdez that day.....

At the time we started this and when I became involved, Commissioner Casey directed that we really be the point people in the Northern Region on the concept of getting private participation on major projects.

We started with trying to pump up the city of Nome for the rest of that year and right to where we are now, as far as that project is concerned.

Initially TAMS did an excellent job and I was in on some of the technical reviews later, in designing a port that I suspect would have cost about $38-$42 million. In the technical reviews and with some of the highly specialized people sitting there, it was pretty obvious that many of those that we could build something and keep it that would still do the job and function for at least in the initial phases to supply what Nome needed.

So we went to work in two directions. One we really rung up the economic aspects of this. We do this in the Northern REgion. We went at it very conservatively and did not include any future mineral development and/or off-shore oil development. We did go to the oil company to find out and they sure, if there is a port they'll use it. As far as mineral development, we didn't even explore that too much, we left it in the realm of future and possibilities.

We developed a package and we scaled down the existing design from TAMS to a very austere facility which could be built considerably less.

We then went into about seven or eight alternatives; proposals that could be included in a package for anyway you wanted to bid it; and we further were going to let the industry, that is to say contractors, who had already expressed interest from foreign countries and within the United States, to come up with innovations that were done.

We then were ready for a package where we are right now, we can put out on the street literally like tomorrow, to let private industry participate.

Now ~~that's~~ there's one option that can be done. We are concerned with the economic viability at this stage in the game and the price of money. Can a contractor get money cheaper than the city? We also want to make a couple unequivocal clear. The department has also felt, or had the marching orders that the Governor was for a port in Nome. We also felt that Nome should own the Port or run it the way they want; it was Nome's port. And as much as they wanted it, they would have it. To that degree they would go forward and do it. We were there to help them and we did in many working sessions. Now,

there's the option of revenue bonds, it looks good. I'll let the consultant from TAMS ~~if you want to get into that further~~.

~~As far as the design is concerned, it's a rubble mount~~ you have a packet; ~~the original design. Excellent facility. Let's look at it from the perspective of~~ when they started to do it, it was alot of money, people were getting ports, and roads and facilities, they designed one that was literally maintenance free, provided everything immediately. There's room to develop. We even came up with some more austere ones with, for instance, would provide for liquid cargo off-loading, but we felt and you should be aware of this, that we felt that the economic benefit generally to the citizens in the area, not just Nome, but the whole area up there, and if you blind-side them with nothing but liquid facility, you could conceivably could create a ~~alicopuly~~ or monopoly, or staging for dry cargo which would hurt some citizens perhaps, so we felt that in our proposals we should make provisions for all of them so that nobody suffers, and everybody got the benefits....

Open for questions

For getting into all the figures I've got people here that have been working on it for a year ...., if you have any questions I'm willing to answer them, we can bring anyone on that you want for economic studies, design studies; and I would suggest don't forget the city of Nome, they're are here, and he should he should really be the point on this thing, but I suggested to him that I'd get on and give the history of it cause at that time he was at NOme, but not in the same capacity.

233 Rep. Herrmann: Would the OCS benefits come in Phase II or would they come into Phase I?

235 Commissioner Glenzer: It would depend on, and you'd have to look at the whole thing to see (and of course, that's an unknown) how much are they going to use it, but I'm sure they would. ~~Any,~~ To be real candid, an oil company isn't going to build something if the State or local government will, however on the other hand if it's there they are certainly going to use it, it's about that simple.

245 Tim Holder: Tim Holder, Acting City Manager for the city of Nome. I've been in Nome for a couple of years and have been keeping track of the project in

my previous position with Coastal Management Planning for the city. I haven't been intimately involved as my predecessor, I've been with him; I'm really here to represent the City council, they're the body that has to take the official action to make this project come together. They have been behind this project for several years and this really says something because in the past five years the city council membership has almost completely changed the seven position have been completely refilled by new people, and I think that's one measure of support that comes form throughout the community.

Another measure of this port was a survey was done about three years ago throughout the city of Nome asking people if they supported the project and there was an 80% favorable response to support.

Another measure of support that really comes from throughout the region, the Northwest Mayor's Conference passed a resolution supporting the project and it's pretty obvious as to why ~~they're~~ their interest is there. If we have lower freight cost to Nome, Nome serves as the

distribution point for the region, for the villages of the region and stand to benefit.

It was the kind of thing that there really wasn't pressure at all, in fact it was initiated by people from the villages that are in the region, as Nome serves as the center port, so you should know that there is alot of political support from the area, ~~and it's a matter of cause~~ it takes 3 days and $1000 to get down here and back and that kind of thing it's too much to bring a whole delegation down, there is definitely the support.

Another item I wanted to touch on, is the project has been one of coordination between the city and the State. The city has taken the lead all along, the city has initiated it from the beginning but we've had considerable support from the State and of course the funding for doing the engineering comes through the State. Given the fact that people are kind of widespread I'd say that the people that have been involved with working on the project getting engineering and economic analysis done have worked out quite well.

The project has been scaled down as Commissioner Glenzer pointed out. We've gone from a $35-40 million project to a $16 million approximately. The way this number was derived was not simply a arbitrary scaling down but ~~was~~ we tried to cut back on the total project realizing that the ideal amount of funds might not be available from the state. Analysis has shown that about $8 million could be provided ~~d~~ other through a revenue bond or a through private financing with a private contractor building and then operating the port. This means that there's $12 million left that we need from the State to build the port. And that leads into what is the interest of the State in providing this money? There are several reasons. One I've touched on is that it will reduce transportation cost for people in Nome as well as the surrounding villages. This will not be realized immediately with the scaled down, if it had been funded more fully from the State, $35 million came through we'd have more facilities that could provide deeper draft, more ~~pipels~~ to bring in fuel and that kind of thing. With the scaled down version those lower transportation costs would not be realized immediately but would come later on.

Beyond that is the fact that this facility would be a step for providing long term job creation, and that is really the long range interest of building the port facility.

As you well know in the bush, the job creation is an important element in stabilizing society and keeping people employed and this port facility would be an important step toward that.

If there are any questions I'd be happy to answer them.

326 Rep. Flood: Would you explain lightering services for people who are not from areas like Nome.

328 Mr. Holder: The best way to visualize this and understand is in the handout that was given to you yesterday. This is the city of Nome right now and when barges come in and during the barging season they have to anchor about ½-1 mile out from shore depending on how much draft they have. The reason for this is that the shore off of Nome is shallow and they can't get in any closer. They do lightering which means they put the goods onto a lighter and smaller barge and bring it in through the mouth of the Knik River and anchor at our small dock which is mainly ...the shore of the river and then put it on the shore. A considerable amount of the transportation

cost are bringing goods from ~~the~~ Seattle which is where most of our barging comes from is in this last step. ~~Jay can be more specific about that.~~ The considerable amount is in this last step, in this last mouth because there has to be a transfer. The idea of the port whether's it's the $35 million version could go out about 3600 feet where the shortened version $20 million version is that this step would be eliminated and that cost of lightering would be ...

350 Rep. Flood: This would be eliminated by $76 a ton?

Mr. Holder: Jay to explain

~~357 Mr. Holder: I'll let Jay get into that.~~

352 Rep. Davis: With this scaled down version, how far out would you go?

354 Mr. Holder: 3000feet.

361 Rep. Davis: The newer version would be ?

362 Mr. Holder: 3600. The difference there is in the depth that you can get to, I think it's 30 foot depth, but the long version 3600 foot would get you to a 30 foot depth, the shorter version depth would be about 25.

Brief discussion of comparison of two versions in relations to depth.

365 Rep. Davis: But this one is designed so that it could be added on ?

Mr. Holder: Yes

368 Rep. Davis: There would be reduced transportation cost and savings, but I was wondering how that would be passed on to the consumer? What guarantee is there that the consumer is actually going to benefit from that.

Mr. Holder: I'll let Jay get into the economics into that.

374 Commissioner GLenzer: In our initial packages with private participation one of the very trojant factors was in fact how are you going to pass this on to the consumers. And of course in there we had provisions for guaranteed lightering cost. There's where the rub comes as to how much you get for rate of return for somebody who's participating as opposed to how much they can help assistance. If you're going to get 50¢ improvements maybe what's the use. If you're going to get 27-35-47 dollars now you're talking big bucks which is the last part of the rough part of Nome, I guarantee you our director up there just built a house and he spent as much to get ...from the barge as it did from Seattle. That is a big cost. You can't, I guess, how much is a project such as that for citizens that are there and how much are you going to allow somebody else to get a drag on say the return. Now granted there is a consideration of a barge company that is there...we did run those costs on what we really thought it cost....

394 Jay ~~Liheman~~ Lyman: Jay ~~Liheman~~ Lyman, Economist and Engineer with TAMS Engineering and I've been working on the Nome Port project with the city and the State for the past 2½ years. What I want to talk about was the financing and how that would effect the transportation cost in the area.

As you're aware their lighterage cost right now based on published tariffs averages about $76 a ton for cargo going into Nome. The dry cargo costs are much higher than that, they're up around $130-140 a ton on average, so there's a very substantial cost currently to the people living there for the last half a mile, on the 2000 mile trip from Seattle to Nome. The lighterage represents about 25% of the overall transportation cost from Seattle to Nome.

On this scale down version, we have estimated that operating and maintaining it will cost the equivalent of a lighterage charge of around $35-40 a ton. If that's all the city had to pay for, that would represent a transportation cost savings for that lightering of about $40 a ton, or in other words roughly $1½ million per year of direct benefits to the city of Nome. With city participation in financing the capital cost, what we've looked at is things; the maximum upper acceptable limit for a port tariff equivalent to a lighterage cost, would be the same as what they're currently paying now, which is $76 a ton on average. Using that difference between the O&M cost of $35-$40 a ton and the $76 a ton that is currently cost of lightering, you come up with a revenue base of about $1½-$2 million a year, which can be used to amortize some capital

construction cost. Using conservative assumptions about bond coverage and interest rates and what not, we've estimated that depending on whether it was private financing or municipal bond, it should be between $6-$8 million. The assumption then with that is that the initial use of the facility will result in a transportation cost very similar to the community with what they have now. So, what you have to look at is that by putting in a port facility and having a capital amortization program, you've guaranteed a fixed price for 20 years for a large portion of your lighterage cost and it's not going to escalate. However, you can assume that lighterage over that same 20 years are going to escalate at least with inflation. Year by year, the benefit to the community will get larger and larger. Beyond that at the end of the 20 year period you've got the capital paid off and the lighterage cost for the port tariff could drop substantially if they felt they needed to do that.

The second benefit, of course if that putting the facility in provides the start of the ~~transportation~~ transportation infrastructure for economic development in the region.

434 Rep. Flood: Right now it's about $76 per ton? (right?)
You say this will reduce the cost by roughly 25-30% correct?

436 Mr. Lyman ~~MR. LINEMAN~~: No, the lighterage costs represents 25% of the overall transportation cost to Nome. If you just look at what it costs to

operate and maintain the cut down facility, it would reduce the equivalent lighterage charge by about 50%, but with a local contribution toward the capital cost of the facility, the assumption has been made that initially tariff would be set past the current lighterage rate or equivalent to it.

442 Rep. Abood: How many years is it going to take for the guy that lives in Nome that's building a house and he's been paying a $1 a nail if you wish to use some kind of figure, by putting in this port facility, he thinks he's going to get a good break on that $1 a nail and bring it down to 50¢ a nail, if that be the case though the numbers not quite clear, how many years is it going to take for that individual or those people of Nome to buy things, lumber, nails, anything you want to call it, cheaper than he's buying now, because the reason ....

Side 2
450 Mr. ~~Lineman~~ Lymon: He'll continue to pay a dollar, but in the real world, you know that that lighterage cost will go up maybe a $1.05,...he's guaranteed a fixed price for 20 years or whatever the term of the bond is, or the financing arrangement and that will become a larger and larger benefit every single year that goes by. At the end of that financing period then the only thing that they will have to fund is the operating and maintaining that facility and that capital cost will significantly lower the transportation cost.

467 Rep. Abood: So the savings in the lightering, if you knock out the lightering because you don't have the lighter at any more you can just

drive it right on, that savings will still be charged and be that the case, then who gets that money the city? to offset what, operation?

474 Mr. ~~Lineman~~ Lyman: The city uses that $76 a ton for operations and capital repayment of their portion of the project which we're saying is $6-8 million. So the emphasis then is in long term transportion cost benefits will be very substantial and real and the initial year or ~~two~~ two you won't see a transportation cost savings, but what you've got is a facility that is much more efficient and can bring in more cargo, heavier equipment and than what they're doing now, so there are sided benefits besides just the transportion cost.

Rep. Abood: So every body in the likeness would pay that $1 nail, no one will get a different savings than the people that are still paying the $1 nail. Is anybody going to get a break on that lighterage.

Mr. ~~Lineman~~ Lyman: Not initially.

Rep. Abood: And probably at the same rate as the guy who bought the nail.

Mr. ~~Lineman~~ Lyman: The premise is you can't go above what transportation cost are now because there'd be a disbenefit now, but if you keep it the same you still have the long range benefits as a major factor for wanting to develop the facility.

500 Rep. Davis: If I had a lighterage service and this port was built, than I think I'd cut my cost about $10 below you and try to stay in business, instead of going out of business; I don't know what guarantee you have on that, maybe you have competition from the current lighterage services. My second question, you talk about the economic benefit to the area and I think they are real, but is there a possibility then, if there is a economic benefit to the area, that actually, that the cost of this facility would go down because it would be more used by more than just freight.

515 Mr. Lyman: Absolutely, we've used very, very, conservative numbers for cargo just based on existing cargo rates that are going through now and the very real possibility is as soon as you get in a more efficient facility the cargo volumes are going to increase. As soon as you do that, you can adjust your tariff rate down to reflect your actual revenues. So we're using the most pessimistic alternative right now that there will be no additional cargos, they'll be paying exactly what they are paying now, and this is how much they can come up with. In reality, the city is going to grow, there is going to be additional development resulting from the port, there will be other cargoes, so that rate would be also another way of in 5 years when they are looking at 10% additional cargo they might be able to reduce the transportation, the port tariffs by that much.

As far as your question about would the lightering firm undercut the port, we've had 2 separate analysis of people who are in the

lightering business, in the cargo handling business, that have come in independently ~~and~~ looked at what they're charging now. and there isn't alot of room to undercut what they are charging now, so if they want to cut their throats, they might do that, but I don't think on a long term that would economically viable for private firm to do t.

541 Rep. Fuller: Jay, in this design, we will no longer have to suffer the barges staying out on the roadsbed for 1-2-3 or a week at a time waiting to unload. This we also pay for this right? I mean their freight charges go up the next year, and this happens quite often, that they can not unload those barges all the time. This design ~~will design~~ will allow them to safe water and continue their operations, is that correct?

Mr. Lyman: Both dry and liquid cargo unloading will go much faster than the lightering operations now.

555 Rep. Abood: Will this enable the port to continue operations longer, more months of operation, or will it be about the same because of the conditions of ice, etc.

560 Mr. Lyman: Realistically it probably won't increase the shipping season, because what the major factor is, is not the shore ice as much as the floating ice out in Norton Sound that stops people from trying to come through. We have looked at that, and if the development warrants, you can go in there with ice breaker barges, that's a feasible

proposition it's just more expensive and there's no need for it until oil or some other kind of development occurs. But by going out 3000' you have increased the opportunity for year round service if economic justifies.

572 Rep. Cato: Not only the immediate necessity or immediate benefits, but as Rep. Fuller said, we have to become a little bit more visionary, as to the future that Alaska holds, and one thing that I think is a definite factor, and I'd like all of you to be aware of my position on it, is that with the Seward Peninsula being as highly mineralized as it is and as many things that are in the works to produce up there, I think it's very, very, lies heavily upon us at the present time to be visionary so that some infrastructure, the infrastructure is in place when the time actually comes to need it and not build the cart 25 miles behind the horse, sort of speak. I'm sure all of you are as aware of it as I am.

593 Rep. Davis: I've only been in Nome during the winter, I'm curious how far up the shore ice goes.

Rep. Fuller: Goes all the way to Siberia sometimes, Russian coast line.

Mr Lyman 600 Year around, there's flow ice out in the middle of Norton Sound where the oil development would take place, and that's a scenario we had for year round shipping, if they had oil producing rigs out there they'd

need to have the shore support service, and with the ice reinforced hull you couldn't get in the average of 1000'-1500' from the shore ice, some years it's worse than that, but you could still break through and keep a path open.

611 Rep. Miller: I would like to make a motion that we move HB 452 out of ~~Transportation~~ Transportation with individual recommendations.

614 Rep. Cato: No objections, so ordered.

~~Thanked for time on Nome POrt facility, we're~~ enthused about it, ~~make sure~~ everyone signs the report before we leave

630 Rep. Herrmann: Gave brief overview on some discussions she had on the Marine Authority Task Force, overview of some conversations.

Read memo she distributed to the committee; had staff check into what the Governor's Task force on the Marine Highway and what they are up to; ~~the members are as follows; Frank Chapados-Fairbanks; Valley Deder-Seward; Gordon Harang-Sitka; Joe Bushman-San Fransciso, not sure of rest; Wor ?-Fairbanks.~~

~~REad memo~~

658 Rep. Davis: Commented on talking with Frank Chapados on weekend, he's really excited about the whole task force and has lots of ideas and really looking forward to talking with members of the committee; trying to come up with long range plan with the Marine highway system; you don't normally talk to people from Fairbanks that are so excited about the marine highway system and have lots of ideas but Frank is definitely one of those individuals.

670 Rep. Cato: Been excited about the Marine Hwy task and is going to make our job more easily workable, and they will come up with some of the recommendations; glad the Governor appointed the task force, I think our marine hwy is one of the most important things that we really need to get into the nitty gritty of, and I think this task force is going to be able to aid us in that situation.

680 Rep. Flood: Can I take this as some sort of indication from you that your excited or interested in making sure that the infrastructures in place before we get on with other forms of transportation and advancement; be it light industries, etc.

684 Rep. Cato: Along with; I have long been a ardent devotee of getting infrastructure in place throughout the entire state and am hoping that that is one thing this committee will be able to do this year, is to focus on a plan; will be doing alot more than just hearing bills.

Rep. Flood: That means that my legislation will stand a chance of being heard in this committee

694 Rep. Cato: I want all of you to know that ~~House~~ Senate Transportation still has the bill to take the Marine Hwy out of DOT, and until such time as the agency can show us that they can stand alone and work within the confines of that agency for the betterment of the citizens of the State of Alaska that bill will still be active; it passed the House last year and is now sitting in Senate Transportation;

~~Any business to come before the committee"~~

~~Announced next committee meeting.~~

714 Adjourned meeting at 9:24 a.m.

HB 452

Staff file folder / Get vote on floor.

BILL HB 452
PAGE 02204
DATE 01/09/84
CHAMBER HOUSE
TEXT HOUSE BILL NO. 452 by Fuller and Bussell, entitled:
"An Act making a special appropriation to the Department of Transportation and Public Facilities for Phase I of the Nome Port Facility; and providing for an effective date."
was read the first time and referred to the Transportation and Finance Committees.

BILL HB0452
PAGE 02283
DATE 01/18/84
CHAMBER HOUSE
TEXT The Transportation Committee has had HOUSE BILL NO. 452 (special appropriation to the Department of Transportation & Public Facilities for Phase I of the Nome Port Facility; effective date) under consideration and reports it back as follows: Cato (Chairman), Abood, M.V. Miller, Flood, Davis and Herrmann recommend do pass. A fiscal note was attached. HB 452 was referred to the Finance Committee.
The fiscal note appears in House Journal Supplement No. 82. (Attached)

BILL HB0452
PAGE 02349
DATE 01/24/84
CHAMBER HOUSE
TEXT The Finance Committee has had HOUSE BILL NO. 452 (making a special appropriation to the Department of Transportation and Public Facilities for Phase I of the Nome Port Facility; effective date) under consideration and reports it back as follows: Adams (Chairman), Bettisworth, Furnace, Hurlbert, Ward, Fritz and Martin recommend do pass; Lindauer, Duncan and Zharoff have no recommendation.
HB 452 was referred to the Rules Committee for placement on the calendar.

HB
452

FISCAL NOTE

Revision Date: 11/15/83

I. REQUEST Page 1 of 5
Bill/Resolution No.: HB 452
Title: Home Port Facility
Sponsor: Fuller and Rosie
Requestor:
Date of Request:

II. FISCAL DETAIL
Agency Affected: DOT & PF
Program Category Affected: Public Facilities
RRU, Program or Subprogram(s) Affected:
Northern Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-					
CAPITAL	12,000.0					
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	12,000.0					
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	12,000.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by Sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Min Dixon, Director Phone: 479-4281
Division: Planning and Programming Date: 11/15/83

Approved by Commissioner: W. Pierce, Jr. Deputy Commissioner Date: 11/16/83
Department: DOT & PF, Northern Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

TITLE	LOCATION	PROJECT CLASSIFICATION	ELECTION DISTRICT	START DATE	COMPLETE DATE
NOME PORT FACILITY (Ph. 4)	Nome	02-631-02-02	23	[illegible]	[illegible]
				PRIORITY 34 of	49

	GENERAL FUNDS	FEDERAL	G.O. BONDS	OTHER	POSITIONS PF.	POSITIONS PT/SEA.	AGENCY REQUEST FY 86 TOTAL	GOVERNOR
REQUESTED FUNDING:								
SITE ACQUISITION	12,000.0						12,000.0	
PLANNING AND DESIGN								
CONSTRUCTION AND EQUIPMENT	12,000.0				0	0	12,000.0	
PREVIOUS APPROPRIATIONS (NON-ADD)			6,980.0					
OPERATING COSTS:								
FIRST YEAR OPERATING COSTS	*							
FULL ANNUAL OPERATING COSTS	*							

PROJECT DESCRIPTION AND JUSTIFICATION: *See note, page 3.

PROJECT DESCRIPTION

Construction of a 3600' rubble mound causeway or acceptable alternative, to provide either full or partial service accommodating a baseline tonnage of 36,000 tons in both liquid and dry cargo. Project is ready to advertise.

PROJECT NEED STATEMENT

The consumers of the Seward Peninsula pay approximately 25% more for bulk cargo and petroleum products because of the lightering costs from ocean-going barges to the existing dock facility.

At present, barges calling at Nome are anchored 1/2 to 3/4 miles offshore for unloading and reloading of cargo and freight. Cranes on board the ocean-going barges are used to offload containers and other cargo to lighters. These shallow draft lighters are towed through the surf and the shallow 8-foot deep entrance channel for unloading at the lighterage company's transfer facility. The lighters are unloaded over the entrance channel retaining wall by portable cranes. Empty containers and outgoing shipments are reloaded to lighters inside the harbor area for return to the oceangoing barges anchored offshore. This is an extremely costly operation.

CP-1 CAPITAL PROJECT DESCRIPTION FY 86

AGENCY DOT&PF
CATEGORY TRANSPORTATION
PROGRAM NORTHERN REGION PORTS & HARBORS
PROJECT TITLE NOME PORT FACILITY

HB 452
Page 2 of 5
Revised Date

FY85

PROJECT NEED STATEMENT (cont.)

The average waterborne freight growth rate since 1969 according to Corps of Engineers' publications, has been approximately 12%. With the beginning of oil exploration already occurring offshore from Nome in 1983, (Navarin Basin, Norton Sound), the potential development of the bottomfish industry, plus the potential for Seward Peninsula area mining interests to expand dramatically, action should be implemented now to get a minimal marine terminal infrastructure in place.

Development of this project strongly supports several goal areas of this administration:

(1) Using prior appropriations, the project has been thoroughly studied, analyzed, and designed to provide the best configuration and site location, as well as to tie into and make the best use of the existing Seward Peninsula highway system. The adjacent location of the Nome regional center airport allows excellent air logistical support.

(2) The port development both serves a basic public service function (reducing freight lightering costs) and has the potential to stimulate economic development (mining, oil) and provide financial returns to the State.

(3) Maintenance and operational costs have:
   a. been minimized as much as possible through the design selected, and
   b. will be borne by the user through the use of port tariffs.

(4) The Nome port is being implemented as a joint venture with the private sector contributing financing and/or investment to a maximum extent and the State providing initial seed capital.

DOCUMENTATION OF ESTIMATED CAPITAL COSTS

Engineering estimates were developed by the design contractor. Figures were based on recent costs of similar construction in the Nome area and for expected construction market conditions at the time of contract award. Estimates were also based on historical costs of marine facility construction in other areas of Alaska, adjusted for the remote location of Nome, and on similar construction in other areas of the world.

CP-1 FY85 ADDITIONAL EXPLANATION FORM

AGENCY DOT&PF
CATEGORY TRANSPORTATION
PROGRAM NORTHERN REGION PORTS & HARBORS
TITLE NOME PORT FACILITY

HB 452
Page 3 of 5
Revised Date

FY85

ANALYSIS OF ESTIMATE OF OPERATIONAL EXPENSE

*NOTE: Operational and maintenance costs together will approach a maximum annual figure of $700,000. This cost will be borne by the user via an approximate $9 per ton tariff, which is substantially lower than present and projected lighterage fees. At the same time, the dredging costs of the present Nome harbor, which are projected to approach $1 million annually and which are financed entirely by governmental appropriations, will be substantially reduced.

IDENTIFICATION OF ALTERNATIVES CONSIDERED

1. Postpone action at this time. Failure to go forward with this project will result in continuing high lighterage costs and act as a retardant to future development in oil exploration, the bottomfish industry, and regional area mining extraction.

2. Scale down the scope of the overall project. This approach has been adopted. The project as now developed is a minimal level facility designed to meet current traffic and expandable to meet increased traffic as demand warrants. In order to arrive at and agree on the present design, seven basic alternatives, plus minor variations, all of which were technically feasible, were evaluated in depth.

3. Reduce or eliminate state funding insofar as possible. This has also been done. Private investment has been sought and secured to the maximum extent.

CP-1 FY85 ADDITIONAL EXPLANATION FORM

AGENCY DOT&PF
CATEGORY TRANSPORTATION
PROGRAM NORTHERN REGION PORTS & HARBORS
TITLE NOME PORT FACILITY

HB 452
Page 4 of 5
Revised Date

FY85

TITLE
NOME PORT FACILITY

PRIORITY 14 OF 49

OPERATING	TOTAL PREVIOUS APPROPRIATION	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES							
200 - 800 OTHER ITEMS							
TOTAL							
1002 FEDERAL RECEIPTS							
1004 GENERAL FUNDS							
OTHER FUNDS							
FULL-TIME POSITIONS				1	1	1	1
CAPITAL TOTAL	6,000.0		12,000.0				
1002 FEDERAL RECEIPTS							
1004 GENERAL FUNDS			12,000.0				
OTHER FUNDS (G.O. Bonds)	6,000.0						
REVENUE							

EXPLAIN PREVIOUS APPROPRIATIONS (GIVE SECTION, CHAPTER, SLA) AND ASSUMPTIONS FOR COST, FUNDING SOURCE, POSITION AND REVENUE ESTIMATES:

Previous appropriations for preliminary engineering and design of this project: Ch 05/74, Ch 118/80/6/24.

*Maintenance on the completed Nome Port Facility will be the responsibility of the City of Nome. Maintenance costs will be entirely offset through port revenues collected from the users. At the same time, the dredging costs of the present Nome harbor, which are projected to approach $1 million annually and which are financed entirely by government appropriations, will be substantially reduced.

CP-2 CAPITAL PROJECT COSTS FY 85

AGENCY DOT&PF
CATEGORY TRANSPORTATION
PROGRAM NORTHERN REGION PORTS & HARBORS
PROJECT TITLE NOME PORT FACILITY

HB 452
Page 5 of 5
Revised Date

FY85

HOUSE JOURNAL SUPPLEMENT January 18, 1984 No. 82

Appropriation (special) (Nome port facility--phase I)

HOUSE BILL NO. 452, by Rep. Fuller and Bussell. Makes a $12 million dollar special appropriation to the Department of Transportation & Public Facilities for phase I of the Nome port facility. Provides appropriation is for a capital project and is subject to competitive bidding requirements. Provides Act takes effect July 1, 1984.

Introduced January 9 and referred to Transportation, Finance.

Appropriation (special) (Nome port facility--phase I)

HOUSE BILL NO. 452, (see pages 29;98). Reported back to the House January 24 by Finance recommending it do pass. Concurring: Reps. Adams (Chairman), Bettisworth, Furnace, Ward, Hurlbert, Fritz, and Martin. Not concurring: Reps. Lindauer, Duncan and Zharoff had no recommendation. To Rules.

Appropriation (special) (Nome port facility--Phase I)

HOUSE BILL NO. 452, (see page 29). Reported back to the House on January 18 by Transportation with the committee recommending it do pass. Concurring: Cato (Chmn.), Abood, M. W. Miller, Flood, Davis and Herrmann. To Finance.

TAPE LOG 1983

committee: ~~HOUSE BILLS~~ / TRANSPORTATION date _____ to _____

bill numbers: HB452

other information: Cato, Miller, Herrmann, Abood, Davis, ~~Eggers~~ Hood.

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
1/17/83			
	0002	CATO	Call meeting to order
			Recognize VIP's present
	0027	Fuller	HB 452 - None #1 priority;
			Introd. 203 last session - passed
			Trsp. not w/bov - Said be in
			budget + allowed 203 to change
			to ... - Portray included
			until budget finalized -
	080		Introduction of others
			Freight cost savings, economic
			stability; future - dev. of
			minerals & mineral industry)
	108	Abood	Differ from 203?
	110	Fuller	New plan - None will be involved
			in Rev bonds
	116	Abood	Dif in design, cost factor?
	120	Fuller	Leave up to workers

125 Glenzer: Pt. pos. on getting private participation on major projects; initially $38-40m - could build cheaper, but supply needs of Nome
1.) Econ. aspects - did not include future developments
2) Scaled down

History of project / Summary of progression of project to date -

Dept. has had orders - Gov. wants port in Nome; run by Nome; DOT there to help.

233 Herrmann - OCS

Glenzer

245 Tim Holder
Acting City Mgr. / Nome
Representing City Council - behind project - ~~[illegible]~~
1) 5 yrs - council changed - still support
2) Survey - 80% support
3) NW Mayors' Conference - passed resolutions supporting the projects
4) Co-ord. b/w city & State
city initiated; support from state;
5) project scaled down 30-40m to 12m - arrived by cutback on total project
analysis - $8m by rev bond or private contracting
need $12m from state

308 reduce transp. cost - not realized immediately; long term job creation job creation impt. eliminate esp in bush areas

326 Flood - ... services?

328 Holder - using handout - anchoring out due to shallow shore - do lightering (use lighter/smaller barge)...
idea of port - go out - lightering be eliminated

350 Flood -

352 Davis - scale down version?
(go out 3000' get 25' depth
new 3600' get to 30' depth

Holder

361 Davis -

Holder - original version
scale down version

365 Davis - design to be added on? (yes)
368 " reduced transp. cost - how pass on to consumer
(Jay get into specifics - economies of ll

374 Glezer - in initial pkg. - how pass on to consumer? Guaranteed lightering cost.

394 Jay Lineman
TAMS - Economist

Financing / effect on transp. cost in area
& how arrived at cost.
lighterage

406 Scale down version - $30 $40 Ton Lightering cost
$1.½ m direct benefit to Home
w/ City Part. - upper limit - same as now
$76 ton on ave.
using difference = 1.5 - 2 M a yr.
used to adv. const. cost

2nd benefit - transp. infrastructure

434 Flood - $76T reduce cost?

436 Holden - reducing cost

442 Abood - yrs. 6/4 individual gets break on

450 Side 2 guaranteed fixed price ~~on~~ end of fin. period - M&O

467 Abood

474 emphasis on long term.

no break on lighterage initially

(4)

500 Davis - lightering service - cut costs to stay in business - competition w/ light service; econ. benefit, cost of facility go down?

575 Holder - yes, used conservative figures; adjust tariff rates
add'l benefits -
analysis - completion - no room to undercut, not econ viable to do so

541 Fuller - no longer suffer barges roadsted 1-3 days to unload; saves freight charges; dry & liquid unloading faster

555 Hood - continue operations longer?
560 Holder - not materially increased; not need until future developments

512 Cato - Point - not only immediate necessity, but of visionary or future; w/ Seward Pen. so mineralized - lies heavily upon us present - so facility in place b/4 time we need it

593 Davis - shore ice - how far out does it go?
600 Holder - flow ice - Norton Sound - seasonal yr. round shipping

611 Muller - Motion - Move HB 452 w/ ind. rec
614 No objection so ordered
617 Cato Comments

630 Herrmann – Governor's Task Force on mtls

636 Cato – geographical location of members

643 Herrmann – hand out

658 Davis – comment – Frank Chapados real excited about Task Force & looking forward to talking w/ all committee

670 Cato – comment on Task Force – our job easily workable; importance of Task Force

680 Flood – infras. in place b/4 other forms of transp.

684 Cato – along with; infras. in place thru out state; committee – focus on a plan

692 Bill – out of DOT – until DOT show us condo – bill will be active

Cato –

714 Adj

WITNESS

Home Port Facility

NAME (PLEASE PRINT)	ADDRESS	REPRESENTING	TESTIFY? (YES or NO)	PHONE NUMBER
Rep. Fuller				
Tim Holder	City of Nome P.O. Box 281 Nome AK 99762	City of Nome	Yes	443-5242
Jay Lyman	3720 Rainier Bank Bldg, Seattle	TAMS Engineers	Yes	(206)629-3532
Panch	Capitol Building	House Trans. Committee		
David Gentry	~~EA~~ MS 0102	OMB - Budget Review	No	3568
Roxanne Stewart	Rm 415 Cap. Bldg.	Rep. Duncan	No	4766

HB 452

HOUSE BILL NO. 452 (special appropriation to the Department of Transportation and Public Facilities for Phase I of the Home Port Facility; effective date) was read the second time with the Transportation Committee report (page 2283 of the journal) and the Finance Committee report (page 2349 of the journal).

HB 452

Representative Barnes moved and asked unanimous consent that HB 452 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

HB 452 was read the third time.

The question being: "Shall HB 452 pass the House?" The roll was taken with the following result:

HB 452

Yeas:	38	Abood, Adams, Barnes, Bettisworth, Bussell, Cato, Clocksin, Cowdery, Davis, Duncan, Flood, Fritz, Fuller, Furnace, Goll, Grussendorf, Hayes, Herrmann, Hurlbert, Koponen, Larson, Lindauer, Liska, Malone, Martin, McBride, Miller,M.M., Miller,M.W., Pestinger, Phillips, Ringstad, Szymanski, Tischer, Uehling, Vaska, Ward, Wendte, Zharoff
Nays:	1	Lacher
Excused:	1	Shultz
Absent:	0	

Koponen changed from "nay" to "yea."

And so, HB 452 passed the House.

Representative Barnes moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 452 was referred to the Chief Clerk for engrossment.

Leg Digest 1/20/84

Nome Port Clears House Finance

HB-452, appropriating $12 million for Phase 1 of the Nome Port Facility has passed out of House Finance. The project involves a fill causeway leading offshore from Nome to waters deep enough to handle deep-sea barges. The bill is now in Rules, ready for calendaring.

Legislative Digest
Feb 11, 1984

Nome Port "Moving"

A $12 million appropriation for the development of the Nome Port has passed the House. HB-452 will fund phase I of the project, including a 3100 foot rubble mound causeway and onshore storage areas for cargo. The total project costs are estimated at $20 million.

COMMITTEE REPORT

HOUSE

(9) FURTHER: FINANCE

1/9/84 Date: 1-17-84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 452 "An Act making a special appropriation to the Department of Transportation and Public Facilities for Phase I of the Nome POrt Facility; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ~~Finance~~ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Bette Cato	~~[illegible]~~
[illegible]	
M.W. Miller	
[illegible]	
[illegible]	
[illegible], Do Pass	

Bette Cato
CHAIRMAN

H 60 (Rev. 3/81)

January 16, 1984

MEMORANDUM

TO: Representative Adelheid Herrmann

FROM: Joyce Roloff

RE: Governor's Task Force on the Marine Highway

Members: (11)
Len Laurance, Chairma — Ketchikan: 225-6641
Frank Chapados
Dolly Dieter
Clyde Dodson
Mimmi Gregg
Gordon Harang
Norman Holm
Joe Hushion
William Wood
Ivan Gamble
George Davidson

The establishment of the Task Force was at the direction of Governor Sheffield for the purpose of reviewing the services that the Marine Highway provides to the residents of the communities it serves and the public in general. It is to report back to the Governor within 120 days, its findings and recommendations as to improvements that could be made within the system to provide better service to its users.

The organizational meeting was held on September 30th, and it is the hope of the Task Force that they will complete their meetings, vessel visitations, etc. by the end of January. It is their intent to have their report in final form by mid-February.

They have travelled extensively through most of the communities served by the Marine Highway System and the purpose of the teleconference scheduled for January 21, is to make contact in those ~~other~~ areas where they have not visited.

Right now, there is no agenda for the teleconference on the 21st. It will be completely open for participant's comments/suggestions.

My contact was Ted Vadman, who is acting as coordinator between the Marine Highway System officials and the Task Force Members.

HOUSE TRANSPORTATION COMMITTEE MEETING

DAILY AGENDA

1) CALL MEETING TO ORDER

2) Tuesday, January 17, 1984
Note Time

3) Note members present and excused

4) Recognize VIP's

5) House Bill 452 by Rep. Fuller is a special appropriation to DOTPF for $12 million for Phase I of the Nome Port Facility.

After House Bill 452, Rep. Herrmann will give a brief report on the Marine Highway Task Force.

6) Annouce first bill before committee: HOUSE BILL 452

PROCESSION OF MEETING

7) Announce next committee meeting:

Wednesday, January 18, 1984 at 8:30a.m. the House Transportation Comittee staff will begin a brief overview of the DOT budget

8) Announce time of adjournment

- How bill by committee?
- Present RR letter to members - sign up w/Rhonda if will be participating

CITY OF NOME PORT DEVELOPMENT PROJECT

PHASE I BARGE DOCK

PROJECT SUMMARY

Project Description

The City of Nome and Alaska Department of Transportation and Public Facilities (DOT/PF) have worked together the past four years to develop a design for port facility in Nome. As a result of a detailed investigation of harbor development alternatives, and in-depth engineering analyses of potential ice, storm and other design considerations, a design has been completed for a modern, two-berth offshore barge terminal.

As shown in Figure 1, the proposed harbor will provide the moorage, offloading area, and cargo handling facilities needed to meet the long term needs of the approximately 12,000 resi-

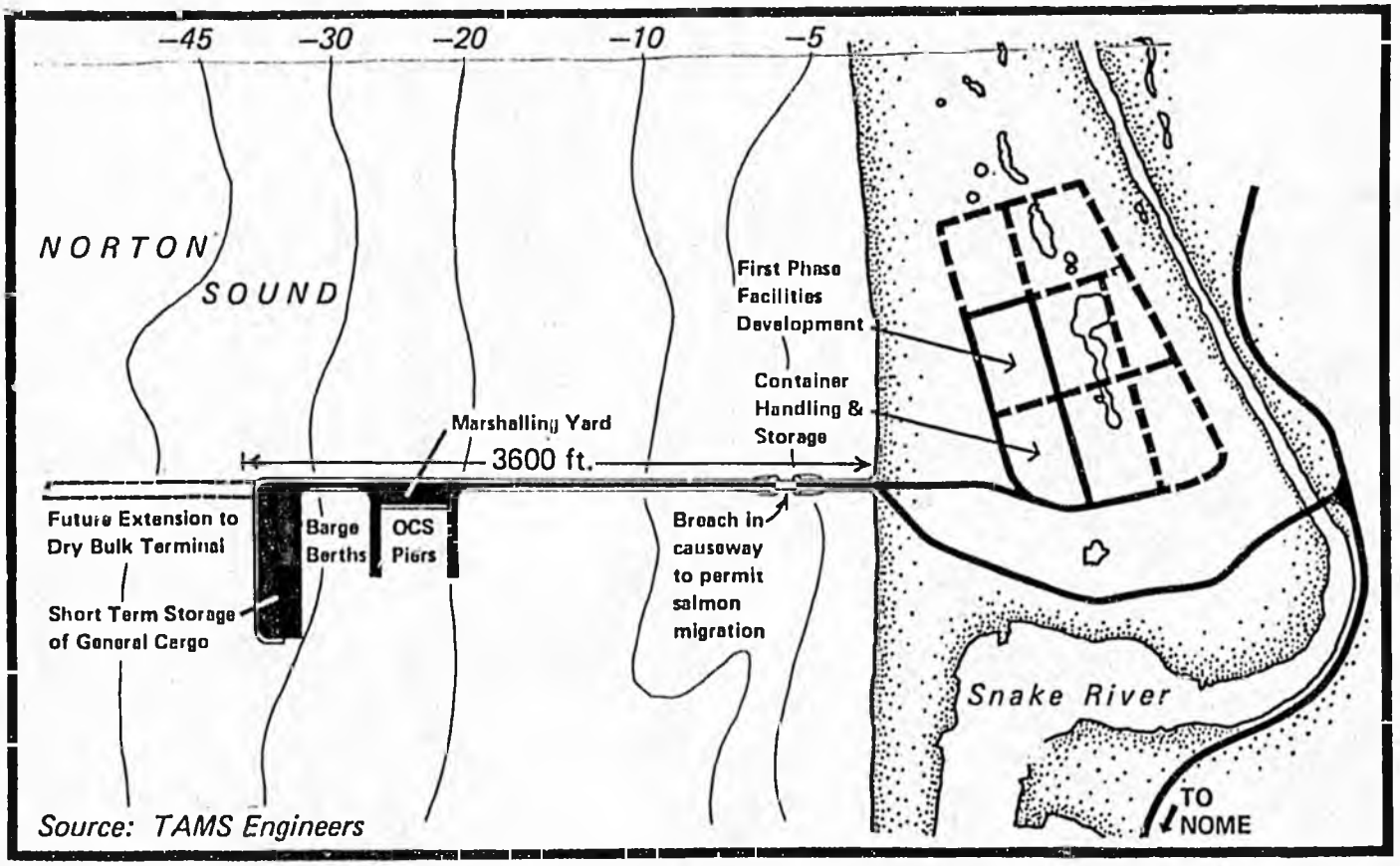


Figure 1

NOME PORT FACILITY - LONG RANGE DEVELOPMENT PLAN

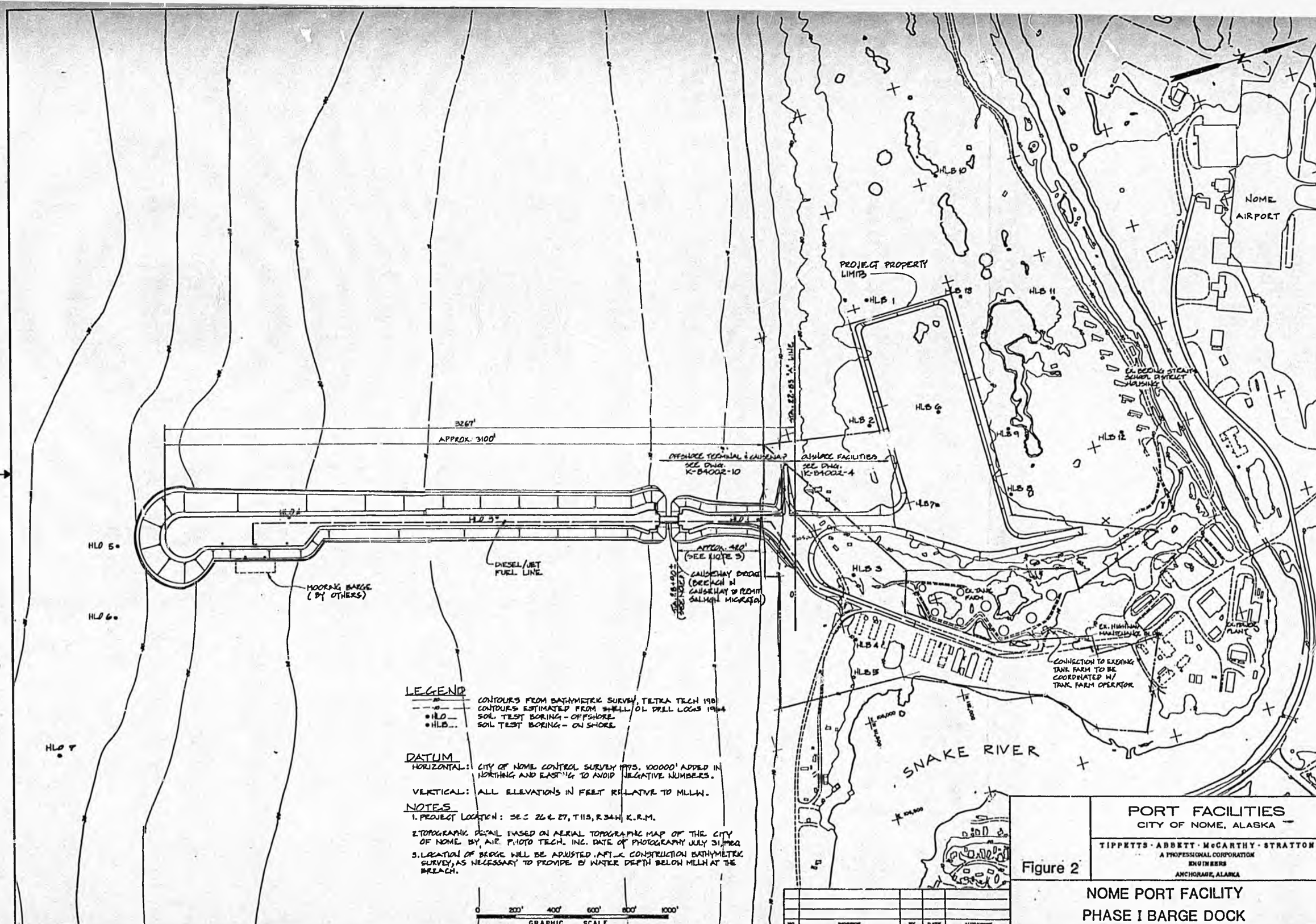
dents of Nome and the surrounding villages, and will also encourage the development of resource-extraction industries to spur the economic growth of the Norton Sound and Seward Peninsula region.

Recognizing that capital funding for the entire project may not be initially available, the City of Nome and DOT/PF have prepared a cut-down version of the project to serve as the initial construction phase. Shown in Figure 2, the proposed Phase I construction will include a 3,000 foot rubble-mound causeway connecting an open onshore storage area to a floating dock moored in 20-25 feet of water. Ocean-going barges up to 400 feet long will berth alongside the floating dock (constructed from a conventional 200 foot barge); while containers and other dry cargo will be transferred to the causeway and be trucked to shore, as shown in Figure 3. A single buried pipeline will be used to offload jet fuel and diesel, which comprise about three-fourths of the bulk petroleum products delivered to Nome.

As planned, the Phase I development will serve the immediate marine transportation needs of the region. Although some operational shortcomings (such as limited draft and berthing space) may need to be corrected in future phases of construction, in the interim the facility represents a vast improvement over the current system of lightering cargoes from barges anchored up to a mile offshore.

Construction Funding

Construction costs for the Phase I facility are projected to be approximately $19.1 million. Of that total, it is estimated that a maximum of about $6-8 million can be generated by local funding (through revenue bonds) or by private sector participation in the project. Federal funding sources (such as the U.S. Economic Development Administration) are currently being investigated for funding assistance. However, the City has


NOME AIRPORT
PROJECT PROPERTY LIMITS
HLB 1
HLB 2
HLB 3
HLB 4
HLB 5
HLB 6
HLB 7
HLB 8
HLB 9
HLB 10
HLB 11
HLB 12
HLB 13
HLO 5
HLO 6
HLO 7
3267'
APPROX. 3100'
OFFSHORE TERMINAL & CAUSEWAY
SEE DWG. K-84002-10
ONSHORE FACILITIES
SEE DWG. K-84002-4
APPROX. 420' (SEE NOTE 3)
CAUSEWAY BRIDGE (BREACH IN CAUSEWAY TO PERMIT SALMON MIGRATION)
DIESEL/JET FUEL LINE
MOORING BARGE (BY OTHERS)
EX. TANK FARM
EX. HIGHWAY MAINTENANCE BLDG.
EX. POWER PLANT
CONNECTION TO EXISTING TANK FARM TO BE COORDINATED W/ TANK FARM OPERATOR
SNAKE RIVER
LEGEND
CONTOURS FROM BATHYMETRIC SURVEY, TETRA TECH 1981
CONTOURS ESTIMATED FROM SHELL OIL DRILL LOGS 1984
HLO SOIL TEST BORING - OFFSHORE
HLB SOIL TEST BORING - ON SHORE
DATUM
HORIZONTAL: CITY OF NOME CONTROL SURVEY 1975. 100000' ADDED IN NORTHING AND EASTING TO AVOID NEGATIVE NUMBERS.
VERTICAL: ALL ELEVATIONS IN FEET RELATIVE TO MLLW.
NOTES
1. PROJECT LOCATION: SEC 26 & 27, T11S, R34W, K.R.M.
2. TOPOGRAPHIC DETAIL BASED ON AERIAL TOPOGRAPHIC MAP OF THE CITY OF NOME BY AIR PHOTO TECH. INC. DATE OF PHOTOGRAPHY JULY 31, 1980
3. LOCATION OF BRIDGE WILL BE ADJUSTED AFTER CONSTRUCTION BATHYMETRIC SURVEY, AS NECESSARY TO PROVIDE 8' WATER DEPTH BELOW MLLW AT THE BREACH.
0 200' 400' 600' 800' 1000'
GRAPHIC SCALE
NO. REVISION BY DATE AUTHORITY
PORT FACILITIES
CITY OF NOME, ALASKA
TIPPETTS · ABBETT · McCARTHY · STRATTON
A PROFESSIONAL CORPORATION
ENGINEERS
ANCHORAGE, ALASKA
Figure 2
NOME PORT FACILITY
PHASE I BARGE DOCK

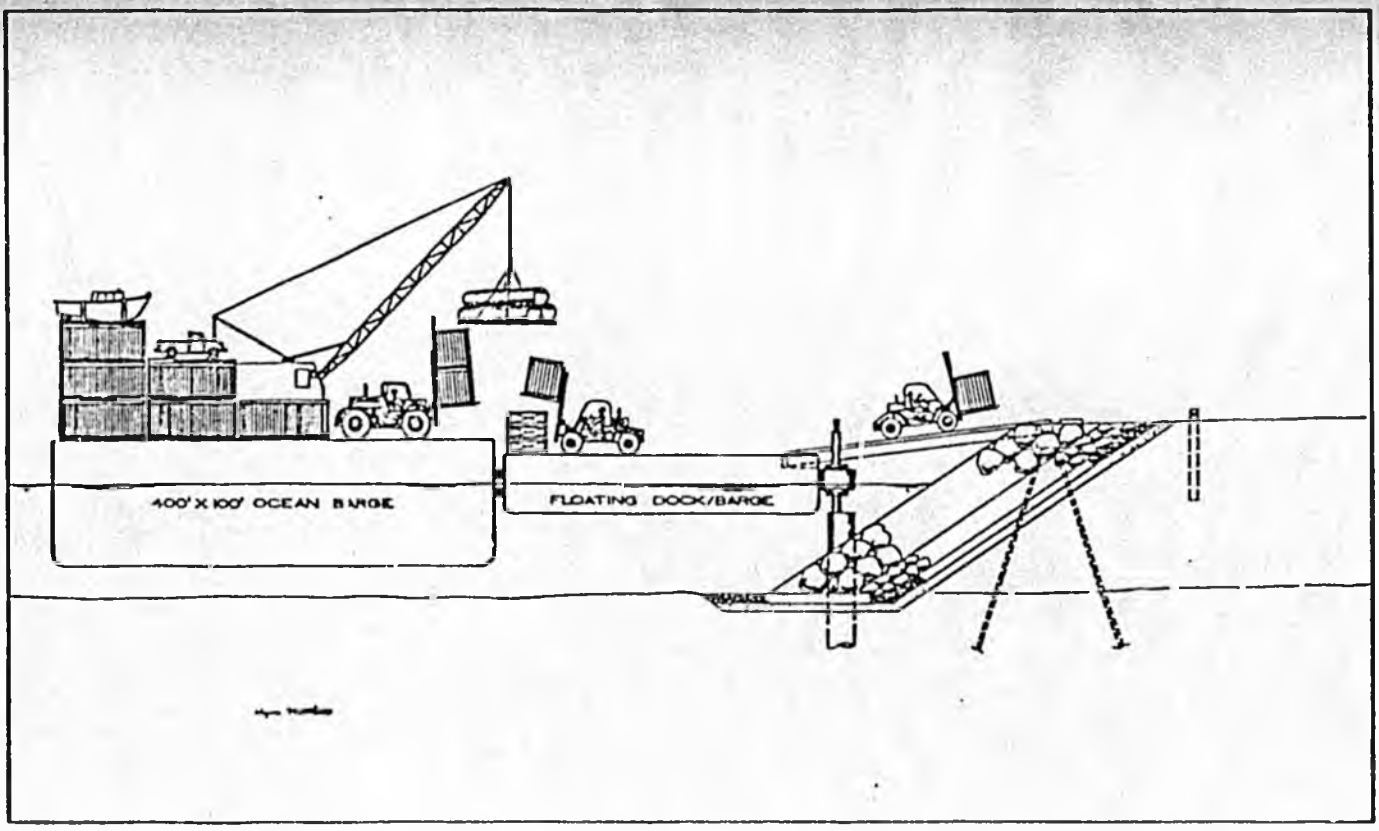


Figure 3

NOME PORT FACILITY - PHASE I BARGE DOCK CARGO UNLOADING/LOADING PROCESS

received little encouragement to date from the agencies contacted that funds would be available in 1984 or 1985. Consequently, grant support by the State of Alaska is therefore requested for approximately $12 million.

Economic Benefits

Transportation Costs. A major benefit resulting from construction of the port facility will be the elimination of the costly and inefficient lighterage service currently used. At an average charge of about $76 per ton of cargo lightered into Nome, the cost to the local community and region is on the order of $3 million annually.

As shown in Figure 4, the transportation cost savings realized by the area residents will depend directly on the level of grant funding contributed by the State of Alaska. With total state funding for the project, port tariffs would need to be

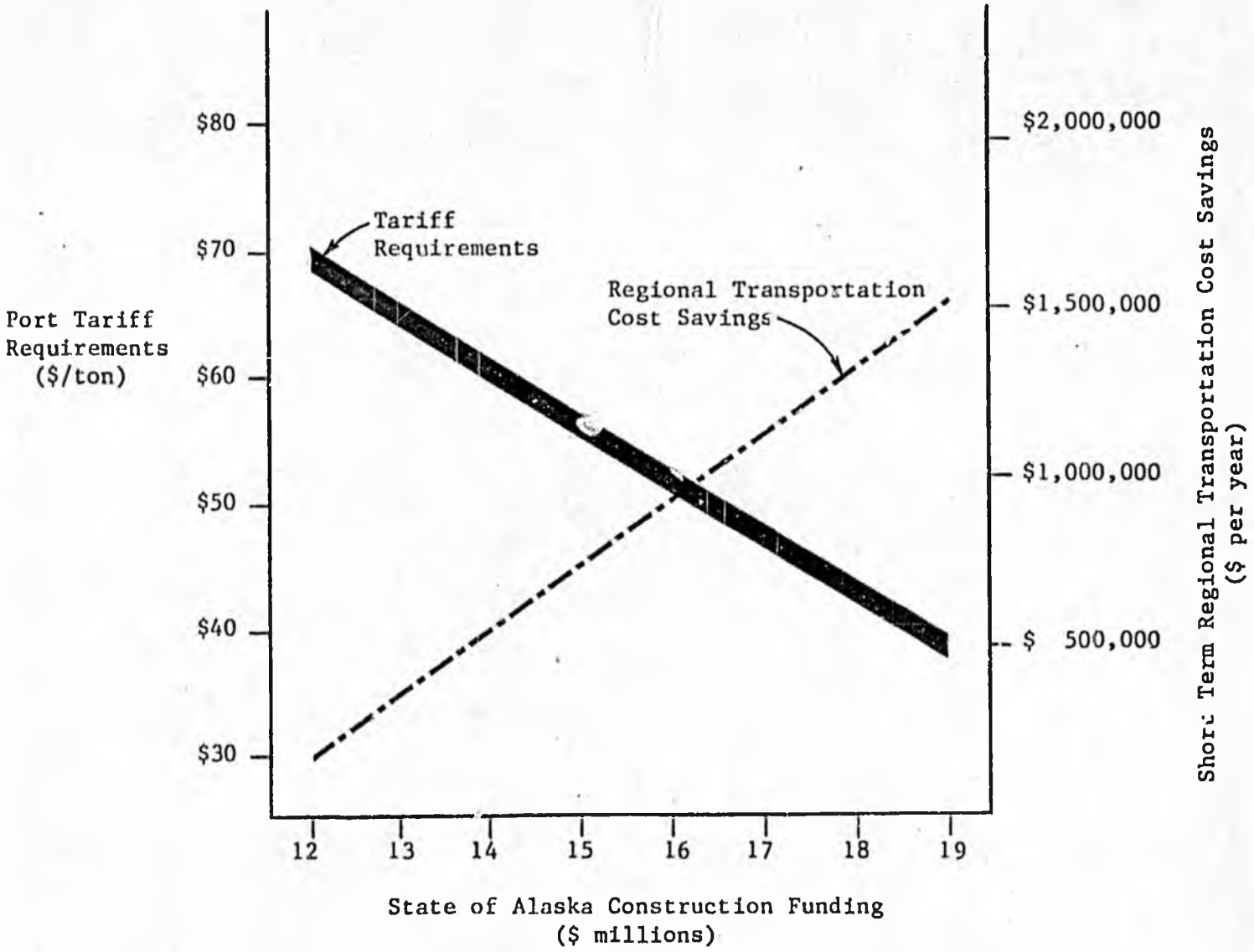
set at approximately $35-40 per ton, which would result in an annual savings to area residents of up to $1.6 million. On the other hand, with a state contribution of approximately $12 million and the remainder of the cost financed privately or by the City of Nome, port tariffs would approximate current lighterage charges and little short-term transportation cost savings would result. (Over the long-term, of course, port tariffs to recover capital investment would remain essentially stable, while lightering costs could be expected to keep pace with inflation. Thus, even with no initial cost advantage the port over the long term would result in lower transportation costs for the residents of the region.)

Regional Economic Development. Phase I of the Nome port will serve as an important first step in providing for the long term economic growth of Northwest Alaska. As described in the Port of Nome Economic Development Analysis, construction of the facility will be a major stimulus for the development and extraction of identified, recoverable tin, fluorite, and other mineral resources. It will function as a service basis for oil exploration (and possibly development) in Norton Sound, and as a corollary benefit will focus the OCS activity in the immediate Nome area, thus relieving fears of unwanted development by many of the coastal villages in the region.

Development of the port facility will play a central role in providing for stable, long-term growth in the region and will provide benefits statewide through job creation and encouraging the creation of a significant mining industry on the Seward Peninsula.

FIGURE 4

TRANSPORTATION COST SAVINGS COMPARISON



STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 11/16/83

I. REQUEST

Bill/Resolution No.: HB #203
Title: Nome Port Facility
Sponsor: Fuller and Bussel
Requestor:
Date of Request:

II. FISCAL DETAIL

Agency Affected: DOT & PF
Program Category Affected: Buildings&Harbor
BRU, Program of Subprogram(s) Affected:
Northern Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT	-					
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-					
CAPITAL	12,000.0					
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	12,000.0					
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	12,000.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by Sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mim Dixon, Director Phone: 479-4281
Division: Planning and Programming Date: 11/16/83

Approved by Commissioner: H. Glenzer, Jr. Deputy Commissioner Date: 11/16/83
Department: DOT & PF, Northern Region

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

TITLE	LOCATION	PROJECT CLASSIFICATION	ELECTION DISTRICT	START DATE	COMPLETE DATE
NOME PORT FACILITY (Ph. 4)	Nome	02-631-02-02	23	7/84	12/85
				PRIORITY 34 OF	49

	GENERAL FUNDS	FEDERAL FUNDS	G.O. BONDS	OTHER	POSITIONS PFT	POSITIONS PT/SEA.	AGENCY REQUEST FY 85 TOTAL	GOVERNOR
REQUESTED FUNDING:	12,000.0						12,000.0	
SITE ACQUISITION								
PLANNING AND DESIGN								
CONSTRUCTION AND EQUIPMENT	12,000.0				0	0	12,000.0	
PREVIOUS APPROPRIATIONS (NON-ADD)			6,980.0					
OPERATING COSTS:								
FIRST YEAR OPERATING COSTS	*							
FULL ANNUAL OPERATING COSTS	*							

PROJECT DESCRIPTION AND JUSTIFICATION: *See note, page 3.

PROJECT DESCRIPTION

Construction of a 3600' rubble mound causeway or acceptable alternative, to proovide either full or partial service accommodating a baseline tonnage of 36,000 tons in both liquid and dry cargo. Project is ready to advertise.

PROJECT NEED STATEMENT

The consumers of the Seward Peninsula pay approximately 25% more for bulk cargo and petroleum products because of the lightering costs from ocean-going barges to the existing dock facility.

At present, barges calling at Nome are anchored 1/2 to 3/4 miles offshore for unloading and reloading of cargo and freight. Cranes on board the ocean-going barges are used to offload containers and other cargo to lighters. These shallow draft lighters are towed through the surf and the shallow 8-foot deep entrance channel for unloading at the lighterage company's transfer facility. The lighters are unloaded over the entrance channel retaining wall by portable cranes. Empty containers and outgoing shipments are reloaded to lighters inside the harbor area for return to the oceangoing barges anchored offshore. This is an extremely costly operation.

CP-1 CAPITAL PROJECT DESCRIPTION FY 85

AGENCY DOT&PF

CATEGORY TRANSPORTATION

PROGRAM NORTHERN REGION PORTS & HARBORS

PROJECT TITLE NOME PORT FACILITY

Revised Date

FY85

PROJECT NEED STATEMENT (Cont.)

The average waterborne freight growth ra. since 1969 according to Corps of Engineers' publications, has been approximately 12%. With the beginning of oil exploration already occurring offshore from Nome in 1983, (Navarin Basin, Norton Sound), the potential development of the bottomfish industry, plus the potential for Seward Peninsula area mining interests to expand dramatically, action should be implemented now to get a minimal marine terminal infrastructure in place.

Development of this project strongly supports several goal areas of this administration:

(1) Using prior appropriations, the project has been thoroughly studied, analyzed, and designed to provide the best configuration and site location, as well as to tie into and make the best use of the existing Seward Peninsula highway system. The adjacent location of the Nome regional center airport allows excellent air logistical support.

(2) The port development both serves a basic public service function (reducing freight lightering costs) and has the potential to stimulate economic development (mining, oil) and provide financial returns to the State.

(3) Maintenance and operational costs have:
   a. been minimized as much as possible through the design selected, and
   b. will be borne by the user through the use of port tariffs.

(4) The Nome port is being implemented as a joint venture with the private sector contributing financing and/or investment to a maximum extent and the State providing initial seed capital.

DOCUMENTATION OF ESTIMATED CAPITAL COSTS

Engineering estimates were developed by the design contractor. Figures were based on recent costs of similar construction in the Nome area and for expected construction market conditions at the time of contract award. Estimates were also based on historical costs of marine facility construction in other areas of Alaska, adjusted for the remote location of Nome, and on similar construction in other areas of the world.

ANALYSIS OF ESTIMATE OF OPERATIONAL EXPENSE

*NOTE: Operational and maintenance costs together will approach a maximum annual figure of $700,000. This cost will be borne by the user via an approximate $9 per ton tariff, which is substantially lower than present and projected lighterage fees. At the same time, the dredging costs of the present Nome harbor, which are projected to approach $1 million annually and which are financed entirely by governmental appropriations, will be substantially reduced.

IDENTIFICATION OF ALTERNATIVES CONSIDERED

1. Postpone action at this time. Failure to go forward with this project will result in continuing high lighterage costs and act as a retardant to future development in oil exploration, the bottomfish industry, and regional area mining extraction.

2. Scale down the scope of the overall project. This approach has been adopted. The project as now developed is a minimal level facility designed to meet current traffic and expandable to meet increased traffic as demand warrants. In order to arrive at and agree on the present design, seven basic alternatives, plus minor variations, all of which were technically feasible, were evaluated in depth.

3. Reduce or eliminate state funding insofar as possible. This has also been done. Private investment has been sought and secured to the maximum extent.

CP-1 FY85 ADDITIONAL EXPLANATION FORM

AGENCY DOT&PF

CATEGORY TRANSPORTATION

PROGRAM NORTHERN REGION PORTS & HARBORS

TITLE NOME PORT FACILITY

FY85

TITLE
NOME PORT FACILITY

PRIORITY 34 OF 49

OPERATING	TOTAL PREVIOUS APPROPRIATIONS	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES							
200 - 800 LINE ITEMS							
TOTAL		*					
1002 FEDERAL RECEIPTS							
1004 GENERAL FUNDS		*					
OTHER FUNDS							
FULL-TIME POSITIONS				3	3	3	3
CAPITAL TOTAL	6,980.0		12,000.0				
1002 FEDERAL RECEIPTS							
1004 GENERAL FUNDS			12,000.0				
OTHER FUNDS (G.O. Bonds)	6,980.0						
REVENUE							

EXPLAIN PREVIOUS APPROPRIATIONS (GIVE SECTION, CHAPTER, SLA) AND ASSUMPTIONS FOR COST, FUNDING SOURCE, POSITION AND REVENUE ESTIMATES:

Previous appropriations for preliminary engineering and design of this project: Ch 86/74, Ch 118/80/6/24.

*Maintenance on the completed Nome Port Facility will be the responsibility of the City of Nome. Maintenance costs will be entirely offset through port revenues collected from the users. At the same time, the dredging costs of the present Nome harbor, which are projected to approach $1 million annually and which are financed entirely by government appropriations, will be substantially reduced.

CP-2 CAPITAL PROJECT COSTS
FY 85

AGENCY DOT&PF
CATEGORY TRANSPORTATION
PROGRAM NORTHERN REGION PORTS & HARBORS
PROJECT TITLE NOME PORT FACILITY

Revised Date

FY85

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER
FINANCE COMMITTEE
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

MAR 2 1983

March 2, 1983

TO: Members of the House Transportation Committee

FROM: Rep. John G. (Jack) Fuller

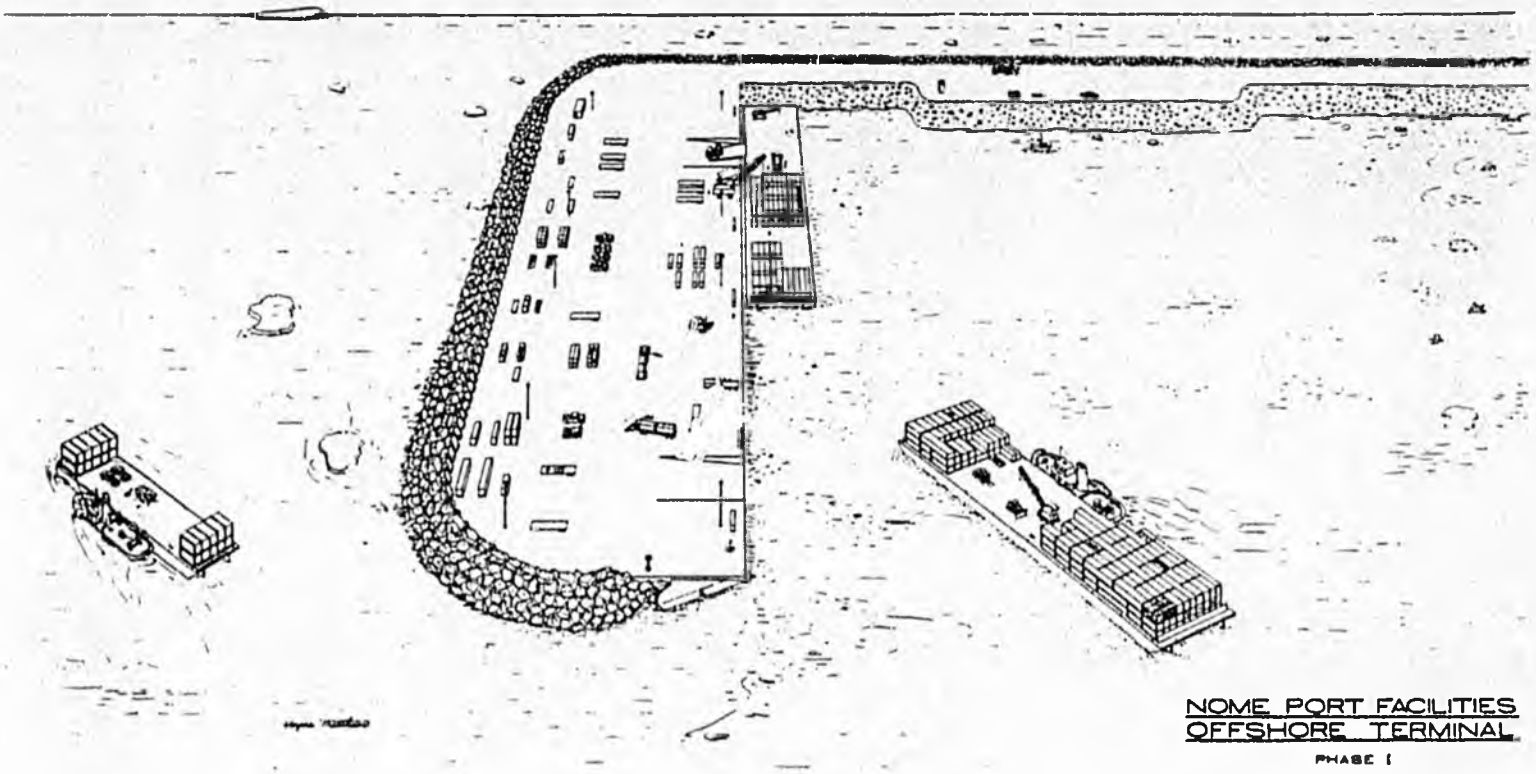
Attached is the Nome Port Facilities, Phase 1 report published by Tippetts, Abbett, McCarthy and Stratton. The report contains back-up information for House Bill 203. If you have further questions, please let me know.

HOME
P.O. BOX 689
NOME, ALASKA 99762
(907) 443-2968

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789
465-3764 465-3765

NOME PORT FACILITIES

PHASE I



TECHNICAL INFORMATION BULLETIN

TAMS
THE PETTS-ABBETT-McCARTHY-STRATTON ENGINEERS
A PROFESSIONAL CORPORATION
ALASKA

PROJECT:	Port of Nome Causeway and Onshor Facilities
OWNER:	The City of Nome, Alaska
FUNDING	State of Alaska (DOT/PF)
DESIGN ENGINEERS:	Tippetts-Abbett-McCarthy-Stratton (TAMS)
DESIGN COMPLETION:	Estimated for February 1983
CONSTRUCTION BID DATE:	Unknown, depends on the City of Nome obtaining funding from the State of Alaska Legislature. Possibly in mid-summer 1983.
AVAILABILITY OF PLANS:	Plans will not be made available until the City is prepared to go ahead with construction. Incomplete preliminary plans and study materials may be viewed at TAMS offices by arrangement.

PROJECT DESCRIPTION: The City of Nome, situated on the north shore of Norton Sound (Figure 1) has a shallow harbor which precludes the docking of vessels drawing more than 6 feet of water. Consequently all cargo is lightered from barges anchored up to 1 mile offshore.

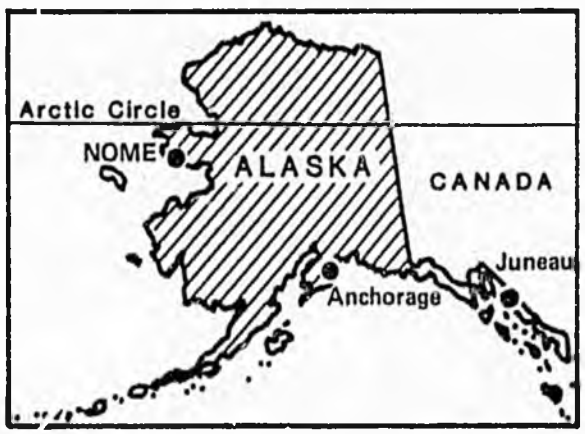


Fig. 1 Location Plan

The City proposes to build the new port in three phases. The first level of development, shown in Figure 2 will provide two 400 foot barge berths at an offshore terminal connected to the shore by a 3500 foot causeway. Later phases of development will include two additional piers for oil rig service vessels and a bulk ore load out facility.

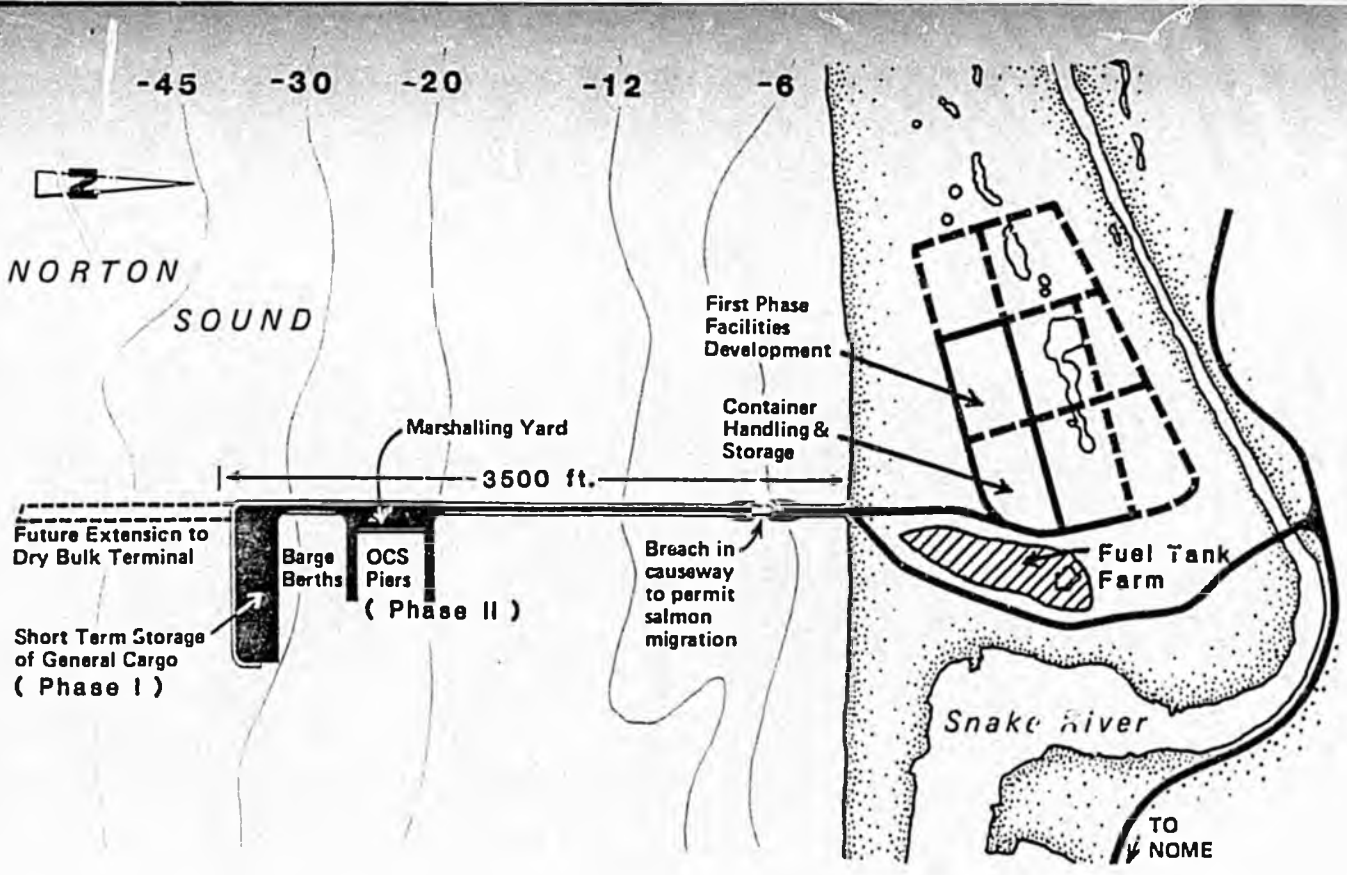


Fig. 2 Layout of Port

STRUCTURAL DETAILS:

Causeway

The causeway, shown in Figures 3 and 4, will be a rubble mound structure with 15-20 ton armor protection to the south and west faces and 8-12 ton armor on the east face. Utility lines will be direct buried in two utility corridors. The causeway roadway and offshore terminal area will be paved with asphalt; axle loads on the facility are expected to be 120,000 pounds.

Causeway Breach

Approximately 400 feet from shore the causeway will be breached and the opening crossed with a 98 foot bridge of prestressed concrete girders.

Offshore Terminal

The offshore terminal will provide 4.6 acres of short term open storage area (no buildings).

Dock Structure

The main dock structure to the offshore terminal will be constructed from 30 foot diameter by 33 foot high circular concrete caissons, as shown in Figure 5. Wall thickness is 12 inches with an 18 inch base giving a weight of 315 tons per

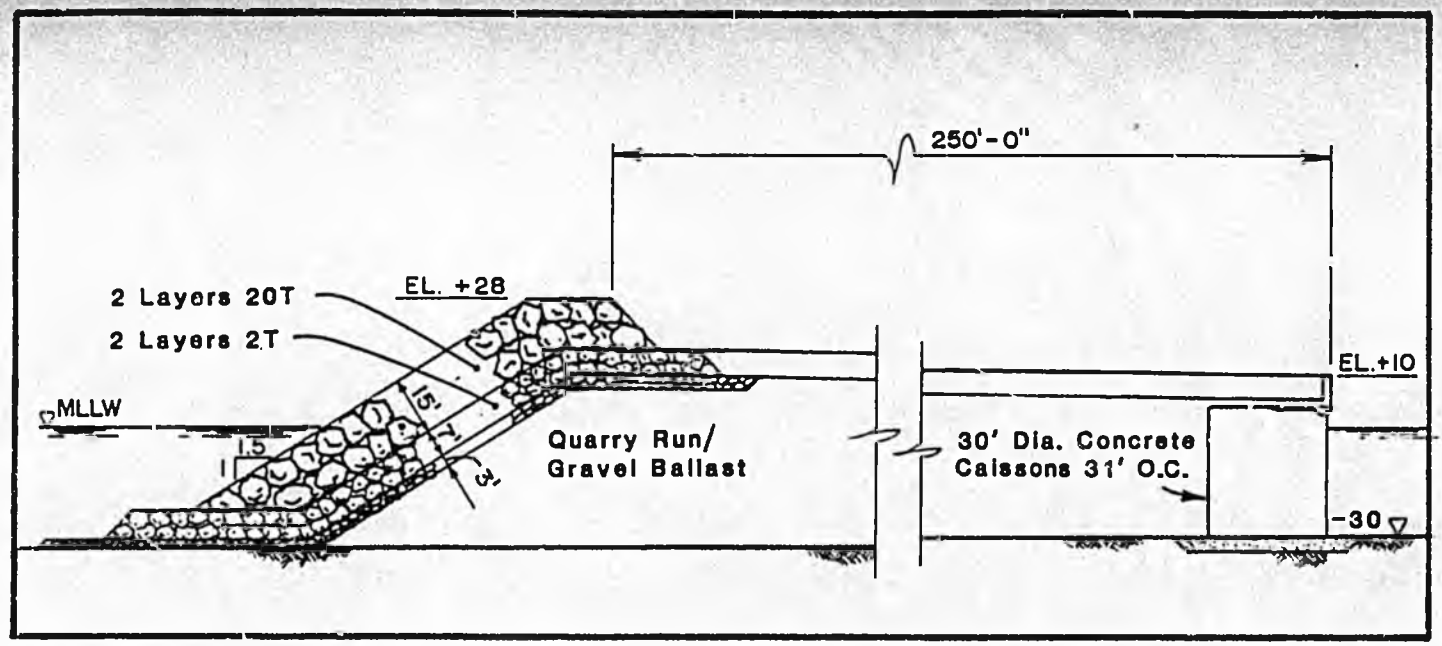


Fig. 3 Typical Section - Offshore Terminal

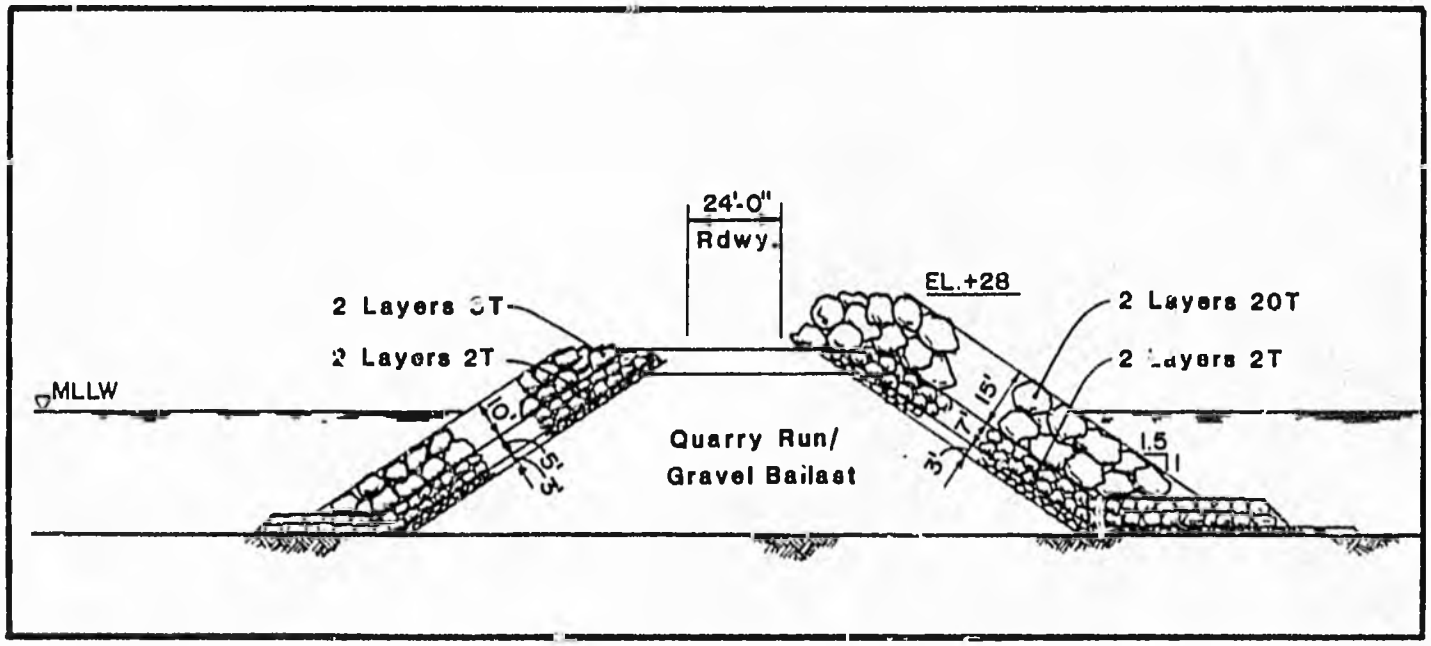


Fig. 4 Typical Section - Causeway

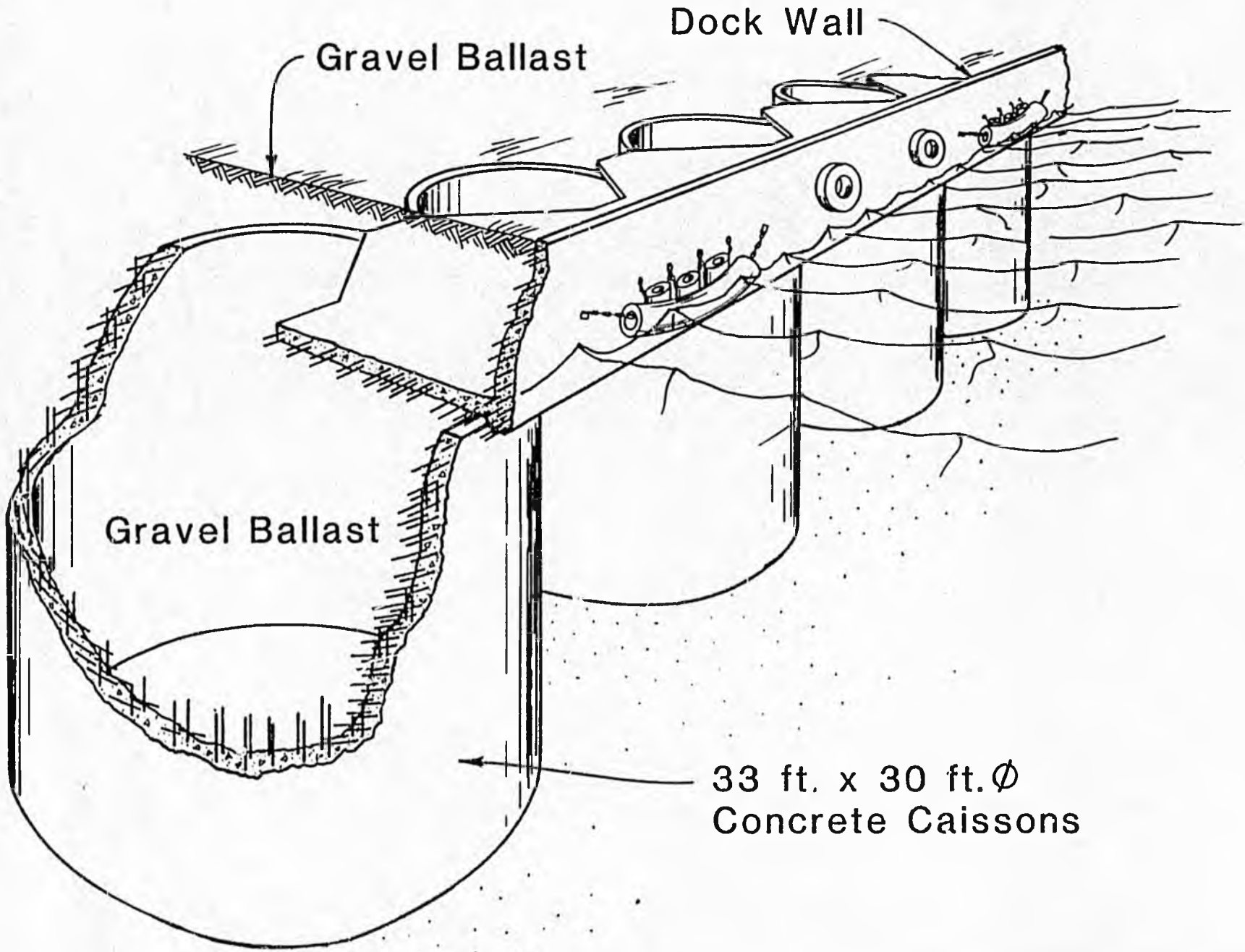


Fig. 5 Dock Structure and Caissons

caisson. Epoxy coated reinforcement is expected and an epoxy outer coating may be required over the area of the caisson likely to be subjected to ice abrasion.

Onshore Facilities

1. 10 acres of open storage on a 9 foot thick gravel pad.

2. Container Freight Station: 8000 square feet of container handling area plus 1600 square feet of office space using pre-engineered metal buildings.

3. Vehicle Maintenance Shop: 3200 square feet of work area with a 5 ton crane.

Fuel System

Since 75% of all cargoes imported to the region are bulk petroleum products, a comprehensive fuel unloading, distribution and storage system is required. The main offloading point will comprise 4 product unloading arms and pipework to the tank farm area shown in Figure 6. New tanks will be constructed within the existing fuel storage area.

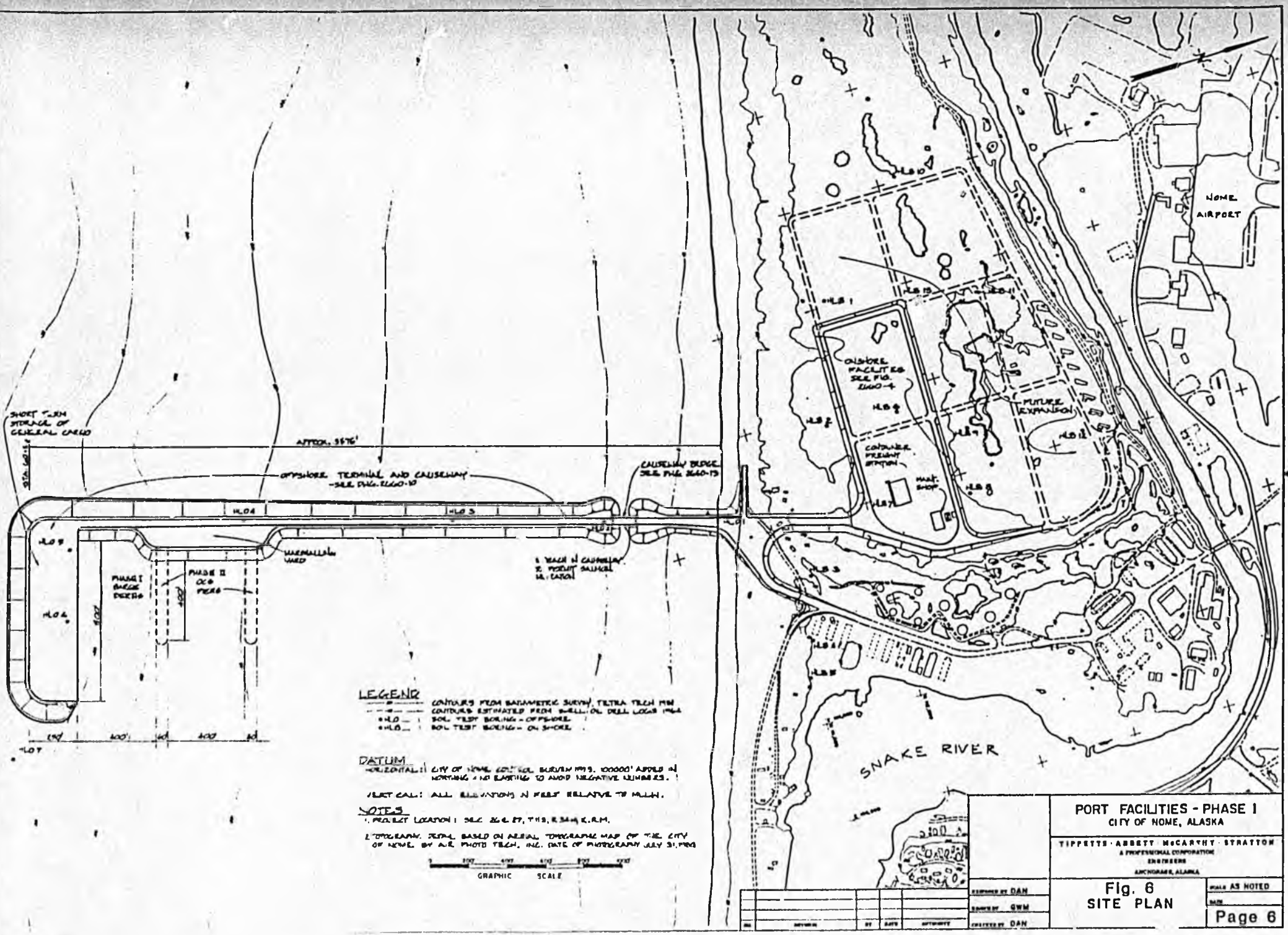
Mechanical and Electrical

The utilities corridor along the causeway will carry high and low voltage electrical service, telephone, lines for a variety of types of fuel, and water lines for fire fighting. At the terminals and berths there will be navigation lighting and illumination for work areas.

CLIMATE:

Norton Sound is open to navigation from mid or late June to late October or mid-November when sea ice from the Bering Sea collects along the shoreline. Shorefast and floating ice cover is normally established by January and remains to a distance of approximately 1 mile from the shoreline until break up (Figure 7). Winter temperature minimum averages -10° F and rarely falls below -40° F. Summer temperatures rarely exceed 55° F.

The predominant storm direction is from the southwest. A 100 year significant wave height of 16.5 feet is projected for the offshore terminal area, accompanied by a storm tide which in 1974 caused a 10 foot set up at the City dock in the Snake River.



NOME AIRPORT
SNAKE RIVER
ONSHORE FACILITIES SEE FIG. 2660-4
FUTURE EXPANSION
CONTAINER FREIGHT STATION
MAINT. SHOP
OFFSHORE TERMINAL AND CAUSEWAY
CAUSEWAY BRIDGE
SHORT TERM STORAGE OF GENERAL CARGO
MARSHALLING YARD
PHASE I BARGE BERTHS
PHASE II OCS PIERS
LEGEND
CONTOURS FROM BATHYMETRIC SURVEY, TETRA TECH 1981
CONTOURS ESTIMATED FROM SWELL OIL DRILL LOGS 1964
SOIL TEST BORING - OFFSHORE
SOIL TEST BORING - ON SHORE
DATUM
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2. TOPOGRAPHY: DETAIL BASED ON AERIAL TOPOGRAPHIC MAP OF THE CITY OF NOME BY AIR PHOTO TECH. INC. DATE OF PHOTOGRAPHY JULY 31, 1980
GRAPHIC SCALE
PORT FACILITIES - PHASE I
CITY OF NOME, ALASKA
TIPPETTS · ABBETT · McCARTHY · STRATTON
A PROFESSIONAL CORPORATION
ENGINEERS
ANCHORAGE, ALASKA
DESIGNED BY DAN
DRAWN BY GWM
CHECKED BY DAN
Fig. 6
SITE PLAN
SCALE AS NOTED
Page 6

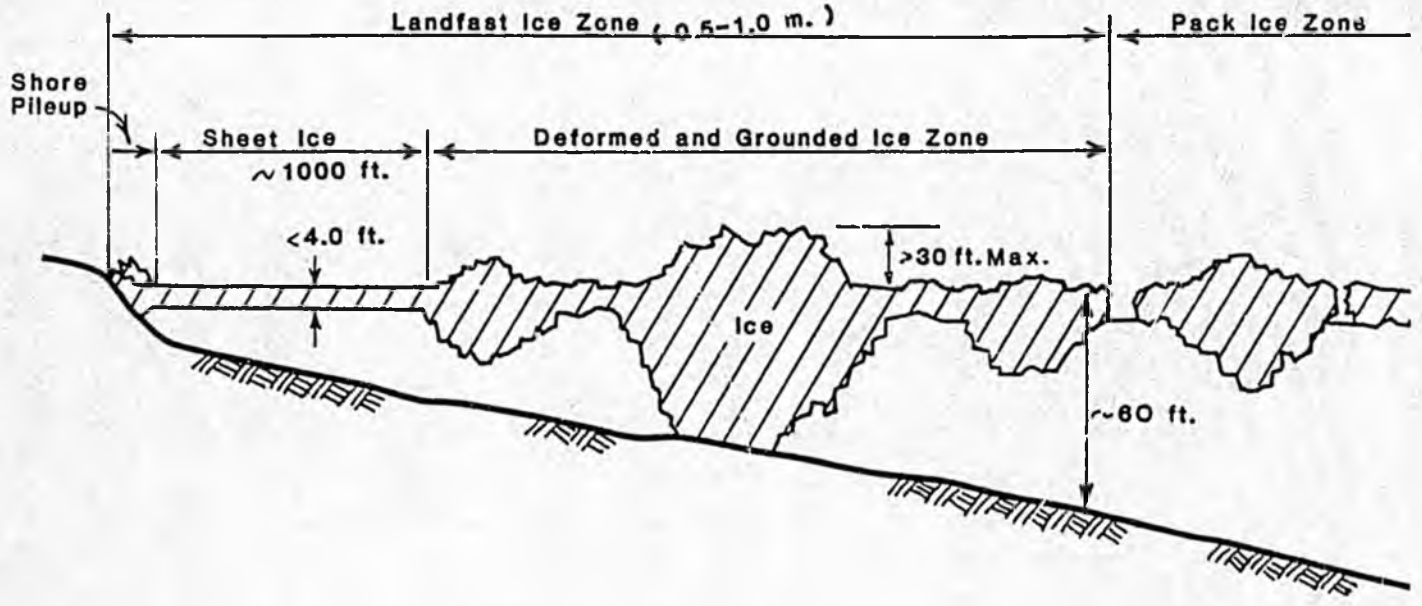


Fig. 7 Shorefast Ice Cover

MATERIALS:

The primary source of core material for the causeway and offshore terminal is expected to be one of a number of gold dredge tailing dumps located at 2-5 mile radii from the project site.

Rock armor for protection against wave and ice attack is expected to be obtained from the Cape Nome quarry, approximately 13 miles east of the project site as shown in Figure 8. Highway access to the quarry site is maintained in the summer months only.

GROUND CONDITIONS:

All onshore facilities are located in a permafrost area which must be protected by a gravel blanket. The permafrost is patchy towards the shoreline and the sand spit to the east of the causeway which has been worked for gold extraction exhibits very low bearing capacity.

SITE INVESTIGATIONS:

During a borehole program carried out in February 1982, 7 offshore and 13 onshore holes were drilled. Bedrock was encountered under the causeway location at depths varying from 40-60 feet below the seabed. Overlying materials sampled comprised glacial silts, tills and sands.

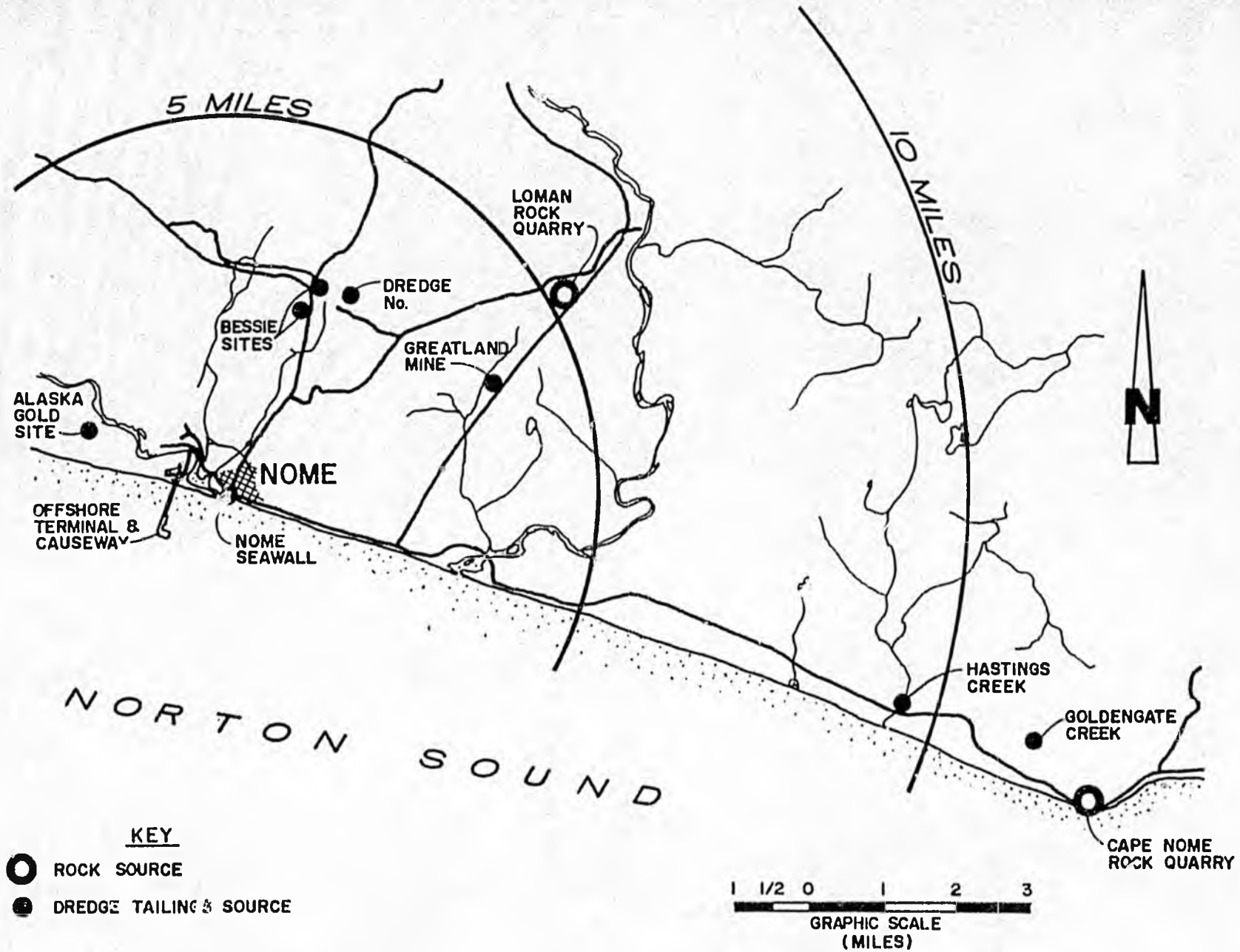


Fig. 8

LOCATION MAP - SOIL AND ROCK BORROW SITES

Materials source investigations carried out in June 1982 were followed by a test blast at the Cape Nome quarry. The results of these and all other site investigations will be made available to contractors at bid time and may be reviewed by arrangement with TAMS.

PERMIT STATUS:

An application for a Corps of Engineers construction permit was submitted in August 1982. Prior to the application extensive discussions with interested state and federal agencies were carried out to resolve concerns and incorporate mitigation measures where necessary.

MATERIALS QUANTITIES:

A preliminary, abbreviated list of materials quantities for the Phase I construction contract is attached.

Further information on the project may be obtained from the following:

TAMS
4791 Business Park Boulevard
Anchorage, AK 99503
Phone (907) 276-6565

After February 5, 1983 - (907) 562-2282

PRELIMINARY QUANTITIES
PHASE I - CONSTRUCTION

LINE	DESCRIPTION	QUANTITY	UNIT
	OFFSHORE TERMINAL - PHASE I BARGE DOCK		
1	20^{t} Armor Rock	71,400	cu.yd.
2	2^{t} Rock	31,800	cu.yd.
3	200# Rock	23,900	cu.yd.
4	Core material - Dredge tailings	395,600	cu.yd.
5	Core material - Quarry Run	44,000	cu.yd.
6	Non-frost susceptible material	59,400	cu.yd.
7	Furnish 30' diam. concrete caissons	29	each
8	Transportation to Nome		sum
9	Prepare bed and place	29	each
10	Reinforced concrete wave wall	2,280	cu.yd.
	Capping Beam and Bollard Bases		
11	Reinforcing Steel	456,000	lbs.
12	8" Crushed Rock Base, 6" Asphalt Pavement	21,100	sq.yd.
13	Cylindrical Rubber Fenders		sum
14	50 ton and 100 ton Bollards, Mooring Hardware		sum

LINE	DESCRIPTION	QUANTITY	UNIT
	BROUGHT FORWARD		
	CAUSEWAY		
15	20^{t} Armor Rock	124,100	cu.yd.
16	8^{t} Armor Rock	58,600	cu.yd.
17	2^{t} Armor Rock	39,000	cu.yd.
18	1600# Rock	26,800	cu.yd.
19	200# Rock	45,800	cu.yd.
20	80# Rock	33,500	cu.yd.
21	Core Material - Dredge Tailings	205,000	cu.yd.
22	Core Material - Quarry Run	83,000	cu.yd.
23	Non-frost Susceptible Material	33,000	cu.yd.
24	7" Crushed Rock Base, 5" Asphalt Pavement	11,750	sq.yd.
25	Bridge		sum

LINE	DESCRIPTION	QUANTITY	UNIT
	ONSHORE FACILITIES		
	Land Acquisition		
26	Phase A	19	acre
27	Phase B	41	acre
	Roads		
28	Dredge Tailings	24,000	cu.yd.
29	Non-frost Susceptible Material	8,600	
30	7" Crushed Rock, 5" Asphalt Pavement	6,750	sq. yd
	STORAGE AREA (50,700 sq. yd.)		
31	Dredge Tailings	62,000	cu.yd.
32	Non-frost Susceptible Material	93,000	cu.yd.
33	8" Crushed Rock, 6" Asphalt Pavement	50,700	sq.yd.
	BUILDINGS		
34	Container Freight Station	9,600	sq.ft.
35	Vehicle Maintenance Building	4,000	sq.ft.
36	Lighting		sum
37	Utilities		sum
38	Security Fencing	3,600	lin.ft.

LINE	DESCRIPTION	QUANTITY	UNIT
	UTILITIES - PHASE I		
39	Water Distribution		sum
	Furnish & install 7200 l.f. 8" Ø, 1000 l.f.		
	4" Ø, 8600 l.f. 2½" Ø, 1000 l.f. 6" Ø, and		
	1000 l.f. 2" Ø Ins. PVC Pipe		
	FUEL DISTRIBUTION		
	Alternate I		
40	Diesel Fuel		sum
	Furnish & install 5800 l.f. 8" Ø bl.steel pipe		
41	Jet Fuel		sum
	Furnish & install 5800 l.f. 8" Ø bl.steel pipe		
42	AVGAS 100/130		sum
	Furnish & install 8000 l.f. 6" Ø bl.steel pipe		
43	Unleaded Gasoline		sum
	Furnish & install 8100 l.f. 6" Ø bl.steel pipe		
44	Regular Gasoline		sum
	Furnish & install 8000 l.f. 6" Ø bl.steel pipe		
45	Corrosion Protection		sum
46	Utility Bridge		sum
	SUBTOTAL		
	Alternate II		
47	Diesel Fuel		sum
	Furnish & install 5800 l.f. 8" Ø bl.steel pipe		
	and 1 24,000 bbl tank		
48	Jet Fuel		sum
	Furnish & install 5800 l.f. 8" Ø bl. steel		
	pipe and two (2) 8500 bbl tanks		

LINE	DESCRIPTION	QUANTITY	UNIT
49	AVGAS 100/130		sum
	Furnish & install 14,000 bbl tank and 6000		
	l.f. 6" Ø bl. steel pipe		
50	Unleaded Gasoline		sum
	Furnish & install 6000 l.f. 6" Ø bl. steel		
	pipe and 3500 bbl tank		
51	Regular Gasoline		sum
	Furnish & install 6000 l.f. 6" Ø bl. steel		
	pipe and two (2) 1500 bbl tanks		
52	AVGAS 80/87		sum
	Furnish & install 6300 l.f. 6" Ø bl. steel		
	pipe and one 1000 bbl tank		
53	Corrosion Protection		sum
	SUBTOTAL		
54	Electrical System		sum
	10,000 l.f. 5 kv #2 armored cable, 3500 l.f.		
	600 v #4/0 armored cable, switch gear,		
	t. formers		

REP. JOHN G. (JACK) FULLER

DISTRICT 22

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER
FINANCE COMMITTEE
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

February 28, 1983

The Honorable Bette Cato
Chairwoman
House Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Bette:

I have attached a copy of the TAMS Engineers report entitled Port of Nome, Alaska Economic Development Analysis. I felt that rather than send you reading materials on the Nome Port project at once, it would be better to send you the information on a piece-meal basis. By doing it this way, it would give you an opportunity to review the information at your leisure. I know how it is when a bill has been scheduled and you have to review all the material at once. I hope this will be satisfactory to you. I have also sent copies of this report to the members of the Transportation Committee.

There will be more information forthcoming and I will be sending it to you and the Committee on Wednesday.

Thank you.

Sincerely,

Jack

Rep. Jack Fuller

HOME
P.O. BOX 689
NOME, ALASKA 99762
(907) 443-2988

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789
465-3764 465-3765

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.



TAMS

TIPPETTS-ABBETT-McCARTHY-STRATTON □ ENGINEERS

A PROFESSIONAL CORPORATION

ALASKA



PORT OF NOME, ALASKA
ECONOMIC DEVELOPMENT ANALYSIS

HB

472

P.S.A.

HOUSE TRANSPORTATION COMMITTEE WILL BE HOLDING A PUBLIC HEARING ON H.B. 472; AN ACT MAKING A SPECIAL APPROPRIATION TO THE DEPT. OF TRANSPORTATION AND PUBLIC FACILITIES FOR RIGHT-OF-WAY ACQUISITION FOR THE IDITAROD NATIONAL HISTORIC TRAIL, ON WEDNESDAY FEB.8, 1984. H.B. 472 WOULD APPROPRIATE THE SUM OF $300,000.FROM THE GENERAL FUND TO THE D.O.T.P.F. FOR THE RIGHT OF WAY ACQUISITION FOR THE NATIONAL HISTORIC TRAIL. FOR INFORMATION REGARDING H.B. 472 CONTACT RHONDA ,HOUSE TRANSPORTATION COMMITTEE AT 465-4858. FOR MORE INFORMATION REGARDING THE TELECONFERENCE, CONTACT YOUR LOCAL LEGISLATIVE INFORMATION OFFICE OR TELECONFERENCE CENTER.

Linda
This was sent to Mary/M.S at 12:45 just after I got it.
Tom

COMMITTEE REPORT

HOUSE

(9) FURTHER: FINANCE

1/9/84 Date: 3/5/84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 472
"An Act making a special appropriation to the Department of Transportation and Public Facilities for right-of-way acquisition for the Iditarod National Historic Trail; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	
[illegible]	
[illegible] Do Pass	
[illegible]	
[illegible] Do Pass	
[illegible] Do Pass	
R B Ellisworth	
M.W. Miller	
[illegible]	

_____
CHAIRMAN

H 60 (Rev. 3/81)

We, the undersigned, urge passage of HB 472 to provide funds to purchase rights-of-way easements on privatelands through which passes the National Historic Iditarod Trail.

This legislation and the funds it will provide is critical to protect the integrity and use of this National Historic Trail.

Dorothy E. Frandsen P.O. B 870666 Wasilla, Ak 99687
E. M. Frandsen P.O. Box 870666 Wasilla, Ak 99687
Richard J. Cottle P.O. 870387 Wasilla Ak. 99687
Betty J. LePors P.O. 870046, Wasilla AK 99687
Paul LePors " " " "
Dr. David C. Horner 1034 W 4th Anchorage 99501
Ray Miller P.O. Box 2702 Palmer AK 99645
Dan Miller P.O. Box 2702 Palmer AK 99645
Kristi Miller 4360 Spenard Rd. #2 99503
Bob Bordin SR Box 7534 Palmer 99645
Ray E. Troseth Box 252 Wasilla AK 99687
Ray Elliott Box 2000 Wasilla, AK 99687
Edward Holmes Box 871831 Wasilla AK 99687
Donald R Petrie Box 2875 Palmer Ak 99645
Barbara J. Entsminger P.O. Box 1486 Wasilla
Constance H. Hibbard P.O. Box 1921 Wasilla
Ruth Holmes Box 871831 Wasilla AK 99687
Roxanne Olson PO 870805 Wasilla 99687
John Kitzman Box 143 283 Muldoon Anchorage 99504
Steve Olson PO 870805 Wasilla AK 99687
Julian E. Vitead P.O. 871908 Wasilla, AK 99687
Dennis A. Boyer Star Rt. 2116 Wasilla, AK 99687
Valerie Boyer " "
Sally Heath POB 870313 Wasilla
Chuck Heath " " "
Karlyn Williams PO Box 870390 Wasilla 9968
Carol C. Chingery P.O. Box 870811 Wasilla
Ron Moore S.R. 7 Box 6388 Wasilla
Don Teeguarden Box 870708 Wasilla

Toni L. Teeguarden PO Box 870708 Wasilla 99687
Bill Sterns SRA-6631-A1 " "
Cheryl Sterns SRA 6631-A1 Wasilla 99687
Richard J. Krause P.O. Box 3121 Palmer, AK 99645
Dr. Jean Krause P.O. Box 3121 Palmer AK 99645
Mike Pettit PO Box 9196 Palmer, AK 99645
Dr. Roy A Nord PO Box 381 Palmer AK 99645
Oris & Carol Lasinger PO Box 665563 Wasilla 99645
Rich & Julie Erickson PO Box 870392 Wasilla 99687
Carl Frigler PO Box 5031 SR. Wasilla 99687
Colleen G. Cottle PO Box 870341 Wasilla 99687
Karie Hurley Box 870157 Wasilla 99687
Paula Groundwater Box 565 ~~Wasi~~ Valdez, AK 99686
Suzie Knutson 11002 35th AVE. N.E. #206 Seattle, WA 98125
Jan Baal 7032 19th NE Seattle WA 98115
Eric Dow 1844 Juneau #3 Anch AK 99501
Job & Sue Cyr Knik Rd Wasilla
Michael Prevost Box 1015 Valdez AK 99686
John R Carr St. Rt. Box 5150 Wasilla AK 99687
Brenda R Carr P.O. Box 87-3631 Wasilla AK 99687
Lisa J Brayton Box 871304 Wasilla AK 99687
Jim Chernishi Box 17312 Big Lake AK 99687
Day E.
Lorraine P. Cottle Box 870341 Wasilla, AK 99687
Leslie B. Mead PO Box 871908 Wasilla 99687
Duane Richards PO Box 9741 Palmer 99645
Ardith Richards " " "
Suzanne Cyr PO Box 873663 Wasilla 99687
David Rambrun SR Box 3165 Wasilla 99687
David R Olson Box 5403 Knik Rd Wasilla AK 99687
Robert L. Check P.O. Box 870328 Wasilla, AK. 99687
Cathy Check Box 870328 Wasilla 99687
Gary W. Buchanan S.R. Box 5149 Wasilla
R. Desmond Chayo SRA Box 6229C Palmer AK 99645
Bill Amis Box 25 Willow AK 99688
Martin Tingley Box 1236 Wasilla AK 99687
May Dollarhide Box 873448 Wasilla, AK 99687

99577

Ralph Jones PO Box 1 Eagle River
Arleth Richards SRD, Box 9741 Palmer, AK
Roger Nordlum Box 171 Kotzebue AK
Cheryl Riggs SR A Box 6366 Wasilla AK
Mealy Macheson POB 87-3505 Wasilla AK
Dave Rutz - SR 2618 Wasilla "
Dixie Amis POB 25 Willow, AK.
Alice Minnich PO Box 870455 Wasilla Ak.
Donna A. Olson
your girl friend Box 5403 Knik Wasilla AK.
Kay Wiggins 4805 Spenard Rd. #C, Anch. 99502
Michael Wilson PO Box 871754 WA. AK. 99687
Eileen R Hehner PO BOX 871754 WA. AK 99687
Geo Listman SR 4012 Mausel Eagle River AK 99577
[illegible] " " " " " "
Marshall & Tacy Carr P.O. 872982 Wasilla Ak.
Laura Harvey PO 871824 Wasilla
Rosalie Robinson P.O. Box 871687 Wasilla
Wilma Hazark PO Box 870392 Wasilla
Sarah Heath Box 870313 Wasilla
Stephen S Hennessy PO 871093 WASilla.

Gary Olmie P.O. Box 2716 Palmer, 99645

JEFF LISTMAN SR 4012 MAUSEL EAGLE RIVER AK 99577

DAN Dollarhide Box 873748 wasilla, AK. 99687

Debi Jacobs SR 5190 wasilla AK 99687

C/eo Listman SR4012 Mausel Eagle River AK 99577

SUSAN I KOZEROFF P.O.BOX 871343 WASILLA AK 99687

Jean Hennessy P.O. Box 871093 Wasilla AK 99687

Matanuska-Susitna Borough
BOX B. PALMER. ALASKA 99645 • PHONE 745-4801
BOROUGH MANAGER

January 19, 1984

Mr. Jack Bodine
Right of Way Section
Department of Transportation
& Public Facilities
Box 1467
Juneau, Alaska 99802

Re: RIGHT OF WAY ACQUISITION COSTS FOR IDITAROD TRAIL

Dear Jack:

Enclosed are some materials you may find useful in arriving at a fiscal note for right of way acquisition costs for that portion of the Iditarod Trail between Mile 13, Knik Road and a point just west of Burma Road.

The total estimated acquisition costs, based largely upon a projected 200 foot width, and assessed valuations is $204,262.

Not included are any costs of DOT/PF administration, overhead, surveying costs or legal costs. You would know what type of factor to apply for those costs.

The above dollar amount is based upon four assumptions:

1. The right of way width across private properties would be reduced from 400 foot to 200 feet.

2. Assessed valuations are used in estimating fair market value as of today except for the two parcels abutting Knik Lake, where more lake oriented valuations are used.

3. No severance damages are calculated even though there will be severance damages in most cases.

4. The value of any existing rights the State and public may have in trail right of way under 43 U.S.C. Section 932 (RS 2247) is not estimated as the costs of establishing any such right of way by court action would probably exceed the cost of buying it outright.

Most of the Iditarod Trail between Mile 13, Knik Road and Susitna Station on the Susitna River crosses borough and state owned land. Four hundred feet has been reserved for those

portions of the trail which cross publicly owned lands. This provides almost 200 feet on both sides of the trail, which is needed if the trail is to continue to have a wilderness aspect and if adjacent commercial, industrial and residential uses are not to interfere with trail uses. There has to be some types of control on both sides of the trail lest the buffering be lost, lest local dogs and domestic animals interfere with dog teams, etc.

There is probably room for creativity in negotiating rights of way easements across the privately owned land in that, if building setbacks are agreed upon, and if areas where clearing will not be accomplished is agreed upon, the state could probably get by with title to a lesser right of way width. In at least one case, this type of approach would not work, because the right of way goes right down the middle of a long subdivision lot, which destroys the value of the remainder parcels on both sides of the trail. In this case the cost of a whole taking would be almost the same as a partial taking. I see a possibility of reducing acquisition costs by narrowing the rights of way across private parcels which savings would be equal to the severance damages to the remainder areas. So maybe this would be a wash.

The right of way situation at Knik Lake is complicated. It is very important that some lake shore on the south side of the lake be acquired. The lake shore property would almost certainly carry a very high price, since only rarely do you see a good lakeside lot in this borough selling for less than $25,000 even if you are only talking about one acre. For purposes of estimating we have shown 6.198 acres at a per acre cost of $8,000 for a total of $49,584. This acquisition could well be reduced in acreage, but because you are dealing with perhaps two acres right on the lake shore, you would still probably come out with a number close to $50,000, figuring $25,000 for each lake lot.

It is important to have access to the lake because there would be no practical way for snow machiners to get onto the Iditarod Trail except by coming onto the trail from the south shore of Knik Lake, since the right of way across the 17 acres of Knikatnu Native Corporation on Knik Road precludes snow machine use, except for purposes of grooming the trail for specific races. Also, the south shore of the lake is only about 200 yards from the Iditarod Hall of Fame, and anyone wishing to get a feel for the old Iditarod Trail by walking it ought to be able to get to the lake shore.

As you can tell from looking at the map of Knik Lake, the Iditarod Hall of Fame is in danger of being closed off from the lake by construction of houses along the shores of Knik Lake. If this should occur, much of the atmosphere of the historic trail at the very start of the trail, would be severely impaired. We did allocate $25,000 for acquisition of one lot adjacent to the Iditarod Hall of Fame.

I do not think that $300,000 is an excessive estimate of the cost of acquiring right of way for the Iditarod Trail. However, if there should be any question as to whether this is an excessive amount of money, the bill could be amended to include not only right of way acquisition, but also trail improvements, as there are many locations along the trail which would be much improved if signed and brushed. These areas would not necessarily be within the Matanuska-Susitna Borough.

Sincerely,

Gary Thurlow

Gary Thurlow
Borough Manager

er

Enclosure

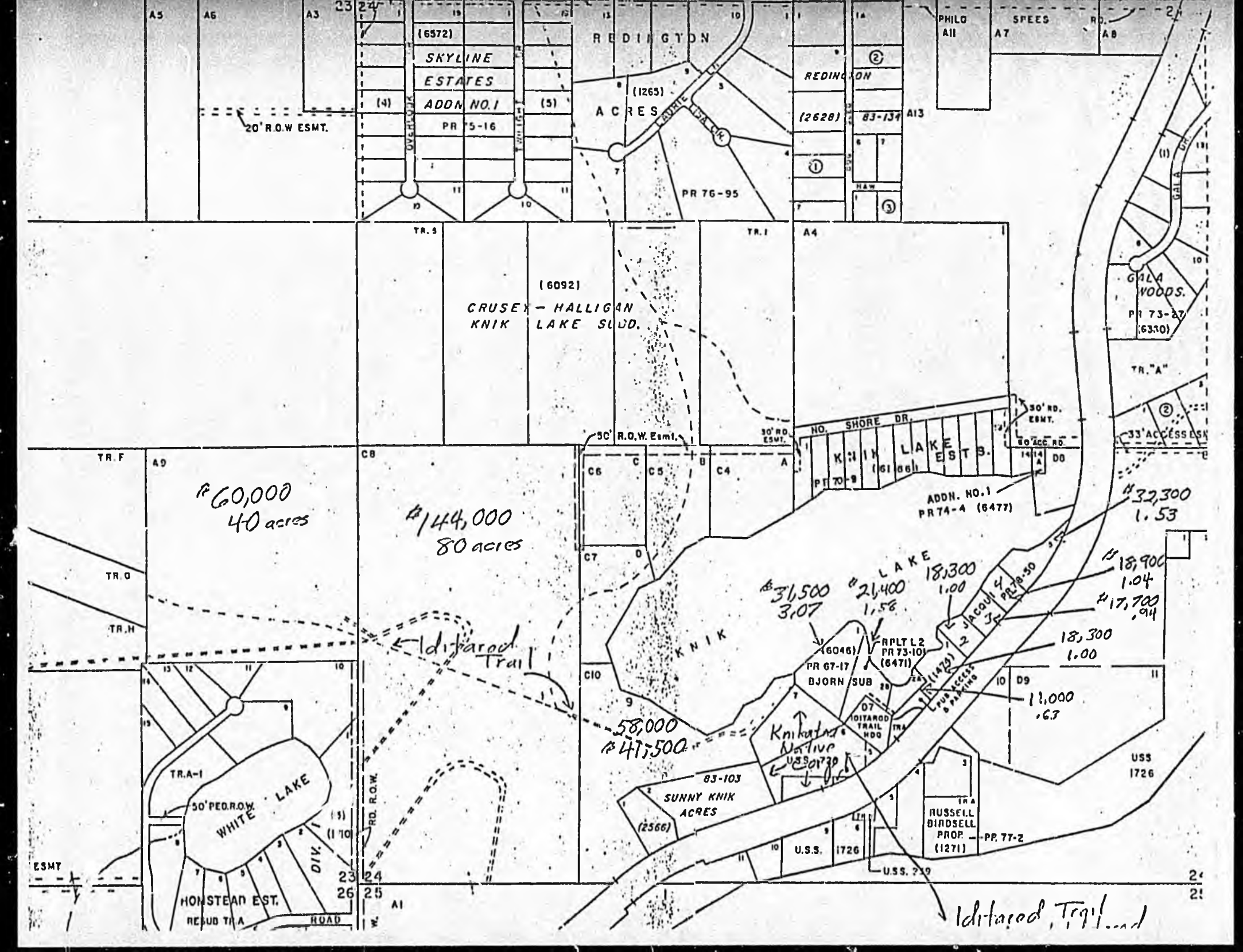
IDITAROD TRAIL RIGHT OF WAY
TO BE ACQUIRED

Sections	Owner	Acres	Assessed Valuation	Assessed Valuation per Acre	Right of Way Req'd at 200'	Cost of ROW
16N R4W						
Sec. 21						
C-4	Shelter, Inc. c/o Jos. R. Henri Box 357, Anchorage 99510	39.05	$ 74,400	$ 1,895	5.969	$ 11,311.26
C-3	State of Alaska, Chas. H. Brewster 3825 Mt. View Dr., Anchorage, 99504	38.83	46,600	1,200	6.428	7,713.60
C-1	Chester Anderson Box 1149, Palmer, 99645	34.00	69,200	2,035	5.280	10,744.80
Sec. 28						
A-1	Benjamin & Jonell Cowart Box 4532, Anchorage 99509	80.00	64,800	810	6.428	5,206.68
Sec. 27						
B-1	Same as above	50.56	44,900		5.969	
A-1	Schauermann, Fuhs, Baccaglini, Methonen c/o Willie Sherman Realty Box 3761, Anchorage 99501	80.00	48,000	600	6.657	3,994.20
Seven Mile Ridge Subd.-2248						
L-1 - B-4	Griffin Enterprises 2900 McCollie Ave., Anchorage 99503	8.60	30,100	3,500)	6.198	43,398.40
L-2 - B-4	Same as above	9.48	33,200	3,502)		
Sec. 26						
B-1	Schauermann, Fuhs, Baccaglini, Methonen c/o Willie Sherman Realty	50.56	44,900	888	8.494	7,542.67
16N R3W						
Sec. 22						
B-1	Charmaine Smith Box 871385, Wasilla 99687	160.00	104,000	650	6.198	4,028.70
B-3	Mello and Partners - Judith A. & Jas. D. Houston, 7710 Ann Cr.Anchorage 99504	120.00	84,000	700	12.741	8,918.70
A-1	Julie Simco 8500 Emerald Dr., Anchorage 99502	200.00	128,000	640	6.887	4,407.68

IDITAROD TRAIL RIGHT OF WAY TO BE ACQUIRED - Pg. 2

Sections	Owner	Acres	Assessed Valuation	Assessed Valuation per Acre	Right of Way Req'd at 200'	Cost of ROW
Sec. 23						
B-1	Julie Simco 8500 Emerald Dr., Anchorage 99502	120.00	$ 86,400	$ 720	6.657	$ 4,793.04
A-9	Ann P. Lanier 9616 Abbott Lp. Rd., Anchorage 99507	40.00	60,000	1,500	6.198	9,297.00
Sec. 24						
C-8	Jas. Wah Yau Wong 1575 S. Bertenia St., Honolulu, HI 96826	80.00	100,000	8,000*	6.657	8,321.25
C-10	Same as above	22.00	53,900	8,000*	6.198	49,584.00
	Lot or lots on Knik Lake to provide access to Knik Lake at Iditarod Hall of Fame	1.00		25,00*		25,000.00
						$204,262.00

*not based upon assessed valuation of parcel



REDINGTON
SKYLINE ESTATES ADDN NO.1
PR 75-16
(6572)
(1265)
ACRES
REDINGTON
(2628)
83-134
PR 76-95
20' R.O.W ESMT.
PHILO
SPEES
A11
A7
A8
A13
A5
A6
A3
A4
TR. 5
TR. 1
(6092)
CRUSEY - HALLIGAN KNIK LAKE SUBD.
GALA WOODS.
PR 73-27
(6330)
TR. "A"
33' ACCESS ESM
30' RD. ESMT.
NO. SHORE DR.
KNIK LAKE ESTS.
PR 70-9
(6166)
ADDN. NO.1
PR 74-4 (6477)
50' R.O.W. Esmt.
TR. F
A9
C8
C6
C5
C4
C7
C10
D8
D9
TR. G
TR. H
$60,000
40 acres
$144,000
80 acres
$32,300
1.53
$18,900
1.04
$17,700
.94
18,300
1.00
18,300
1.00
11,000
.63
$31,500
3.07
$21,400
1.58
LAKE
KNIK
(6046)
PR 67-17
BJORN SUB
RPLT L2
PR 73-101
(6471)
JACQUI
PR 78-50
PUB ACCESS & PARKING
IDITAROD TRAIL HDQ
Iditarod Trail
58,000
$41,500
Knikatna Native Corp.
83-103
SUNNY KNIK ACRES
(2566)
U.S.S. 1726
RUSSELL BIRDSELL PROP.
(1271)
PR. 77-2
USS 1726
U.S.S. 239
TR. A-1
50' PED. R.O.W.
WHITE LAKE
DIV. 1
RD. R.O.W.
HOMSTEAD EST.
RESUB TR. A
ROAD
ESMT
A1
Iditarod Trail

TOTAL OD ESMTS, TO BE
ACQUIRED.

T16N R4W

SEC. 21 - 900'
700'
1115'
300'
800'
3815± (200') = 763,000 = 17.516 Ac±

SEC. 28/27 4050
4005' (200') = 801,000 = 18.388 Ac.±

SEC. 27/26 3250' (200') = 650,000□' = 14.922 Ac.±

ASLS 83-0

T16N R3W

SEC. 22/23 5600.
1450.
7050 (200') = 1410000□' = 32.369 Ac±

SEC. 23/24 1350'.
1450'.
2800 (200') = 560000□' = 12.856 Ac±

ASLS 79-14

20,920
5280 =
3.96

101.051 Acres

IDITAROD TRAIL
PLUS

T16N R4W

SEC. 21 — Acreage

C-4 — 1300'·(200') = 260,000□' = 5.969

C-3 — 1400'·(200') = 290,000□' = 6.428

C-1 — 1150'·(200') = 230,000□' = 5.280

SEC. 28

A-1 — 1400'·(200') = 280,000□' = 6.428

SEC. 27

B-1 — 1300'·(200') = 260,000□' = 5.969

1 MILE — 1350'·(200') = 270,000□' = 6.198

A-1 — 1450'·(200') = 290,000□' = 6.657

Sec 26

B-1 — 1850'·(200') = 370,000□' = 8.494

T16N R3W

SEC. 22

B-1 — 1350'·(200') = 270,000□' = 6.198

B-3 — 2750'·(200') — 550,000□' = 12.741 (12.62)

A-1 — 1500'·(200') — 300,000□' = 6.887

Sec. 23

B-1 — 1450'·(200') = 290,000□' = 6.657

A-9 — 1350'·(200') — 270,000□' = 6.198

Sec. 24

C-8 — 1450'·(200') = 290,000□' = 6.657

C-10 — 1350'·(200') = 270,000□' = 6.198

CONTACT SHEET

ACCOUNT NO.		TELEPHONE		COUNTER		FIELD		DATE	

1474 Jacqui

lot 1	23400	1.33
2	18300	1
3	17700	.94
4	18900	1.04
5	32300	1.53
TOOA	4400	.46

6471 BJORN

lot 2A	11000	.63
2B	21400	1.58

6046 BJORN Replat

lot 1	31500	3.07

16N03W 24 D007 11100 1.23

CONTACT SHEET

ACCOUNT NO.		TELEPHONE		COUNTER		FIELD		DATE	

contiguous w/ meeting elec

16N03W WONG 24 C008 80 AC $144,000 as (contig) total 132 AC $160,

16N03W WONG 24 C010 22 AC $58,000 as contig total 132 AC $41

16N03W 23 Lanier A009 40 AC $60.000

16N03W 23 Simco B001 120 AC $135.000 as contig total 320 AC $108,

16N03W 22 Simco A001 200 AC $153,000 as contig total 320 AC 136

16N03W 22 Mello & Partners B003 120 AC $84,000

16N03W 22 Smith B001 160 AC 112.000

b. State and Local Government Lands

For Trail segments on State patented lands or on lands tentatively approved for patent under the Alaska Statehood Act or patented local government lands, rights-of-way consistent with those on federally managed lands are recommended.

On lands that have been selected by the State, but not yet conveyed nor tentatively approved for conveyance as of the date of passage of the Act (November 10, 1978), it is recommended a Federal right-of-way be retained as provided for in the Act:

> Whenever the Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this Act. (Section 7(h), National Trails System Act, as amended).

c. Private Lands

Existing and proposed Federal easements through Native lands which overlay or closely parallel the actively managed historic route will be recognized and uniformly marked as the historic Trail after the Trail segment is certified.

Where no existing or proposed easements exist across Native lands, there may be cooperative agreements to recognize and use specific Trail segements.

No additional easements or restrictions will be negotiated for National Historic Trail management purposes unless special circumstances warrant an additional agreement between the Federal government and the Native corporation.

On other (non-Native) privately-owned lands where no public rights-of-way or easement exists, cooperative agreements can be made with the Federal government allowing for public use of the historic route. If private landowners reject public use of the historic route, alternate routes will be explored.

Acquisition of private lands is recommended only for the 1½ miles of private land in Knik which connects the road system with the historic Trail System. The Bureau of Outdoor Recreation in 1977 also recommended this acquisition as found in their report to Congress. A 300-foot-wide fee simple purchase or an adequate easement for this access point should be consummated or an exchange for other unappropriated Federal lands should be pursued.

3. TRANSPORTATION AND OFF-ROAD VEHICLE USE

As well as being an important historic resource, Trail segments making up the Iditarod National Historic Trail system are also vital transportation arteries in the State of Alaska. In designating the Trail System as a national historic trail, Congress intended to honor the existing uses of the trail segments.

a. Motorized Use

Section 7(c) of the National Trails Act (as amended through P.L. 95-625) states:

> "Other use along the historic trails...which will not substantially interfere with the nature and purpose of the trail...including the use of motorized vehicles, shall be permitted...."

Local people use substantial segments of the historic route near Bush towns and villages in traveling between villages, camps, and mining, hunting, trapping, and fishing areas. In the

MATANUSKA-SUSITNA BOROUGH

BILL ANALYSIS

Bill No. HB 472 Sponsor Lacher

Borough Position Support Borough Contact Person G. Thurlow

Similar Bills Unknown Conflicting Bills None

Organizational Support Iditarod Trail Committee Organizational Opposition Unknown

Fiscal Impact On Borough ☐ Yes ☒ No

Operating _____ Capital _____

Proposed Amendments:

NONE

Comments:

If the State does not fund ROW acquisition for this trail, the potential of losing this historic trail exists. The Borough has negotiated with some land owners successfully and others require payment for right-of-way acquisition.

This is a national event that is given national exposure and generates interest that results in tourism. This tourism benefits the entire State and not just the Borough. We urge your support for this piece of legislation.

The Iditarod Trail, a symbol of frontier travel, served a string of mining camps, trading post and other settlements founded between 1880-1920 during Alaska gold rush era. Its antecedents were native trails of the Ingalik and Tanaina indians and the Innuit and Yuit eskimos.

The Seward-Nome route became one of the first National Historic Trails selected when public law 95-625 (National Parks and Recreation Act) was signed by the president on November 10, 1978. The Historic Trail from Knik to the Susitna river was located and marked by the state of Alaska in 1980. It's along this trail that the Iditarod Trail sled dog race has been run each year since March 3, 1973 and was declared the states official sled dog race by Gov. Jay Hammond in 1976.

Today up to 70 mushers from all over the world come to Alaska for the worlds longest sled dog race. This year there will be participants from Italy, England,Norway and Canada. When these teams leave for Nome they will in some places not be traveling the original trail because from Knik to the Little Susitna river the trail crosses private parcels of land and the owners have posted no trespassing signs on iron stakes in the middle of the trail.

What we are requesting is for the state of Alaska to acquire a 200'right of way access across the private lands so that the historical and recreational uses of this trail will be preserved. If the state does not fund the right of way acquisition for this trail,the potential of losing this portion of the historical trail exist. The Mat-Su borough has negotiated with some landowners sucessfully and others will require payment for this right of way acquisition.

ANALYSIS OF FISCAL NOTE - HB 472

This estimate assumes a right of way 300' wide and approximately 12 miles in length running from near Knik Village to Burma Road.

It would encompass approximately 435 acres @ $1,000 per acre. The fiscal note amount includes about $15,000 for appraisal and negotiations.

If the width were reduced to 200', the amount would be approximately $290,000 plus $15,000 for incidentals totalling $305,000. A reduction to 150' would be estimated at $233,000.

If this trail has been used by the public while the land ownership was Public Domain, it is possible that a right of way was established by U.S.C. 43, Section 932 (usually called Revised Statute 2477). However, such title would be difficult to prove and harder still to locate.

DEPT. OF TRANSPORTATION & PUBLIC FACILITIES
RAPICOM TRANSMITTAL LABEL

Send to Rapicom Phone #: 465-3998
Deliver to (Name): Ed Crowell
From Rapicom Phone #: 789-0529
From (Name): Ed Thompson
Transmittal Date: 1-16-84
Comments:

Location: Comm. Office
At Phone #: 465-3900
Location:
At Phone #:
Number of Pages. 2

FISCAL NOTE

Revision Date: N/A

REQUEST

Bill/Resolution No.: HB 472
Title: Appropriation for Ididarod Trail Right of Way
Sponsor: Lacher & Larson
Requestor: Kent Brummit
Date of Request: 1/11/84

FISCAL DETAIL

Agency Affected: Department of Transportation &
Program Category Affected: Public Facilit

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		5.0				
200 TRAVEL						
300 CONTRACTUAL		10.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		435.0				
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL	-0-	450	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	450	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	450	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jack T. Bodine Phone: 789-6230
Division: Standards & Technical Services Date: 1/16/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

. OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

APR 25 1983

April 20, 1983

Mr. Bob Thom
Mat-Su Borough Agricultural
Advisory Committee
SRA Box 6007
Palmer, AK 99645

Dear Mr. Thom:

Thank you for your letter of February 23, regarding the width and location of the Iditarod Trail corridor through agricultural lands in the Fish Creek area. I apologize for the delay in answering your letter.

The decision to route the Iditarod Trail along the historic alignment was based on the recommendation of the Matanuska-Susitna Borough Trails Committee. This recommendation was made at the Trails Committee March 4, 1982 meeting. It is my understanding that you were present at the meeting.

Subsequently, the historic alignment of the trail was located on the ground by Joe Redington, Sr., accompanied by two staff members from this department. Trail location was verified where possible by old tree blazes and other signs. This is the alignment which is currently being surveyed. The line shown on U.S.G.S. maps as the Iditarod Trail is not the actual location of the historic route.

The Willow Sub-basin Plan, adopted by this department and the Matanuska-Susitna Borough after extensive public review, calls for a 600 foot wide corridor for the Iditarod Trail through the Fish Creek unit. This is a reduction from the 1,000 foot width called for in the plan elsewhere along the trail. The reduction was made because of the value of the agricultural soils and because agricultural use 300 feet from the trail was judged to have low impact on recreation.

10-J9LH

The Borough Trails Committee recommended that the trail width be further reduced from 600 feet. In response to that request, the planning team for the Fish Creek Management Plan reviewed the trail corridor, the issues, and the comments they had received, and they decided on a 400 foot width as a reasonable compromise between agricultural and recreational interests. The Division of Agriculture and the Matanuska-Susitna Borough concurred in this compromise (see attachments). The Borough owns nearly 2/3 of the land in the Fish Creek unit that is traversed by the trail.

Insofar as state lands are concerned, the planning team's decision is a recommendation to Tom Hawkins, the Director of the Division of Land and Water Management, and will appear in the draft plan. I have been assured that the team did consider your views in developing this recommendation. It is because of your input, in part, that the corridor was reduced to 400 feet. However, the team felt that the public recreational and historical values of the Iditarod Trail precluded further reduction.

Mr. Hawkins will not make the final decision on the width of the trail corridor until after public and agency comments have been received on the draft plan. We expect the draft plan to be available this summer, and you will be sent a copy.

There are a few other points of which you should be aware:

1. The Matanuska-Susitna Borough Agricultural Advisory Board officially requested a 150 foot corridor on November 8, 1982 (see attachment).

2. The acreage in Class II and III soils included in a 100 foot corridor is 61 acres, not 6.

3. The acreage in Class II and III soils included in a 150 foot corridor is 91 acres.

4. Of the Class II and III soils traversed by the trail, not all will be included in the agricultural tracts anyway; a little over 1/2 mile of the trail traverses Class II and III soils that are isolated, noncontiguous parcels that do not lend themselves to economical farm units. This reduces the number of agricultural acres affected by a 400 foot corridor by 24 acres (to 218 acres).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: (907) 465-2400

MAR 16 1983

March 15, 1983

Mr. Joe Redington, Sr.
President, Knik Chapter
Iditarod Trail Blazers
Box 5460 Knik Road
Wasilla, AK 99687

Dear Mr. Redington:

I want to thank you for alerting me to the problem encountered where the Iditarod Trail passes through private land in the vicinity of Knik.

As you know, the Department of Natural Resources is currently conducting a survey between Goose Creek and the Susitna River with invaluable assistance from your organization. The contractor is surveying the Trail across State, Matanuska-Susitna Borough and private property where written permission has been given by the land owner. Once this survey has been completed, the Department of Natural Resources will be processing the appropriate documents necessary to dedicate a public right-of-way along the Trail.

In the meantime, the Attorney General's Office is currently assessing specific historic information and legal documents supplied by the Division of Parks in regard to this segment. Once the precise centerline is supplied by the survey contractor, and all appropriate historical and legal material has been analyzed, the Attorney General's Office will advise the Department of Natural Resources as to the State's and the landowners' legal rights along the Trail.

10-J9LH

As soon as the Attorney General's Office advises us, we will take the appropriate action. I will see that you are kept informed on this matter.

Sincerely,

Esther C Wunnicke

Esther C. Wunnicke
Commissioner

cc: The Honorable Barbara Lacher
Neil Johannsen, Director, Parks

KNIK CHAPTER

IDITAROD TRAIL BLAZERS

— *IDITASKI* —

January 28, 1983

MAR 16 1983

Esther Wunnicke, Commissioner
Department of Natural Resources
11th Floor, State Office Building
Pouch M
Juneau, Alaska 99811

Dear Commissioner Wunnicke;

I am concerned whether the Iditarod Trail will be available for dog mushing, the annual Iditarod Trail Race, Iditaski Races, and other trail uses any longer, since Federal government refuses to do anything on it except those sections crossing Federal land; other than funding a BLM Iditarod Trail person in the State Division of Parks. Senator Stevens was able to get funding for this BLM position this last December.

I have mushed this trail since 1948 and know exactly where the National Historic Trail goes as you leave Knik. In my opinion, the State Department of Natural Resources is doing a good job in getting a good survey of this trail as it goes across state and borough land, but to my knowledge, the State has not done anything to preserve the right-of-way to the trail across the ten to fifteen privately owned parcels between Knik Road and the Little Susitna River. We just won't have a historic trail if we cannot preserve this portion of it.

We are trying to get some sort of alternate trail going across private properties for a cross-country ski race in early February, but we would not be able to get a permanent trail at a different location and it just would not be the Historic Iditarod Trail!

I would like your assurance that the State will see to it that this trail is preserved and the right-of-way obtained so that we can use it without getting involved in tangled disputes each year.

Sincerely,

Joe Redington, Sr.

Joe Redington, Sr.
President, Knik Chapter
Iditarod Trail Blazers

cc: Governor Sheffield

BOX 5460 KNIK ROAD WASILLA, ALASKA 99687 (907) 376-5562

HB

493

COMMITTEE REPORT

HOUSE

(9) FURTHER: FINANCE

1/9/84

Date: 1-31-84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 493

"An Act making a special appropriation to the Department of Transportation and Public Facilities for preventive measures related to collisions between motor vehicles and moose on the Glenn Highway; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Do Pass

Bette Cats

MEMBERS HAVING
OTHER RECOMMENDATIONS:

No Rec

Do Not

No Rec

Do Not P

M.W. Miller No Rec

Bette Cats
CHAIRMAN

H 6C (Rev. 3/81)

FROM: CANDY/ANCHORAGE TO: JACK
TARGET: LJH7 SUBJ: H. TRANSPORTATION T/C

OMNI # 2

****

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

****

DATE: 1/25/83
SITE: ANCHORAGE
SPONSOR/SUBJECT: H. TRANSPORTATION, AUTO/MOOSE COLLISIONS

TO TESTIFY:
****

1. MARGE FOUNDS
2. ALAN FAILEY (ADDED #2)

1. RILEY SNELL
2. KEITH MORBERG
3. DEAN REDECK

***** ALL OF THE 3 LISTED ABOVE ARE FROM DOT -- HERE AT THE REQUEST OF THE COMMITTEE

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

JAN 18 1984

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Representative Bette Cato, Chairman
House Committee on Transportation

FROM: Representative Randy Phillips R.E.P.

DATE: January 17, 1984

RE: House Bill 493

By way of this memorandum I respectfully request that House Bill 493, "An Act making a special appropriation to the Department of Transportation and Public Facilities for preventive measures related to collisions between motor vehicles and moose on the Glenn Highway; and providing for an effective date," be scheduled for hearing before the House Transportation Committee as soon as possible.

Thank you for your consideration.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 493
Title: Prevent collisions with Moose on Glenn Hwy.
Sponsor: Phillips & Liska
Requestor: House Trans. Committee
Date of Request: 1-20-84

FISCAL DETAIL
Agency Affected: DOT/PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Central Region Design & Construc.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	100.	100.	100.	100.	100.	100.
CAPITAL		3,000.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		3,000.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Patricia A. Rodgers
Phone: 265-1483
Division: Administration - Central Region
Date: 01/23/84

Approved by Commissioner: Daniel T. Mallott
Date: 1-24-84
Agency: Acting Deputy Commissioner

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS

The Department of Transportation and Public Facilities has determined that $2,784.0 is needed to reduce the number of moose killed by vehicles on the Glenn Highway from mile 132 to 140. The funds will be used to install continuous illumination. The estimated cost breakdown consists of $2,227.0 for construction contract, $267.0 for construction administration, $67.0 for preliminary engineering and $223.0 for contingencies. No additional staffing will be needed as current CIP employees will be utilized.

The Department had not requested funding for this project in the FY85 Capital Budget Request because of the budget ceiling and priorities given to other projects being considered.

JAN.24 '84 09:25 STATE OF ALASKA DOT MICROFAXE #1

P.02

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

Date: 4-29-83
Prepared By: _____
Project Number: _____

PRELIMINARY CONSTRUCTION COST ESTIMATE FOR:

Project Name: GLENN HIGHWAY

From: MULDOON (MP) 132.0 To: HILAND (MP) 140.0

Total Length: 8.0 MILES

Location and Description: CONTINUOUS ILLIMINATION FROM MULDOON INTERCHANGE TO HILAND INTERCHANGE

Current ADT: _____ Design ADT: _____

Required Width: _____ Actual Width: _____

Assumed Structural Section H.A.P.: _____ in.

C.A.B.: _____ in.

Borrow: _____ in.

Estimated Costs (Dollars) Based Upon Above Assumptions:

1.	Construction Estimate:	$ 2,227,000
2.	Construction Administration (12 % of 1):	$ 267,000
3.	Subtotal:	$ _____
4.	Contingencies (10 % of 1):	$ 223,000
5.	Construction Total:	$ _____
6.	Preliminary Engineering (3 % of 1):	$ 67,000
7.	Right of Way ($ _____ /Acre):	$ -0-
8.	Utilities:	$ -0-
9.	Project Total:	$ 2,784,000

Sheet ____ of ____

JAN.24 '84 09:36 STATE OF ALASKA DOT ANCHORAGE A
P.03

Sheet 2 of 5
Project Name GLENN HIGHW.
Project Number
Prepared By E. Hunt
Date 4-24-03

TYPICAL SECTION

MILE 132.0 TO 140.0

PUT LIGHT EVERY 220 FT ON BOTH ROADWAYS (STEVE HORN)

$\frac{8 * 5280}{220} * 2 = 384$ ILLUMINAIRS

GENERAL NOTES

384 ILLUMINAIRS * ~~*~~ 5000 EACH = 1,920,000

+ 10% MOB

+ 3% TRAFFIC CONTROL

+ 3% SUEVEY CREW

TOTAL = 2,227,000

JAN.24 '84 09:37 STATE OF ALASKA DOT ANCHORAGE H P.02

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-163)
PHONE: 266-1462

October 13, 1983

Re: Glenn Highway Illumination

The Honorable Randy E. Phillips
Representative
S.R. Box 421
Eagle River, Alaska 99577

Dear Representative Phillips:

Attached is the report you requested concerning moose/vehicle collision deterrents along the Glenn Highway. The report concludes that the most feasible method of decreasing these accidents is to provide continuous illumination on both sides of the Glenn Highway from Muldoon to the Artillery Road Interchange. The cost estimate for illumination is $2,784,000 which would provide one luminaire approximately every 275 feet along the outside lanes. We anticipate the annual operating and maintenance cost to be approximately $50,000.

The Department is required by law to design and construct this type of project according to the standards established by the American Association of State Highway and Traffic Officials (AASHTO). These standards have been developed to insure that highway improvements are uniform, safe, and effective. The 275 foot spacing has been determined to be the maximum spacing that will still provide adequate levels of light. If these standards are not followed, the State could be found liable in case of an accident.

The Department has determined that this project would be eligible for Federal Safety Program Funds. However, DOT&PF's Central Region, which includes most of Alaska south of Cantwell and west of Valdez, receives a maximum of $67,500 per year for this program. To use this money to fund this illumination project would require 42 years worth of Federal Safety Program allocations. No other source of funding has been identified.

We have evaluated this project against other projects considered in our FY'85 CIP. Because of our budget ceiling and the low rating of this project as compared to other identified transportation needs, this project is not included in our FY'85 CIP request.

This summer the Department cleared additional brush near the scale house. Last summer there was extensive brush cutting along the Anchorage outbound

JAN.25 '84 09:38 STATE OF ALASKA DOT ANCHORAGE P.05

lane and a recent inspection by our maintenance and operations personnel found that there was not enough new growth to justify additional clearing. There has been only limited clearing on the in-bound lane to Anchorage at the request of the Municipality of Anchorage because of the desire to maintain a buffer along the bike path.

Please contact me if I can answer any questions.

Sincerely,

William R. Snell
Director

bjf

Enclosure

cc: Richard S. Armstrong, Director, D&C, Central Region
Ed Cronick, Special Assistant, Standards & Statewide Programs
Mike Gavin, Acting Director, M&C, Central Region
David W. Haugen, Deputy Commissioner, Central Region
Emil Notti, Legislative Assistant, Office of the Governor

PURPOSE

This report is a summary of the Department's efforts to identify and analyze alternative means of reducing moose/vehicle accidents on the Glenn Highway between Anchorage and Eagle River. The following paragraphs describe the nature of the problem, how the alternatives were identified and evaluated, and a recommended course of action.

INTRODUCTION

The corridor selected for construction of the Glenn Highway was chosen to take advantage of a relatively flat strip of land running between Anchorage and Eagle River. Unfortunately, this same strip of land is the traditional wintering area for up to 250 moose from Fort Richardson, the Ship Creek Valley, and nearby slopes of the Chugach Mountains. The result is a chronic problem of moose/vehicle accidents which has resulted in the death of 50-60 moose each year and annual vehicle damage of $40,000 along this 8 mile length of highway.

Each fall, as snow accumulates on the nearby slopes of the Chugach Mountains and in the Ship Creek Valley, moose begin an orderly and predictable migration down to the lowlands. Young stands of birch and willow adjacent to the highway provide optimum wintering habitat for moose. Seasonal movements of moose are not random, they correspond to the topography and location of prime wintering habitat. As a result, several "accident zones" exist where the highway bisects moose travel corridors. During the 10 year period between 1971 and 1981, 45% of the moose/vehicle accidents occurring between Anchorage and Eagle River happened between Miles 138.5 and 135.5. Between Miles 134 and 132, 35% occurred. These two areas directly correspond to the primary moose travel corridors and winter concentration areas.

Previous attempts to alleviate this problem have included the installation of reflectors designed to repel deer, the removal of brush from within the highway right-of-way, and the installation of moose crossing signs to warn motorists. None of these measures have proven to be significant in reducing the moose/vehicle accident problem. The volume of traffic on the Glenn Highway between Miles 132 and 140 in 1982 was 2.5 times greater than it was in 1972. Between 1981 and 1982, the traffic volume grew by 23%. Unless additional measures are taken, the moose/vehicle accident rate can be expected to increase.

METHODOLOGY

Material presented in this report was gathered from several sources. The Department of Transportation and Public Facilities' (DOT&PF) Highway Research Section conducted a literature search of the Highway Research Information Service (HRIS) in Washington, D.C. The resultant compilation of studies represents hundreds of thousands of dollars spent researching the problem of collisions between animals and vehicles in the continental United States and foreign countries (see HRIS report attached). Additional material and assistance was contributed by the Alaska Department of Fish and Game, the United States Army, and DOT&PF's Maintenance and Operations Division.

FINDINGS

The following measures have been implemented in the field and were found to have little or no effect upon the rate of collisions between game animals and vehicles:

- o Illuminated game crossing signs (motorists disregard signs unless game is physically present)
- o Highway underpasses (game unwilling to enter underpasses)
- o Conventional fencing (game penetrated fence at open gates, crawled under, or walked over on snow drifts; game that penetrated the fence became trapped in the highway right-of-way)
- o Reflecting mirrors (no apparent effect on game; difficult to maintain)
- o Brush removal adjacent to highway (besides being ineffective, it is expected that both the State Division of Parks and the Municipal Parks and Recreation Department would object to this treatment since it would decrease the attractiveness of the bike trail adjacent to the highway)

The following measures have been implemented in the field and were found to be effective in reducing the rate of collisions between vehicles and game animals:

- o Electrified fences (high construction and maintenance costs, potential safety hazard to humans, any animal that succeeds in penetrating the fence becomes trapped within the highway right-of-way)
- o Highway illumination (high construction and operation costs)
- o Deliberately placed animal carcass on shoulder of road (offensive to the public)

RECOMMENDATION

From an examination of the findings above, it appears that the only feasible method of decreasing moose/vehicle collisions is to construct continuous illumination on both sides of the Glenn Highway from Muldoon to Eagle River. The estimated cost of this project is $2,784,000.

The Department has determined that this project would be eligible for Federal Safety Program Funds. However, DOT&PF's Central Region, which includes most of Alaska south of Cantwell and west of Valdez, receives a maximum of $67, [illegible] year for this program. To use this money to fund this illumin[illegible] project would require 42 years worth of Federal Safety Program all[illegible]ons. No other source of funding has been identified.

We have evaluated this project against other projects considered in our FY85 CIP. Because of our budget ceiling and the low rating of this project as compared to other identified transportation needs, this project is not included in our FY85 CIP request.

Attachment

MDM/lbk

121 Foothill Drive
Eagle River, Alaska 99577

January 17, 1984

Ms. Bette Cato
House Transportation Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Ms. Cato:

Reference is made to House Bill 493 sponsored by Representative Randy Phillips of Eagle River.

I hope you seriously consider passing the bill. One of my family members hit a moose on the Glenn Highway. It is a very dangerous highway. You have thousands of cars driving the highway and most exceed the 55 mph limit. I have seen a 4-car accident (involving both sides of the highway) where a moose crossed the highway and caused a chain reaction accident. It is almost impossible to see moose coming onto the road from the brush. Lighting or fencing would at least give us a chance to see the moose and then act accordingly. For certain, you cannot stop some of these jerks from going 60-70 mph on the highway. These are the same people who hit moose at a high speed and throw the moose into oncoming traffic.

Please help us.

Thank you for your time.

Sincerely,

Marge Founds

Mrs. Marge Founds

Lights along Glenn Highway sought

By CRAIG MEDRED
Daily News reporter

Lawmakers from Eagle River have asked Gov. Bill Sheffield for $2.8 million to install lights along an eight-mile stretch of the Glenn Highway to help cut down on collisions between moose and cars.

The state Department of Transportation has concluded that lighting the highway from Muldoon to the Artillery Road Interchange is the best way to reduce moose-car accidents.

Motorists have been killing 50 to 60 moose annually in that area, according to the state agency. It says vehicle damage has amounted to about $40,000 a year.

"Literally every other day a moose is hit," said Rep. Randy Phillips, R-Eagle River. "Something's got to be done on this problem. I hope the lights work."

Phillips joined Sen. Rick Halford, R-Chugiak, and Rep. John Liska, R-Eagle River, in asking for the money in the next state budget for capital improvement projects. Phillips said the governor is reviewing the request.

The Department of Transportation says illuminating the highway and its shoulders with overhead lights is the best way to prevent moose-car collisions. The agency rejected other ideas as infeasible.

The agency ruled out illuminated warning signs because, they say, drivers ignore them unless game is physically present. It also discounted highway underpasses for game because moose won't use them, and conventional fences because moose are likely to walk through them or over them.

Phillips said a reduction in the speed limit on the highway was discarded as unworkable. Studies have shown the most effective way to limit collisions between cars and big-game animals is to force drivers to slow down.

"I don't think that's possible," said Phillips. "I don't think it would be real practical to lower the speed limit, at least from 55."

A lower speed limit, he said, would increase the congestion on the highway, which the Department of Transportation already considers marginal for moving peak flows between Anchorage and its bedroom suburb of Eagle River.

'Stricter enforcement of the existing speed limit would help, however," Phillips said. "In a lot of these cases, a lot of these collisions can be avoided. You can usually spot moose on the right-hand side. You just have to keep an eye out to the right."

Phillips said drivers should be watching for dark blobs against the snowy background along the road. Often, he said, those dark spots turn out to be moose about to venture onto the pavement.

A lot of moose roam the area because the highway passes through the pasture, according to a Department of Transportation report.

"The corridor selected for construction of the Glenn Highway was chosen to take advantage of a relatively flat strip of land running between Anchorage and Eagle River," the report said. "Unfortunately, this same strip of land is the traditional wintering area for up to 250 moose from Fort Richardson, the Ship Creek Valley, and nearby slopes of the Chugach Mountains."

The worst stretches of road, the agency said, are between miles 138.5 and 135.5 of the Glenn — 45 percent of the accidents in the last 10 years — and miles 134 and 132 — 35 percent of the accidents in the past 10 years.

The Department of Transportation said it would cost about $50,000 a year to operate and maintain the lights along the road.

Liska views highway lighting project

Rep. John Liska is meeting with individuals and organizations in Chugiak - Eagle River in an effort to learn their priorities for funding during the 1984 legislative session.

The Chugiak Republican said it is uncertain how much money will be available for district needs this year, but he hopes to obtain an amount similar to the $10 million-plus which funded local projects from the 1983 session. Allocations could change, he said, since Rep. Randy Phillips was stripped of majority status after he withdrew from the leadership coalition which rules the state House of Representatives.

Although he is now the only one from the district in a majority position, Liska said he hopes to gain adequate funding for the area and will argue that as the fastest-growing part of the state, its needs must be met because of statewide impact. Funds which would have been allocated to ex-majority member Phillips "will have to be given to someone," Liska said, adding that he "will try to get it to stay here."

Schools, safety, water and sewer remain as top priority items, Liska said, and he expects these will receive funding. Funds for road work are uncertain, he said, although "I imagine they will be about the same as the $2.2 million obtained last year."

In looking for priority needs, Liska said he wants to see things which will "meet the needs of the most people."

One item which he said has been gaining support from many residents in a proposal to install lighting along Glenn Highway between Eagle River and Ship Creek where there have been many moose-vehicle collisions.

Lighting of portions of the area which are most heavily crossed by moose would enable motorists to see the large animals at night, thereby cutting down on the number which are hit by cars.

Highway engineers have estimated that one light every 275 feet would cost $2.8 million, Liska said, although he believes that figure is high. He said not all of the distance would have to be illuminated.

A major problem area is an island where the northbound and southbound lanes separate on a curve near Mi. 10, where Liska said trees and brush make it even more difficult to spot the animals. He said highway officials apparently are beginning to acknowledge that the trees should be cut. He said the city had also wanted to limit clearing beside the roadway in order to provide a buffer for the bicycle path but that this position may change, particularly in view of reported sexual assaults which have taken place on the secluded trail.

"We can't annihilate the moose," Liska said. The animals' habitat is in the remote areas around Eagle River and Ft. Richardson. But when the snow gets deep and browse gets thin, "they will come out of the hills for groceries and that's when we have problems."

Highway lights said best way to cut moose-vehicle collisions

Lights along the stretch of highway between Eagle River and Anchorage appear to be "the only feasible method of decreasing moose/vehicle collisions," according to a study by the state division of highways. Lights every 275 feet, which is said to be the maximum distance, would cost $2.8 million.

But no source of the funds has been identified other than a federal safety program allocation. And if Alaska's entire $67,500 share is used each year, it would take 42 years before there would be enough to pay off the job, engineers say.

The project does not rate highly in the division's list of priorities and is not included in its request for capital project funding for 1985.

Rep. Randy Phillips, who requested the study during the last legislative session, said he will ask Gov. Bill Sheffield to include the project in the administration's budget.

The report, completed last month and made available to district legislators, reviews findings of other jurisdictions in the United States and abroad where large animals frequently cross highways. Among them:

- Signs, even when illuminated, which warn of game crossing areas are ignored by motorists except when animals are actually present.
- Game is unwilling to use tunnels under the highways.
- Conventional fencing is penetrated by game which becomes trapped in the highway right-of-way.
- Reflecting mirrors have no apparent effect on game and are difficult to maintain.
- Brush removal adjacent to the roadway is ineffective and would be expected to be objectionable for parks and recreation uses, detracting from attractiveness of paralleling bicycle paths.
- Electric fences have high construction and maintenance costs and pose a safety hazard to humans. They also serve to trap animals within the highway limits.
- Illumination helps motorists see game on the sides of the roads and avoid some of the collisions. It has high construction and operation costs.
- Carcasses of dead animals deliberately placed along a road cause motorists to slow down and be more cautious, according to one study report. That method is considered offensive to the public.

Anchorage Times
4 Jan 1983 p. A-1

Bowhunters may solve urban moose problem

by Stephen J. Downes
Times Writer

A bowhunt designed to trim the Anchorage bowl's growing moose population may be opened this winter, state Department of Fish and Game officials said Thursday.

The department is looking for ways to control the migration of moose into residential areas, and its "primary management option" is a plan to open parts of the Hillside area to winter bow hunting, said Karen Lew, a spokeswoman for the department.

An aerial survey taken last week turned up at least 171 moose (130 adults and 41 calves) on the hillsides east of the city and south of Fort Richardson, said biologist Herman Griese.

He said the department wants to keep as many moose as possible out of Anchorage residential areas by harvesting them before their food supply at higher elevations is depleted and they head down into town.

Details of the proposal have not been finalized and no decision has been made on when a hunt would be open, Lew said.

But a press release issued by the department said that biologists believe the dangers caused by migrating moose can be lessened "by harvesting 20 to 30 percent of these moose during November and December."

The moose follow the drainages of Campbell, Rabbit and Potter creeks, looking for more food when their supply at higher elevations is used up, said department biologist Dave Harkness.

The moose then invade residential areas, creating hazards for area residents and motorists.

"We are aware that many people on the Hillside enjoy seeing their 'pet moose' wander at will through residential areas," Harkness said. "But this same moose, one block over, becomes a problem moose, chasing pets and children, eating expensive trees and stepping into rush-hour traffic."

Harkness said in years past, when winter hunting was permitted on Fort Richardson near the Glenn Highway, the rate of collisions with moose declined.

Department officials think the same tactic may reduce the moose population and decrease the number of moose entering residential areas.

In order to be eligible, a hunter would be required to obtain a special permit and could not have killed a moose this year.

Department statistics show that 26 moose were killed in vehicle collisions on Anchorage streets from October of last year to March. Another 65 were killed on the road between Elmendorf Air Force Base and Eagle River, and 22 were killed between Eagle River and the Knik River.

Griese speculates that as many as 40 moose could be killed on Anchorage streets this winter.

The Anchorage Times

Saturday, November 5, 1983

Moose bowhunt to open

by Stephen J. Downes
Times Writer

Bowhunters will be permitted to hunt up to 35 moose in the Anchorage bowl to control the moose's migration into residential areas, an official for the state Department of Fish and Game said Friday.

The controlled hunt will open Nov. 15 in certain remote hillside areas east of the city, said game director Lew Pamplin.

Department biologists hope the hunt will cut back on the number of moose wandering into residential areas in search of food.

"We would much rather see a moose harvested by a hunter than see it destroyed by a vehicle on the highway, with potential injury or death to the driver," said biologist Dave Harkness.

The hunt includes the area east of Hillside Drive, south of Tudor Road and the Upper Potter Creek and Rabbit Creek drainages.

That area also covers ski trails in the Hillside portion of Chugach State Park and ski trails linking Prospect Heights to Glen Alps.

Because that area is heavily used by weekend cross-county skiers, the hunt will be open only during the daylight hours on Tuesdays, Wednesdays and Thursdays, until 35 moose have been harvested.

An aerial survey taken last week turned up at least 171 moose (130 adults and 41 calves) in the hillside areas east of the city and south of Tudor Road.

The hunt will be strictly regulated: Hunters must take a state-sanctioned proficiency test, attend a bow hunting briefing, and obtain a special permit.

Hunters who bag a moose must return hunter reports within two days. Unsuccessful hunters or those who don't hunt must file reports within 15 days of the hunt.

Anchorage Times
20 Dec 1983

Train targets commuter 'dance of death'

by Al Campbell
Times Valley Bureau

Palmer — The Alaska Railroad will experiment with a week of free commuter train rides this winter to help determine whether daily passenger service would be practical between Anchorage and a central Matanuska-Susitna location.

If the program is deemed feasible, the federal railroad may initiate wintertime service, five days a week, from the Valley to Downtown Anchorage, provided sufficient revenue can be generated from daily fares and a state subsidy to pay the estimated $3,000-a-day operating costs. The round trip fare would be $10.

Backers of the plan hope to draw at least 200 commuters a day from the highways to the rails. Currently, an estimated 3,000 people travel each day by car between the Mat-Su area and Anchorage.

Those drivers merge with thousands more from Chugiak, Eagle River and the military bases. As the Matanuska-Susitna Borough population continues to expand, planners fear the traffic situation may worsen.

Already, particularly in the dark, icy winter months, some drivers refer to the daily, rush-hour trip as the "Dance of Death."

Mat-Su Borough Planning Director Robert Stickles says the borough government is interested in the rail-commuter proposal, advanced last week at a meeting between railroad, Anchorage and state transportation officials.

But, Stickles says, he does not see sufficient interest in the commuter system unless two conditions are met:

- The travel time between the Matanuska Junction is reduced from the current estimate of one hour.
- Would-be riders must be convinced they can save money compared to their current car costs, estimated at about 30 cents a mile.

Stickles said here Friday he feels the Anchorage bus service also should provide guarantees that connecting local bus service would be provided to disperse the commuters to their jobs or shopping throughout Anchorage.

Last week's meeting produced an estimated break-even per-passenger charge of $15 per round trip — $10 to be paid by the rider and a $5 daily subsidy to the railroad, probably paid by the state.

Those at the meeting proposed a central parking and pickup point where the tracks now cross the Glenn Highway at Mile 35. The site is about 10 miles from both central Palmer and Wasilla, where most of the commuters depart each day.

The commuter plan envisages three coaches and a diner/lounge departing Matsu Crossing at 6:30 a.m., arriving in Anchorage at 7:30. The return trip would leave Anchorage at 5:30 p.m. for the one-hour trip.

The diner would be open for coffee and donuts in the morning, and for alcoholic beverages on the evening run.

Officials at the meeting say although the initial winter service would be austere,

See Rail-commuter, page A-13

Rail-commuter plan

Continued from page A-1

providing only parking and direct service, it could be expanded to provide for plug-in parking, a permanent building and secure, lighted parking.

Stickles, and other Mat-Su Borough officials say the inconvenient location of the proposed station would be a disadvantage, as would the hour-long trip, necessitated by the deteriorated condition of the railbed. Trains now travel the route at about 30 mph, top speed.

"But the borough is interested," he said. "And if they can shave some time off the trip (which now takes about 45 minutes by car) they might come up with something."

The railroad has indicated it might expand to the Palmer and Wasilla areas if traffic warranted. At present the railroad is considering only winter commuter service, chiefly to avoid interfering with the profitable

The $3,000-a-day cost is based on a crew of four and fuel and service of the locomotive and passenger cars.

The Anchorage Times
18 January 1984

Funds sought to cut moose-car crashes

by Andy Ryan
Times Juneau Bureau

Juneau — Two lawmakers from Eagle River are seeking $3 million in state funds to help reduce accidents between moose and cars along the Glenn Highway between Anchorage and Eagle River.

The money, sought by Republican Reps. Randy Phillips and John Liska, would be used to install street lights along both sides of the highway, where 50 to 60 moose are killed by vehicles each year, with a resulting $40,000 worth of vehicle damage.

Phillips said he and Liska asked the state Department of Transportation to look into the problem after being besieged by constitutents who were alarmed at the carnage along the highway.

Department researchers then conducted an exhaustive study of international literature on the subject of collisions between motor vehicles and wild, hooved creatures.

Of eight schemes for preventing such collisions, researchers found that five — including the use of game crossing signs, conventional fencing, and brush removal — didn't work. Two others — electric fencing and the deliberate placing of animal carcasses along the side of the road to warn motorists — did work but were deemed unacceptable.

That left only street lighting, an effective but expensive undertaking. To comply with state law and federal standards, the department says it will be necessary to install one luminaire

See Signs, page A-12

Signs don't help

Continued from page A-1

every 275 feet along the outside lanes of the highway. Cost of the lights would be about $2.7 million, with an annual maintenance charge of $50,000.

The car-moose problem arises, the department report said, because the same strip of flat lowland chosen for the Glenn Highway is also the traditional wintering area for about 250 local moose.

"Each fall, as snow accumulates on the nearby slopes of the Chugach Mountains and in the Ship Creek Valley, moose begin an orderly and predictable migration down to the lowlands," the report says. "Young stand of birch and willow provide optimum wintering habitat for moose."

Previous attempts to end the slaughter — including reflectors designed to repel animals, removal of brush along the highway right-of-way and use of moose crossing signs — have been unsuccessful.

Looking at studies conducted by other states and in foreign countries, the department found:

- The use of lighted, animated deer crossing signs had no effect on reducing the number of deer killed by motorists, Colorado researchers found.
- A study of 400 deer/vehicle accidents in Buenos Aires, Argentina, concluded that humans were at fault most of the time.
- Swedish researchers, using five-wire electric fences, proved that such fences can significantly reduce the number of accidents between deer and elk and vehicles.

The highway moose problem

Dear Editor:

Re: The Anchorage Times, Jan. 18, "Moose kills on the highway spur plan."

Attitudes reflected in the article are the epitomes of most that is wrong, attitude-wise, with segments of the public and with a great number of legislators here and nationwide.

Irresponsible, selfish minority groups (numerically speaking) and self-serving politicians have taken us down a path of economic misery which will become worse if their attitudes don't change.

In the article, constituents reportedly besieged two Alaskan lawmakers about the annual $40,000 worth of vehicle damage caused by collisions with moose on the Glenn Highway. The lawmakers responded by proposing installation of $2.7 million worth of lights along a portion of the road with an annual maintenance cost of $50,000.

The article also indicated that, in most cases, the individuals involved in the collisions caused them. Result! The public should finance a safeguard to protect negligent individuals from themselves for an amount that exceeds the cost of their negligence. (Note: The article did not mention any deaths or injuries as a result of the collisions; only property damage.)

The lawmakers involved apparently care little about justice or the financial well-being of the state as a whole; or they may only be charlatans who seek to appease their constituents while knowing that such a proposal as theirs would never be funded.

The danger of such conduct to the public is that, sometimes, bills supporting such special interest schemes do get introduced in the legislature (and in Congress) and are sometimes passed soley because such self serving legislation has become a way of life for politicians who scratch each others' backs.

I have driven the Glenn Highway for 17 years. I am always amazed by the number of negligent drivers who exceed the legal speed limit, exceed prudent speeds under adverse conditions, weave in and out of traffic, drive with damaged headlights and taillights and drive with obscured windows.

I wonder how many are drunk. There are additional types of negligent drivers who seen to be increasing in numbers: The rearview mirror makeup specialist; the family argument antagonist; the jolly, arm-waving, good-natured conversationlist; and the daydreamer — all of whom pay more attention to what is going on inside the vehicle than without. Frankly, I don't care if they do have an accident, but I do sympathize with the moose.

The only legitimate solution that should be considered in this matter is legislation mandating vehicle insurance.

William D. Nielsen
4228 James Drive

ANCHORAGE TIMES 1-28-84

RUN NO. HALK515

ILLUMINATION, SIGNS, REFLECTORS FOR DEER OR WILDLIFE

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DOTPF RESEARCH SECTION

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CHIEF OF HIGHWAY RESEARCH
ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
FAIRBANKS, ALASKA

03/30/83

Highway Research Information Service

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A large number of documents are available from a few sources. The names, addresses, and telephone numbers of those sources are listed below under the abbreviation used for each.

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American Society of Civil Engineers
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ASME
American Society of Mechanical Engineers
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New York, NY 10017
Telephone 212-644-7703

DOTL
U.S. Department of Transportation Library
400 Seventh Street, S.W.
Washington, DC 20590
Telephone 202-426-2565

ECMT
(All documents available through OECD)
European Conference of Ministers of Transport
2 rue André Pascal
Paris 75775, France
Telephone 524-97-22

ESL
Engineering Societies Library
United Engineering Center
345 East 47th Street
New York, NY 10017
Telephone 212-644-7611

GPO
U.S. Government Printing Office
Superintendent of Documents
Washington, DC 20402
Telephone 202-783-3238

IEEE
Institute of Electrical and Electronics Engineers
345 East 47th Street
New York, NY 10017
Telephone 201-981-0060

IPC
IPC (America), Inc.
205 East 42nd Street
New York, NY 10017
Telephone 212-889-0700

IRRD
International Road Research Documentation
19 rue de Franqueville
75 Paris, France
Telephone 1-524-92-42

ITS
Institute of Transportation Studies
University of California
412 McLaughlin
Berkeley, CA 94720
Telephone 415-642-3604

NAE/NAS/NRC
National Academy of Sciences
Publication Sales
2101 Constitution Avenue, N.W.
Washington, DC 20418
Telephone 202-334-3313

NTIS
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161
Telephone 703-487-4650

NTCL
Transportation Center Library
Northwestern University
Evanston, IL 60201
Telephone 312-492-5273

OECD
Organization for Economic Cooperation and Development
Publications Center, Room 1207
1750 Pennsylvania Avenue, N.W.
Washington, DC 20006
Telephone 202-298-8755

PPI
Pergamon Press, Inc.
Maxwell House, Fairview Park
Elmsford, NY 10523
Telephone 914-592-7700

RTAC
Roads and Transportation Association of Canada
875 Carling Avenue
Ottawa, Ontario K1S5A4, Canada
Telephone 613-521-4052

SAE
Society of Automotive Engineers
400 Commonwealth Drive
Warrendale, PA 15096
Telephone 412-776-4841

TRB
Transportation Research Board
Publications Office
2101 Constitution Avenue, N.W.
Washington, DC 20418
Telephone 202-334-3218

TRRL
Transport and Road Research Laboratory
Crowthorne, Berkshire RG11 6AU
England
Telephone Crowthorne 3131

TSCL
Technical Information Center
Transportation Systems Center
U.S. Department of Transportation
55 Broadway
Cambridge, MA 08619
Telephone 617-494-2300/2193/2783

UITP
International Union of Public Transport
19 avenue de l'Uruguay
B-1050, Brussels, Belgium
Telephone 73-33-25

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OECD Publications Center
1750 Pennsylvania Avenue
Washington, DC 20006
Telephone 202-298-8755

Translations may be obtained through agencies listed in the yellow pages of the telephone book in metropolitan areas, through embassies in Washington, D.C., from language departments of universities, or from one of the translations centers listed below. Some of these, such as the National Translations Center, do not translate but maintain a registry of translations. Fees for translation services vary but in the Washington, D.C., area average about $10 per page for technical material.

International Translations Centre
Doelenstraat 101
Delft, Netherlands
World Index of Scientific Translations (quarterly)

National Translations Center
John Crerar Library
35 West 33rd Street
Chicago, IL 60616
Telephone 312-225-2526
Translations Register-Index (irregular annual)

Pan American Highway Congress
Pan American Union
Organization of American States
Room 1009
1725 I Street, N.W.
Washington, DC 20006
Telephone 202-381-8567

Division of Language Service
Room 2214
U.S. Department of State
320 21st Street, N.W.
Washington, DC 20520
Telephone 202-632-1528

International Road Federation
1023 Washington Building
Fifteenth Street and New York Avenue
Washington, DC 20005
Telephone 202-783-6722

Transport and Road Research Laboratory
U.K. Ministry of the Environment
Crowthorne, Berkshire RG11 6AU
England
Telex 848272

All Languages Translation Center
545 Fifth Avenue
New York, NY 10017
Telephone 212-986-1688

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IDENTIFICATION GUIDE FOR AN HRIS RECORD OF A PUBLISHED WORK

JOURNAL ARTICLE

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 32 345784

Title — EVALUATION FOR DURABILITY AND STRENGTH DEVELOPMENT OF A GROUND GRANULATED BLAST FURNACE SLAG

Authors — Hogan, FJ; Atlantic Cement Company, Incorporated
Meusel, JW; Atlantic Cement Company, Incorporated

Publication Data — ASTM Cement, Concrete, and Aggregates; American Society for Testing and Materials; 1916 Race Street; Philadelphia, Pennsylvania; 19103

Document Data — V3 N1; 81; pp 40-52; 23 Fig.; 12 Tab.; 25 Ref.

Abstract — This paper covers the evaluation of a ground granulated blast furnace slag as a partial replacement for portland cement in mortars and concrete. The ground slag was evaluated for strength-producing properties as well as durability performance when used to replace 40 to 65% portland cement. This study shows that the ground slag when used to replace 40 to 65% portland cement did significantly improve strengths, sulfate resistance, and alkali aggregate reactivity. (Author)

Availability — ORDER FROM:
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RESEARCH REPORT

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 12 343723

Title — PARK-AND-POOL FACILITIES SURVEY RESULTS AND PLANNING DATA

Authors — Bullard, D
Christiansen, DL
Fitzgerald, AV

Publication Data — Texas Transportation Institute; Texas A&M University; College Station, Texas; 77841
Federal Highway Administration; Texas Division; Austin, Texas; Texas State Department of Highways & Public Transp; 11th and Brazos Streets; Austin, Texas; 78701

Document Data — Res Rpt.; #TTI-2-10-74-205-13; Feb 81; 56p
#FHWA/TX-81/23

Abstract — The report presents the results of a Park-and-Pool survey undertaken at selected locations around the San Antonio and Houston, Texas, metropolitan areas. This information should prove useful in a number of different ways including: the identification of various improvements which could be made in order to better meet the needs of area commuters; and the planning and design of future Park-and-Pool facilities.

Availability — ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-231383

Document Order Data

SUPPLEMENTAL NOTE:
Sponsored in part by Texas State Dept. of Highways and Public Transportation, Austin.

HRIS Information Source — National Technical Information Service; u8124

TECHNICAL PAPER IN A CONFERENCE PROCEEDINGS

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 24 348348

Title — EVALUATION OF PAVEMENT SERVICEABILITY ON THE INTERSTATE SYSTEM IN OREGON

Authors — Miller, LC; Portland Cement Association

Publication Data — New Mexico University, Albuquerque; 935 Stanford Drive, NE; Albuquerque, New Mexico; 87131; PPCCEI

Document Data — 81; pp 204-213

Abstract — Measurements of present serviceability index (PSI) using a PCA Road Meter have been made on the 718-mile Interstate System in Oregon annually since 1972. The system has been broken down into sections based on the pavement structure and construction contract. Structural strip maps were prepared and the PSI ratings plotted on this map show the pavement performance trend for each section. The superior performance of some pavements has been documented and sections that will be in need of early rehabilitation identified. Analysis of PSI vs Age and PSI vs Heavy Truck Traffic has been made and compared with the M. R. Brokaw model equations for the concrete sections. The goal is to develop PSI trend curves and to predict when rehabilitation of the pavement will be required.

Availability — ORDER FROM:
Engineering Societies Library; 345 East 47th Street; New York, New York; 10017

SUPPLEMENTAL NOTE:
Proceedings of the 18th Paving Conference, held at the University of New Mexico, Albuquerque, January 7-9, 1981.

Engineering Index; EIX920100137

IDENTIFICATION GUIDE FOR AN HRIS RECORD OF AN ON-GOING RESEARCH PROJECT

Document Record Number
TRIS Accession Number
HRIS Subject Area Number → 13 3338701

Title of Project → FORECASTING REVENUES FOR THE VIRGINIA DIVISION OF MOTOR VEHICLES UNDER ENERGY AND TRANSPORTATION SUPPLY CONSTRAINTS

PERFORMING AGENCY:
Virginia Polytechnic Institute & State University; Department of Civil Engineering; Department of Aerospace and Ocean Engineering; Blacksburg, Virginia; 24061; 4568

INVESTIGATOR:
Hobeika, AG; Associate Professor; *(703) 961-7407

FUNDING AGENCY:
Virginia Department of Highways and Transportation; Division of Motor Vehicles; 2220 West Broad Street; Richmond, Virginia; 23220

AS = project status
RD = reporting date
AD = funding approval date
CD = contract date
SD = project start date
DC = estimated project completion date
TF = total funds
FT = type of funding
CN = contract/grant number
CT = contract type
FY = funds by fiscal years

→ AS-Active; RD-Feb 81; SD-01 Sep 80; DC-Aug 81 EST; TF-$79000; FT-Contract; CN-8481141

Summary Statement of Research Project Includes Objectives, Scope and Methods →

The objective is to estimate the needed revenues to meet the Highway expenditures in the coming decade under different socio-economic conditions and technological developments in the Commonwealth of Virginia.

CITATIONS:

Tra, TK
Forecasting Highway Revenues Under Different Taxation Policies, Transportation Supplies and Gasoline Shortages
Virginia Division of Motor Vehicles
Exec Summary 8008

Gordon, P
Alternative Transportation Taxation Policies Volume I
Virginia Division of Motor Vehicles
8008

Tran, TK; Young, SR; Paulkner, T; Seeman, DA
Impacts of Transportation Supply and Gasoline Shortages on Virginia Gas Tax Revenues, Volume II
Virginia Division of Motor Vehicles
8008

HRIS Information Sources → Virginia Polytechnic Institute & State University

FORM 500 CARDS RUN NUMB. HALK616

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NAMR. DAVID C. ESCH
NBCHIEF OF HIGHWAY RESEARCH
NCALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
NDFAIRBANKS, ALASKA
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NF
NGILLUMINATION, SIGNS, REFLECTORS FOR DEER OR WILDLIFE
NH
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PA 701 I

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T04 67$$ 31   O ANIMALS                              07 05 XX
T05 57$$ 24   A 51                                   02 VV 06
T06 57$$ 24   O 54                                   02 VV XX
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54 097030

EFFECTIVENESS OF A LIGHTED, ANIMATED DEER CROSSING SIGN

Pojar, TM

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V39 N1; Jan 75; pp 87-91

Two lighted, animated deer crossing signs were installed adjacent to State Highway 82 south of Glenwood Springs, Colorado, delineating a 1.61km (1-mile) segment of highway where deer-vehicle accidents frequently occurred. Crossings per kill ratios were nearly identical with the signs off (56.5:1) and with the signs on (56.9:1). When the motorist was presented with evidence that a danger existed (i.e., deer carcasses in emergency lane), the response was much greater than when they were merely warned (via the deer crossing sign) of a potential danger. With evidence of danger, the response was the same regardless of whether or not the warning signs were on. Motorists' response in the form of speed reduction and/or increased awareness was not sufficient to affect the crossings per kill ratio. Since these lighted, animated signs were not effective in reducing the number of deer-vehicle accidents, it seems reasonable to assume that conventional deer crossing signs are not effective either. However, in areas where deer-vehicle accidents are especially numerous, warning signs may be useful for public relations and liability reasons.

25 098607

BEHAVIORAL RESPONSE OF MULE DEER TO A HIGHWAY UNDERPASS

Reed, DF
Woodward, TN
Pojar, TM

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V39 N2; Apr 75; 00 361-367

A concrete box underpass 3.05 x 3.05 m (10 feet) and 30.48 m (100 feet) long under Interstate 70 in west central Colorado was monitored for deer use during four years following its completion in early 1970. A seasonal mean of 345.1 plus or minus 133.0 (50) mule deer (Odocoileus hemionus) passed through the structure when moving to or from their summer range. A video time-lapse surveillance system recorded behavioral responses during four migration periods, spring-summer and fall in 1972 and 1973. On the basis of video tape playback of 4,450 approaches and 1,739 entrances, deer displayed three basic overt responses: look-up, tail-up, and muzzle-to-ground. The frequency of the look-up response was indicative of the reluctance of the animals to go through a structure of this size and character. The underpass was successful in permitting about 61 percent of the local deer population to migrate safely under the highway. /Author/

51 125287

ANALYSIS OF ROAD ACCIDENTS
UN ANALISIS DE LOS ACCIDENTES DE TRANSITO

Bandel, E
Yanez, J

Decimo Concurso de Trabajossobre Temas Viales; Ministerio de Obras Publicas; C/7 Numero 1175, La Plato; Buenos Aires; Argentina

N84; Conf Paper; Oct 68; pp 47-73; 16 Fig.; 12 Tab.; Spanish

400 accidents which occurred in buenos aires during 1967 and which represent 40% of the total number of accidents are analyzed in detail. The analysis is divided as follows: monthly, daily and hourly distribution of accidents and casualties, classification of accidents per types, main factors recurring in these accidents, and economic evaluation of the latter. It was found that the main causes of accidents were: the human factor (driver or pedestrian) which accounted for 84% of accidents; the road for 9% and the vehicle 7%. A more detailed study showed the following results: driver/pedestrian factor: excess speed (2%), carelessness (53%), drunkenness (3%), other causes 24%; road factor: wet road (43%), bad weather conditions (27%), bad road conditions (11%), bad visibility caused by vegetation or obstruction (9%), animals roaming on the road (7%), defective shoulders (3%), other causes (7%); vehicle factor: lighting defects (33%), defective brakes (19%), punctures (5%), other mechanical faults (9%). The number of the covering abstract is IRRD Abstract No. 100834.
/TRRL/

Transport and Road Research Laboratory; IRRD 100835

51 138435

EFFECTS OF MULTIPLE LAND USE PRACTICES ON BIG GAME HABITAT & BEHAVIOR IN THE CENTRAL ROCKY MOUNTAINS

PERFORMING AGENCY:
Wyoming University; Laramie, Wyoming; 82071; FS RM

INVESTIGATOR:
Ward, AL

FUNDING AGENCY:
Department of Agriculture; Independence Avenue, Between 12th and 14th Streets, SW; Washington, D.C.; 20250; RM-1804

AS-Active; RD-Jun 80; SD-Nov 68; DC-Nov 81 EST

Determine the environmental impacts and the interrelationships of major land use practices on the spectrum of habitats essential for optimum elk and other big game populations. Determine patterns of elk behavior and movements following harvest and activities related to increased human ingress, studies will be made of plant succession on harvested areas of various ages, silvicultural systems, and site conditions. The effects of increased numbers of people on the game populations will be evaluated. Also the behavioral characteristics of big game in the vicinity of road systems of various standards will be monitored through he use of radio telemetry and time lapse photography. Pre- and post-construction situations will be evaluated in conjunction with various practices to mitigate unfavorable effects of the road developments. Elk behavior in relation to timber harvest operations in South-central Wyoming was studied using telemetry, time-lapse photography and fecal and track counts. Elk preferred to be at least one-half mile from harvest and clean-up operations. Elk can be expected to move back to a harvest site witnin three weeks after humans leave. Traffic on Forest Systems roads has little effect on elk activity, especially beyond 300 yards. Resident populations of mule deer are living adjacent to the heavy traffic on I-80 near Laramie, Wyoming. In other areas deer migrate across I-80 to move from summer to winter ranges. Available underpasses are not being utilized and highway accidents are common. Pronghorn antelope are kept off I-80 where right-of-way fences are in good shape and snow has not drifted, creating a bridge for the antelope. Antelope are not using underpasses. I-80 acts as a barrier for elk although they are seen regularly within 300 yards.

CITATIONS:
Ward, AL

Effects of Timber Harvest on Mule Deer and Elk
Proc. 18th Rocky Mountain Industries Conf, Wyoming
75

Ward, AL; Diem, KL; Weeks, RW
The Impact of Snow on Elk
Final Report of the Medicine Bow Ecology Project, U of Wyo.
380 pp, Figs. 75

Cupal, JJ; Ward, AL; Weeks, RW
A Repeater Type Biotelemetry System for Use on Wild Big Game Animals
11th Ann Rocky Mtn Bioeng Symp-Intl ISA Biomed Sci Symp
8 pp, Vol. 10 7404

Hiller, PK; Cupal, JJ; Weeks, RW; Ward, AL
An Automatic Wildlife Tracking System
11th Ann Rocky Mtn Biorng Symp-Intl ISA Biomed Sci Symp
4 pp, Vol. 10 7404

Current Research Information Service; CRIS 0018563

51 145098

DEER-CAR ACCIDENTS IN SOUTHERN MICHIGAN

Allen, RE; Michigan University, Ann Arbor
McCullough, DR; Michigan University, Ann Arbor

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V40 N2; Apr 76; pp 317-325; Figs.; Tbls.; 20 Ref.

Collisions of cars with white-tailed deer (Odocoileus virginianus) were studied in southern Michigan in 1966 and 1967. Most of the 2,566 accidents studied occurred at dawn, dusk, or after dark with peaks at sunrise and 2 hours after sunset. Accidents were highest on weekends when evening traffic was greatest. A low seasonal peak in collisions occured in May and a high one in November. Sex ratio of the annual kill was predominately female, but it shifted in favor of males during seasonal peaks. Causes of the peaks seemed to be primarily rutting activities, with hunter disturbance and food of lesser importance. Accidents were related to habitat type approximately according to the prevalence of the type. Accidents were most common at speeds of 80-95 km/h (50-59 mph), and the deer was killed in 92 percent of the accidents. Human injuries occurred in less than 4 percent, and most resulted from secondary collisions.

Highway Safety Research Institute; HSRI-35511
National Safety Council, Safety Research Info Serv; 770653J

51 153873

HIGHWAY FENCES AS VEHICLE-DEER COLLISION DETERRENTS

Bellis, ED
Graves, HB, III

Pennsylvania State University, University Park; Institute for Research on Land and Water Resources; University Park, Pennsylvania; 16802; 432-41 (3502)

Final Rpt.; #FHWA-PA-74-9; Jun 76; 26 pp

FT-Contract; CN-53029

A survey of highway fencing along Interstate 80 in Centre County showed that 7 1/2 foot, type 3-modified fence has little value as a vehicle-deer collision deterrent; many deer crawl under the fence to the planted right-of-way and abundance of gaps underneath provides for easy penetration. From December 1974 through March 1976 numbers and position of deer were observed from a vehicle driven along 6 miles of I-80 at night. Bimodal patterns of abundance were found, deer were most numerous in spring and fall; of 2577 deer sightings, 74.5% were on the highway side and 25.5% on the far side of the fence. Comparisons between a control area (north side of highway) where the fence was unmodified and test areas (south side) where gaps underneath were plugged and/or top five wires removed or repaired showed that the critical weakness in the fence is the underside but also that large numbers of deer cross a fully repaired fence. Only 6 deer were reported killed during the 16 months of study and no live deer were seen on the highway; these results, relative to previous findings beginning in 1967, strongly suggest that high traffic volume prevents deer from venturing onto the highway, thus reducing collisions.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB264875/AS

Federal Highway Administration
National Technical Information Service

21 153962

EFFECTS OF HIGHWAY CONSTRUCTION AND USE ON BIG GAME POPULATIONS

Ward, AL
Cupal, JJ
Goodwin, GA
Morris, HD

Rocky Mountain Forest & Range Experiment Station; Colorado State University, 240 West Prospect Street; Fort Collins, Colorado; 80521; FHA-3-1-1517
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA/RD-76-174; Mar 76; 101 pp

FUNDING AGENCY:
FHWA Code E-0231

FT-Contract; CN-P.O. 3-1-1517

Pronghorn antelope, mule deer, and elk are affected by right-of-way fences and highway traffic. At least 153 antelope, 561 mule deer, and 10 elk have been killed through vehicle accidents along a 55-mile section of I-80 west of Laramie, Wyoming, during a 5.5-year period. Since antelope are reluctant to jump fences and use underpasses, I-80 is a barrier and the herds are managed accordingly. Antelope can be kept off the highway by maintaining good woven wire fences and preventing snow from drifting over the right-of-way fence. Mule deer jump right-of-way fences, but can be forced to use underpasses by using deer-proof fencing. Both resident and migratory mule deer are affected by roads and traffic. Proper management should provide safe deer crossings thus increasing the safety of the highway user. Since elk are large, they present a greater hazard to motorists, and should be discouraged from crossing highways by proper fencing and road location. New techniques using heart-rate telemetry shows great potential for use in further studies of animal behavior in relation to the ever increasing activities of man.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-264633/9ST

National Technical Information Service; u7712

51 159750

THE ANIMAL ACCIDENT PROJECT
VILTOLYCKSPROJEKTET

Peterson, BE
Imre, E

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #Report No 16; 76; 10 pp; 1 Fig.; Swedish

This report is included as number 12 in a series of working reports within the animal accident project. The publication is a situation report briefly dealing with the background, the results and the future. The results contain statistical accident analysis, study of existing measures and new measures. /TRRL/

National Swedish Road & Traffic Research Institute
Transport and Road Research Laboratory; IRRD 225875

51 163949

TESTS WITH ELECTRICAL GAME PRESERVES DURING 1975-76
FOERSOEK MED VILT STAENGSEL TYP NITRO-NOBEL ELSTAENGSEL I D-LAEN AAR 1975-76

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Intrm Rpt.; #NR 19; 77; 15 pp; 4 Fig.; 5 Tab.; 1 Phot.; Swedish

Electrical fences were tested as game preserves on roads in Sweden for 1.5 years. The purpose was: (1) to study different types of uprights and number of wires and their position, (2) to obtain a value of management safety, (3) to determine construction and management costs, and (4) to study the effect on animal accidents. Of the types tested a 130 cm high fence with 5 wires on pressure impregnated uprights of wood (space 6 M) has proved the best. The construction costs have been low. Mechanical wear an soiling from the road have created some problems. In particular the wire (a laminated band) has been damaged. There were no animal accidents after the erection of the fence. At present a new wire with an expected endurance of 5 to 7 years is being tested.
/TRRL/

National Swedish Road & Traffic Research Institute
Transport and Road Research Laboratory; IRRD-226904

51 174180

WIRE NET FENCES
NAETSTAENGSFL

Almkvist, B

Stockholm University, Sweden; Zoologiska Institutionen, Raadmansgatan 70A; S-11385 Stockholm; Sweden

Monograph; #Report No. 11; 30 Apr 76; 13 pp; 3 Fig.; 2 Tab.; 1 Phot.; 4 Ref.; Swedish

This report reviews the ability of cloven-footed animals to pass various types of wire net fences. Furthermore accident statistics of fenced roads are presented. Taking this as A basis, recommendations for fence design are given. /TRRL/

Transport and Road Research Laboratory; IRRD 231013
National Swedish Road & Traffic Research Institute

51 179855

THE EFFECTIVENESS OF DEER FLAGGING MODELS AS DETERRENTS TO DEER ENTERING HIGHWAY RIGHTS-OF-WAY

Graves, HB
Bellis, ED

Pennsylvania State University, University Park; Institute for Research on Land and Water Resources; University Park, Pennsylvania; 16802; 432-41 (8772)

Final Rpt.; #FHWA-PA-78-12; Jun 78; 21 pp

FUNDING AGENCY:
FHWA Code E-0328

FT-Contract; CN-55108

To determine whether rear-view silhouette models of deer with raised-tails would be effective in keeping deer off planted interstate highway rights-of-way, such models were tested in four experiments along Interstate 80 in Centre County, PA. Results of counts of deer in experimental and control areas obtained from a moving vehicle or examination of tracks through gaps under the fence revealed that the models were ineffective as deterrents to deer gaining access to the right-of-way. It is not recommended that they be used to reduce vehicle-deer collisions. /FHWA/

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-284422/AS

SUPPLEMENTAL NOTE:
Sponsored by Pennsylvnaia DOT.

Federal Highway Administration
National Technical Information Service

51 179860

HIGHWAY LIGHTING TO PREVENT DEER-AUTO ACCIDENTS

Reed, DF
Woodard, TN
Beck, TDI

Colorado Division of Wildlife; 6060 Broadway; Glenwood Springs, Colorado; 81601; CDOH-P&R-R-77-5

Final Rpt.; #FHWA-CO-77-5; Sep 77; 26 pp

FUNDING AGENCY:
FHWA Code E-0331

FT-Contract; CN-1478

Deer vehicle accidents have been the cause of considerable property damage and the loss of biotic resources. This is especially the case in rural areas in mountainous terrain where nighttime driver visibility is poor. The purpose of this research was to determine if deer-vehicle accidents were affected by fixed highway illumination. This was done by comparing responses of motorists to deer on the highway and deer responses to the motorists, with and without fixed illumination. Estimated deer crossings per kill was 9.7 percent higher with the lights on compared to lights off. When a deer simulation was present under lighted conditions mean vehicle speeds decreased by 13.9 km (8.6 miles) per hour with brake lights observed on 50.6 percent of the approaching vehicles. The Roadway Lighting Committee (1972) recommends lighting standards based on mean horizontal illumination and illumination uniformity ratios for different roadway and area classifications. /FHWA/

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-284312/6ST

SUPPLEMENTAL NOTE:
Sponsored by Colorado Division of Highways.

Federal Highway Administration
National Technical Information Service

21 183646

WIRE-NETTING FENCES FOR GAME ACCIDENT PREVENTION
NAETSTAENGSEL FOER VILT

Ljungqvist, S

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #VTU Internrpt 23; Apr 78; 8 p.; 8 Fig.; 2 Tab.; Swedish

This report deals with the technical and geometric design of wire-netting fences for the prevention of accidents involving wild animals. Details of fences, nettings, posts, stays and assembly are presented. Finally, the installation procedure is described.

Transport and Road Research Laboratory; IRRD-234402
National Swedish Road & Traffic Research Institute

51 193924

THE ANIMAL ACCIDENT PROJECT. PART 2. SITUATION REPORT SEPTEMBER 1978
VILTOLYCKSPROJEKTET 2. LAEGESRAPPORT SEPT 1978

Almkvist, B
Andre, T
Ekblom, S
Aaberg, L
Rempler, S-A

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #Interarapport Nr 33; Sep 78; 16 p.; 3 Fig.; Swedish

An analysis of accidents involving moose and deer shows that 70% of all accidents occur in the summer, with peaks in June, and end of September and end of January. Almost 40% occur at dawn. On newly constructed roads, the number of accidents during the first year is about 2.5 times the normal; even after three years, the number of accidents is twice that normally expected. 50% of accidents occur where distance between road and forest is 5 M, and over 90% where distance is up to 20 M. On roads in open country less than 20% of accidents occur. Peaks involving moose are influenced by behaviour of the calves. Measures to counteract such accidents are (1) game fences; deer usually crawl underneath while moose jump over. Where fence consists of a mesh with single strands above, animals are often injured, and fences should therefore consist of mesh over full height. (2) game mirrors; these are used extensively, and an investigation of their efficacy is in progress. (3) clearance along roads; it appears that this is effective in reducing accidents. New measures are the use of visual or smell signals, and speed restrictions. Driver attitude is also significant. Further studies are planned. /TRRL/

Transport and Road Research Laboratory; IRRD 237666
National Swedish Road & Traffic Research Institute

51 221301

COLLISION OF VEHICLES WITH DEER STUDIED ON PENNSYLVANIA INTERSTATE ROAD SECTION

Bellis, ED
Graves, HB

Highway Research News, Hwy Res Board

71; No 43, pp 13-17, 8 REF

IN 1968 AND 1969 THE NUMBERS OF WHITE-TAILED DEER REPORTED KILLED ON PENNSYLVANIA HIGHWAYS WERE 21,607 AND 21,246, RESPECTIVELY. DEER-VEHICLE COLLISIONS ALSO OFTEN ENTAIL EXTENSIVE VEHICLE DAMAGE AND INJURY OR DEATH TO THE HUMAN OCCUPANTS. A LONG-TERM STUDY HAS BEEN UNDERTAKEN, EMPLOYING AN EIGHT-MILE STRETCH OF I-80, TO DETERMINE THE ACTIVITY, BEHAVIOR, AND MORTALITY OF DEER. PARAMETERS IN THE STUDY ARE DESCRIBED, DATA ARE CITED, AND TENTATIVE CONCLUSIONS ARE DRAWN.

51 221684

"DEER CROSSING" SIGNS MAY PROVE VALUABLE IN REDUCING ACCIDENTS AND ANIMAL DEATHS

Pojar, TM
Reseigh, TC
Reed, DF

Highway Research News, Hwy Res Board

N46; Jan 72; pp 20-3; 1 Fig; 2 Phot; 1 Ref

A SECTION OF COLOADO HIGHWAY WITH THE HIGHEST FREQUENCY OF DEER ACCIDENTS PER MILE IN THE STATE WAS CHOSEN FOR THE STUDY. A REFLECTORIZED DIAMOND SIGN WITH "DEER XING" IN NEON LIGHTS WAS COMPARED WITH A REFLECTORIZED DIAMOND WITH 4 ANIMATED SILHOUETTES IN NEON TUBING, LIT IN SEQUENCE. BOTH SIGNS RESULTED IN A SMALL, BUT STATISTICALLY SIGNIFICANT REDUCTION IN TRAFFIC SPEEDS PAST THE SIGN. THE SECOND SIGN APPEARED TO INITIATE A GREATER RESPONSE ON THE PART OF THE MOTORIST.

51 221688

DEER MIRRORS IN MISSOURI

American Highways

V51 N1; Jan 72; p 17

THE EFFECTIVENESS AND USE OF DEER MIRRORS BY THE MISSOURI HIGHWAY DEPARTMENT ARE REPORTEDLY FAVORABLE. THE NUMBER OF DEER-VEHICLE ACCIDENTS WERE CUT DOWN ENORMOUSLY WHILE IN USE. THE DEVICE CONSISTS OF TWO ROUND THREE INCH MIRRORS MOUNTED AT 45 DEGREE ANGLES ABOUT FOUR FEET ABOVE THE GROUND. THESE ARE INSTALLED ON A STAGGERED SYSTEM AT ABOUT 75 FT INTERVALS ON BOTH SIDES OF THE HIGHWAY DEPENDING ON THE TERRAIN BORDERING THE HIGHWAY AND THE NUMBER OF DEER CROSSING. HEADLIGHTS FROM PASSING CARS REFLECT AGAINST THE MIRRORS CAUSING LIGHT TO FLICKER SHARP, PENCIL-LIKE BEAMS STARTLING THE DEER AND CAUSING THEM TO STOP. ONCE THE LIGHT BEAMS STOP FLICKERING, THE DEER SAFELY CROSS.

51 221927

LIGHTED DEER CROSSING SIGNS AND VEHICULAR SPEED

Pojar, TM
Reed, DF
Resigh, TC

Colorado Dept Natural Resources; /Div Games, Fish, & Parks

Inter Rept; Aug 71; 12 pp

A COOPERATIVE STUDY BY THE COLORADO DIVISION OF HIGHWAYS AND THE COLORADO DIVISION OF GAME, FISH AND PARKS CONCERNING DEER-VEHICLE ACCIDENTS WAS INITIATED IN 1968. THESE AGENCIES ARE IN THE PROCESS OF EVALUATING PROCEDURES AND DEVICES THAT MAY HELP REDUCE THE NUMBER OF DEER-VEHICLE ACCIDENTS. SOME OF THE DEVICES BEING EVALUATED ARE TWO TYPES OF LIGHTED DEER CROSSING SIGNS. /AUTHOR/

National Technical Information Service

51 222425

USE OF ONE-WAY GATES BY MULE DEER

Reed, DF
Pojar, TM
Woodard, TN

Journal of Wildlife Management

V38 N1; Jan 74; pp 9-15

GATES DESIGNED TO ALLOW PASSAGE OF MULE DEER (ODOCOILEUS HEMINOUS) IN ONLY ONE DIRECTION WERE TESTED UNDER CONTROLLED AND FIELD CONDITIONS. TWO GATE TYPES HAD SIGNIFICANTLY DIFFERENT FREQUENCIES OF USE UNDER CONTROLLED CONDITIONS. EIGHT GATES OF THE TYPE DEEMED MOST EFFECTIVE WERE INSTALLED IN EIGHT-FOOT (2.44-M) FENCES ADJACENT TO INTERSTATE HIGHWAY 70 NEAR VAIL, COLORADO. A TOTAL OF 558 PASSAGES WERE RECORDED THROUGH THESE GATES DURING 1970-72 AND 96 PERCENT OF THESE WERE IN THE ONE-WAY DIRECTION FOR WHICH THE GATE WAS DESIGNED. BASED ON TRACK COUNTS, IT WAS ESTIMATED THESE GATES PERMITTED ABOUT 223 DEER TO ESCAPE THE IMMEDIATE HIGHWAY RIGHT-OF-WAY. /AUTHOR/

54 226320

MIRRORS QUELL DEER KILL

Better Roads

Dec 71; p 6

THE MISSOURI HIGHWAY DEPARTMENT IS INSTALLING MIRRORS ALONG CERTAIN SECTIONS OF THEIR HIGHWAYS IN AN ATTEMPT TO CUT DEER-VEHICLE ACCIDENTS. TWO ROUND, THREE-INCH MIRRORS MOUNTED AT 45-DEGREE ANGLES ABOUT FOUR FEET ABOVE THE GROUND ARE INSTALLED AT 75-FOOT INTERVALS ON BOTH SIDES OF THE HIGHWAY. HEADLIGHTS FROM PASSING CARS REFLECT AGAINST THE MIRRORS CAUSING LIGHT BEAMS TO FLICKER INTO THE CUTS, DRAWS, AND TIMBER ALONGSIDE ROADWAYS. THESE SHARP PENCIL-LIKE LIGHT BEAMS STARTLE THE DEER AND CAUSE THEM TO STOP. ONCE THE LIGHT BEAMS STOP FLICKERING, THE DEER THEN CROSS IN SAFETY. /AUTHOR/

51 262462

DEER MORTALITY ON A MICHIGAN INTERSTATE HIGHWAY

Reilly, RE
Green, HE

Journal of Wildlife Management; Wildlife Society, Suite S-176; 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V38 N1; Jan 74; pp 16-19

Yearly totals of white-tailed deer (Odocoileus virginianus) killed by automobiles in a northern white cedar (Thuja accidentalis) deer wintering area in Upper Michigan's Mackinac County were compiled for a 13-year period from 1960 through 1972. Mackinac Trail, a two-lane highway (formerly US 2), intersects approximately a five-mile stretch of this wintering area. In 1963, Interstate 75 was constructed roughly parallel to US 2 and about 0.25 mile east of it and thus also intersected the wintering area. In 1964, car-deer kills in the study area increased by approximately 500 percent over the average of the previous four years. This car-deer kill declined slightly through 1967, and has recently fluctuated about an average which is approximately twice that of the pre-Interstate yearly mortality figure. /Author/

21 300989

GAME FENCES. LOCATION, COSTS AND MANAGEMENT
VILTSTAENGSEL. PLACERING, KOSTNADER OCH DRIFT

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #TU 1979:1; 79; 26 p.; 4 Fig.; Swedish

This report is a summary of present knowledge concerning game fencing for traffic accident prevention. Costs of construction, operation and maintenance are studied together with how the fence can be adapted to prevailing terrain conditions and adjacent roads. Results from tests of special take-off mounds for elks that have wandered into fenced areas are also included in the report. Different types of fences are studied. Some results from the report: net fence is more costly to erect than electrified fence, but it has lower maintenance costs. A combination fence also has a maintenance cost lower than that for the electrified fence. The accident prevention effect of the net fence was studied with aid of accident statistics from the Stockholm region. It was found that a reduction of accidents by 70-80 percent is well within the reach of what can be obtained by game fencing. /TRRL/

Transport and Road Research Laboratory; IRRD 241314
National Swedish Road & Traffic Research Institute

51 305661

WHITE-TAILED DEER (ODOCOILEUS VIRGINIANUS) ON THE DEPARTMENT OF ENERGY'S OAK RIDGE RESERVATION: DATA ON ROAD-KILLED ANIMALS, 1969--1977

Story, JD
Kitchings, JT

Oak Ridge National Laboratory; Post Office Box X; Oak Ridge, Tennessee; 37830
Department of Energy; 1000 Independence Avenue, SW; Washington, D.C.; 20585

Jul 79; 36 p.

FT-Contract; CN-W-7405-ENG-26

During nine years (1969--1977), 126 white-tailed deer (Odocoileus virginianus) were killed by highway vehicles on the Department of Energy's Oak Ridge, Tennessee Reservation. Mortality was highest in the fall, and more males than females were killed among both fawns and adults. While traffic volume increased 8.2% annually, deer road-kills increased 42.8% annually. Increased road-kills were attributed primarily to an increase in the resident population.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; ORNL/TM-6803

National Technical Information Service; u8003

51 315659

THE EFFECT OF DEER REFLECTORS ON DEER-VEHICLE ACCIDENTS

PERFORMING AGENCY:
Iowa Department of Transportation; 826 Lincoln Way; Ames, Iowa; 50010; HR-210

INVESTIGATOR:
Gladfelter, L; #(515) 432-2823

FUNDING AGENCY:
Iowa Department of Transportation; 826 Lincoln Way; Ames, Iowa; 50010
Iowa Conservation Commission; Wild Life Research Station; R.R. #1; Boone, Iowa; 50036

AS-Active; RD-Dec 81; SD-Jun 79; DC-Sep 83 EST; TF-$30072; FT-Contract; CN-HR-210

The objective is to evaluate the "Swareflex" reflector system in reducing deer-vehicle accidents, to determine a cost benefit ratio for the system and to identify deer crossing areas throughout the state for possible implementation of the system.

CITATIONS:
Gladfelter, L
The Effect of Deer Reflectors on Deer-Vehicle Accidents
Iowa DOT, Office of Materials
Progress Report 8106

Iowa Department of Transportation

23 315778

SURVEY OF 1977 DEER KILL IN MINNESOTA

PERFORMING AGENCY:
Minnesota Department of Transportation; Environmental Affairs, 807 Transportation Building; St Paul, Minnesota; 55155

INVESTIGATOR:
Peterson, R; #(612) 296-1640
Sullivan, R

FUNDING AGENCY:
Minnesota Department of Transportation; Environmental Affairs, 807 Transportation Building; St Paul, Minnesota; 55155

AS-Completed; RD-Dec 81; SD-Oct 78; TF-$10000; FT-0

The purpose of this study is to identify the location of deer roadkill throughout the state. Once chronic kill areas have been located they will be field checked to identify possible treatment measures to reduce the kill problem. Data source are the confiscation reports on road-killed deer filed by the Conservation Officers.

Minnesota Department of Transportation

23 315784

DEER-PROOF FENCE AND ONE-WAY GATES

PERFORMING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Center; Madelia, Minnesota; 56062

INVESTIGATOR:
Ludwig, J; #(507) 642-8478

FUNDING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Center; Madelia, Minnesota; 56062
Minnesota Department of Transportation; Office of Environmental Affairs; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155
Minnesota Department of Transportation; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155;

AS-Active; RD-Mar 81; SD-Aug 77; TF-$15000

To determine effectiveness of 8' fencing in preventing deer access to highway and effectiveness of one-way gates in facilitating the safe exist of deer gaining access for fenced highway corridors on I 90 at Walnut Lk and I 94 at St. Joseph. Fence and gates monitored by use of counters and track beds. Also monitored location of road-killed deer. Obtained pre-fence data with track counts of crossing over road bed. Aerial counts used to evaluate deer density.

CITATIONS:
Bellis, E; Graves, H
Deer Mortality on a Pennsylvania Interstate Highway
J. Wildl Manage
35(2):232-237

Roper, RL; Olson, P; Evans, R
Using Wildlife Values in Benefit/Cost Analysis and Mitigation of Wildlife Losses
Colarado Division Wildl.
17p

Pils, C
The Cost and Chronology of Wisconsin Deer-Vehicle Collisions
Wisconsin Dept. Nat. Res.
Res. Rpt. 103, 5p

Puglisi, M; Lindsay, J; Bellis, E
Factors Associated with Highway Mortality of White-Tailed Deer

J. Wildl. Manage
38(4):799-807 74

Reed, D
Deer Vehicle Accidents Statewide and Methods and Devices to Reduce Them
Colorado Div. Wildl fed Aid
pp 1-22, Part 1 7907

Reed, D; Pojar, T; Woodard, T
Use of One-Way Gates by Mule Deer
J.Wild l. Manage
38(1): 9-15 74

Reilly, R; Gren, H
Deer Mortality on a Michigan Interstate Highway
J. Wildl. Manage
38(1):16-19 74

Minnesota Department of Transportation

51 322118

INVESTIGATION OF ELK ACCIDENTS IN THE COUNTY OF NORRBOTTEN, SWEDEN 1978
UNDERSOEKNING AV AELGOLYCKOR I NORRBOTTENS LAEN 1978

Pettersson, G
Svedberg, AA

Trafiksaekerhetsverket; Oevre Norra Distriktet; Luleaa; Sweden

Monograph; 79; 29p; 15 Fig.; 20 Tab.; Swedish

The study aims at obtaining answers to questions such as, when, where and how do elk accidents occur and who meets with them. It draws upon 294 police reports of elk accidents during 1978 in the province of Norrbotten. The drivers involved were asked to answer a questionnaire comprising the following variables: vehicle, light conditions, traffic conditions, lighting, when was the elk discerned, speed, road standard, surrounding terrain, knowledge, damage/injury, previous experience. The answers received were compiled in frequency and cross tables. The results show that the drivers, irrespective of speed, speed limit or knowledge of elk danger often did not see the elk before the collision, or saw it so late that he was unable to react. There was no over-representation of any age group or sex of driver. Accidents mainly occurred in darkness and at dawn. Surprisingly enough one fourth of the accidents occurred at places described by drivers as open field with good visibility. The author concludes that measures aimed at drivers to reduce the number of accidents have limited effect. Instead long-term measures must be taken to prevent elks from coming into conflict with road traffic. In the meantime the number of elks must be kept at a suitable level by shooting. (TRRL)

Transport and Road Research Laboratory; IRRD 247889
National Swedish Road & Traffic Research Institute

51 322719

EFFECTS OF HIGHWAY OPERATIONS PRACTICES AND FACILITIES ON ELK, MULE DEER, AND PRONGHORN ANTELOPE

Ward, AL
Formwalt, NE
Henry, SE
Hodorff, RA

Rocky Mountain Forest and Range Experiment Station; 240 West Prospect Street; Fort Collins, Colorado; 80526
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA-RD-79-143; Mar 80; 52p

FUNDING AGENCY:
FHWA Code E-0469

Vegetative ground cover under snowdrifts formed behind snowfences used along Interstate 80 to control blowing and drifting snow has not changed appreciably over a five-year period. Sagebrush (Artemisia tridentata) has decreased significantly under snowdrifts where deep drifts occurred every year and is being replaced by grasses and forbs. Mule deer (Odocoileus heminous) use machinery and box-type underpasses to cross under Interstate 80 when big game fencing 8 feet (2.44 m) high is constructed in place of the regular right-of-way fence. Deer-vehicle accidents were reduced over 90 percent, which is a large savings of deer life and vehicle damage. Only one pronghorn antelope (Antilocarpa americana), out of several hundred in the area, has been known to use the same underpasses. Elk (Cervus canadensis) have not had occasion to use the underpasses. Hunted mule deer and elk cross Forest roads most in areas where their feeding sites are adjacent to the road. Elk show a perference to stay over 0.1 mile (160 m) from streams when crossing roads, while deer are not so sensitive. Elk show a preference to stay a minimum of 0.25 mile (400 m) from traffic while deer prefer a minimum of 100 yards (91.m), and antelope use the habitat up to the right-of-way fence. All three species are more responsive to people walkering; elk prefer a distance of 0.5 mile (800 m), deer 200 yards (182 m) and antelope somewhere between the two distances, depending on habitat and experiences. The displacement reaction is definitely the most serious response. Camera systems using microwave sensors and lights are useful in recording animal activities at underpasses. (FHWA)

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road;

Springfield, Virginia; 22161; PB81-107898

Federal Highway Administration

51 323385

REGIONAL DEER-VEHICLE ACCIDENT RESEARCH

Reed, D
Woodard, TN
Beck, TDI

Colorado Division of Wildlife; 526 Pine Street; Glenwood Springs, Colorado; 81601
Federal Highway Administration; Region 8, 555 Zang Street; Lakewood, Colorado; 80225

Final Rpt.; #FHWA-CO-79-11; Nov 79; 61p

FUNDING AGENCY:
FHWA Code E-0485

FT-HPSR; CN-3(3)

The purpose of this study was to evaluate and test the effectiveness of methods, devices, or structures related to reducing the number of deer-vehicle accidents. Consistent with this purpose was the need to locate and examine potentially critical deer-vehicle accident areas and recommend methods or structures which could have reduced these accidents. In addition, the effects of the methods recommended and investigation of deer responses to various experimental structures was conducted.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161

Federal Highway Administration

51 330483

THE GAME ACCIDENT PROJECT (VIOL). FINAL REPORT, MAY 1980
VILTOLYCKSPROJEKTET (VIOL). SLUTRAPPORT MAJ 1980

National Swedish Road Administration; Pack S-10220; Stockholm 12; Sweden

Monograph; STU 146; May 80; 117p; Figs.; Tabs.; Refs.; Apps.; Swedish

The number of police reported accidents with game and motor vehicles increased heavily in the 1960's. As a result the government assigned to the National Road Administration the task to carry out research and experimental work for the purpose of reducing the number of such accidents. The work has been going on between 1970 and 1979. Basic facts about game, traffic and accidents have been collected and analysed. The analyses have led to an estimation of game accident hazards under different conditions. Accident preventive measures have been thoroughly studied through practical experiments, statistical accident analyses and economic assessments. The investigation comprises elk, roe deer, fallow deer and red deer with the accent on elk. Game accidents have increased no less heavily in the 1970's and they are likely to constitute about 15% of the total number of road accidents. A number of measures are discussed, ie game fences, mirrors, improved visibility through clearing, big game signs, repellents, information to road users, reduction of the stock of game. Fences have an accident reducing effect of approx 80% whereas mirrors show no significant effect. Clearing is an expensive measure. Further research is necessary to establish the effect of signs. Repellents in the form of evil-smelling preparations seem to have some effect. (TRRL)

Transport and Road Research Laboratory; TRRD 251162
National Swedish Road & Traffic Research Institute

51 330484

GAME AND TRAFFIC: REPORT OF HUNTING AND WILDLIFE MANAGEMENT COMMISSION
VILT OCH TRAFIK: BETAENKANDE AV JAKT- OCH VILTVAARDSBEREDNINGEN

Jordbruksdepartementet; Fack; Stockholm; Sweden; 0375-250X; 91-38-05660-7

Monograph; #SOU 1990:29; 80; 120p; Figs.; Tabs.; Swedish

There are no simple ways of solving the problem of accidents involving game. These proposals are only limited efforts which might contribute to reducing the risks. A somewhat increased hunting ought not to cause any greater risks for the fauna. In contrast to traffic safety demands, the aim should be to create one balanced elk stock in larger regions. Lower speed on the roads, especially where and when the accident risk is high, leads to fewer and less serious accidents. It can be done with speed limits and use of warning signs. Education (driving-school) and information (eg forwarding the police knowledge about temporary elk accumulations) can also help to decrease the number of accidents. To reduce the accident risk several actions in connection with the carriageway have been tried, for instance fences, land clearance and game mirrors. The game mirrors, however, have not proved to have any considerable efficiency. Biotope actions are seldom justified, at least not concerning elk. Light, sound and odour signals have not yet been used in any great degree. Tests have showed that odour signals have a high effect. (TRRL)

Transport and Road Research Laboratory; IRRD 251201
National Swedish Road & Traffic Research Institute

51 331459

ACCIDENTS BETWEEN WILD ANIMALS AND VEHICLES. THE BEHAVIOUR OF ROAD USERS, AND POSSIBILITIES OF CHANGING IT
VILTOLYCKOR. TRAFIKANTERS BETEENDE OCH MOEJLIGHETER ATT PAAVERKA DETTA

Swedish Transport Research Delegation; Wenner-Gren Center, Sveavaegen 166; S-11346 Stockholm; Sweden; 91-85562-27-0

Monograph; #No. TFD 1980:3; 80; 47p; 9 Fig.; 10 Tab.; Phots.; Ref.; Swedish

This is the final report of a three year research project. The general purpose of the project has been to investigate the possibility of changing driver behaviour in order to reduce the risks of accidents between wild animals and vehicles. Only accidents involving moose and car drivers have been considered. Four different investigations have been carried out. The first two studies consist of analyses of survey data from drivers sampled from three Swedish counties. In the first study relations between the probability of a collision with moose and drivers' experiences with knowledge and attitudes about moose were explored. In the second study the problem was to investigate and compare circumstances in accidents and near-accidents and to relate the results to differences in driver behaviour. In the third study the relation between the attention distribution of drivers and their detection of moose dummies was studied experimentally. The effect of the wild animal crossing warning sign is investigated in the fourth and final study as manifested in drivers' detection of moose dummies. (TRRL)

Transport and Road Research Laboratory; IRRD 252765
National Swedish Road & Traffic Research Institute

51 333600

AN EVALUATION OF THE EFFECTIVENESS OF SWAREFLEX WILDLIFE WARNING REFLECTORS IN REDUCING DEER-VEHICLE COLLISIONS

PERFORMING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Group; Madelia, Minnesota; 56062

INVESTIGATOR:
Ludwig, J; Wildlife Research Biologist; #(507) 642-3478
Alter, R
Mauver, M

FUNDING AGENCY:
Minnesota Department of Transportation; P.O. Box H, 301 Laurel Street; Brainerd, Minnesota; 56401

AS-Active; RD-03 Mar 81; SD-Oct 80; DC-Oct 83 ESP; TF-$17301; FT-Contract; CN-364

The objective is to evaluate the effectiveness of the SWAREFLEX "Wildlife Warning Reflectors" in reducing the number of deer-vehicle collisions. Historical number of deer-vehicle collisions, as tabulated from Conservation Officer reports, will be compared to number of collisions after installation of reflectors.

Minnesota Department of Natural Resources

51 333603

EVALUATION OF THE EFFECTIVENESS OF "BOSCH" WILD ANIMAL WARNING MIRRORS IN REDUCING DEER-VEHICLE COLLISIONS

PERFORMING AGENCY:
Minnesota Department of Transportation; Office of Environmental Services; 807 Transportation Building; St Paul, Minnesota; 55155

INVESTIGATOR:
Peterson, R; #(612) 296-1640

FUNDING AGENCY:
Minnesota Department of Transportation; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155;
Minnesota Department of Natural Resources; Centennial Office Building, 658 Cedar Street; St Paul, Minnesota; 55155
Valley Archery Club

AS-Active; RD-Oct 81; SD-Oct 81; DC-Dec 84 EST; TF-53000

The study objective is to evaluate "Bosch" Wildlife Warning Mirrors in reducing deer-vehicle collisions on a stretch of TH 169 north of St. Peter, Minnesota which has a chronic deer-kill problem. Reflectors will be purchased by Valley Archery Club and installed in October 1981. Deer-Kills will be monitored for 3 years by Mn/DNR.

Minnesota Department of Transportation

21 334660

TRAFFIC SAFETY EFFECT OF GUIDE POSTS
TRAFIKSAEKERHETSEFFEKTEN AV KANTSTOLPAR

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #Meddelande Tu 1980:7; 80; 26p; 8 Tab.; Swedish

The number of accidents on twenty road sections with guide posts provided with reflectors, was compared to the number on twenty control sections. The test started in January 1977 and has been in progress for somewhat more than two years. During this time 584 police reported accidents occurred on the stretches with guide posts and 615 on the control sections. After a correction of the numbers with regard to differences in vehicle kilometers, the increase of safety with guide posts, was calculated to three percent.a closer analysis of the accidents shows that the guide posts have little effect on accidents involving wild animals, while the effect on accidents involving one or several vehicles can be as high as 5-10 percent. Earlier, tests were done with reflectors on snow guide posts on almost the same road sections, but with a considerably higher effect. The causes of the different results are discussed in the report. (TRRL)

Transport and Road Research Laboratory; IRRD 252937
National Swedish Road & Traffic Research Institute

51 336523

WILDLIFE RESEARCH REPORT. PART ONE

Colorado Division of Wildlife; Fort Collins, Colorado

Jul 80; 178p

Methods, devices, or structures related to reducing the number of deer-vehicle accidents were evaluated or experimentally tested after obtaining preliminary data on study areas and methodology. These methods, devices, or structures were highway lighting, underpasses, overpasses, 2.44-m fences and one-way deer gates, and deer guards. During the highway lighting study, 84 deer-vehicle accidents occurred, 45 and 39 with lights off and on, respectively. Behavioral responses of deer to the Vail deer underpass did not change substantially over the 10 years (1970-1979) of study. Five deer guard prototypes were evaluated. Highway lighting, as tested in this study, did not result in significantly fewer accidents.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-124638

National Technical Information Service; u8107

21 341499

EVALUATION OF HIGHWAY DEER KILL MITIGATION ON SIE/LAS-395 (1976-1979)

Ford, SG

California Department of Transportation; Division of Transportation Planning; Sacramento, California; 95814; 13140-604103
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA/CA/80/01; May 80; 45p

FUNDING AGENCY:
FHWA Code E-0458

FT-Contract; CN-A-8-34

The project was developed to determine the effectiveness of deer-crossing structures, deer-proof fence, and one-way deer gates in preventing deer-vehicle collisions on a section of highway which crosses a deer migration route. All information on this study was gathered by direct and indirect observation. It has been determined that the wide open type of deer crossing system is effective in providing deer a safe passage across the highway. It took three years before the major portion of the herd approached the crossings directly rather than moving to them along the fence. Until that time, every weak spot in the fence was challenged by the deer moving to the structures. Man was the major cause for openings in the crossing system during this study. The opening that accounted for the major portion of the deer killed during the study was a drive through gate, frequently left open by a local rancher. (FHWA)

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-246795

51 348055

FENCES FOR PROTECTION OF TRAFFIC AND DEER. SUMMARY

Lehtimaki, R

Central Organization for Traffic Safety, Finland; PL 239; 00120 Helsinki 12; Finland; 0355-6670; 951-9431-32-2

Monograph; No. 37/1981; Feb 81; 14p; 1 Fig.; 2 Tab.; 8 Ref.

The effect of 12 short wire-net fences built along the road network on deer accidents and on the movement of deer were studied by accident analysis and observation at the test fences. It was found the number of deer accidents decreases if fences are built, but only where the fences are located there was a corresponding increase in the number of accidents at both ends of the short wire-net fences studied. Thus the short wire net fences have no effect on the total number of deer accidents.
(TRRL)

Transport and Road Research Laboratory; IRRD 250697

51 360126

EVALUATION OF DEER MIRRORS FOR REDUCING DEER VEHICLE ACCIDENTS

PERFORMING AGENCY:
Maine University; Hampden Highlands, Maine; 04445

INVESTIGATOR:
Gilbert

FUNDING AGENCY:
Federal Highway Administration; Environmental Design and Control; 400 7th Street, SW; Washington, D.C.; 20590

AS-Active; RD-Dec 81; SD-09 Sep 77; TF-$8000; FT-Contract; CN-PO-7-3-0152

The study will evaluate the effectiveness of metal mirrors placed along the highway row in redu ing deer-vehicle accidents. The operating theory is that car lights reflecting of the mirrors will cause deer to stop as the vehicle passes.

Federal Hig! way Administration; 298017352; 33F2182 54; A

52 348119

THE HUMAN FACTOR IN GAME-VEHICLE ACCIDENTS. A STUDY OF DRIVERS' INFORMATION ACQUISITION

Aaberg, L

Uppsala University, Sweden; P.O. Box 227; S-751 05 Uppsala; Sweden; 0586-8858; 91-554-1185-1

Monograph; #No. 6; 81; 130p; 17 Fig.; 15 Tab.; 2 Phot.; Refs.;

The problem of game-vehicle accidents is discussed in terms of driver's strategies for visual search in driving. To find possible measures for reducing the number of wildlife accidents, four studies were undertaken. Initially, two exploratory investigations were made: a survey of drivers' expectancies concerning moose in traffic and a study involving reports of accidents and near-accidents with moose. The results of these investigations give no evidence that drivers' experience, knowledge, or attitude concerning moose are related to wildlife accidents. Instead they suggest that the visual search patterns of drivers might explain some of the effects obtained. In a series of field experiments, drivers' ability to detect moose dummies was explored and in a final study the effectiveness of the game crossing sign was investigated experimentally. The results were interpreted as evidence that in rural driving, drivers normally scan the view ahead in a systematic and almost automatic way which is not effective for the task of detecting moose. Drivers can easily change their automatic scanning into a controlled search for animals but this search is demanding and can probably not be sustained for any length of time without feedback. (TRRL)

Transport and Road Research Laboratory; IRRD 258809
National Swedish Road & Traffic Research Institute

121 Foothill Drive
Eagle River, Alaska 99577

29 June 1983

RE: Moose-Auto Accidents on Glenn Highway

Representative Randy Phillips
Box 142
Eagle River, Alaska 99577

Dear Representative Phillips:

Thank you for your letter of May 9, 1983 and also for sending along the copy of the letter from the Department of Transportation.

It sounds as though you are trying to get someone on the ball about the moose situation on Glenn Highway. You said that maybe sometime in June the research on the problem of lighting Glenn Highway would be completed. Have you heard anything yet? I hope they can do something before darkness falls again.

Could you please check into it again. Please don't let them drop the ball.

Also, I am really upset about you being kicked off the committee. Is there anyone in particular I could write about it? I would be glad to let them know how we feel about it.

Thank you very much for helping.

Sincerely,

Marge Founds

Marge Founds

694-2985 (H)
552-4230 (W)

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

May 16, 1983

The Honorable Randy Phillips
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Phillips:

Per your conversation with Michelle Michaud regarding moose-automobile accident prevention measures along the Glenn Highway, Alan Bennett, a biologist with the U.S. Army has indicated that illumination may reduce moose-auto accidents by 20% whereas fencing and underpasses could reduce these accidents by up to 70%. Since a higher reduction in accidents would occur with fencing and underpasses, this method will be considered first.

I have requested the Central Region's Design & Construction Division to investigate the possibility of using federal safety funds for the design portion of the project. They have indicated that the report should be completed in about two weeks. I will forward a copy of that report to you at that time.

In the meantime if I can be of further assistance please call.

Sincerely,

Gina M. Lindley for

William R. Snell
Director

WRS:MM/ey

cc: Emil Notti, Legislative Assistant
Office of the Governor

Alan Bennett, U.S. Army

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

May 4, 1983

The Honorable Randy Phillips
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Phillips:

Sorry for the delay in responding to your request regarding protective/preventive measures along the Glenn Highway (Fort Richardson to Eagle River) to reduce the number of moose-auto accidents.

I requested the Department's Research Section in Fairbanks to do a literature search (attached) to determine various types of methods used in other states and countries to reduce moose-auto accidents. As you can see from the attached list of studies, many thousands of dollars have been spent researching the problem with some success.

A reflector device has been utilized along the Glenn Highway with little success. This has been mainly due to the fact that excess dust and winter snow covers the devices and maintenance of the reflectors has been insufficient as well as costly. Also note that studies directly related to roadway illumination did not tend to show a decrease in vehicle/wildlife accidents.

Herman Griese, a game biologist for the Department of Fish and Game (DF&G) in Anchorage, and Alan Bennett, a biologist for the U.S. Army indicated that the following would probably be the best solution for reducing the occurrence of moose related auto accidents along this section (Mile 132-140) of the highway.

1. Clear at least 35 feet on each side of the road bed. This allows both the driver to see the moose and the moose also does not walk directly onto the road from the trees.

   Mr. Griese mentioned that if 35 feet is cleared on each side of the road that this should occur after the buds have begun to open up around the middle or end of June. Also the brush would need to be cut back periodically (approximately every 3 years) to prevent prime "moose habitat" vegetation from growing back.

2. Install fencing and underpasses for the moose to travel from one side of the road to the other (the attached map shows where the fencing and underpasses should be placed).

3. Install lighting on the both sides of the highway to provide continuous illumination from Muldoon Road to Hiland Road.

Mr. Bennett indicated that 80% of the moose-auto accidents occur within two main areas. He also indicated that approximately 53 mooses were killed on this stretch of the highway last year. Mr. Griese said that ADF&G and the U.S. Army only have accident records in which the accident caused the death of the moose. Mr. Griese also pointed out that moose behave differently than deer, hence those measures used to reduce deer related auto accidents may not work where moose are involved.

Mr. Griese and Mr. Bennett have indicated that the moose herd in this area has remained relatively stable; however, travel along this section of the highway will continue to increase and without some type of prevention measures moose related auto accidents will most likely increase.

A cost estimate has been prepared to determine the costs for: 1) lighting (continuous illumination), 2) fencing and underpasses, and 3) clearing of road side. This cost estimate should give you some indication of the costs involved. The Department has not had time to fully analyze the possibilities of installing any of the above mentioned prevention measures.

In the interim, the Department's Central Region Maintenance & Operations Division will clear certain areas along the roadway pending availability of funds; however, a long-term solution will need to be funded, fully or partially by the Legislature.

Mr. Bennett has indicated that the U.S. Army would be willing to fund part of any project that the Department may construct. The Department is looking into possibly securing federal "safety" funds.

If I can be of further assistance to you regarding this matter please call.

Sincerely,

William R. Snell

William R. Snell
Director

WRS:MM/ey

Attachments

cc: Alan Bennett U.S. Army

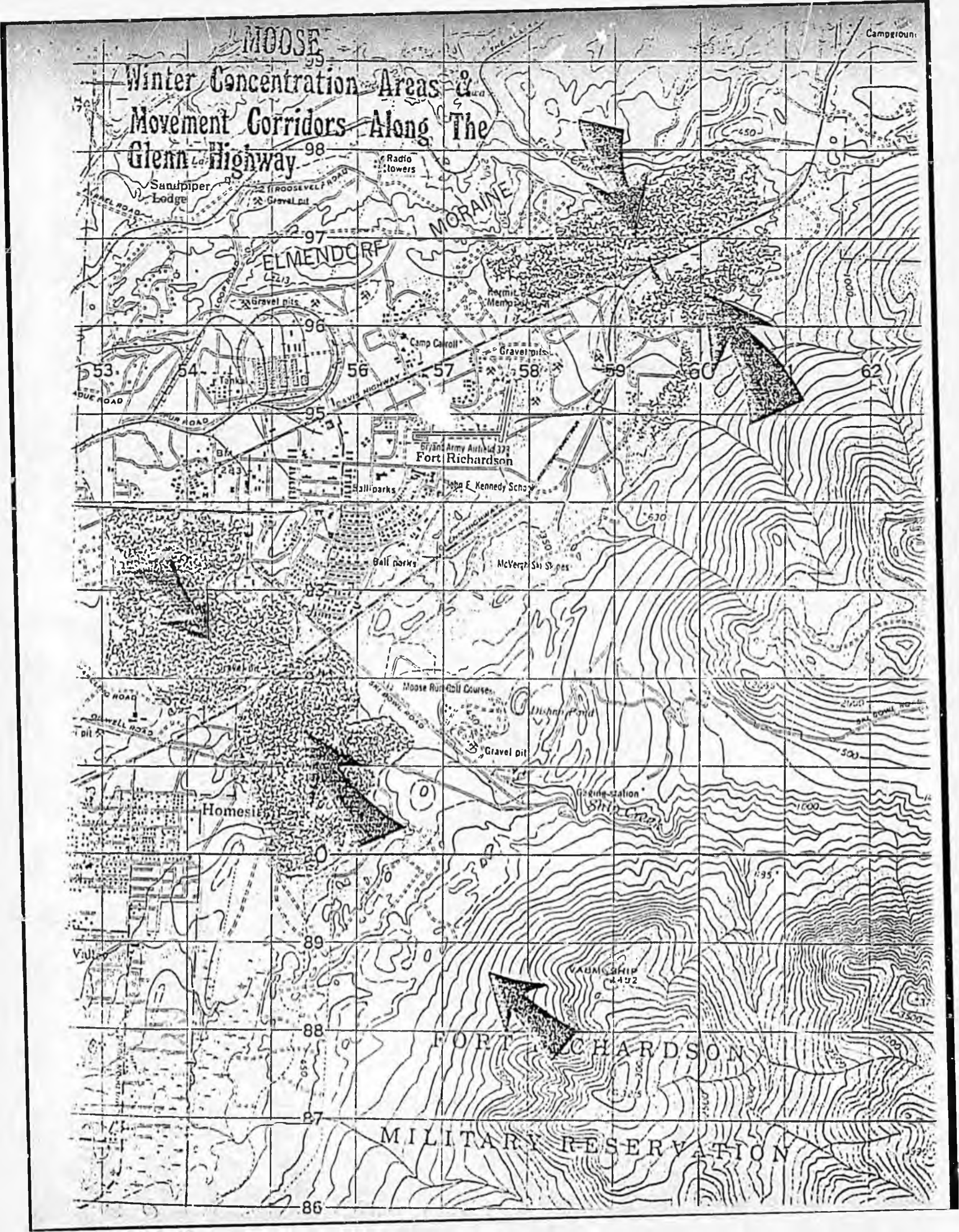
Herman Griese, ADF&G

Emil Notti, Legislative Assistant
Office of the Governor

GLENN HIGHWAY

Muldoon Road to Hiland Road (8 miles)

Fencing along both sides of highway with 5-moose underpasses		$2,596,250.00
Continous Illumination		2,784,000.00
Clearing and Grubbing 35 feet on each side of road		288,000.00
	TOTAL	$5,668,250.00


MOOSE
Winter Concentration Areas &
Movement Corridors Along The
Glenn Highway
Sandpiper Lodge
Radio towers
ROOSEVELT ROAD
Gravel pit
ELMENDORF
MORAINE
Gravel pits
Camp Carroll
Gravel pits
Tanks
DAVIS HIGHWAY
Fort Richardson
Ball parks
John F. Kennedy School
Ball parks
McVeigh Ski Slopes
Moose Run Golf Course
Dishno Pond
Gravel pit
Gaging station
Ship Creek
Homesite Park
VAUM SHIP
FORT RICHARDSON
MILITARY RESERVATION
53
54
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57
58
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62
99
98
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RUN NO. HALK515

ILLUMINATION, SIGNS, REFLECTORS FOR DEER OR WILDLIFE

RECEIVED
APR 7 1983
DOTPF RESEARCH SECTION

HRIS FILE SEARCH

PREPARED FOR

MR. DAVID C. ESCH
CHIEF OF HIGHWAY RESEARCH
ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
FAIRBANKS, ALASKA

03/30/83

Highway Research Information Service

National Research Council

National Academy of Sciences * National Academy of Engineering

Washington, D.C.

51 330434

GAME AND TRAFFIC: REPORT OF HUNTING AND WILDLIFE MANAGEMENT COMMISSION
VILT OCH TRAFIK: BETAENKANDE AV JAKT- OCH VILTVAARDSBEREDNINGEN

Jordbruksdepartementet; Fack; Stockholm; Sweden; 0375-250X; 91-38-05660-7

Monograph; #SOU 1980:29; 80; 120p; Figs.; Tabs.; Swedish

There are no simple ways of solving the problem of accidents involving game. These proposals are only limited efforts which might contribute to reducing the risks. A somewhat increased hunting ought not to cause any greater risks for the fauna. In contrast to traffic safety demands, the aim should be to create one balanced elk stock in larger regions. Lower speed on the roads, especially where and when the accident risk is high, leads to fewer and less serious accidents. It can be done with speed limits and use of warning signs. Education (driving-school) and information (eg forwarding the police knowledge about temporary elk accumulations) can also help to decrease the number of accidents. To reduce the accident risk several actions in connection with the carriageway have been tried, for instance fences, land clearance and game mirrors. The game mirrors, however, have not proved to have any considerable efficiency. Biotope actions are seldom justified, at least not concerning elk. Light, sound and odour signals have not yet been used in any great degree. Tests have showed that odour signals have a high effect. (TRRL)

Transport and Road Research Laboratory; IRRD 251201
National Swedish Road & Traffic Research Institute

51 330483

THE GAME ACCIDENT PROJECT (VIOL). FINAL REPORT, MAY 1980
VILTOLYCKSPROJEKTET (VIOL). SLUTRAPPORT MAJ 1980

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #TU 146; May 80; 117p; Figs.; Tabs.; Refs.; Apps.; Swedish

The number of police reported accidents with game and motor vehicles increased heavily in the 1960's. As a result the government assigned to the National Road Administration the task to carry out research and experimental work for the purpose of reducing the number of such accidents. The work has been going on between 1970 and 1979. Basic facts about game, traffic and accidents have been collected and analysed. The analyses have led to an estimation of game accident hazards under different conditions. Accident preventive measures have been thoroughly studied through practical experiments, statistical accident analyses and economic assessments. The investigation comprises elk, roe deer, fallow deer and red deer with the accent on elk. Game accidents have increased no less heavily in the 1970's and they are likely to constitute about 15% of the total number of road accidents. A number of measures are discussed, ie game fences, mirrors, improved visibility through clearing, big game signs, repellents, information to road users, reduction of the stock of game. Fences have an accident reducing effect of approx 80% whereas mirrors show no significant effect. Clearing is an expensive measure. Further research is necessary to establish the effect of signs. Repellents in the form of evil-smelling preparations seem to have some effect. (TRRL)

Transport and Road Research Laboratory; IRRD 251162
National Swedish Road & Traffic Research Institute

51 322719

EFFECTS OF HIGHWAY OPERATIONS PRACTICES AND FACILITIES ON ELK, MULE DEER, AND PRONGHORN ANTELOPE

Ward, AL
Fornwalt, NE
Henry, SE
Hodorff, RA

Rocky Mountain Forest and Range Experiment Station; 240 West Prospect Street; Fort Collins, Colorado; 80526
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA-RD-79-143; Mar 80; 52p

FUNDING AGENCY:
FHWA Code E-0469

Vegetative ground cover under snowdrifts formed behind snowfences used along Interstate 80 to control blowing and drifting snow has not changed appreciably over a five-year period. Sagebrush (Artemisia tridentata) has decreased significantly under snowdrifts where deep drifts occurred every year and is being replaced by grasses and forbs. Mule deer (Odocoileus heminous) use machinery and box-type underpasses to cross under Interstate 80 when big game fencing 8 feet (2.44 m) high is constructed in place of the regular right-of-way fence. Deer-vehicle accidents were reduced over 90 percent, which is a large savings of deer life and vehicle damage. Only one pronghorn antelope (Antilocarpa americana), out of several hundred in the area, has been known to use the same underpasses. Elk (Cervus canadensis) have not had occasion to use the underpasses. Hunted mule deer and elk cross Forest roads most in areas where their feeding sites are adjacent to the road. Elk show a perference to stay over 0.1 mile (160 m) from streams when crossing roads, while deer are not so sensitive. Elk show a preference to stay a minimum of 0.25 mile (400 m) from traffic while deer prefer a minimum of 100 yards (91.m), and antelope use the habitat up to the right-of-way fence. All three species are more responsive to people walkering; elk prefer a distance of 0.5 mile (800 m), deer 200 yards (182 m) and antelope somewhere between the two distances, depending on habitat and experiences. The displacement reaction is definitely the most serious response. Camera systems using microwave sensors and lights are useful in recording animal activities at underpasses. (FHWA)

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road;

51 322118

INVESTIGATION OF ELK ACCIDENTS IN THE COUNTY OF NORRBOTTEN, SWEDEN 1978
UNDERSOEKNING AV AELGOLYCKOR I NORRBOTTENS LAEN 1978

Pettersson, G
Svedberg, AA

Trafiksaekerhetsverket; Oevre Norra Distriktet; Luleaa; Sweden

Monograph; 79; 29p; 15 Fig.; 20 Tab.; Swedish

The study aims at obtaining answers to questions such as, when, where and how do elk accidents occur and who meets with them. It draws upon 294 police reports of elk accidents during 1978 in the province of Norrbotten. The drivers involved were asked to answer a questionnaire comprising the following variables: vehicle, light conditions, traffic conditions, lighting, when was the elk discerned, speed, road standard, surrounding terrain, knowledge, damage/injury, previous experience. The answers received were compiled in frequency and cross tables. The results show that the drivers, irrespective of speed, speed limit or knowledge of elk danger often did not see the elk before the collision, or saw it so late that he was unable to react. There was no over-representation of any age group or sex of driver. Accidents mainly occurred in darkness and at dawn. Surprisingly enough one fourth of the accidents occurred at places described by drivers as open field with good visibility. The author concludes that measures aimed at drivers to reduce the number of accidents have limited effect. Instead long-term measures must be taken to prevent elks from coming into conflict with road traffic. In the meantime the number of elks must be kept at a suitable level by shooting. (TRRL)

Transport and Road Research Laboratory; IRRD 247888
National Swedish Road & Traffic Research Institute

21 300989

GAME FENCES. LOCATION, COSTS AND MANAGEMENT
VILTSTAENGSEL. PLACERING, KOSTNADER OCH DRIFT

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #TU 1979:1; 79; 26 p.; 4 Fig.; Swedish

This report is a summary of present knowledge concerning game fencing for traffic accident prevention. Costs of construction, operation and maintenance are studied together with how the fence can be adapted to prevailing terrain conditions and adjacent roads. Results from tests of special take-off mounds for elks that have wandered into fenced areas are also included in the report. Different types of fences are studied. Some results from the report: net fence is more costly to erect than electrified fence, but it has lower maintenance costs. A combination fence also has a maintenance cost lower than that for the electrified fence. The accident prevention effect of the net fence was studied with aid of accident statistics from the Stockholm region. It was found that a reduction of accidents by 70-80 percent is well within the reach of what can be obtained by game fencing. /TRRL/

Transport and Road Research Laboratory; IRRD 241314
National Swedish Road & Traffic Research Institute

51 222425

USE OF ONE-WAY GATES BY MULE DEER

Reed, DF
Pojar, TM
Woodard, TN

Journal of Wildlife Management

V38 N1; Jan 74; pp 9-15

GATES DESIGNED TO ALLOW PASSAGE OF MULE DEER (ODOCOILEUS HEMINOUS) IN ONLY ONE DIRECTION WERE TESTED UNDER CONTROLLED AND FIELD CONDITIONS. TWO GATE TYPES HAD SIGNIFICANTLY DIFFERENT FREQUENCIES OF USE UNDER CONTROLLED CONDITIONS. EIGHT GATES OF THE TYPE DEEMED MOST EFFECTIVE WERE INSTALLED IN EIGHT-FOOT (2.44-M) FENCES ADJACENT TO INTERSTATE HIGHWAY 70 NEAR VAIL, COLORADO. A TOTAL OF 558 PASSAGES WERE RECORDED THROUGH THESE GATES DURING 1970-72 AND 96 PERCENT OF THESE WERE IN THE ONE-WAY DIRECTION FOR WHICH THE GATE WAS DESIGNED. BASED ON TRACK COUNTS, IT WAS ESTIMATED THESE GATES PERMITTED ABOUT 223 DEER TO ESCAPE THE IMMEDIATE HIGHWAY RIGHT-OF-WAY. /AUTHOR/

30/03/83 HRIS RUN NO. HALK616 SELECTION

51 193924

THE ANIMAL ACCIDENT PROJECT. PART 2. SITUATION REPORT SEPTEMBER 1978
VILTOLYCKSPROJEKTET 2. LAEGESRAPPORT SEPT 1978

Almkvist, B
Andre, T
Ekelom, S
Aaberg, L
Rempler, S-A

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; *Interarapport Nr 33; Sep 78; 16 p.; 3 Fig.; Swedish

An analysis of accidents involving moose and deer snows that 70% of all accidents occur in the summer, with peaks in June, and end of September and end of January. Almost 40% occur at dawn. On newly constructed roads, the number of accidents during the first year is about 2.5 times the normal; even after three years, the number of accidents is twice that normally expected. 50% of accidents occur where distance between road and forest is 5 M, and over 90% where distance is up to 20 M. On roads in open country less than 20% of accidents occur. Peaks involving moose are influenced by behaviour of the calves. Measures to counteract such accidents are (1) game fences; deer usually crawl underneath while moose jump over. Where fence consists of a mesh with single strands above, animals are often injured, and fences should therefore consist of mesh over full height. (2) game mirrors; these are used extensively, and an investigation of their efficacy is in progress. (3) clearance along roads; it appears that this is effective in reducing accidents. New measures are the use of visual or smell signals, and speed restrictions. Driver attitude is also significant. Further studies are planned. /TRRL/

Transport and Road Research Laboratory; IRRD 237666
National Swedish Road & Traffic Research Institute

51 163949

TESTS WITH ELECTRICAL GAME PRESERVES DURING 1975-76
FOERSOEK MED VILT STAENGSEL TYP NITRO-NOBEL ELSTAENGSEL I D-LAEN AAR 1975-76

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Intrm Rpt.; SNR 19; 77; 15 pp; 4 Fig.; 5 Tab.; 1 Phot.; Swedish

Electrical fences were tested as game preserves on roads in Sweden for 1.5 years. The purpose was: (1) to study different types of uprights and number of wires and their position, (2) to obtain a value of management safety, (3) to determine construction and management costs, and (4) to study the effect on animal accidents. Of the types tested a 180 cm high fence with 5 wires on pressure impregnated uprights of wood (space 6 M) has proved the best. The construction costs have been low. Mechanical wear and soiling from the road have created some problems. In particular the wire (a laminated band) has been damaged. There were no animal accidents after the erection of the fence. At present a new wire with an expected endurance of 5 to 7 years is being tested.
/TRRL/

National Swedish Road & Traffic Research Institute
Transport and Road Research Laboratory; IRRD-226304

30/03/83 HRIS RUN NO. HALK616 SELECTIONS

51 153873

HIGHWAY FENCES AS VEHICLE-DEER COLLISION DETERRENTS

Bellis, ED
Graves, HB, III

Pennsylvania State University, University Park; Institute for Research on Land and Water Resources; University Park, Pennsylvania; 16802; 432-41 (3502)

Final Rpt.; #FHWA-PA-74-9; Jun 76; 26 pp

FT-Contract; CN-53029

A survey of highway fencing along Interstate 80 in Centre County showed that 7 1/2 foot, type 3-modified fence has little value as a vehicle-deer collision deterrent; many deer crawl under the fence to the planted right-of-way and abundance of gaps underneath provides for easy penetration. From December 1974 through March 1976 numbers and position of deer were observed from a vehicle driven along 6 miles of I-80 at night. Bimodal patterns of abundance were found, deer were most numerous in spring and fall; of 2577 deer sightings, 74.5% were on the highway side and 25.5% on the far side of the fence. Comparisons between a control area (north side of highway) where the fence was unmodified and test areas (south side) where gaps underneath were plugged and/or top five wires removed or repaired showed that the critical weakness in the fence is the underside but also that large numbers of deer cross a fully repaired fence. Only 6 deer were reported killed during the 16 months of study and no live deer were seen on the highway; these results, relative to previous findings beginning in 1967, strongly suggest that high traffic volume prevents deer from venturing onto the highway, thus reducing collisions.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB264875/AS

Federal Highway Administration
National Technical Information Service

Rep Cato

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577
(907) 694-4949

Representative Randy Phillips
HOUSE DISTRICT 15

MEMORANDUM

TO: House Transportation Committee Members

FROM: Representative Randy Phillips R.E.P.

DATE: January 24, 1984

RE: House Bill 493, "An Act making a special appropriation to the Department of Transportation and Public Facilities for preventive measures related to collisions between motor vehicles and moose on the Glenn Highway; and providing for an effective date."

While this bill will be before the House Transportation Committee tomorrow morning for hearing, I thought I would take this opportunity to provide each of you with some background information on the bill.

The area described in the bill (the Glenn Highway between Eagle River and Muldoon Road) is a high traffic area. With the exception of lights at major intersections (Eagle River Interchange, Highland Drive Interchange, the weigh station, Fort Richardson Interchange, Ship Creek, and Muldoon Road), this approximately ten mile stretch of road is dark during the winter months. The area is also the location of a rather large moose herd (some estimates of the herd go as high as 600 moose) and these animals cross the Glenn Highway with varying degrees of success. In an attempt to provide vehicle drivers with better safety, Representative Liska and I introduced House Bill 493 in order that funds might be appropriated for "preventive measures."

For your information, I am enclosing the following items:

a. House Bill 493

b. January 20, 1984 letter from Marge Founds to Rep. Cato

c. January 18, 1984 article, The Anchorage Times, "Funds sought to cut moose-car crashes"

d. January 19, 1984 memorandum to Rep. Cato

e. December 20, 1983 article, The Anchorage Times, "Train targets commuter 'dance of death'"

f. November 5, 1983 article, The Anchorage Times, "Moose bowhunt to open"

g. November 4, 1983 article, The Anchorage Times, "Bowhunters may solve urban moose problem"

h. November 3, 1983 article, Chugiak-Eagle River Star, "Highway lights said best way to cut moose-vehicle collisions"

i. October 27, 1983 article, Chugiak-Eagle River Star, "Liska views highway lighting project"

j. November 18, 1983 article, Anchorage Daily News, "Lights along Glenn Highway sought"

k. October 13, 1983 letter and report from DOT/PF

l. June 29, 1983 letter from Mrs. Marge Founds

m. May 16, 1983 letter from DOT/PF

n. May 4, 1983 letter from DOT/PF

o. December 28, 1982 letter to Riley Snell of DOT/PF

p. December 9, 1982 letter from Mrs. Marge Founds

Mrs. Founds will be testifying during the teleconference tomorrow. Mr. Snell or his representative will also be testifying.

If you have any questions, please do not hesitate to contact me.

Enclosures
cc: Rep. John Liska (w/out enclosures)

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99911
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: REPRESENTATIVE BETTE CATO
CHAIRMAN, HOUSE TRANSPORTATION COMMITTEE

FROM: REPRESENTATIVE RANDY PHILLIPS R.E.P.

DATE: JANUARY 19, 1984

RE: HOUSE BILL 493

Thank you for your prompt response to my request that the captioned matter be brought before your committee for hearing.

I am enclosing the following items for the committee's review:

a. Letter from Mrs. Marge Founds, dated 9 December 1982

b. Copy of letter dated December 28, 1982, to Riley Snell of DOT/PF

c. Letter from DOT/PF, dated May 4, 1983

d. Letter from DOT/PF, dated May 16, 1983

e. Letter from Mrs. Marge Founds, dated 29 June 1983

f. Letter and report from DOT/PF, dated October 13, 1983

g. Copy of Anchorage Daily News article, November 18, 1983

h. Copy of Chugiak-Eagle River Star article, October 27, 1983, "Liska view highway lighting project"

i. Copy of Chugiak-Eagle River Star article, November 3, 1983, "Highway lights said best way to cut moose-vehicle collisions"

j. Copy of Anchorage Times article, November 4, 1983, "Bowhunters may solve urban moose problem"

k. Copy of Anchorage Times article, November 5, 1983, "Moose bowhunt to open"

l. Copy of Anchorage Times article, December 20, 1983, "Train targets commuter 'dance of death'"

If you have any questions, please do not hesitate to contact me. Thank you for your cooperation.

Enclosures

PS: Also attached is a copy of the Anchorage Times article appearing in the January 18, 1984 issue, entitled "Funds sought to cut moose-car crashes."

Star Route 2, Box 9302
Eagle River, AK 99577

20 January 1984

Rep. Bette Cato
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Rep. Cato:

I would like to express my support for House Bill No. 493. As a daily commuter on the Glenn Highway between Anchorage and Eagle River, I am concerned about traffic safety. As a wildlife biologist, I am also concerned about moose in the Anchorage area. I think the three million dollar appropriation to Department of Transportation for highway lighting is long overdue. Not only should it alleviate some moose/vehicle interactions, I believe it will significantly improve general traffic safety on the highway. Winter conditions make that highway very dangerous to drive at times, and lighting woudl certainly improve it.

I hope your committee fully supports this and any other measures that will benefit the thousands of daily commuters on that highway.

Sincerely,

Nancy Tankersley

Nancy Tankersley

cc: Randy Phillips

121 Foothill Drive
Eagle River, Alaska
694-2985

9 December 1982

Representative Randy Phillips
Box 142
Eagle River, Alaska 99577

Dear Sir:

I have written to you before and you seem to take a real interest in letters you receive. I thought maybe you could help on this one. I also wrote to Mayor Knowles, Editor of the Times, and the Commanding General of Fort Richardson.

I have been reading about all the car-moose accidents along Glenn Highway. Most of them have involved bodily injury. I have been hoping our family would not be involved in one of these accidents; however, we were involved in one. My husband could not see the moose until it was right in front of him. Then it was too late.

My question is....with all the statistics of accidents on the Glenn Highway, why can't lights be installed at the moose crossings? The lighting is available nearby, so why can't they extend the lights to cover these darkened areas. It is very evident there are three major crossings. One is between Ship Creek and the Powerplant, one between Ship Creek and Fort Richardson overpass, and the other is after the Fort Richardson overpass, from the curve where all the trees are in the median to just about the Weigh Station. The solution is not by hunting the animals. There will always be moose crossing there. Besides that, I really feel sorry for them. They are great animals and I hate to see them hurt or killed. It is the fact that since Glenn Highway is a 4-lane, people will always be driving too fast. It is just too dark to see anything jumping in your path. This is a very hazardous situation. I do not want to see people and animals continually getting wiped out on the highway. We <u>can</u> do something about it, but it takes someone to get the ball rolling.

I think it's about time to start saving lives with our tax money instead of building more bike paths and swimming pools. Build the other two later on, but get to saving lives first.

Thank you for your time. Also, when are you going to be writing more articles in the Star? I really enjoyed reading them.

Sincerely,

Marge Founds

Mrs. Marge Founds

December 28, 1982

Riley Snell
Regional Planner
Department of Transportation and Public Facilities
Pouch 6900
Anchorage, AK 99502

Dear Mr. Snell:

As you know, I have been contacted by some constituents concerning the moose-automobile accidents occuring along the Glenn Highway between Eagle River and Anchorage. These constituents have indicated that they feel that lighting along the Glenn Highway might help reduce these accidents.

Last year, John Bates' office (Juneau DOT/PF) supplied me with some figures on the cost of such proposed lighting. The information that Mr. Bates supplied is in my legislative files, which are packed and in the process of being shipped to Juneau for the legislative session. You may wish to contact Mr. Bates' office and request that he provide you with a copy of this information.

When I spoke with you, we discussed the possibility of including such a project in some future federal program. I would request that you submit this project for inclusion in future federal aid funding programs and the AMATS plan. Please keep me advised of any progress in this area.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Randy Phillips
State Representative

bcc: Mrs. Marge Founds
121 Foothill Drive
Eagle River, AK 99577

. Allan Bailey
115 Whirlaway
Eagle River, AK 99577

Mr. Bailey: I am requesting a member of my staff to have a copy of the information forwarded to you as soon as possible.

STATE OF ALASKA / Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

May 16, 1983

The Honorable Randy Phillips
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Phillips:

Per your conversation with Michelle Michaud regarding moose-automobile accident prevention measures along the Glenn Highway, Alan Bennett, a biologist with the U.S. Army has indicated that illumination may reduce moose-auto accidents by 20% whereas fencing and underpasses could reduce these accidents by up to 70%. Since a higher reduction in accidents would occur with fencing and underpasses, this method will be considered first.

I have requested the Central Region's Design & Construction Division to investigate the possibility of using federal safety funds for the design portion of the project. They have indicated that the report should be completed in about two weeks. I will forward a copy of that report to you at that time.

In the meantime if I can be of further assistance please call.

Sincerely,

William R. Snell
Director

WRS:MM/ey

cc: Emil Notti, Legislative Assistant
Office of the Governor

Alan Bennett, U.S. Army

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

May 4, 1983

The Honorable Randy Phillips
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Phillips:

Sorry for the delay in responding to your request regarding protective/preventive measures along the Glenn Highway (Fort Richardson to Eagle River) to reduce the number of moose-auto accidents.

I requested the Department's Research Section in Fairbanks to do a literature search (attached) to determine various types of methods used in other states and countries to reduce moose-auto accidents. As you can see from the attached list of studies, many thousands of dollars have been spent researching the problem with some success.

A reflector device has been utilized along the Glenn Highway with little success. This has been mainly due to the fact that excess dust and winter snow covers the devices and maintenance of the reflectors has been insufficient as well as costly. Also note that studies directly related to roadway illumination did not tend to show a decrease in vehicle/wildlife accidents.

Herman Griese, a game biologist for the Department of Fish and Game (DF&G) in Anchorage, and Alan Bennett, a biologist for the U.S. Army indicated that the following would probably be the best solution for reducing the occurrence of moose related auto accidents along this section (Mile 132-140) of the highway.

1. Clear at least 35 feet on each side of the road bed. This allows both the driver to see the moose and the moose also does not walk directly onto the road from the trees.

   Mr. Griese mentioned that if 35 feet is cleared on each side of the road that this should occur after the buds have begun to open up around the middle or end of June. Also the brush would need to be cut back periodically (approximately every 3 years) to prevent prime "moose habitat" vegetation from growing back.

2. Install fencing and underpasses for the moose to travel from one side of the road to the other (the attached map shows where the fencing and underpasses should be placed).

3. Install lighting on the both sides of the highway to provide continuous illumination from Muldoon Road to Hiland Road.

Mr. Bennett indicated that 80% of the moose-auto accidents occur within two main areas. He also indicated that approximately 53 mooses were killed on this stretch of the highway last year. Mr. Griese said that ADF&G and the U.S. Army only have accident records in which the accident caused the death of the moose. Mr. Griese also pointed out that moose behave differently than deer, hence those measures used to reduce deer related auto accidents may not work where moose are involved.

Mr. Griese and Mr. Bennett have indicated that the moose herd in this area has remained relatively stable; however, travel along this section of the highway will continue to increase and without some type of prevention measures moose related auto accidents will most likely increase.

A cost estimate has been prepared to determine the costs for: 1) lighting (continuous illumination), 2) fencing and underpasses, and 3) clearing of road side. This cost estimate should give you some indication of the costs involved. The Department has not had time to fully analyze the possibilities of installing any of the above mentioned prevention measures.

In the interim, the Department's Central Region Maintenance & Operations Division will clear certain areas along the roadway pending availability of funds; however, a long-term solution will need to be funded, fully or partially by the Legislature.

Mr. Bennett has indicated that the U.S. Army would be willing to fund part of any project that the Department may construct. The Department is looking into possibly securing federal "safety" funds.

If I can be of further assistance to you regarding this matter please call.

Sincerely,

William R. Snell

William R. Snell
Director

WRS:MM/ey

Attachments

cc: Alan Bennett, U.S. Army

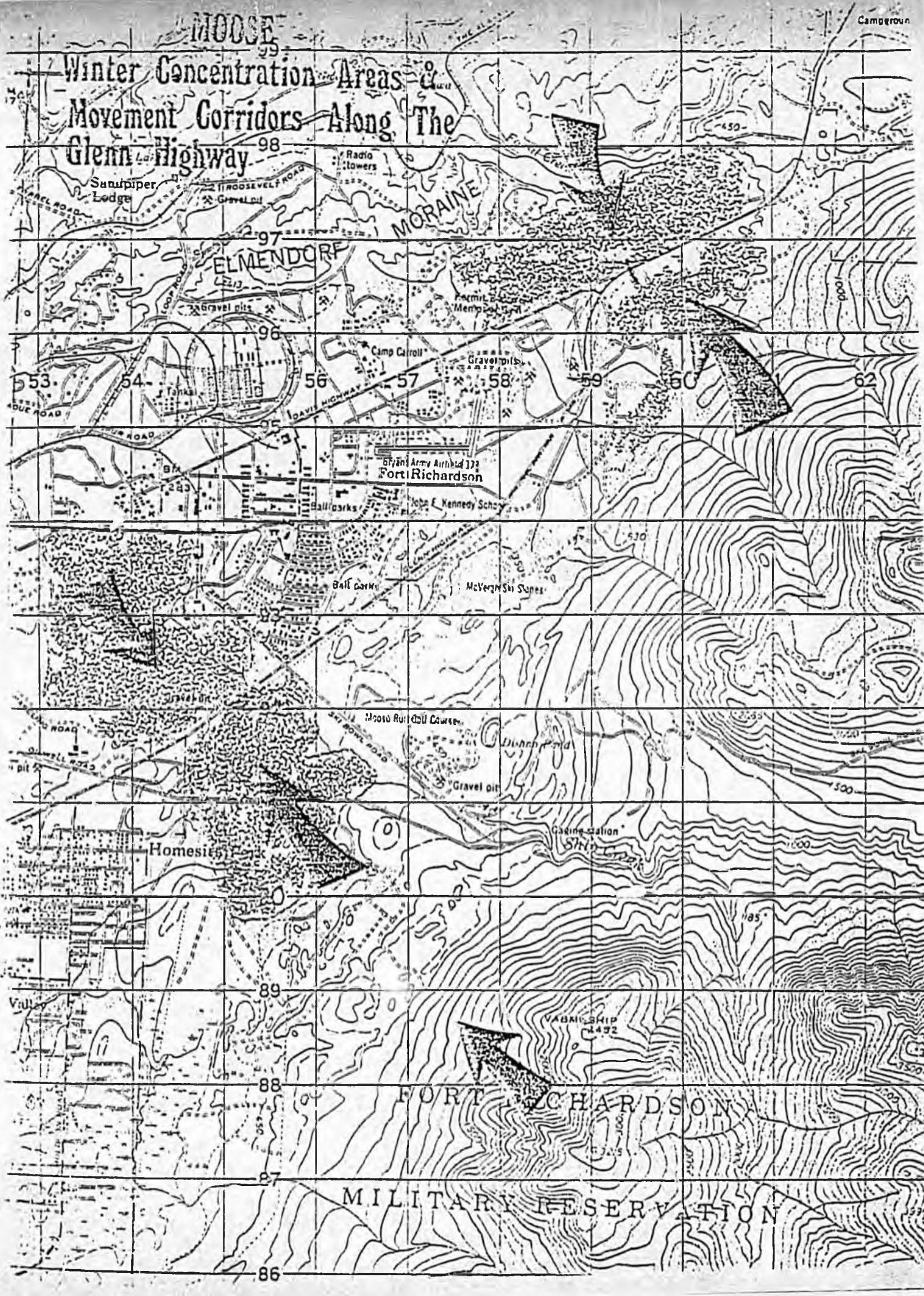
Herman Griese, ADF&G

Emil Notti, Legislative Assistant
Office of the Governor

GLENN HIGHWAY

Muldoon Road to Hiland Road (8 miles)

Fencing along both sides of highway with 5-moose underpasses		$2,596,250.00
Continous Illumination		2,784,000.00
Clearing and Grubbing 35 feet on each side of road		288,000.00
	TOTAL	$5,668,250.00


MOOSE
Winter Concentration Areas &
Movement Corridors Along The
Glenn Highway
Sandpiper Lodge
Radio towers
ROOSEVELT ROAD
Gravel pit
ELMENDORF
MORAINE
Gravel pits
Camp Carroll
Gravel pits
DAVIS HIGHWAY
Fort Richardson
Ball parks
John F. Kennedy School
Ball parks
McVeigh Ski Slopes
Moose Run Golf Course
Gravel pit
Homesite Park
Gaging station
Ship Creek
VABM SHIP
FORT RICHARDSON
MILITARY RESERVATION
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STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

October 13, 1983

Re: Glenn Highway Illumination

The Honorable Randy E. Phillips
Representative
~~S.R. Box 421~~ Box 142
Eagle River, Alaska 99577

Dear Representative Phillips:

Attached is the report you requested concerning moose/vehicle collision deterrents along the Glenn Highway. The report concludes that the most feasible method of decreasing these accidents is to provide continuous illumination on both sides of the Glenn Highway from Muldoon to the Artillery Road Interchange. The cost estimate for illumination is $2,784,000 which would provide one luminaire approximately every 275 feet along the outside lanes. We anticipate the annual operating and maintenance cost to be approximately $50,000.

The Department is required by law to design and construct this type of project according to the standards established by the American Association of State Highway and Traffic Officials (AASHTO). These standards have been developed to insure that highway improvements are uniform, safe, and effective. The 275 foot spacing has been determined to be the maximum spacing that will still provide adequate levels of light. If these standards are not followed, the State could be found liable in case of an accident.

The Department has determined that this project would be eligible for Federal Safety Program Funds. However, DOT&PF's Central Region, which includes most of Alaska south of Cantwell and west of Valdez, receives a maximum of $67,500 per year for this program. To use this money to fund this illumination project would require 42 years worth of Federal Safety Program allocations. No other source of funding has been identified.

We have evaluated this project against other projects considered in our FY'85 CIP. Because of our budget ceiling and the low rating of this project as compared to other identified transportation needs, this project is not included in our FY'85 CIP request.

This summer the Department cleared additional brush near the scale house. Last summer there was extensive brush cutting along the Anchorage outbound

lane and a recent inspection by our maintenance and operations personnel found that there was not enough new growth to justify additional clearing. There has been only limited clearing on the in-bound lane to Anchorage at the request of the Municipality of Anchorage because of the desire to maintain a buffer along the bike path.

Please contact me if I can answer any questions.

Sincerely,

William R. Snell
Director

bjf

Enclosure

cc: Richard S. Armstrong, Director, D&C, Central Region
Ed Cronick, Special Assistant, Standards & Statewide Programs
Mike Gavin, Acting Director, M&O, Central Region
David W. Haugen, Deputy Commissioner, Central Region
Emil Notti, Legislative Assistant, Office of the Governor

MOOSE/VEHICLE COLLISION DETERRENTS: ANALYSIS AND RECOMMENDATIONS

PURPOSE

This report is a summary of the Department's efforts to identify and analyze alternative means of reducing moose/vehicle accidents on the Glenn Highway between Anchorage and Eagle River. The following paragraphs describe the nature of the problem, how the alternatives were identified and evaluated, and a recommended course of action.

INTRODUCTION

The corridor selected for construction of the Glenn Highway was chosen to take advantage of a relatively flat strip of land running between Anchorage and Eagle River. Unfortunately, this same strip of land is the traditional wintering area for up to 250 moose from Fort Richardson, the Ship Creek Valley, and nearby slopes of the Chugach Mountains. The result is a chronic problem of moose/vehicle accidents which has resulted in the death of 50-60 moose each year and annual vehicle damage of $40,000 along this 8 mile length of highway.

Each fall, as snow accumulates on the nearby slopes of the Chugach Mountains and in the Ship Creek Valley, moose begin an orderly and predictable migration down to the lowlands. Young stands of birch and willow adjacent to the highway provide optimum wintering habitat for moose. Seasonal movements of moose are not random, they correspond to the topography and location of prime wintering habitat. As a result, several "accident zones" exist where the highway bisects moose travel corridors. During the 10 year period between 1971 and 1981, 45% of the moose/vehicle accidents occurring between Anchorage and Eagle River happened between Miles 138.5 and 135.5. Between Miles 134 and 132, 35% occurred. These two areas directly correspond to the primary moose travel corridors and winter concentration areas.

Previous attempts to alleviate this problem have included the installation of reflectors designed to repel deer, the removal of brush from within the highway right-of-way, and the installation of moose crossing signs to warn motorists. None of these measures have proven to be significant in reducing the moose/vehicle accident problem. The volume of traffic on the Glenn Highway between Miles 132 and 140 in 1982 was 2.5 times greater than it was in 1972. Between 1981 and 1982, the traffic volume grew by 23%. Unless additional measures are taken, the moose/vehicle accident rate can be expected to increase.

METHODOLOGY

Material presented in this report was gathered from several sources. The Department of Transportation and Public Facilities' (DOT&PF) Highway Research Section conducted a literature search of the Highway Research Information Service (HRIS) in Washington, D.C. The resulcant compilation of studies represents hundreds of thousands of dollars spent researching the problem of collisions between animals and vehicles in the continental United States and foreign countries (see HRIS report attached). Additional material and assistance was contributed by the Alaska Department of Fish and Game, the United States Army, and DOT&PF's Maintenance and Operations Division.

FINDINGS

The following measures have been implemented in the field and were found to have little or no effect upon the rate of collisions between game animals and vehicles:

- Illuminated game crossing signs (motorists disregard sig unless game is physically present)
- Highway underpasses (game unwilling to enter underpasses)
- Conventional fencing (game penetrated fence at open gates, crawled under, or walked over on snow drifts; game that penetrated the fence became trapped in the highway right-of-way)
- Reflecting mirrors (no apparent effect on game; difficult to maintain)
- Brush removal adjacent to highway (besides being ineffective, it is expected that both the State Division of Parks and the Municipal Parks and Recreation Department would object to this treatment since it would decrease the attractiveness of the bike trail adjacent to the highway)

The following measures have been implemented in the field and were found to be effective in reducing the rate of collisions between vehicles and game animals:

- Electrified fences (high construction and maintenance costs, potential safety hazard to humans, any animal that succeeds in penetrating the fence becomes trapped within the highway right-of-way)
- Highway illumination (high construction and operation costs)
- Deliberately placed animal carcass on shoulder of road (offensive to the public)

RECOMMENDATION

From an examination of the findings above, it appears that the only feasible method of decreasing moose/vehicle collisions is to construct continuous illumination on both sides of the Glenn Highway from Muldoon to Eagle River. The estimated cost of this project is $2,784,000.

The Department has determined that this project would be eligible for Federal Safety Program Funds. However, DOT&PF's Central Region, which includes most of Alaska south of Cantwell and west of Valdez, receives a maximum of $67,500 per year for this program. To use this money to fund this illumination project would require 42 years worth of Federal Safety Program allocations. No other source of funding has been identified.

We have evaluated this project against other projects considered in our FY85 CIP. Because of our budget ceiling and the low rating of this project as compared to other identified transportation needs, this project is not included in our FY85 CIP request.

Attachment

MDM/lbk

RUN NO. HALR515

ILLUMINATION, SIGNS, REFLECTORS FOR DEER OR WILDLIFE

RECEIVED
APR 7 1983
DOTPF RESEARCH SECTION

HRIS FILE SEARCH

PREPARED FOR

MR. DAVID C. ESCH
CHIEF OF HIGHWAY RESEARCH
ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
FAIRBANKS, ALASKA

03/30/83

Highway Research Information Service

National Research Council

National Academy of Sciences * National Academy of Engineering

Washington, D.C.

AVAILABILITY OF DOCUMENTS

When it is known by HRIS that full-text copies of documents are available from an organization other than the publishing agency, the name and address of the document distribution center are given in an availability statement below the abstract of the HRIS document record. When a document is ordered, the document title, author, and publisher should always be given.

Only publications of the Transportation Research Board are available from the Transportation Research Board. Articles and reports issued by other agencies are NOT available from TRB. They may be obtained from the publication source shown immediately following the name of the author on the document record or from the document distribution center identified by the availability statement that follows the abstract on the document record.

Reports emanating from research projects sponsored by the Federal Highway Administration and the Urban Mass Transportation Administration are normally available from the National Technical Information Service. If the abstract carries a document order number (PB or AD followed by six digits), the report is available from NTIS.

When no availability is specified, the user should consult an established transportation library.

A loan service for publications and a photocopy service for articles and papers are available at document delivery centers as explained on page vii.

A large number of documents are available from a few sources. The names, addresses, and telephone numbers of those sources are listed below under the abbreviation used for each.

ASCE
American Society of Civil Engineers
345 East 47th Street
New York, NY 10017
Telephone 212-644-7671

ASME
American Society of Mechanical Engineers
345 East 47th Street
New York, NY 10017
Telephone 212-644-7703

DOTL
U.S. Department of Transportation Library
400 Seventh Street, S.W.
Washington, DC 20590
Telephone 202-426-2565

ECMT
(All documents available through OECD)
European Conference of Ministers of Transport
2 rue André Pascal
Paris 75775, France
Telephone 524-97-22

ESL
Engineering Societies Library
United Engineering Center
345 East 47th Street
New York, NY 10017
Telephone 212-644-7611

GPO
U.S. Government Printing Office
Superintendent of Documents
Washington, DC 20402
Telephone 202-783-3238

IEEE
Institute of Electrical and Electronics Engineers
345 East 47th Street
New York, NY 10017
Telephone 201-981-0060

IPC
IPC (America), Inc.
205 East 42nd Street
New York, NY 10017
Telephone 212-869-0700

IRRD
International Road Research Documentation
19 rue de Franqueville
75 Paris, France
Telephone 1-524-92-42

ITS
Institute of Transportation Studies
University of California
412 McLaughlin
Berkeley, CA 94720
Telephone 415-642-3604

NAE/NAS/NRC
National Academy of Sciences
Publication Sales
2101 Constitution Avenue, N.W.
Washington, DC 20418
Telephone 202-334-3313

NTIS
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161
Telephone 703-487-4650

NTCL
Transportation Center Library
Northwestern University
Evanston, IL 60201
Telephone 312-492-5273

OECD
Organization for Economic Cooperation and Development
Publications Center, Room 1207
1750 Pennsylvania Avenue, N.W.
Washington, DC 20006
Telephone 202-298-8755

PPI
Pergamon Press, Inc.
Maxwell House, Fairview Park
Elmsford, NY 10523
Telephone 914-592-7[illegible]

RTAC
Roads and Transportation Association of Canada
875 Carling Avenue
Ottawa, Ontario K1S5A4, Canada
Telephone 613-521-4052

SAE
Society of Automotive Engineers
400 Commonwealth Drive
Warrendale, PA 15096
Telephone 412-776-4841

TRB
Transportation Research Board
Publications Office
2101 Constitution Avenue, N.W.
Washington, DC 20418
Telephone 202-334-3218

TRRL
Transport and Road Research Laboratory
Crowthorne, Berkshire RG11 6AU
England
Telephone Crowthorne 3131

TSCL
Technical Information Center
Transportation Systems Center
U.S. Department of Transportation
55 Broadway
Cambridge, MA 08619
Telephone 617-494-2306/2193/2783

UITP
International Union of Public Transport
19 avenue de l'Uruguay
B-1050, Brussels, Belgium
Telephone 73-33-25

XUM
Xerox University Microfilms
300 North Zeeb Road
Ann Arbor, MI 48106
Telephone 313-761-4700

LOAN AND PHOTOCOPY SERVICES

Loans of books and reports and photocopies of articles and conference papers referenced by the Highway Research Information Service can be obtained from three transportation libraries designated as TRISNET Centers. Two of them are Regional Centers:

Transportation Center Library
Northwestern University
Evanston, IL 60201
312-492-5273
TWX 910-231-0872

Institute of Transportation Studies Library
University of California
412 McLaughlin Hall
Berkeley, CA 94720
415-642-3604

and one is a Federal Center:

Headquarters Library
U.S. Department of Transportation
Washington, DC 20590
202-426-1792

The three centers are not HRIS depositories in that copies of all HRIS-referenced publications are not added to their collections automatically. Rather, each has a collection of transportation publications and all research reports, in microfiche or paper copy, that have been issued by the U.S. Department of Transportation and distributed through the National Technical Information Service.

The centers cannot supply reports of or information on research that is in progress. Information on research in progress can usually be obtained from the principal investigator at the contracting agency or the project monitor at the sponsoring agency.

Regional Centers

HRIS clients outside the U.S. Department of Transportation should first contact the Regional Center at Northwestern University or at the University of California, Berkeley. If the Regional Center contacted does not have the item, it will transfer the request to the other Regional Center or the Federal Center holding the item or to the best available source.

Northwestern University will accept requests for loans and photocopies by telephone, letter, or interlibrary loan form. The University of California will accept requests for photocopies by telephone or letter, but requires an interlibrary loan form for loan of books and reports.

Requests for publications by loan or photocopy should include either a copy of the entry in the HRIS publication or the following information:

1. TRIS accession number (six-digit number at top of printout);
2. Title;
3. Author, including individuals and organizations responsible for the publication (for example, James, John J., West Virginia Department of Highways); and
4. Publication data, including publisher, periodical title, conference, date, paging, series numbers (for example, Public Roads, Dec. 1976, pp. 116-120; or National Technical Information Service, PB 259 688).

The library responding to the request will lend books and reports for 2 weeks plus the estimated mailing time. Services are free if books or reports are mailed at the book rate. If the user requires priority mailing, the center will send an invoice for mailing costs. Charges for photocopies of articles and conference papers are 10 cents per page plus $1.00 per item for handling.

An invoice is sent with the requested document; the Regional Centers request that payment *not* be made in advance.

The Regional Centers attempt to respond to all requests within one week of receipt.

Federal Centers

HRIS clients inside the U.S. Department of Transportation should contact the Headquarters Library. The Headquarters Library will not lend materials to individuals outside of the department, but will accept interlibrary loan forms for five or fewer items from company, government, or university libraries.

Other Libraries

Many of the publications referenced by HRIS are available in local transportation libraries or through a public or state library. Each of these libraries will also prepare and process an interlibrary loan form on request.

FOREIGN LANGUAGE DOCUMENTS

Foreign language documents referenced by HRIS are generally recognizable through the foreign language title listing (after the translated title) in the document record. In *HRIS Abstracts* text language is indicated at the end of the abstract: in the current awareness service it appears with publication data information. It does not appear in the TRIS-on-line short-form printouts.

Documents published outside of the United States are usually written in the language of the country of origin and can be obtained from the publisher in that country. Documents published by the Organization for Economic Cooperation and Development (OECD) can be obtained at the following address:

OECD Publications Center
1750 Pennsylvania Avenue
Washington, DC 20006
Telephone 202-298-8755

Translations may be obtained through agencies listed in the yellow pages of the telephone book in metropolitan areas, through embassies in Washington, D.C., from language departments of universities, or from one of the translations centers listed below. Some of these, such as the National Translations Center, do not translate but maintain a registry of translations. Fees for translation services vary but in the Washington, D.C., area average about $10 per page for technical material.

International Translations Centre
Doelenstraat 101
Delft, Netherlands
World Index of Scientific Translations (quarterly)

National Translations Center
John Crerar Library
35 West 33rd Street
Chicago, IL 60616
Telephone 312-225-2526
Translations Register-Index (irregular annual)

Pan American Highway Congress
Pan American Union
Organization of American States
Room 1009
1725 I Street, N.W.
Washington, DC 20006
Telephone 202-381-8567

Division of Language Service
Room 2214
U.S. Department of State
320 21st Street, N.W.
Washington, DC 20520
Telephone 202-632-1523

International Road Federation
1023 Washington Building
Fifteenth Street and New York Avenue
Washington, DC 20005
Telephone 202-783-5722

Transport and Road Research Laboratory
U.K. Ministry of the Environment
Crowthorne, Berkshire RG11 6AU
England
Telex 848272

All Languages Translation Center
545 Fifth Avenue
New York, NY 10017
Telephone 212-986-1688

British Library Lending Division
Boston Spa
Wetherby, Yorkshire LS23 7BQ
England

IDENTIFICATION GUIDE FOR AN HRIS RECORD OF A PUBLISHED WORK

JOURNAL ARTICLE

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 32 345788

Title — EVALUATION FOR DURABILITY AND STRENGTH DEVELOPMENT OF A GROUND GRANULATED BLAST FURNACE SLAG

Authors — Hogan, FJ; Atlantic Cement Company, Incorporated
Meusel, JW; Atlantic Cement Company, Incorporated

Publication Data — ASTM Cement, Concrete, and Aggregates; American Society for Testing and Materials; 1916 Race Street; Philadelphia, Pennsylvania; 19103

Document Data — V3 N1; 81; pp 40-52; 23 Fig.; 12 Tab.; 25 Ref.

Abstract — This paper covers the evaluation of a ground granulated blast furnace slag as a partial replacement for portland cement in mortars and concrete. The ground slag was evaluated for strength-producing properties as well as durability performance when used to replace 40 to 65% portland cement. This study shows that the ground slag when used to replace 40 to 65% portland cement did significantly improve strengths, sulfate resistance, and alkali aggregate reactivity. (Author)

Availability — ORDER FROM:
Engineering Societies Library; 345 East 47th Street; New York, New York; 10017

RESEARCH REPORT

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 12 343723

Title — PARK-AND-POOL FACILITIES SURVEY RESULTS AND PLANNING DATA

Authors — Bullard, D
Christiansen, DL
Fitzgerald, AV

Publication Data — Texas Transportation Institute; Texas A&M University; College Station, Texas; 77841
Federal Highway Administration; Texas Division; Austin, Texas; Texas State Department of Highways & Public Transp; 11th and Brazos Streets; Austin, Texas; 78701

Document Data — Res Rpt.; #TTI-2-10-74-205-13; Feb 81; 56p
#FHWA/TX-81/23

Abstract — The report presents the results of a Park-and-Pool survey undertaken at selected locations around the San Antonio and Houston, Texas, metropolitan areas. This information should prove useful in a number of different ways including: the identification of various improvements which could be made in order to better meet the needs of area commuters; and the planning and design of future Park-and-Pool facilities.

Availability — ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-231383

Document Order Data

SUPPLEMENTAL NOTE:
Sponsored in part by Texas State Dept. of Highways and Public Transportation, Austin.

HRIS Information Source — National Technical Information Service; u8124

TECHNICAL PAPER IN A CONFERENCE PROCEEDINGS

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 24 348148

Title — EVALUATION OF PAVEMENT SERVICEABILITY ON THE INTERSTATE SYSTEM IN OREGON

Authors — Miller, PC; Portland Cement Association

Publication Data — New Mexico University, Albuquerque; 915 Stanford Drive, NE; Albuquerque, New Mexico; 87111; PPCOPI

Document Data — 81; pp 204-211

Abstract — Measurements of present serviceability index (PSI) using a PCA Road Meter have been made on the 788-mile Interstate System in Oregon annually since 1972. The system has been broken down into sections based on the pavement structure and construction contract. Structural strip maps were prepared and the PSI ratings plotted on this map show the pavement performance trend for each section. The superior performance of some pavements has been documented and sections that will be in need of early rehabilitation identified. Analysis of PSI vs Age and PSI vs Heavy Truck Traffic has been made and compared with the M. R. Brokaw model equations for the concrete sections. The goal is to develop PSI trend curves and to predict when rehabilitation of the pavement will be required.

Availability — ORDER FROM:
Engineering Societies Library; 345 East 47th Street; New York, New York; 10017

SUPPLEMENTAL NOTE:
Proceedings of the 18th Paving Conference, held at the University of New Mexico, Albuquerque, January 7-9, 1981.

Engineering Index; FIX920106137

IDENTIFICATION GUIDE FOR AN HRIS RECORD OF AN ON-GOING RESEARCH PROJECT

Document Record Number
TRIS Accession Number
HRIS Subject Area Number — 13 [3338781]

Title of Project — FORECASTING REVENUES FOR THE VIRGINIA DIVISION OF MOTOR VEHICLES UNDER ENERGY AND TRANSPORTATION SUPPLY CONSTRAINTS

PERFORMING AGENCY:
Virginia Polytechnic Institute & State University; Department of Civil Engineering; Department of Aerospace and Ocean Engineering; Blacksburg, Virginia; 24061; 0568

INVESTIGATOR:
Mohelka, AG; Associate Professor; (703) 961-7407

FUNDING AGENCY:
Virginia Department of Highways and Transportation; Division of Motor Vehicles; 2220 West Broad Street; Richmond, Virginia; 23220

AS = project status
RD = reporting date
AD = funding approval date
CD = contract date
SD = project start date
DC = estimated project completion date
TF = total funds
FT = type of funding
CN = contract/grant number
CT = contract type
FY = funds by fiscal years

AS-Active; RD-Feb 81; SD-01 Sep 80; DC-Aug 81 EST; TF-$79000; FT-Contract; CN-8481101

Summary Statement of Research Project Includes Objectives, Scope and Methods —

The objective is to estimate the needed revenues to meet the Highway expenditures in the coming decade under different socio-economic conditions and technological developments in the Commonwealth of Virginia.

CITATIONS:

Tra, TK
Forecasting Highway Revenues Under Different Taxation Policies, Transportation Supplies and Gasoline Shortages
Virginia Division of Motor Vehicles
Exec Summary 8008

Gordon, P
Alternative Transportation Taxation Policies Volume I
Virginia Division of Motor Vehicles
8008

Tran, TK; Young, SB; Paulkner, T; Seeman, DA
Impacts of Transportation Supply and Gasoline Shortages on Virginia Gas Tax Revenues, Volume II
Virginia Division of Motor Vehicles
8008

HRIS Information Sources — Virginia Polytechnic Institute & State University

FORM 500 CARDS RUN NUMB. HALK616

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NAMR. DAVID C. ESCH
NBCHIEF OF HIGHWAY RESEARCH
NCALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
NDFAIRBANKS, ALASKA
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NGILLUMINATION, SIGNS, REFLECTORS FOR DEER OR WILDLIFE
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PA 701 I

T01 111A 27 AND 1                                          01 02 XX
T02 675S 31   A DEER                                       04 05 03
T03 675S 31   O WILDLIFE                                   08 05 04
T04 675S 31   O ANIMALS                                    07 05 XX
T05 575S 24   A 51                                         02 VV 06
T06 575S 24   O 54                                         02 VV XX
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54 097030

EFFECTIVENESS OF A LIGHTED, ANIMATED DEER CROSSING SIGN

Pojar, TM

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V39 N1; Jan 75; pp 87-91

Two lighted, animated deer crossing signs were installed adjacent to State Highway 82 south of Glenwood Springs, Colorado, delineating a 1.61km (1-mile) segment of highway where deer-vehicle accidents frequently occurred. Crossings per kill ratios were nearly identical with the signs off (56.5:1) and with the signs on (56.9:1). When the motorist was presented with evidence that a danger existed (i.e., deer carcasses in emergency lane), the response was much greater than when they were merely warned (via the deer crossing sign) of a potential danger. With evidence of danger, the response was the same regardless of whether or not the warning signs were on. Motorists' response in the form of speed reduction and/or increased awareness was not sufficient to affect the crossings per kill ratio. Since these lighted, animated signs were not effective in reducing the number of deer-vehicle accidents, it seems reasonable to assume that conventional deer crossing signs are not effective either. However, in areas where deer-vehicle accidents are especially numerous, warning signs may be useful for public relations and liability reasons.

25 098607

BEHAVIORAL RESPONSE OF MULE DEER TO A HIGHWAY UNDERPASS

Reed, DF
Woodward, TN
Pojar, TM

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V39 N2; Apr 75; 00 361-367

A concrete box underpass 3.05 x 3.05 m (10 feet) and 30.48 m (100 feet) long under Interstate 70 in west central Colorado was monitored for deer use during four years following its completion in early 1970. A seasonal mean of 345.1 plus or minus 133.0 (50) mule deer (Odocoileus hemionus) passed through the structure when moving to or from their summer range. A video time-lapse surveillance system recorded behavioral responses during four migration periods, spring-summer and fall in 1972 and 1973. On the basis of video tape playback of 4.450 approaches and 1,739 entrances, deer displayed three basic overt responses: look-up, tail-up, and muzzle-to-ground. The frequency of the look-up response was indicative of the reluctance of the animals to go through a structure of this size and character. The underpass was successful in permitting about 61 percent of the local deer population to migrate safely under the highway. /Author/

51 125287

ANALYSIS OF ROAD ACCIDENTS
UN ANALISIS DE LOS ACCIDENTES DE TRANSITO

Bandel, E
Yanez, J

Decimo Concurso de Trabajossobre Temas Viales; Ministerio de Obras Publicas; C/7 Numero 1175, La Plato; Buenos Aires; Argentina

N84; Conf Paper; Oct 68; pp 47-73; 16 Fig.; 12 Tab.; Spanish

400 accidents which occurred in buenos aires during 1967 and which represent 40% of the total number of accidents are analyzed in detail. The analysis is divided as follows: monthly, daily and hourly distribution of accidents and casualties, classification of accidents per types, main factors recurring in these accidents, and economic evaluation of the latter. It was found that the main causes of accidents were: the human factor (driver or pedestrian) which accounted for 84% of accidents; the road for 9% and the vehicle 7%. A more detailed study showed the following results: driver/pedestrian factor: excess speed (2%), carelessness (53%), drunkenness (3%), other causes 24%; road factor: wet road (43%), bad weather conditions (27%), bad road conditions (11%), bad visibility caused by vegetation or obstruction (8%), animals roaming on the road (7%), defective shoulders (3%), other causes (7%); vehicle factor: lighting defects (33%), defective brakes (19%), punctures (5%), other mechanical faults (9%). The number of the covering abstract is IRRD Abstract No. 100834.
/TRRL/

Transport and Road Research Laboratory; IRRD 100835

51 138435

EFFECTS OF MULTIPLE LAND USE PRACTICES ON BIG GAME HABITAT & BEHAVIOR IN THE CENTRAL ROCKY MOUNTAINS

PERFORMING AGENCY:
Wyoming University; Laramie, Wyoming; 82071; FS RM

INVESTIGATOR:
Ward, AL

FUNDING AGENCY:
Department of Agriculture; Independence Avenue, Between 12th and 14th Streets, SW; Washington, D.C.; 20250; RM-1804

AS-Active; RD-Jun 80; SO-Nov 68; DC-Nov 81 EST

Determine the environmental impacts and the interrelationships of major land use practices on the spectrum of habitats essential for optimum elk and other big game populations. Determine patterns of elk behavior and movements following harvest and activities related to increased human ingress, studies will be made of plant succession on harvested areas of various ages, silvicultural systems, and site conditions. The effects of increased numbers of people on the game populations will be evaluated. Also the behavioral characteristics of big game in the vicinity of road systems of various standards will be monitored through he use of radio telemetry and time lapse photography. Pre- and post-construction situations will be evaluated in conjunction with various practices to mitigate unfavorable effects of the road developments. Elk behavior in relation to timber harvest operations in South-central Wyoming was studied using telemetry, time-lapse photography and fecal and track counts. Elk preferred to be at least one-half mile from harvest and clean-up operations. Elk can be expected to move back to a harvest site within three weeks after humans leave. Traffic on Forest Systems roads has little effect on elk activity, especially beyond 300 yards. Resident populations of mule deer are living adjacent to the heavy traffic on I-80 near Laramie, Wyoming. In other areas deer migrate across I-80 to move from summer to winter ranges. Available underpasses are not being utilized and highway accidents are common. Pronghorn antelope are kept off I-80 where right-of-way fences are in good shape and snow has not drifted, creating a bridge for the antelope. Antelope are not using underpasses. I-80 acts as a barrier for elk although they are seen regularly within 300 yards.

CITATIONS:
Ward, AL

Effects of Timber Harvest on Mule Deer and Elk
Proc. 18th Rocky Mountain Industries Conf, Wyoming
75

Ward, AL; Diem, KL; Weeks, RW
The Impact of Snow on Elk
Final Report of the Medicine Bow Ecology Project, U of Wyo.
380 pp, Figs. 75

Cupal, JJ; Ward, AL; Weeks, RW
A Repeater Type Biotelemetry System for Use on Wild
Big Game Animals
11th Ann Rocky Mtn Bioeng Symp-Intl ISA Biomed Sci Symp
8 pp, Vpl. 10 7404

Hiller, PK; Cupal, JJ; Weeks, RW; Ward, AL
An Automatic Wildlife Tracking System
11th Ann Rocky Mtn Biorng Symp-Intl ISA Biomed Sci Symp
4 pp, Vol. 10 7404

Current Research Information Service; CRIS 0018563

51 145098

DEER-CAR ACCIDENTS IN SOUTHERN MICHIGAN

Allen, RE; Michigan University, Ann Arbor
McCullough, DR; Michigan University, Ann Arbor

Journal of Wildlife Management; Wildlife Society; Suite S-176, 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V40 N2; Apr 76; pp 317-325; Figs.; Tabs.; 20 Ref.

Collisions of cars with white-tailed deer (Odocoileus virginianus) were studied in southern Michigan in 1966 and 1967. Most of the 2,566 accidents studied occurred at dawn, dusk, or after dark with peaks at sunrise and 2 hours after sunset. Accidents were highest on weekends when evening traffic was greatest. A low seasonal peak in collisions occured in May and a high one in November. Sex ratio of the annual kill was predominately female, but it shifted in favor of males during seasonal peaks. Causes of the peaks seemed to be primarily rutting activities, with hunter disturbance and food of lesser importance. Accidents were related to habitat type approximately according to the prevalence of the type. Accidents were most common at speeds of 80-95 km/h (50-59 mph), and the deer was killed in 92 percent of the accidents. Human injuries occurred in less than 4 percent, and most resulted from secondary collisions.

Highway Safety Research Institute; HSRI-35511
National Safety Council, Safety Research Info Serv; 770653J

51 153873

HIGHWAY FENCES AS VEHICLE-DEER COLLISION DETERRENTS

Bellis, ED
Graves, HB, III

Pennsylvania State University, University Park; Institute for Research on Land and Water Resources; University Park, Pennsylvania; 16802; 432-41 (3502)

Final Rpt.; #FHWA-PA-74-9; Jun 76; 26 pp

FT-Contract; CN-53[illegible]9

A survey of highway fencing along Interstate 80 in Centre County showed that 7 1/2 foot, type 3-modified fence has little value as a vehicle-deer collision deterrent; many deer crawl under the fence to the planted right-of-way and abundance of gaps underneath provides for easy penetration. From December 1974 through March 1976 numbers and position of deer were observed from a vehicle driven along 6 miles of I-80 at night. Bimodal patterns of abundance were found, deer were most numerous in spring and fall; of 2577 deer sightings, 74.5% were on the highway side and 25.5% on the far side of the fence. Comparisons between a control area (north side of highway) where the fence was unmodified and test areas (south side) where gaps underneath were plugged and/or top five wires removed or repaired showed that the critical weakness in the fence is the underside but also that large numbers of deer cross a fully repaired fence. Only 6 deer were reported killed during the 16 months of study and no live deer were seen on the highway; these results, relative to previous findings beginning in 1967, strongly suggest that high traffic volume prevents deer from venturing onto the highway, thus reducing collisions.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB264875/AS

Federal Highway Administration
National Technical Information Service

21 153962

EFFECTS OF HIGHWAY CONSTRUCTION AND USE ON BIG GAME POPULATIONS

Ward, AL
Cupal, JJ
Goodwin, GA
Morris, HD

Rocky Mountain Forest & Range Experiment Station; Colorado State University, 240 West Prospect Street; Fort Collins, Colorado; 80521; FHA-3-1-1517
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA/RD-76-174; Mar 76; 101 pp

FUNDING AGENCY:
FHWA Code E-0231

FT-Contract; CN-P.O. 3-1-1517

Pronghorn antelope, mule deer, and elk are affected by right-of-way fences and highway traffic. At least 153 antelope, 561 mule deer, and 10 elk have been killed through vehicle accidents along a 55-mile section of I-80 west of Laramie, Wyoming, during a 5.5-year period. Since antelope are reluctant to jump fences and use underpasses, I-80 is a barrier and the herds are managed accordingly. Antelope can be kept off the highway by maintaining good woven wire fences and preventing snow from drifting over the right-of-way fence. Mule deer jump right-of-way fences, but can be forced to use underpasses by using deer-proof fencing. Both resident and migratory mule deer are affected by roads and traffic. Proper management should provide safe deer crossings thus increasing the safety of the highway user. Since elk are large, they present a greater hazard to motorists, and should be discouraged from crossing highways by proper fencing and road location. New techniques using heart-rate telemetry shows great potential for use in further studies of animal behavior in relation to the ever increasing activities of man.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-264633/9ST

National Technical Information Service; u7712

51 159750

THE ANIMAL ACCIDENT PROJECT
VILTOLYCKSPROJEKTET

Peterson, BE
Imre, E

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #Report No 16; 76; 10 pp; 1 Fig.; Swedish

This report is included as number 12 in a series of working reports within the animal accident project. The publication is a situation report briefly dealing with the background, the results and the future. The results contain statistical accident analysis, study of existing measures and new measures. -/TRRL/

National Swedish Road & Traffic Research Institute
Transport and Road Research Laboratory; IRRD 225875

51 163949

TESTS WITH ELECTRICAL GAME PRESERVES DURING 1975-76
FOERSOEK MED VILT STAENGSEL TYP NITRO-NOBEL ELSTAENGSEL I D-LAEN AAR 1975-76

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Intrm Rpt.; #NR 19; 77; 15 pp; 4 Fig.; 5 Tab.; 1 Phot.; Swedish

Electrical fences were tested as game preserves on roads in Sweden for 1.5 years. The purpose was: (1) to study different types of uprights and number of wires and their position, (2) to obtain a value of management safety, (3) to determine construction and management costs, and (4) to study the effect on animal accidents. Of the types tested a 130 cm high fence with 5 wires on pressure impregnated uprights of wood (space 6 M) has proved the best. The construction costs have been low. Mechanical wear and soiling from the road have created some problems. In particular the wire (a laminated band) has been damaged. There were no animal accidents after the erection of the fence. At present a new wire with an expected endurance of 5 to 7 years is being tested.
/TRRL/

National Swedish Road & Traffic Research Institute
Transport and Road Research Laboratory; IRRD-226304

51 174180

WIRE NET FENCES
NAETSTAENGSEL

Almkvist, B

Stockholm University, Sweden; Zoologiska Institutionen, Raadmansgatan 70A; S-11385 Stockholm; Sweden

Monograph; Report No. 11; 30 Apr 76; 13 pp; 3 Fig.; 2 Tab.; 1 Phot.; 4 Ref.; Swedish

This report reviews the ability of cloven-footed animals to pass various types of wire net fences. Furthermore accident statistics of fenced roads are presented. Taking this as a basis, recommendations for fence design are given. /TRRL/

Transport and Road Research Laboratory; IRRD 231013
National Swedish Road & Traffic Research Institute

51 179855

THE EFFECTIVENESS OF DEER FLAGGING MODELS AS DETERRENTS TO DEER ENTERING HIGHWAY RIGHTS-OF-WAY

Graves, HB
Bell's, ED

Pennsylvania State University, University Park; Institute for Research on Land and Water Resources; University Park, Pennsylvania; 16802; 432-41 (8772)

Final Rpt.; #FHWA-PA-78-12; Jun 78; 21 pp

FUNDING AGENCY:
FHWA Code E-0328

FT-Contract; CN-55108

To determine whether rear-view silhouette models of deer with raised tails would be effective in keeping deer off planted interstate highway rights-of-way, such models were tested in four experiments along Interstate 80 in Centre County, PA. Results of counts of deer in experimental and control areas obtained from a moving vehicle or examination of tracks through gaps under the fence revealed that the models were ineffective as deterrents to deer gaining access to the right-of-way. It is not recommended that they be used to reduce vehicle-deer collisions. /FHWA/

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-284422/AS

SUPPLEMENTAL NOTE:
Sponsored by Pennsylvnaia DOT.

Federal Highway Administration
National Technical Information Service

51 179860

HIGHWAY LIGHTING TO PREVENT DEER-AUTO ACCIDENTS

Reed, DF
Woodard, TN
Beck, TDI

Colorado Division of Wildlife; 6060 Broadway; Glenwood Springs, Colorado; 81601; CDOH-PSR-R-77-5

Final Rpt.; #FHWA-CO-77-5; Sep 77; 26 pp

FUNDING AGENCY:
FHWA Code E-0331

FT-Contract; CN-1478

Deer vehicle accidents have been the cause of considerable property damage and the loss of biotic resources. This is especially the case in rural areas in mountainous terrain where nighttime driver visibility is poor. The purpose of this research was to determine if deer-vehicle accidents were affected by fixed highway illumination. This was done by comparing responses of motorists to deer on the highway and deer responses to the motorists, with and without fixed illumination. Estimated deer crossings per kill was 9.7 percent higher with the lights on compared to lights off. When a deer simulation was present under lighted conditions mean vehicle speeds decreased by 13.9 km (8.6 miles) per hour with brake lights observed on 50.6 percent of the approaching vehicles. The Roadway Lighting Committee (1972) recommends lighting standards based on mean horizontal illumination and illumination uniformity ratios for different roadway and area classifications. /FHWA/

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB-284312/6ST

SUPPLEMENTAL NOTE:
Sponsored by Colorado Division of Highways.

Federal Highway Administration
National Technical Information Service

21 193646

WIRE-NETTING FENCES FOR GAME ACCIDENT PREVENTION
NAETSTAENGSEL FOER VILT

Ljungqvist, S

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #VTU Internrpt 23; Apr 78; 8 p.; 8 Fig.; 2 Tab.; Swedish

This report deals with the technical and geometric design of wire-netting fences for the prevention of accidents involving wild animals. Details of fences, nettings, posts, stays and assembly are presented. Finally, the installation procedure is described.

Transport and Road Research Laboratory; IRRD-234402
National Swedish Road & Traffic Research Institute

51 193924

THE ANIMAL ACCIDENT PROJECT. PART 2. SITUATION REPORT SEPTEMBER 1978
VILTOLYCKSPROJEKTET 2. LAEGESRAPPORT SEPT 1978

Almkvist, B
Andre, T
Ekblom, S
Aaberg, L
Rempler, S-A

National Swedish Road Administration; Pack S-10220; Stockholm 12; Sweden

Monograph; #Interarapport Nr 33; Sep 78; 16 p.; 3 Fig.; Swedish

An analysis of accidents involving moose and deer shows that 70% of all accidents occur in the summer, with peaks in June, and end of September and end of January. Almost 40% occur at dawn. On newly constructed roads, the number of accidents during the first year is about 2.5 times the normal; even after three years, the number of accidents is twice that normally expected. 50% of accidents occur where distance between road and forest is 5 M, and over 90% where distance is up to 20 M. On roads in open country less than 20% of accidents occur. Peaks involving moose are influenced by behaviour of the calves. Measures to counteract such accidents are (1) game fences; deer usually crawl underneath while moose jump over. Where fence consists of a mesh with single strands above, animals are often injured, and fences should therefore consist of mesh over full height. (2) game mirrors; these are used extensively, and an investigation of their efficacy is in progress. (3) clearance along roads; it appears that this is effective in reducing accidents. New measures are the use of visual or smell signals, and speed restrictions. Driver attitude is also significant. Further studies are planned. /TRRL/

Transport and Road Research Laboratory; IRRD 237666
National Swedish Road & Traffic Research Institute

51 221301

COLLISION OF VEHICLES WITH DEER STUDIED ON PENNSYLVANIA INTERSTATE ROAD SECTION

Bellis, ED
Graves, HB

Highway Research News, Hwy Res Board

71; No 43, pp 13-17, 8 REF

IN 1968 AND 1969 THE NUMBERS OF WHITE-TAILED DEER REPORTED KILLED ON PENNSYLVANIA HIGHWAYS WERE 21,607 AND 21,246, RESPECTIVELY. DEER-VEHICLE COLLISIONS ALSO OFTEN ENTAIL EXTENSIVE VEHICLE DAMAGE AND INJURY OR DEATH TO THE HUMAN OCCUPANTS. A LONG-TERM STUDY HAS BEEN UNDERTAKEN, EMPLOYING AN EIGHT-MILE STRETCH OF I-80, TO DETERMINE THE ACTIVITY, BEHAVIOR, AND MORTALITY OF DEER. PARAMETERS IN THE STUDY ARE DESCRIBED, DATA ARE CITED, AND TENTATIVE CONCLUSIONS ARE DRAWN.

51 221684

"DEER CROSSING" SIGNS MAY PROVE VALUABLE IN REDUCING ACCIDENTS AND ANIMAL DEATHS

Pojar, TM
Reseigh, TC
Reed, DF

Highway Research News, Hwy Res Board

N46; Jan 72; pp 20-3; 1 Fig; 2 Phot; 1 Ref

A SECTION OF COLOADO HIGHWAY WITH THE HIGHEST FREQUENCY OF DEER ACCIDENTS PER MILE IN THE STATE WAS CHOSEN FOR THE STUDY. A REFLECTORIZED DIAMOND SIGN WITH "DEER XING" IN NEON LIGHTS WAS COMPARED WITH A REFLECTORIZED DIAMOND WITH 4 ANIMATED SILHOUETTES IN NEON TUBING, LIT IN SEQUENCE. BOTH SIGNS RESULTED IN A SMALL, BUT STATISTICALLY SIGNIFICANT REDUCTION IN TRAFFIC SPEEDS PAST THE SIGN. THE SECOND SIGN APPEARED TO INITIATE A GREATER RESPONSE ON THE PART OF THE MOTORIST.

51 221688

DEER MIRRORS IN MISSOURI

American Highways

V51 N1; Jan 72; p 17

THE EFFECTIVENESS AND USE OF DEER MIRRORS BY THE MISSOURI HIGHWAY DEPARTMENT ARE REPORTEDLY FAVORABLE. THE NUMBER OF DEER-VEHICLE ACCIDENTS WERE CUT DOWN ENORMOUSLY WHILE IN USE. THE DEVICE CONSISTS OF TWO ROUND THREE INCH MIRRORS MOUNTED AT 45 DEGREE ANGLES ABOUT FOUR FEET ABOVE THE GROUND. THESE ARE INSTALLED ON A STAGGERED SYSTEM AT ABOUT 75 FT INTERVALS ON BOTH SIDES OF THE HIGHWAY DEPENDING ON THE TERRAIN BORDERING THE HIGHWAY AND THE NUMBER OF DEER CROSSING. HEADLIGHTS FROM PASSING CARS REFLECT AGAINST THE MIRRORS CAUSING LIGHT TO FLICKER SHARP, PENCIL-LIKE BEAMS STARTLING THE DEER AND CAUSING THEM TO STOP. ONCE THE LIGHT BEAMS STOP FLICKERING, THE DEER SAFELY CROSS.

51 221927

LIGHTED DEER CROSSING SIGNS AND VEHICULAR SPEED

Pojar, TM
Reed, DF
Resigh, TC

Colorado Dept Natural Resources; /Div Games, Fish, & Parks

Inter Rept; Aug 71; 12 pp

A COOPERATIVE STUDY BY THE COLORADO DIVISION OF HIGHWAYS AND THE COLORADO DIVISION OF GAME, FISH AND PARKS CONCERNING DEER-VEHICLE ACCIDENTS WAS INITIATED IN 1968. THESE AGENCIES ARE IN THE PROCESS OF EVALUATING PROCEDURES AND DEVICES THAT MAY HELP REDUCE THE NUMBER OF DEER-VEHICLE ACCIDENTS. SOME OF THE DEVICES BEING EVALUATED ARE TWO TYPES OF LIGHTED DEER CROSSING SIGNS. /AUTHOR/

National Technical Information Service

51 222425

USE OF ONE-WAY GATES BY MULE DEER

Reed, DF
Pojar, TM
Woodard, TN

Journal of Wildlife Management

V38 N1; Jan 74; pp 9-15

GATES DESIGNED TO ALLOW PASSAGE OF MULE DEER (ODOCOILEUS HEMIONUS) IN ONLY ONE DIRECTION WERE TESTED UNDER CONTROLLED AND FIELD CONDITIONS. TWO GATE TYPES HAD SIGNIFICANTLY DIFFERENT FREQUENCIES OF USE UNDER CONTROLLED CONDITIONS. EIGHT GATES OF THE TYPE DEEMED MOST EFFECTIVE WERE INSTALLED IN EIGHT-FOOT (2.44-M) FENCES ADJACENT TO INTERSTATE HIGHWAY 70 NEAR VAIL, COLORADO. A TOTAL OF 558 PASSAGES WERE RECORDED THROUGH THESE GATES DURING 1970-72 AND 96 PERCENT OF THESE WERE IN THE ONE-WAY DIRECTION FOR WHICH THE GATE WAS DESIGNED. BASED ON TRACK COUNTS, IT WAS ESTIMATED THESE GATES PERMITTED ABOUT 223 DEER TO ESCAPE THE IMMEDIATE HIGHWAY RIGHT-OF-WAY. /AUTHOR/

54 226320

MIRRORS QUELL DEER KILL

Better Roads

Dec 71; p 6

THE MISSOURI HIGHWAY DEPARTMENT IS INSTALLING MIRRORS ALONG CERTAIN SECTIONS OF THEIR HIGHWAYS IN AN ATTEMPT TO CUT DEER-VEHICLE ACCIDENTS. TWO ROUND, THREE-INCH MIRRORS MOUNTED AT 45-DEGREE ANGLES ABOUT FOUR FEET ABOVE THE GROUND ARE INSTALLED AT 75-FOOT INTERVALS ON BOTH SIDES OF THE HIGHWAY. HEADLIGHTS FROM PASSING CARS REFLECT AGAINST THE MIRRORS CAUSING LIGHT BEAMS TO FLICKER INTO THE CUTS, DRAWS, AND TIMBER ALONGSIDE ROADWAYS. THESE SHARP PENCIL-LIKE LIGHT BEAMS STARTLE THE DEER AND CAUSE THEM TO STOP. ONCE THE LIGHT BEAMS STOP FLICKERING, THE DEER THEN CROS, IN SAFETY. /AUTHOR/ -

51 262462

DEER MORTALITY ON A MICHIGAN INTERSTATE HIGHWAY

Reilly, RE
Green, HE

Journal of Wildlife Management; Wildlife Society, Suite S-176; 3900 Wisconsin Avenue, NW; Washington, D.C.; 20016

V38 N1; Jan 74; pp 16-19

Yearly totals of white-tailed deer (Odocoileus virginianus) killed by automobiles in a northern white cedar (Thuja accidentalis) deer wintering area in Upper Michigan's Mackinac County were compiled for a 13-year period from 1960 through 1972. Mackinac Trail, a two-lane highway (formerly US 2), intersects approximately a five-mile stretch of this wintering area. In 1963, Interstate 75 was constructed roughly parallel to US 2 and about 0.25 mile east of it and thus also intersected the wintering area. In 1964, car-deer kills in the study area increased by approximately 500 percent over the average of the previous four years. This car-deer kill declined slightly through 1967, and has recently fluctuated about an average which is approximately twice that of the pre-Interstate yearly mortality figure. /Author/

21 300989

GAME FENCES. LOCATION, COSTS AND MANAGEMENT
VILTSTAENGSEL. PLACERING, KOSTNADER OCH DRIFT

National Swedish Road Administration; Pack S-10220; Stockholm 12; Sweden

Monograph; #TU 1979:1; 79; 26 p.; 4 Fig.; Swedish

This report is a summary of present knowledge concerning game fencing for traffic accident prevention. Costs of construction, operation and maintenance are studied together with how the fence can be adapted to prevailing terrain conditions and adjacent roads. Results from tests of special take-off mounds for elks that have wandered into fenced areas are also included in the report. Different types of fences are studied. Some results from the report: net fence is more costly to erect than electrified fence, but it has lower maintenance costs. A combination fence also has a maintenance cost lower than that for the electrified fence. The accident prevention effect of the net fence was studied with aid of accident statistics from the Stockholm region. It was found that a reduction of accidents by 70-80 percent is well within the reach of what can be obtained by game fencing. /TRRL/

Transport and Road Research Laboratory; IRRD 241314
National Swedish Road & Traffic Research Institute

51 305661

WHITE-TAILED DEER (ODOCOILEUS VIRGINIANUS) ON THE DEPARTMENT OF ENERGY'S OAK RIDGE RESERVATION: DATA ON ROAD-KILLED ANIMALS, 1969--1977

Story, JD
Kitchings, JT

Oak Ridge National Laboratory; Post Office Box X; Oak Ridge, Tennessee; 37830
Department of Energy; 1000 Independence Avenue, SW; Washington, D.C.; 20585

Jul 79; 36 p.

FT-Contract; CN-W-7405-ENG-26

During nine years (1969--1977), 126 white-tailed deer (Odocoileus virginianus) were killed by highway vehicles on the Department of Energy's Oak Ridge, Tennessee Reservation. Mortality was highest in the fall, and more males than females were killed among both fawns and adults. While traffic volume increased 8.2% annually, deer road-kills increased 43.8% annually. Increased road-kills were attributed primarily to an increase in the resident population.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; ORNL/TM-6803

National Technical Information Service; u8003

51 315659

THE EFFECT OF DEER REFLECTORS ON DEER-VEHICLE ACCIDENTS

PERFORMING AGENCY:
Iowa Department of Transportation; 826 Lincoln Way; Ames, Iowa; 50010; HR-210

INVESTIGATOR:
Gladfelter, L; #(515) 432-2823

FUNDING AGENCY:
Iowa Department of Transportation; 826 Lincoln Way; Ames, Iowa; 50010
Iowa Conservation Commission; Wild Life Research Station; R.R. #1; Boone, Iowa; 50036

AS-Active; RD-Dec 81; SD-Jun 79; DC-Sep 83 EST; TF-530072; FT-Contract; CN-HR-210

The objective is to evaluate the "Swareflex" reflector system in reducing deer-vehicle accidents, to determine a cost benefit ratio for the system and to identify deer crossing areas throughout the state for possible implementation of the system.

CITATIONS:
Gladfelter, L
The Effect of Deer Reflectors on Deer-Vehicle Accidents
Iowa DOT, Office of Materials
Progress Report 8106

Iowa Department of Transportation

23 315778

SURVEY OF 1977 DEER KILL IN MINNESOTA

PERFORMING AGENCY:
Minnesota Department of Transportation; Environmental Affairs, 807 Transportation Building; St Paul, Minnesota; 55155

INVESTIGATOR:
Peterson, R; #(612) 296-1640
Sullivan, R

FUNDING AGENCY:
Minnesota Department of Transportation; Environmental Affairs, 807 Transportation Building; St Paul, Minnesota; 55155

AS-Completed; RD-Dec 81; SD-Oct 78; TF-$10000; FF-0

The purpose of this study is to identify the location of deer roadkill throughout the state. Once chronic kill areas have been located they will be field checked to identify possible treatment measures to reduce the kill problem. Data source are the confiscation reports on road-killed deer filed by the Conservation Officers.

Minnesota Department of Transportation

23 315784

DEER-PROOF FENCE AND ONE-WAY GATES

PERFORMING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Center; Madelia, Minnesota; 56062

INVESTIGATOR:
Ludwig, J; #(507) 642-8478

FUNDING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Center; Madelia, Minnesota; 56062
Minnesota Department of Transportation; Office of Environmental Affairs; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155
Minnesota Department of Transportation; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155;

AS-Active; RD-Mar 81; SD-Aug 77; TF-$15000

To determine effectiveness of 8' fencing in preventing deer access to highway and effectiveness of one-way gates in facilitating the safe exist of deer gaining access for fenced highway corridors on I 90 at Walnut Lk and I 94 at St. Joseph. Fence and gates monitored by use of counters and track beds. Also monitored location of road-killed deer. Obtained pre-fence data with track counts of crossing over road bed. Aerial counts used to evaluate deer density.

CITATIONS:
Bellis, E; Graves, H
Deer Mortality on a Pennsylvania Interstate Highway
J. Wildl Manage
35(2):232-237

Roper, KL; Olson, P; Evans, R
Using Wildlife Values in Benefit/Cost Analysis and Mitigation of Wildlife Losses
Colarado Division Wildl.
17p

Pils, C
The Cost and Chronology of Wisconsin Deer-Vehicle Collisions
Wisconsin Dept. Nat. Res.
Res. Rpt. 103, 5p

Puglisi, M; Lindsay, J; Bellis, E
Factors Associated with Highway mortality of White-Tailed Deer

J. Wildl. Manage
38(4):799-807 74

Reed, D
Deer Vehicle Accidents Statewide and Methods and Devices to Reduce Them
Colorado Div. Wildl fed Aid
pp 1-22, Part 1 7907

Reed, D; Pojar, T; Woodard, T
Use of One-Way Gates by Mule Deer
J.Wild l. Manage
38(1): 9-15 74

Reilly, R; Gren, H
Deer Mortality on a Michigan Interstate Highway
J. Wildl. Manage
38(1):16-19 74

Minnesota Department of Transportation

51 322118

INVESTIGATION OF ELK ACCIDENTS IN THE COUNTY OF NORRBOTTEN, SWEDEN 1978
UNDERSOEKNING AV AELGOLYCKOR I NORRBOTTENS LAEN 1978

Pettersson, S
Svedberg, AA

Trafiksaekerhetsverket; Oevre Norra Distriktet; Luleaa; Sweden

Monograph; 79; 29p; 15 Fig.; 20 Tab.; Swedish

The study aims at obtaining answers to questions such as, when, where and how do elk accidents occur and who meets with them. It draws upon 294 police reports of elk accidents during 1978 in the province of Norrbotten. The drivers involved were asked to answer a questionnaire comprising the following variables: vehicle, light conditions, traffic conditions, lighting, when was the elk discerned, speed, road standard, surrounding terrain, knowledge, damage/injury, previous experience. The answers received were compiled in frequency and cross tables. The results show that the drivers, irrespective of speed, speed limit or knowledge of elk danger often did not see the elk before the collision, or saw it so late that he was unable to react. There was no over-representation of any age group or sex of driver. Accidents mainly occurred in darkness and at dawn. Surprisingly enough one fourth of the accidents occurred at places described by drivers as open field with good visibility. The author concludes that measures aimed at drivers to reduce the number of accidents have limited effect. Instead long-term measures must be taken to prevent elks from coming into conflict with road traffic. In the meantime the number of elks must be kept at a suitable level by shooting. (TRRL)

Transport and Road Research Laboratory; IRRD 247888
National Swedish Road & Traffic Research Institute

51 322719

EFFECTS OF HIGHWAY OPERATIONS PRACTICES AND FACILITIES ON ELK, MULE DEER, AND PRONGHORN ANTELOPE

Ward, AL
Fornwalt, NE
Henry, SE
Hodorff, RA

Rocky Mountain Forest and Range Experiment Station; 240 West Prospect Street; Fort Collins, Colorado; 80526
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA-RD-79-143; Mar 80; 52p

FUNDING AGENCY:
FHWA Code -E-0469

Vegetative ground cover under snowdrifts formed behind snowfences used along Interstate 80 to control blowing and drifting snow has not changed appreciably over a five-year period. Sagebrush (Artemisia tridentata) has decreased significantly under snowdrifts where deep drifts occurred every year and is being replaced by grasses and forbs. Mule deer (Odocoileus heminous) use machinery and box-type underpasses to cross under Interstate 80 when big game fencing 8 feet (2.44 m) high is constructed in place of the regular right-of-way fence. Deer-vehicle accidents were reduced over 90 percent, which is a large savings of deer life and vehicle damage. Only one pronghorn antelope (Antilocarpa americana), out of several hundred in the area, has been known to use the same underpasses. Elk (Cervus canadensis) have not had occasion to use the underpasses. Hunted mule deer and elk cross Forest roads most in areas where their feeding sites are adjacent to the road. Elk show a perference to stay over 0.1 mile (160 m) from streams when crossing roads, while deer are not so sensitive. Elk show a preference to stay a minimum of 0.25 mile (400 m) from traffic while deer prefer a minimum of 100 yards (91.m), and antelope use the habitat up to the right-of-way fence. All three species are more responsive to people walkering; elk prefer a distance of 0.5 mile (800 m), deer 200 yards (182 m) and antelope somewhere between the two distances, depending on habitat and experiences. The displacement reaction is definitely the most serious response. Camera systems using microwave sensors and lights are useful in recording animal activities at underpasses. (FHWA)

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road;

Springfield, Virginia; 22161; PB81-107898

Federal Highway Administration

51 323385

REGIONAL DEER-VEHICLE ACCIDENT RESEARCH

Reed, D
Woodard, TN
Beck, TDI

Colorado Division of Wildlife; 526 Pine Street; Glenwood Springs, Colorado; 81601
Federal Highway Administration; Region 8, 555 Zang Street; Lakewood, Colorado; 80225

Final Rpt.; #FHWA-CO-79-11; Nov 79; 61p

FUNDING AGENCY:
FHWA Code E-0485

FT-RPOR; CN-3(3)

The purpose of this study was to evaluate and test the effectiveness of methods, devices, or structures related to reducing the number of deer-vehicle accidents. Consistent with this purpose was the need to locate and examine potentially critical deer-vehicle accident areas and recommend methods or structures which could have reduced these accidents. In addition, the effects of the methods recommended and investigation of deer responses to various experimental structures was conducted.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161

Federal Highway Administration

51 330483

THE GAME ACCIDENT PROJECT (VIOL). FINAL REPORT, MAY 1980
VILTOLYCKSPROJEKTET (VIOL). SLUTRAPPORT MAJ 1980

National Swedish Road Administration; Fack S-10220; Stockholm 12; Sweden

Monograph; #TU 146; May 80; 117p; Figs.; Tabs.; Refs.; Apps.; Swedish

The number of police reported accidents with game and motor vehicles increased heavily in the 1960's. As a result the government assigned to the National Road Administration the task to carry out research and experimental work for the purpose of reducing the number of such accidents. The work has been going on between 1970 and 1979. Basic facts about game, traffic and accidents have been collected and analysed. The analyses have led to an estimation of game accident hazards under different conditions. Accident preventive measures have been thoroughly studied through practical experiments, statistical accident analyses and economic assessments. The investigation comprises elk, roe deer, fallow deer and red deer with the accent on elk. Game accidents have increased no less heavily in the 1970's and they are likely to constitute about 15% of the total number of road accidents. A number of measures are discussed, ie game fences, mirrors, improved visibility through clearing, big game signs, repellents, information to road users, reduction of the stock of game. Fences have an accident reducing effect of approx 80% whereas mirrors show no significant effect. Clearing is an expensive measure. Further research is necessary to establish the effect of signs. Repellents in the form of evil-smelling preparations seem to have some effect. (TRRL)

Transport and Road Research Laboratory; IRRD 251162
National Swedish Road & Traffic Research Institute

51 330484

GAME AND TRAFFIC: REPORT OF HUNTING AND WILDLIFE MANAGEMENT COMMISSION
VILT OCH TRAFIK: BETAENKANDE AV JAKT- OCH VILTVAARDSBEREDNINGEN

Jordbruksdepartementet; Fack; Stockholm; Sweden; 0375-250X; 91-38-05660-7

Monograph; *SOU 1980:29; 80; 120p; Figs.; Tabs.; Swedish

There are no simple ways of solving the problem of accidents involving game. These proposals are only limited efforts which might contribute to reducing the risks. A somewhat increased hunting ought not to cause any greater risks for the fauna. In contrast to traffic safety demands, the aim should be to create one balanced elk stock in larger regions. Lower speed on the roads, especially where and when the accident risk is high, leads to fewer and less serious accidents. It can be done with speed limits and use of warning signs. Education (driving-school) and information (ej forwarding the police knowledge about temporary elk accumulations) can also help to decrease the number of accidents. To reduce the accident risk several actions in connection with the carriageway have been tried, for instance fences, land clearance and game mirrors. The game mirrors, however, have not proved to have any considerable efficiency. Biotope actions are seldom justified, at least not concerning elk. Light, sound and odour signals have not yet been used in any great degree. Tests have showed that odour signals have a high effect. (TRRL)

Transport and Road Research Laboratory; IRRD 251201
National Swedish Road & Traffic Research Institute

51 331459

ACCIDENTS BETWEEN WILD ANIMALS AND VEHICLES. THE BEHAVIOUR OF ROAD USERS, AND POSSIBILITIES OF CHANGING IT
VILTOLYCKOR. TRAFIKANTERS BETEENDE OCH MOEJLIGHETER ATT PAAVERKA DETTA

Swedish Transport Research Delegation; Wenner-Gren Center, Sveavaegen 166; S-11346 Stockholm: Sweden; 91-85562-27-0

Monograph; No. TFD 1980:3; 80; 47p; 9 Fig.; 10 Tab.; Phots.; Ref.; Swedish

This is the final report of a three year research project. The general purpose of the project has been to investigate the possibility of changing driver behaviour in order to reduce the risks of accidents between wild animals and vehicles. Only accidents involving moose and car drivers have been considered. Four different investigations have been carried out. The first two studies consist of analyses of survey data from drivers sampled from three Swedish counties. In the first study relations between the probability of a collision with moose and drivers' experiences with knowledge and attitudes about moose were explored. In the second study the problem was to investigate and compare circumstances in accidents and near-accidents and to relate the results to differences in driver behaviour. In the third study the relation between the attention distribution of drivers and their detection of moose dummies was studied experimentally. The effect of the wild animal crossing warning sign is investigated in the fourth and final study as manifested in drivers' detection of moose dummies. (TRRL)

Transport and Road Research Laboratory; IRRD 252765
National Swedish Road & Traffic Research Institute

51 333600

AN EVALUATION OF THE EFFECTIVENESS OF SWAREFLEX WILDLIFE WARNING REFLECTORS IN REDUCING DEER-VEHICLE COLLISIONS

PERFORMING AGENCY:
Minnesota Department of Natural Resources; Farmland Wildlife Research Group; Madelia, Minnesota; 56062

INVESTIGATOR:
Ludwig, J; Wildlife Research Biologist; #(507) 642-3478
Alter, R
Mauver, M

FUNDING AGENCY:
Minnesota Department of Transportation; P.O. Box H, 301 Laurel Street; Brainerd, Minnesota; 56401

AS-Active; RD-03 Mar 81; SD-Oct 80; DC-Oct 83 EST; TF-$17301; FT-Contract; CN-364

The objective is to evaluate the effectiveness of the SWAREFLEX "Wildlife Warning Reflectors" in reducing the number of deer-vehicle collisions. Historical number of deer-vehicle collisions, as tabulated from Conservation Officer reports, will be compared to number of collisions after installation of reflectors.

Minnesota Department of Natural Resources

51 333603

EVALUATION OF THE EFFECTIVENESS OF "BOSCH" WILD ANIMAL WARNING MIRRORS IN REDUCING DEER-VEHICLE COLLISIONS

PERFORMING AGENCY:
Minnesota Department of Transportation; Office of Environmental Services; 807 Transportation Building; St Paul, Minnesota; 55155

INVESTIGATOR:
Peterson, R; #(612) 296-1640

FUNDING AGENCY:
Minnesota Department of Transportation; 408 Transportation Building, John Ireland Boulevard; St Paul, Minnesota; 55155;
Minnesota Department of Natural Resources; Centennial Office Building, 658 Cedar Street; St Paul, Minnesota; 55155
Valley Archery Club

AS-Active; RD-Oct 81; SD-Oct 81; DC-Dec 84 EST; TF-33000

The study objective is to evaluate "Bosch" Wildlife Warning Mirrors in reducing deer-vehicle collisions on a stretch of TH 169 north of St. Peter, Minnesota which has a chronic deer-kill problem. Reflectors will be purchased by Valley Archery Club and installed in October 1981. Deer-Kills will be monitored for 3 years by Mn/DNR.

Minnesota Department of Transportation

21 334660

TRAFFIC SAFETY EFFECT OF GUIDE POSTS
TRAFIKSAEKERHETSEFFEKTEN AV KANTSTOLPAR

National Swedish Road Administration; Pack S-10220; Stockholm 12; Sweden

Monograph; #Meddelande Tu 1980:7; 80; 26p; 3 Tab.; Swedish

The number of accidents on twenty road sections with guide posts provided with reflectors, was compared to the number on twenty control sections. The test started in January 1977 and has been in progress for somewhat more than two years. During this time 584 police reported accidents occurred on the stretches with guide posts and 615 on the control sections. After a correction of the numbers with regard to differences in vehicle kilometers, the increase of safety with guide posts, was calculated to three percent.a closer analysis of the accidents shows that the guide posts have little effect on accidents involving wild animals, while the effect on accidents involving one or several vehicles can be as high as 5-10 percent. Earlier, tests were done with reflectors on snow guide posts on almost the same road sections, but with a considerably higher effect. The causes of the different results are discussed in the report. (TRRL)

Transport and Road Research Laboratory; IRRD 252937
National Swedish Road & Traffic Research Institute

51 336523

WILDLIFE RESEARCH REPORT. PART ONE

Colorado Division of Wildlife; Fort Collins, Colorado

Jul 80; 178p

Methods, devices, or structures related to reducing the number of deer-vehicle accidents were evaluated or experimentally tested after obtaining preliminary data on study areas and methodology. These methods, devices, or structures were highway lighting, underpasses, overpasses, 2.44-m fences and one-way deer gates, and deer guards. During the highway lighting study, 84 deer-vehicle accidents occurred, 45 and 39 with lights off and on, respectively. Behavioral responses of deer to the Vail deer underpass did not change substantially over the 10 years (1970-1979) of study. Five deer guard prototypes were evaluated. Highway lighting, as tested in this study, did not result in significantly fewer accidents.

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-124638

National Technical Information Service; u8107

21 341499

EVALUATION OF HIGHWAY DEER KILL MITIGATION ON SIE/LAS-395 (1976-1979)

Ford, SG

California Department of Transportation; Division of Transportation Planning; Sacramento, California; 95814; 13140-604103
Federal Highway Administration; 400 7th Street, SW; Washington, D.C.; 20590

Final Rpt.; #FHWA/CA/80/01; May 80; 45p

FUNDING AGENCY:
FHWA Code E-0458

FT-Contract; CN-A-9-34

The project was developed to determine the effectiveness of deer-crossing structures, deer-proof fence, and one-way deer gates in preventing deer-vehicle collisions on a section of highway which crosses a deer migration route. All information on this study was gathered by direct and indirect observation. It has been determined that the wide open type of deer crossing system is effective in providing deer a safe passage across the highway. It took three years before the major portion of the herd approached the crossings directly rather than moving to them along the fence. Until that time, every weak spot in the fence was challenged by the deer moving to the structures. Man was the major cause for openings in the crossing system during this study. The opening that accounted for the major portion of the deer killed during the study was a drive through gate, frequently left open by a local rancher. (FHWA)

ORDER FROM:
National Technical Information Service; 5285 Port Royal Road; Springfield, Virginia; 22161; PB81-246795

51 348055

FENCES FOR PROTECTION OF TRAFFIC AND DEER. SUMMARY

Lehtimaki, R

Central Organization for Traffic Safety, Finland; PL 239; 00120 Helsinki 12; Finland; 0355-6670; 951-9431-32-2

Monograph; No. 37/1981; Feb 81; 14p; 1 Fig.; 2 Tab.; 8 Ref.

The effect of 12 short wire-net fences built along the road network on deer accidents and on the movement of deer were studied by accident analysis and observation at the test fences. It was found the number of deer accidents decreases if fences are built, but only where the fences are located there was a corresponding increase in the number of accidents at both ends of the short wire-net fences studied. Thus the short wire net fences have no effect on the total number of deer accidents.
(TRRL)

Transport and Road Research Laboratory; IRRD 258697

51 360126

EVALUATION OF DEER MIRRORS FOR REDUCING DEER VEHICLE ACCIDENTS

PERFORMING AGENCY:
Maine University; Hampden Highlands, Maine; 04445

INVESTIGATOR:
Gilbert

FUNDING AGENCY:
Federal Highway Administration; Environmental Design and Control; 400 7th Street, SW; Washington, D.C.; 20590

AS-Active; RD-Dec 81; SD-09 Sep 77; TF-$8000; FT-Contract; CM-PO-7-3-0152

The study will evaluate the effectiveness of metal mirrors placed along the highway row in reducing deer-vehicle accidents. The operating theory is that car lights reflecting of the mirrors will cause deer to stop as the vehicle passes.

Federal Highway Administration; 298017352; 33F? 82 54; A

52 348119

THE HUMAN FACTOR IN GAME-VEHICLE ACCIDENTS. A STUDY OF DRIVERS' INFORMATION ACQUISITION

Aaberg, L

Uppsala University, Sweden; P.O. Box 227; S-751 05 Uppsala; Sweden; 0586-8858; 91-554-1135-1

Monograph; #No. 6; 91; 130p; 17 Fig.; 15 Tab.; 2 Phot.; Refs.;

The problem of game-vehicle accidents is discussed in terms of driver's strategies for visual search in driving. To find possible measures for reducing the number of wildlife accidents, four studies were undertaken. Initially, two exploratory investigations were made: a survey of drivers' expectancies concerning moose in traffic and a study involving reports of accidents and near-accidents with moose. The results of these investigations give no evidence that drivers' experience, knowledge, or attitude concerning moose are related to wildlife accidents. Instead they suggest that the visual search patterns of drivers might explain some of the effects obtained. In a series of field experiments, drivers' ability to detect moose dummies was explored and in a final study the effectiveness of the game crossing sign was investigated experimentally. The results were interpreted as evidence that in rural driving, drivers normally scan the view ahead in a systematic and almost automatic way which is not effective for the task of detecting moose. Drivers can easily change their automatic scanning into a controlled search for animals but this search is demanding and can probably not be sustained for any length of time without feedback. (TRRL)

Transport and Road Research Laboratory; IRRD 250809
National Swedish Road & Traffic Research Institute

HB

510

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: CSHB 510(TRSP)

Title: Act relating to accidents involving state & municipal aircraft

Sponsor: Transportation Committee

Requestor: House Transportation

Date of Request: 3/22/84

FISCAL DETAIL

Agency Affected: Public Safety

Program Category Affected: Fish & Wildlife Protection

BRU, Program or Subprogram(s) Affected: Fish & Wildlife

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact.

ANALYSIS: Attach a separate page for analysis

Prepared By: Paul Conger Phone: 465-4333

Division: Administrative Services Date:

Approved by Commissioner: Date: 3/23/84

Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

Date: 3/22/84

1/12/84

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 510

"An Act relating to accidents involving state aircraft."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 510 (transportation) [ ] same title [X] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] 2010 New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
	[illegible] No Rec.
[illegible]	[illegible] No Rec
[illegible]	[illegible] No Rec
M.W. Miller	[illegible] No Rec
[illegible]	[illegible] No Rec

[illegible]

CHAIRMAN

H 60 (Rev. 3/81)

MATERIALS IN FOLDER

1. Work Draft of CSHB 510 (Transportation) for the Committee to address

2. Federal Aviation Regulations (Highlighted language included in CS draft

3. Position Paper from the Department of Public Safety supporting CSHB 510 (Transportation)

4. Copy of Statute:
   August 1979 02.15.190-02.15.260
   October 1983 Supplemental 02.15.191-02.15.260

5. Letter from George Kobelynk, National Transportatior Safety Board, which provides information on definitions

Teleconference with George Kobelynk with committee today who will address CSHB 510 and briefly explain problems with present aeronautics statutes.

It has come to the attention of staff that the aeronautic statutes are in need of an overall clean-up. Staff request this to be done during the interim period.

CSHB 510 (Transportation) addresses the need for reporting and requesting investigation of aircraft accidents.

NATIONAL TRANSPORTATION SAFETY BOARD

PART 830—RULES PERTAINING TO THE NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

Subpart A—General

Sec.
830.1 Applicability.
830.2 Definitions.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

Sec.
830.5 Immediate notification.
830.6 Information to be given in notification.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Records

830.10 Preservation of aircraft wreckage, mail, cargo, and records.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

830.15 Reports and statements to be filed.

AUTHORITY: Title VII, Federal Aviation Act of 1958, as amended, 72 Stat. 781, as amended by 78 Stat. 921 (49 U.S.C. 1441 et seq.), and the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

Subpart A—General

§ 830.1 Applicability.

This part contains rules pertaining to:

(a) Providing notice of, and reporting, aircraft accidents and incidents and certain other occurrences in the operation of aircraft when they involve civil aircraft of the United States wherever they occur, or foreign civil aircraft when such events occur in the United States, its territories or possessions.

(b) Preservation of aircraft wreckage, mail, cargo, and records involving all civil aircraft in the United States, its territories or possessions.

§ 830.2 Definitions.

As used in this part the following words or phrases are defined as follows:

"Aircraft accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, and in which any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft or anything attached thereto, or in which the aircraft receives substantial damage.

"Fatal injury" means any injury which results in death within 7 days of the accident.

"Operator" means any person who causes or authorizes the operation of an aircraft, such as the owner, lessee, or bailee of an aircraft.

"Serious injury" means any injury which (1) requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); (3) involves lacerations which cause severe hemorrhages, nerve, muscle, or tendon damage; (4) involves injury to any internal organ; or (5) involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.

"Substantial damage":

(1) Except as provided in subparagraph (2) of this paragraph, substantial damage means damage or structural failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component.

(2) Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered "substantial damage" for the purpose of this part.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.5 Immediate notification.

The operator of an aircraft shall immediately, and by the most expeditious means available, notify the nearest National Transportation Safety Board (Board), Bureau of Aviation Safety field office [1] when:

(a) An aircraft accident or any of the following listed incidents occur:

(1) Flight control system malfunction or failure;

(2) Inability of any required flight crewmember to perform his normal flight duties as a result of injury or illness;

(3) Turbine engine rotor failures excluding compressor blades and turbine buckets;

(4) In-flight fire; or

(5) Aircraft collide in flight.

(b) An aircraft is overdue and is believed to have been involved in an accident.

§ 830.6 Information to be given in notification.

The notification required in § 830.5 shall contain the following information, if available:

(a) Type, nationality, and registration marks of the aircraft;

(b) Name of owner, and operator of the aircraft;

(c) Name of the pilot-in-command;

(d) Date and time of the accident;

(e) Last point of departure and point of intended landing of the aircraft;

(f) Position of the aircraft with reference to some easily defined geographical point;

(g) Number of persons aboard, number killed, and number seriously injured;

(h) Nature of the accident, the weather and the extent of damage to the aircraft, so far as is known; and

(i) A description of any explosives, radioactive materials, or other dangerous articles carried.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Records

§ 830.10 Preservation of aircraft wreckage, mail, cargo, and records.

(a) The operator of an aircraft is responsible for preserving to the extent possible any aircraft wreckage, cargo, and mail aboard the aircraft, and all records, including tapes of flight recorders and voice recorders, pertaining to the operation and maintenance of the aircraft and to the airmen involved in an accident or incident for which notification must be given until the Board takes custody thereof or a release is granted pursuant to § 831.17.

(b) Prior to the time the Board or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail, or cargo may not be disturbed or moved except to the extent necessary:

(1) To remove persons injured or trapped;

(2) To protect the wreckage from further damage; or

(3) To protect the public from injury.

(c) Where it is necessary to disturb or move aircraft wreckage, mail or cargo, sketches, descriptive notes, and photographs shall be made, if possible, of the accident locale including original position and condition of the wreckage and any significant impact marks.

(d) The operator of an aircraft involved in an accident or incident as defined in this part, shall retain all records and reports, including all internal documents and memoranda dealing with the accident or incident, until authorized by the Board to the contrary.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report as provided in paragraph (c) of this section on Board Form 6120.1 or Board Form 6120.2 [2] within 10 days after an accident, or after 7 days if an overdue aircraft is still missing. A report on an incident for which notification is required by § 830.5(a) shall be filed only as requested by an authorized representative of the Board.

(b) *Crewmember statement.* Each crewmember, if physically able at the time the report is submitted shall attach thereto a statement setting forth the facts, conditions, and circumstances relating to the accident or incident as they appear to him to the best of his knowledge and belief. If the crewmember is incapacitated, he shall submit the statement as soon as he is physically able.

(c) *Where to file the reports.* The operator of an aircraft shall file with the field office of the Board nearest the accident or incident any report required by this section.

[NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.]

[2] Forms are obtainable from the Board field offices (see footnote 1), the National Transportation Safety Board, Washington, D.C. 20594, and the Federal Aviation Administration, Flight Standards District Office.

[1] The National Transportation Safety Board field offices are listed under U.S. Government in the telephone directories in the following cities: Anchorage, Alaska; Chicago, Ill.; Denver, Colo.; Fort Worth, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Miami, Fla.; New York, N.Y.; Oakland, Calif.; Seattle, Wash.; Washington, D.C.

FEDERAL AVIATION REGULATIONS

Part 1—Definitions and Abbreviations

Table of Contents

Sec.
1.1 General Definitions.
1.2 Abbreviations and Symbols.
1.3 Rules of Construction.

...rs A through K
... the context re-

...ns the Federal
...r or any person
...ted his authori-
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...ficients" means
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"Air traffic clearance" means an authorization by air traffic control, for the purpose of preventing collision between known aircraft, for an aircraft to proceed under specified traffic conditions within controlled airspace.

"Air traffic control" means a service operated by appropriate authority to promote the safe, orderly, and expeditious flow of air traffic.

"Air transportation" means interstate, overseas, or foreign air transportation or the transportation of mail by aircraft.

"Alternate airport" means an airport at which an aircraft may land if a landing at the intended airport becomes inadvisable.

"Altitude engine" means a reciprocating aircraft engine having a rated takeoff power that is producible from sea level to an established higher altitude.

"Appliance" means any instrument, mechanism, equipment, part, apparatus, appurtenance, or accessory, including communications equipment, that is used or intended to be used in operating or controlling an aircraft in flight, is installed in or attached to the aircraft, and is not part of an airframe, engine, or propeller.

"Approved", unless used with reference to another person, means approved by the Administrator.

"Area navigation (RNAV)" means a method of navigation that permits aircraft operations on any desired course within the coverage of station-referenced navigation signals or within the limits of self-contained system capability.

"Area navigation low route" means an area navigation route within the airspace extending upward from 1,200 feet above the surface of the earth to, but not including, 18,000 feet MSL.

"Area navigation high route" means an area navigation route within the airspace extending upward from, and including, 18,000 feet MSL to flight level 450.

"Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, including their regular and reserve components and members serving without component status.

"Autorotation" means a rotorcraft flight condition in which the lifting rotor is driven entirely by action of the air when the rotorcraft is in motion.

"Auxiliary rotor" means a rotor that serves either to counteract the effect of the main rotor torque on a rotorcraft or to maneuver the rotorcraft about one or more of its three principal axes.

"Balloon" means a lighter-than-air aircraft that is not engine driven.

"Brake horsepower" means the power delivered at the propeller shaft (main drive or main output) of an aircraft engine.

"Calibrated airspeed" means the indicated airspeed of an aircraft, corrected for position and instrument error. Calibrated airspeed is equal to true airspeed in standard atmosphere at sea level.

"Category":

(1) As used with respect to the certification, ratings, privileges, and limitations of airmen, means a broad classification of aircraft. Examples include: airplane; rotorcraft; glider; and lighter-than-air; and

(2) As used with respect to the certification of aircraft, means a grouping of aircraft based upon intended use or operating limitations. Examples include: transport, normal, utility, acrobatic, limited, restricted, and provisional.

"Category II operations", with respect to the operation of aircraft, means a straight-in ILS approach to the runway of an airport under a Category II ILS instrument approach procedure issued by the Administrator or other appropriate authority.

"Category III operations," with respect to the operation of aircraft, means an ILS approach to, and landing on, the runway of an airport using a Category III ILS instrument approach procedure issued by the Administrator or other appropriate authority.

"Ceiling" means the height above the earth's surface of the lowest layer of clouds or obscuring phenomena that is reported as "broken", "overcast", or "obscuration", and not classified as "thin" or "partial".

"Civil aircraft" means aircraft other than public aircraft.

"Class":

(1) As used with respect to the certification, ratings, privileges, and limitations of airmen, means a classification of aircraft within a category having similar operating characteristics. Examples include: single engine; multiengine; land; water; gyroplane; helicopter; airship; and free balloon; and

(2) As used with respect to the certification of aircraft, means a broad grouping of aircraft having similar characteristics of propulsion, flight, or landing. Examples include: airplane; rotorcraft; glider; balloon; landplane; and seaplane.

"Prohibited area" means designated airspace within which the flight of aircraft is prohibited.

"Propeller" means a device for propelling an aircraft that has blades on an engine-driven shaft and that, when rotated, produces by its action on the air, a thrust approximately perpendicular to its plane of rotation. It includes control components normally supplied by its manufacturer, but does not include main and auxiliary rotors or rotating airfoils of engines.

"Public aircraft" means aircraft used only in the service of a government, or a political subdivision. It does not include any government-owned aircraft engaged in carrying persons or property for commercial purposes.

"Rated maximum continuous augmented thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically or in flight, in standard atmosphere at a specified altitude, with fluid injection or with the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and approved for unrestricted periods of use.

"Rated maximum continuous power," with respect to reciprocating, turbopropeller, and turboshaft engines, means the approved brake horsepower that is developed statically or in flight, in standard atmosphere at a specified altitude, within the engine operating limitations established under Part 33, and approved for unrestricted periods of use.

"Rated maximum continuous thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically or in flight, in standard atmosphere at a specified altitude, without fluid injection and without the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and approved for unrestricted periods of use.

"Rated takeoff augmented thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically under standard sea level conditions, with fluid injection or with the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and limited in use to periods of not over 5 minutes for takeoff operation.

"Rated takeoff power", with respect to reciprocating, turbopropeller, and turboshaft engine type certification, means the approved brake horsepower that is developed statically under standard sea level conditions, within the engine operating limitations established under Part 33, and limited in use to periods of not over 5 minutes for takeoff operation.

"Rated takeoff thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically under standard sea level conditions, without fluid injection and without the burning of fuel in a separate combustion cham-

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - PROPOSED CSHB 510 (TRSP)

Support

The Department of Public Safety supports passage of the CSHB 510 (TRSP) being proposed by the House Transportation Committee.

Currently there is no requirement for reporting state or municipally operated aircraft accidents. By enacting this legislation, the National Transportation Safety Board, at the Department's request, would investigate accidents involving state and local government operated aircraft.

By utilizing the experience and expertise provided by the NTSB in determining the cause of accidents and following up on their recommendations as to how to eliminate these causes, will be beneficial to the state by reducing the probability of aircraft accidents occurring in the future.

Robert J. Sundberg
Commissioner

Sec. 02.15.180. Financial assistance. The department may grant financial aid for aeronautical education or training to persons who receive educational or vocational assistance in the field of aeronautics under Public Law 550, 82nd Congress, upon the following terms and conditions.

(1) A person granted aid shall have been a legal resident of Alaska for at least one year immediately prior to his application for aid, and a resident of Alaska for not less than one year prior to his entry into the servic

(2) ... education or training for which the aid is given shall be taken in the state in a school or program approved by the department.

(3) The amount of aid granted to any person may not exceed the total amount received by the person as assistance for aeronautical education or training under Public Law 550, 82nd Congress.

(4) No aid may be granted to a person until the assistance to which the person is entitled for aeronautical education or training under Public Law 550, 82nd Congress, has been exhausted by the person.

(5) The aid shall be granted under the same terms and conditions as the assistance under Public Law 550, 82nd Congress.

(6) The department may not expend more than $25,000 a year from funds available to it to carry out the program of aid provided for by this section. (§ 11 B ch 123 SLA 1949; added by § 1 ch 128 SLA 1953)

Revisor's note. — Public Law 550, 82nd Congress, (Veteran's Readjustment Assistance Act of 1952, 66 Stat. 663, ch. 875, July 16, 1952) on which AS 02.15.180 relies was repealed by Public Law 85 — 857, September 2, 1958, 72 Stat. 1105, 1273. The current section of federal law covering veteran's education benefits derives from Public Law 550, 82nd Congress and may be found at Title 38 U.S.C. 1601—1669.

Article 6. General Provisions.

Section	Section
190. Information for public	230. Police powers vested
200. Public nature of department activities	240. Penalties
205. Approval required for airport construction	250. [Repealed]
210. No exclusive rights granted	260. Definitions
220. Enforcement of aeronautics laws	270. Short title

Sec. 02.15.190. Information for public. The department may collect, assemble and publish aeronautical data pertinent to the operation of aircraft within the state. This data is for the benefit of the aviation industry and the general public, and shall not duplicate data published by any other governmental agency. (§ 7 ch 123 SLA 1949)

Sec. 02.15.200. Public nature of department activities. The acquisition of lands or interests in land under this chapter, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any person or

AUGUST 1979

municipality, and the exercise of any other powers herein granted to the department are public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this chapter are acquired and used for public and governmental purposes and as a matter of public necessity. (§ 8 A ch 123 SLA 1949)

Sec. 02.15.205. Approval required for airport construction. (a) No person may construct, reconstruct, relocate, or extend an airport, airstrip, or private air facility within two miles of a federal-aid highway or proposed federal-aid highway without first obtaining the written approval of the commissioner, as provided by regulation.

(b) The commissioner shall not approve the construction, reconstruction, relocation, or extension of an airport, airstrip, or private air facility if the construction would constitute a hazard to the traveling public or if the construction would otherwise not be in the public interest.

(c) The commissioner shall promulgate rules and regulations, to effectuate the purpose of this section, which are consistent with standards established by participating federal agencies. (§ 1 ch 90 SLA 1966; am Executive Order No. 39, § 11 (1977)).

Sec. 02.15.210. No exclusive rights granted. The department may not grant an exclusive right for the use of an airway, airport, or air navigation facility under its jurisdiction. This section does not prevent the making of contracts, leases and other arrangements pursuant to AS 02.15.060 — 02.15.100 and 02.15.120. (§ 8 B ch 123 SLA 1949)

Sec. 02.15.220. Enforcement of aeronautics laws. (a) The department and its officers and employees, and every state and municipal officer charged with the enforcement of state and municipal laws, shall enforce and assist in the enforcement of this chapter and of all rules, regulations and orders issued under it and any other state regulations or laws pertaining to the operation of aircraft.

(b) Any person mentioned in (a) of this section may inspect and examine, at reasonable hours, any aircraft, premises, and the buildings and other structures thereon, where airports, air navigation facilities, air schools, or other aeronautical activities are operated or conducted. (§ 13 ch 123 SLA 1949)

Sec. 02.15.230. Police powers vested. (a) The commissioner and those officers and employees of the department who the commissioner may designate have general police powers in aid of the enforcement of this chapter, and the regulations and orders issued under it and all other laws of the state relating to aeronautics.

(b) Upon bilateral agreement, the commissioner may designate individuals licensed under AS 18.65.400 — 18.65.490 and police officers employed by the state or its political subdivisions to be present during

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the final passenger screening process before the boarding of each flight required to be in compliance with passenger screening regulations of the Federal Aviation Administration. Persons designated under this section, while performing their duties under that agreement, have the general police powers set out in (a) of this section. (§ 13 B ch 123 SLA 1949; am § 2 ch 6 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), and in that subsection, substituted "department who" for "department which" and deleted "rules" preceding "regulations and orders." The amendment also added subsection (b).

Sec. 02.15.240. Penalties. (a) A person violating any of the provisions of this chapter, or any of the rules, regulations or orders made and issued under this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500, or by imprisonment of not more than 90 days, or by both.

(b) For a violation of any section of this chapter, in addition to or in lieu of the penalties provided by (a) of this section, or as a condition to the suspension of a sentence which may be imposed, the court may prohibit the violator from operating an aircraft within the state for a period it may determine but not more than one year. Violation of the prohibition of court may be treated as a separate offense under this section or as a contempt of court. Whenever a conviction is obtained, the prosecuting authority shall notify the department. (§ 12 ch 123 SLA 1949)

Sec. 02.15.250. Aeronautical fund.

Repealed by § 2 ch 14 SLA 1968.

Sec. 02.15.260. Definitions. In this chapter

(1) "aeronautics" means the science and art of flight including but not limited to transportation by aircraft; the operation, construction, repair or maintenance of aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or related ground subjects;

(2) "aircraft" means a contrivance used or designed for navigation of flight in the air;

(3) "airman" means an individual engaging as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; an individual directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers, or appliances; and an individual serving in the capacity of aircraft dispatcher, or air-traffic control-tower operator; or an individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in that connection;

or an individual performing inspection or mechanical duties in connection with aircraft owned or operated by him in the state of Alaska;

(4) "air navigation facility" means a facility used, available, or designed for use in aid of air navigation, including structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking-off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of the facilities;

(5) "airport" means an area of land or water which is used or intended for use for the landing and take-off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, together with airport buildings and facilities located thereon;

(6) "airport hazard" means a structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to the landing or taking off;

(7) "civil aircraft" means any aircraft other than a public aircraft;

(8) "commissioner" means the commissioner of the Department of Transportation and Public Facilities of the state;

(9) "department" means the Department of Transportation and Public Facilities;

(10) "municipality" means a home rule or general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the state;

(11) "operation of aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon an airport inside this state; "operate aircraft" means, to use, navigate or pilot aircraft in the airspace over this state or upon an airport inside this state;

(12) "public aircraft" means an aircraft used exclusively in the governmental service of the United States and the state government. (§ 1 ch 123 SLA 1949; am § 53 ch 127 SLA 1974; am Executive Order No. 39, § 11 (1977)).

Effect of amendment. — The 1978 amendment substituted references to the Department of Transportation and Public Facilities for references to the Department of Public Works in paragraphs (8) and (9).

Legislative history report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 02.15.270. Short title. This chapter may be cited as the Alaska Aeronautics Act of 1949. (§ 17 ch 123 SLA 1949)

Revisor's note. — The words "of 1949" were added by the revision to differentiate this act from "The Alaska Aeronautics Act of 1937" which is found in AS 02.10.

exclusive use of the carrier's aircraft, air service of a continuing nature for a definite and limited number of persons; a contract carrier's air service is designed to meet the distinct air transportation needs of the individual customer; a contract carrier does not represent to the public at large expressly or by course of conduct that it furnishes transportation for compensation, hire, or lease;

(9) "dormancy" means failure of a person who holds a certificate of authority as an air taxi operator or a contract carrier to own or lease and operate aircraft in air commerce during the two quarters preceding an accusation by the commission;

(10) "supplemental base of operations" means the point together with the reasonable contiguous or closely related surrounding community or geographical area, from where, in addition to its "base of operations," the carrier also represents that it engages in air commerce. (§ 3 ch 161 SLA 1960; am § 2 ch 139 SLA 1966; am § 5 ch 147 SLA 1966; am §§ 11, 12 ch 146 SLA 1972; am § 17 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "of public convenience and necessity" following "a certificate" in paragraph (8).

Chapter 15. Alaska Aeronautics Act of 1949.

Article
2. State Airports (§ 02.15.091)
3. Airport Assistance (§ 02.15.140)
5. Aeronautics Training (§ 02.15.180)
6. General Provisions (§§ 02.15.210, 02.15.260)

Article 2. State Airports.

Section
91. Sale and delivery of in-bond merchandise at international airports

Sec. 02.15.091. Sale and delivery of in-bond merchandise at international airports. (a) As provided by (b) and (c) of this section, the department shall allow the sale and delivery of in-bond merchandise at an international airport only by an exclusive contract.

(b) While the exclusive contracts for the sale and delivery of in-bond merchandise at international airports that exist on June 15, 1982 are in effect, the department may not permit or confer a right on any other person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(c) After the exclusive contracts existing on June 15, 1982 are no longer in effect, the department shall enter into one exclusive contract and, on its expiration, additional successive exclusive contracts for the sale and delivery of in-bond merchandise at each international airport. Except under the existing and future exclusive contracts described in this section, the department may not permit or confer a right upon any

Oct. 1983
SUPPLEMENT

person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(d) The department shall offer the exclusive contracts required by this section only by competitive bid and shall award the contracts after considering the generation of maximum revenues for the International Airports Revenue Fund established by AS 37.15.430.

(e) The department shall actively supervise the operations under each exclusive contract for the sale and delivery of in-bond merchandise in order to ensure the effectiveness of the operations. To supervise contract operations under this section, the department shall develop and implement guidelines that provide for review of the reasonableness of price schedules, quality and assortment of merchandise, and customer service.

(f) Nothing in this section applies to deliveries of in-bond merchandise as cargo to airlines. (§ 2 ch 111 SLA 1982)

Cross references. — For legislative findings, see § 1, ch. 111, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Effective dates. — Section 5, ch. 111, SLA 1982, makes the section effective June 15, 1982, in accordance with AS 01.10.070(c).

Editor's notes. — For legislative findings concerning AS 02.15.091 see Chapter 111 in the Temporary and Special Acts binder.

Article 3. Airport Assistance.

Section
140. State financial assistance

Sec. 02.15.140. State financial assistance. The department may grant or lend money, subject to the provisions of AS 02.15.060, 02.15.070 and 02.15.120, to any person or municipality or to municipalities acting jointly for project costs relating to the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled or to be owned or controlled by the municipality or municipalities or person. Grants or loans may be furnished in connection with federal or other financial aid for the same purpose. (§ 9B ch 123 SLA 1949; am § 18 ch 168 SLA 1978; am § 1 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, in the first sentence, inserted "or to municipalities" preceding "acting jointly," and inserted "municipalities or" preceding "person."

Article 5. Aeronautics Training.

Section
180. [Repealed]

Sec. 02.15.180. Financial assistance.

Repealed by § 1 ch 94 SLA 1980.

Editor's notes. — The repealed section derived from § 11B, ch. 123, SLA 1949; § 1, ch. 128, SLA 1953.

Article 6. General Provisions.

Section
210. No exclusive rights granted
260. Definitions

Sec. 02.15.210. No exclusive rights granted. The department may not grant an exclusive right for the use of an airway, airport, or air navigation facility under its jurisdiction. This section does not prevent the making of contracts, leases and other arrangements under AS 02.15.060 — 02.15.100 and 02.15.120, including exclusive contracts for the sale and delivery of in-bond merchandise described in AS 02.15.091. (§ 8B ch 123 SLA 1949; am § 3 ch 111 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 15, 1982, in the second sentence, substituted "under" for "pursuant to" and added the language beginning "including exclusive contracts for the sale" to the end

Sec. 02.15.260. Definitions. In this chapter

(1) "aeronautics" means the science and art of flight including but not limited to transportation by aircraft; the operation, construction, repair or maintenance of aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or related ground subjects;

(2) "aircraft" means a contrivance used or designed for navigation of flight in the air;

(3) "airman" means an individual engaging as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; an individual directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers, or appliances; and an individual serving in the capacity of aircraft dispatcher, or air-traffic control-tower operator; or an individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in that connection; or an individual performing inspection or mechanical duties in connection with aircraft owned or operated by him in the state of Alaska;

(4) "air navigation facility" means a facility used, available, or designed for use in aid of air navigation, including structures, mechanisms, lights, beacons, markers communicating systems, or other

Oct. '83
Supplemental

instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking-off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of the facilities;

(5) "airport" means an area of land or water which is used or intended for use for the landing and take-off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, together with airport buildings and facilities located thereon;

(6) "airport hazard" means a structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to the landing or taking off;

(7) "civil aircraft" means any aircraft other than a public aircraft;

(8) "commissioner" means the commissioner of the Department of Transportation and Public Facilities of the state;

(9) "department" means the Department of Transportation and Public Facilities;

(10) "municipality" means a home rule or general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class borough, incorporated under the laws of the state;

(11) "operation of aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon an airport inside this state; "operate aircraft" means, to use, navigate or pilot aircraft in the airspace over this state or upon an airport inside this state;

(12) "public aircraft" means an aircraft used exclusively in the governmental service of the United States and the state government;

(13) "cargo" means goods carried by an airline that are carried under an agreement between the shipper and the airline other than a passenger ticket, that are accepted, carried and handled separately from passenger baggage, and that are delivered to a location other than a baggage claim area; "cargo" does not include goods carried by an airline as baggage, whether belly-loaded or hand-carried and whether accompanied or unaccompanied by a passenger;

(14) "international airport" means an international airport owned and operated by the state. (§ 1 ch 123 SLA 1949; am § 53 ch 127 SLA 1974; am Executive Order No. 39, § 11 (1977); am § 4 ch 111 SLA 1982)

Effect of amendments. -- The 1982 amendment, effective June 15, 1982, added paragraphs (13) and (14).

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National Transportation Safety Board
Bureau Field Operations
Anchorage Field Office
701 C Street, Box 11
Anchorage, Alaska 99513

March 1, 1984

Mark Hanley
% Terry Martin
Pouch V, Capitol Building
Juneau, Alaska 99811

Dear Mr. Hanley:

Pursuant to our telephone conversation you will find enclosed a list of the particular Federal Aviation Regulation Part Number and a brief description of each which does not apply to "public use" aircraft. Particular attention must be paid to Title 14 Code of Federal Regulations Part 1, which defines "civil aircraft" and "public aircraft".

The term "civil aircraft" is strategically used throughout the regulations which allows such aircraft to perform acts without repercussion from a federal viewpoint.

As you read through the brief descriptions you will realize the magnitude of the possible ramifications should these regulations be stretched to their ultimate definition.

Sincerely,

George Kobelnyk

encls

FAR Part Nos
Title 49, Part 830, 2 cys

61.3 Certificate requirements: A pilot certificate is not needed, nor an instrument rating; however, a medical certificate is required.

91.5 Para b,1. Preflight action - A public aircraft is not required to compute landing and takeoff distances.

Para b,2. Does not need other reliable information such as aircraft performance under expected values of airport elevation and runway slope, aircraft gross weight, and wind and temperature.

91.6 Category II and III Operations

Para a,1. Public aircraft does not need special authorizations to use category II or III operations.

91.7 Flight Crewmembers at Stations

Para b. Does not need to keep the shoulder harness fastened while at this duty station.

91.11 Liquor and Drugs

Para a. States civil aircraft which renders this entiere part useless for public aircraft. A pilot of a public aircraft may drink and fly with less than the required eight hours; may fly while intoxicated; may fly under the influence of any drugs; be prescribed by a doctor or self prescribed, and may carry intoxicated passengers indiscriminately.

91.12 Carriage of narcotic drugs, marijuana, and depressants or stimulant drug substances.

Para a. A public aircraft can carry the above listed substances indiscriminately without violating the FARs.

91.13 Dropping Objects.

A public aircraft should they desire can drop objects so as to create a hazard to persons or property and not be in violation of the FARs.

91.14 Use of Safety Belts

Para a, 1. Pilot-in-command does not need to ensure that each passenger was briefed on how to fasten and unfasten the seatbelt.

Para a. 2. Does not need to notify the passengers to fasten their seatbelts.

Para a, 3. Does not need to ensure that each person occupies a seat or berth with a seatblet secured about them.

91.21 Flight Instruction - Simulated Instrument Flight and Certain Flight Test.

Para a. Under this part a public aircraft does not need dual flight controls for flight instruction.

91.23 Fuel Requirements For Flight in IFR Conditions.

Para a. Public aircraft do not need the required 45 IFR fuel reserve.

91.25 VOR Equipment Check for IFR Operations.

Para a. Public aircraft are not required to perform a VOR operational check within the preceeding 30 days for a flight under IFR rules.

91.27 Civil Aircraft - Certifications Required For Public Aircraft None as the title of this Part implies.

91.29 Civil Aircraft Airworthiness

A public aircraft does not need to be in an airworthy condition as the title of this Part implies.

91.30 Inoperable Instrument And Equipment For Multi-engine Aircraft.

A public aircraft does not need an approved minimum equipment list.

91.31 Civil Aircraft Operating Limitations on Marking Requirements.

As the title implies, a public aircraft does not have to remain within the approved operating limitations or the marking requirements as outlined by the appropriate manuals.

91.32 Supplemental Oxygen

Under this part a public aircraft does not need oxygen.

91.33 Powered Civil Aircraft With Standard Category U.S. Airworthiness Certificates; Instrument and Equipment Requirements.

This entire section, as the title implies, vindicates all public aircraft from its requirements. Remember that in a previous part of this regulation, public aircraft do not need an airworthiness certificate to begin with.

91.34 Category II Manual

91.51 Altitude Alerting System or Device; Turbo-jet Powered Civil Airplanes.

Again a public turbo-jet powered airplane need not comply.

91.52 Emergency Locator Transmitters

Para a. A public aircraft does not need to carry an emergency locator beacon.

All of the above parts are an interpretation of paragraphs using the term "civil aircraft" as defined in FAR Part 1, Title 14.

HB

512

LIBRARIAN'S NOTE: 10/17/84

FOR MORE ON HB512, Please refer to folders at beginning of H. Transportation files.

COMMITTEE REPORT

HOUSE

(3)

FURTHER: FINANCE

1/14/88

Date: 3/23/84

The Committee on TRANSPORTATION has had HB 512

"An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 512 [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] rep ; it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

HB 512

BILL HB0512
PAGE 02255
DATE 01/13/84
CHAMBER HOUSE
TEXT HOUSE BILL NO. 512 by Hayes, Ringstad, Shultz, Abood, Fritz, Furnace, Cato, Fuller, Oehling, Bettisworth and Tischer, entitled:

"An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

BILL HB0512
PAGE 03033
DATE 03/23/84
CHAMBER HOUSE
TEXT The Transportation Committee has had HOUSE BILL NO. 512 (establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; effective date) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 512 (Transportation) (same title) and reports it back as follows: Cato (Chairman), Abood, Herrmann, Bettisworth, M.W. Miller and Flood recommend do pass; McBride and Davis have no recommendation. A fiscal note was attached.
HB 512 was referred to the Finance Committee.
The fiscal note appears in House Journal Supplement No. 113.

TEXT The Finance Committee has had HOUSE BILL NO. 512 (establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; effective date) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 512 (Finance)(same title) and reports it back as follows: Fritz and Bettisworth recommend do pass; Adams (Chairman), Grussendorf, Hurlbert, Ward, Martin, Duncan and Lindauer have no recommendation; Zharoff signed do not pass; Furnace signed "Bad Bill". A new fiscal note was attached.
HB 512 was referred to the Rules Committee for placement on the calendar.
The new fiscal note appears in House Journal Supplement No. 138.

BILL	HB0512
PAGE	03627
DATE	05/03/84
CHAMBER	HOUSE
TEXT	Representative Barnes moved and asked unanimous consent that HOUSE BILL NO. 512 (establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; effective date) and pending amendments be returned to the Rules Committee. Representative Clocksin objected and withdrew his objection. There being no further objection, HB 512 was taken from the calendar and returned to the Rules Committee.

AK Railroad Corporation (establishment)

HOUSE BILL NO. 512, by Reps. Hayes, Rivgstad, Shultz, Abood, Fritz, Furnace, Cato, Fuller, Uehling, Bettisworth and Tischer. See Senate Bill No. 352, page 17, identical.

Introduced January 13 and referred to Transportation, Finance.

Alaska Railroad Corp. (establishing)

SENATE BILL NO. 352, by Senators Kerttula, Faiks & Halford. Establishes the Alaska Railroad Corporation as a public corporation with a separate legal existence from the state. The corporation will operate and manage the Alaska Railroad after its eventual transfer to the state. Legislative "Findings & Purpose" state that it is in the best interests of the state to accept the railroad under the terms and conditions offered by the U.S. government. Cites Alaska's vast natural resource potential and the possibility of extending the Railroad into natural resource areas, thereby lowering freight costs and stimulating long-term economic growth.

Declares that it is in the best interests of Alaskans for the corporation to be created in such a way that "(A) [it] ... will be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad; (B) the corporation, and not the state, will constitute a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission; (C) [it] ... will have the ability to raise capital by issuing obligations exempt from federal and state taxation; (D) [it] ... may carry out its responsibilities on a self-sustaining basis; (E) the best possible combination of types and levels of safe, efficient, and economical transportation can be provided that is necessary to meet the overall needs of the state, supported when necessary by state investment; (F) the railroad may be operated prudently and according to sound business management practices; and (G) borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity."

Laws establishing the Corporation are added to AS 42 under new Ch. 40, "Alaska Railroad Corporation." Includes Art. 1, Establishment and Organization (Establishment of the Corporation, Board of Directors, Term of Office, Vacancies, Compensation and Expenses, Quorum and Notice of Meetings, Voting); Art. 2, Management (Executive Officers, Delegation); Art. 3, Administrative Provisions (Public Board Meetings, Minutes of Meetings, Rules, Public Disclosure of Information, Special Report, Annual Report, Annual Audit); Art. 4, Powers and Duties (General Powers, Long-Range Expansion and Capital Improvement Plans, Use of Corporation Assets); Art. 5, Rail Properties (Land, Classification, Acquisition, and Use of State Land for Railroad Purposes, Eminent Domain and Acquisition of Property and Materials, Other Assets); Art. 6, Financial Provisions (Limitation of Liability, Fidelity Bond, Insurance, Claims, Revenue, Appropriations, Bonds and Notes, Interim Receipts, Temporary Bonds, and Temporary Bond Anticipation Notes, Validity of Signatures, Independent Finance Advisor, Validity of Pledge, Remedies, Negotiable Instruments, Bonds and Notes Eligible for Investment, Refunding Bonds, Credit of the State Not Pledged, Officers Not Liable, Exemption from Taxation, Reversion of Assets); Art. 7, Personnel and Labor Relations (Personnel, Political Activities); Art. 8, General Provisions (Application of Existing Standards, Definitions, Short Title).

Effective immediately. Identical to HB 512, page 54.

AK Railroad Corporation (establishing)

HOUSE BILL NO. 512, (see page 54). Reported back to the House March 23 by Transportation recommending it be replaced with a Transportation substitute and that it do pass. Concurring: Cato (Chair), Abood, Herrmann, Bettisworth, M. W. Miller and Flood. Not concurring: McBride and Davis had no recommendation. To Finance.

The Transportation version of the bill was not available, due to errors in the bill. The substitute bill should be printed on Monday, March 26, according to a Committee aide.

The following is a staff analysis prepared by the Senate Transportation Committee on CS for Senate Bill No. 352 (Trsp), establishing the Alaska Railroad Corporation. Contains italicized references to the major differences between CSSB 352 (Trsp) and CSHB 512 (Trsp), offered last week.

Title

Includes a brief description of the main elements of the bill. The list of statutes the corporation is exempt from is also included in the title.

The statutes are:

AS 19 - Title 19 is the statute which sets out the duties of state agencies in regard to highways and ferries and related activities.

AS 23.40 - Chapter 40 deals with the relationship between state entities and labor organizations. But see Article 8 of this legislation for Personnel and Labor Relations provisions.

AS 30.15 - Chapter 15 is concerned with state participation in port facilities and development.

AS 35 - Title 35 sets out the duties and powers of the Department of Transportation and Public Facilities with regard to public facilities.

AS 37.05 - Chapter 05 is the Fiscal Procedures Act. For provisions in this legislation which replace similar provisions in the Fiscal Procedures Act see Section 1, 3(A) and (F); 42.40.100(1) and (8); 42.40.120(b)(4), (C)(11); 42.40.260; 42.40.270.

AS 37.07 - Chapter 07 contains the Executive Budget Act. For similar provisions in this legislation see 42.40.260; and 42.40.270 and 42.40.280.

AS 37.10.010 - 37.10.060 - Give the Department of Administration duties related to Public Funds.

AS 37.10.085 prohibits financial aid to corporations by state or political subdivisions.

AS 37.20 sets out a method for the state to receive federal property. Sec. 42.40.360; 42.40.420 and 42.40.440 for comparable provisions.

AS 37.25 is the miscellaneous provisions of the public finance title.

AS 38 - Title 38 is the Public Lands statute. For similar provisions see 42.40.350; 42.40.360; 42.40.370; 42.40.380; 42.40.390; 42.40.400; 42.40.410; 42.40.420 and 42.40.430.

AS 39 - Title 39 is the public officer and employees statute. See sections 112.40.020; 42.40.030; 42.40.040; (see also Sections 3,4,5, and 6); 42.40.050; 42.40.060 and Article 8 of this Act.

AS 44.62.040 - 44.62.320 - is the Administrative Procedures Act. But see 42.40.150; 42.40.160; 42.40.170; 42.40.180; (see also Section 8); 42.40.200; 42.40.210; 42.40.220 for similar provisions contained in this Act.

*Section 1 This is a statement of legislative findings and purpose. In (a) the legislature finds that the Alaska Railroad is an essential part of the state transportation network that may cease to be an option without state action. It also states that the railroad is necessary for long-term economic growth of the state and an essential part of the state transportation network. In (b) the purpose of the Act is stated to be the creation of an entity to operate and manage the railroad pending the transfer of the railroad to the private sector. That it will be responsible for the management of the financial and legal obligations of the railroad, will constitute a common carrier under the Interstate Commerce Commission, will have the ability to issue tax exempt obligations, carry out its responsibilities on a self-sustaining basis, and so that the best transportation can be provided supported by state investment when necessary, the railroad may be operated prudently, and borrowing by the corporation does not endanger the state's own borrowing capacity. It is also charged with protecting the railroad utility corridor.

*Section 2
Section 42.40.010

The Alaska Railroad is established as a public corporation within the Department of Commerce and Economic Development. However, Section 3 would remove the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

Section 42.40.020
The corporation is run by a board with nine members including the Commissioner of Commerce and Economic Development, the Chief Executive Officer of the Corporation and one appointed member who is a representative of the corporation's organized labor. In addition, there are six public members who may not be state employees. One of the public members must have 10 years experience and one shall have been an executive official of a U.S. railroad. Except for the two public members just mentioned, all public members must be registered Alaskan voters. With the exception of the Commissioner of Commerce and Economic Development and the chief executive officer, the board shall be confirmed by the majority of the members of each house of the legislature in joint session.

However, see Section 4 where 42.40.020 is amended if the Constitutional Amendment passes. Under this amendment the Commissioner of Commerce and Economic Development is removed from the board and the board is increased to eight appointed members.

The House version, [CSHB 512(Trsp)], is slightly different in that it gives the governor more discretion in naming public members to the board. In the Senate Bill the two railroad experts are mandatory members but in the House version they are optional. In addition, the Senate Bill requires all members of the board, except for the railroad experts, to be registered voters but in the House Bill the two non-registered voters may be any two of the seven public members. The House Bill also differs slightly in its description of the work experience requirements of board members. It allows work experience if it relates to fields relevant to this but while the Senate Bill just requires five years of business experience. The Senate requirement is limited to business experience in Alaska while the House does not have a similar limitation.

Section 42.40.030 All members required to be confirmed by the Legislature serve for staggered five year terms and serve at the pleasure of the Governor. Section 10 sets up how the first board of directors will serve which results in staggered terms for members that follow.

However, see Section 6 and Section 7 which amend 42.40.030 if the Constitutional Amendment passes. Under these amendments a board member could be removed only for cause.

Section 42.40.040 A vacancy on the board is filled by the governor and the appointment must be confirmed by the legislature. Despite a vacancy the board may exercise its power if it has a quorum of members.

Section 42.40.050 An appointed member of the board received $250 for each day he is engaged in the performance of duties as a board members and partial day provisions may be established by the board. In addition, he is entitled to per diem and travel expenses.

The House Bill, [CSHB 512(Trsp)], provides for a $401 per day compensation rate.

Sec. 42.40.060 The board is to elect a chairman and vice-chairman from its membership and appoint a secretary.

Section 42.40.100 - The board is to manage the corporation according to the guidelines provided in this section. This corporation is to be generally self-sustaining, subject to the ICC consistent with the Transfer Act and provide safe, efficient and economical transportation. The board must apply to the legislature for appropriations if a service is provided which is not self-sustaining. In addition, the board is responsible for reviewing all land disposals so that future expansions of the railroad are not restricted.

The House Bill, [CSHB 512(Trsp)], does not include the provision requiring the corporation to apply for an appropriation if it provides a service which is not self sustaining.

Section 42.40.110 The board appoints the Chief Executive Officer of the corporation and fixes his compensation. The Chief Executive Officer of the corporation appoints executive officers. The salaries of the executive officers appointed by the Chief Executive Officer are subject to board approval.

The House Bill, [CSHB 512(Trsp)], requires that the board approve all executive officers appointed by the Chief Executive Officer.

Section 42.40.120 By rule the board delegates duties necessary for the management of daily affairs of the corporation to the Chief Executive Officer. Within 60 days after it is established, the board must delegate certain specified activities of the corporation. Some activities are delegated but require specific board approval for final action.

In addition to the delegated activities which require board approval found in the Senate version, the House Bill, [CSHB 512(Trsp)], requires specific board approval to begin capital projects with an estimated completion cost of $500,000 or an estimated completion time of more than one year.

Section 42.40.150 Meetings of the board are public with the exception of executive sessions. The board provides by rule how notice of the meetings shall be given. The board is required to keep minutes of the meetings.

In addition to the requirement that minutes be kept of the meetings the House Bill, [CSHB 512(Trsp)], requires that a certified copy of the public portion of the minutes of each meeting be sent to the governor and the legislature.

Section 42.40.160 A quorum is established as five and an affirmative action by the board also requires five votes. The board may confer and vote by teleconferencing but may not vote by proxy.

Section 42.40.170 Executive sessions are limited to matters listed and must be called by a majority vote. No action may be taken at an executive session and discussion must be limited to the topic of the motion or an auxiliary subject.

In the House Bill, [CSHB 512 (Trsp)], the list of subjects to be covered in an executive session is more general in nature than the list in the Senate Bill. In addition, the list is permissive rather than an exclusive list. There is no majority vote requirement to call an executive session nor is there a prohibition against taking action in an executive session. There is no restriction to discuss only the topic contained in the motion.

Section 42.40.180 The board is to adopt rules to carry out the purposes of this chapter. It is required to give public notice 15 days before it adopts, amends or repeals a rule. Public notice consists of publishing in at least three newspapers of statewide circulation and to persons requesting notice. Every interested party must be given one hour to testify and all relevant matter must be considered.

But see Section 8 which repeals the rule making procedure if the Constitutional Amendment passes. In its place, the new section would give all powers to adopt a rule making procedure to the board.

The House Bill [CSHB 512 (Trsp)], leaves the development of a procedure for providing notice and an opportunity to testify up to the board. It shall establish this procedure within 30 days after its first meeting. The board is also given the responsibility of developing an emergency rule making procedure but the 30 day rule does not apply to the development of this procedure.

Section 42.40.190 The board is required to set up a process for adopting emergency rules. Emergency rules are to be limited to situations where they are necessary for the orderly operation of the corporation's facilities or programs. The requirements of 42.40.180 need not be followed but within 10 days public notice is to be given of the action. Rules adopted under this section remain in effect for no more than 120 days unless the procedures of 42.40.180 are followed.

The House Bill, [CSHB 512(Trsp)], has no similar restrictions or requirements for emergency rules. In the preceding section, the board is given full authority to set up a procedure for adopting emergency rules but the question of what topics may be covered by the emergency rules is not addressed.

Section 42.40.200 Sets up a procedure for challenging a rule adopted under 42.40.180(a) and 42.40.190(a) but restricts the ability to declare a rule invalid for procedural deficiency.

The House Bill, [CSHB 512(Trsp)], has no similar provision.

Section 42.40.210 The board may, by resolution, adopt the existing rules without following the rule making procedure of 42.40.180.

The rules adopted by resolution may not be inconsistent with this chapter or other state law. The House Bill also contains a

provision whereby the substance of previous federal rules may be adopted however the operative effect of this provision is unclear.

Section 42.40.220 Records of the corporation are open to public inspection except the corporation may withhold certain matters from disclosure by rule if they are of a nonpublic, privileged, or proprietary nature.

The House Bill, [CSHB 512 (Trsp)], requires that the board must by rule identify the records as confidential before they are withheld from the public.

Special Note: The House Bill, [CSHB 512 (Trsp)], contains a provision on conflict of interest. No similar provision is contained in the Senate Bill. The conflict of interest section in the House Bill, 42.40.220, says a board member or executive officer may not participate in a decision of the corporation if he, or an immediate family member, has an interest unless their interest is remote. Interest and remote are defined and a procedure is set out for situations where the application of the section is not clear. In addition, the board shall adopt rules to further define conflict of interest and ethical rules 120 days after its first meeting.

Section 42.40.250 In addition to other powers authorized by law, the corporation may exercise certain specified general powers listed in this section.

In addition to slight drafting changes found in numbers (10), (11), (19) and (20) the House Bill, [CSHB 512 (Trsp)], contains two additional powers. Number (27) of the House Bill provides the power to own subsidiary companies or enter into agreements where part ownership or a similar interest in another corporation is part of the agreement. Number (28), of the House Bill seems to allow additional railroad activity which could technically be beyond the powers to extend the current railroad facility.

Special Note: The House Bill, [CSHB 512(Trsp)], contains a section requiring an oversight report to the governor and the legislature before certain action is taken (Sec. 42.40.280). The Senate Bill contains no similar provision.

Section 42.40.260 A report describing the operation and financial condition of the corporation during the preceding fiscal year of the railroad shall be distributed to the governor and the legislature within 90 days after the fiscal year ends.

The House Bill, [CSHB 512 (Trsp)], also includes a provision that the report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operate facilities of the corporation.

Section 42.40.270 The board shall have the records of the corporation audited annually. Corporation [illegible] be made available to an auditor appointed by the governor or to the legislative audit division.

In addition, the board is required to have an annual performance audit conducted by a recognized railroad management expert.

In the House Bill, [CSHB 512 (Trsp)], the performance audit is to be conducted by a qualified professional performance auditing firm rather than a railroad management expert as provided in the Senate Bill.

Section 42.40.280 The board must adopt a long-range program and capital improvement plan. The plan covers a five year period and must be updated annually. Copies of the updated plan are to be provided to the governor and the legislature by December 1 of each year.

The House Bill, [CSHB 512 (Trsp)], requires separate reports for each subject area. In addition, the board is required to consult with other state agencies when they develop the plans if another state agency is affected by their plans.

Section 42.40.320 The corporation may not issue stock, pay dividends, make private distributions of assets, make loans to board members or employees or engage in business for private benefit. The corporation may defend and indemnify a current or former employee, agent, or board member against costs incurred in connection with a civil or criminal action if the person acted in good faith on behalf of the corporation and within the scope of his official duties or powers. The corporation may purchase insurance to protect its employees, agents, and board members for actions arising out of the performance or failure of performances of duties for or employment with the corporation.

Section 42.40.350 Land acquired by the corporation is under the control of the corporation. Railroad rights-of-way or easements are railroad utility corridors. Land other than right-of-way or easements is rail land. Future railroad utility corridors must be at least 100 feet wide on both sides of the center line of the extended main or branch line, or may be less if adjoining land does not belong to the corporation. Portions of the utility corridor may be leased or rented for other transportation services if the use does not restrict other parallel uses of the utility corridor. The corporation may sell or lease rail land however, none of the railroad utility corridor may be sold.

The House Bill, [CSHB 512(Trsp)], requires legislative approval for sale of rail land.

Section 42.40.360 The board may nominate federal land for state selection for a railroad purpose. The Commissioner of Natural Resources would acquire the land through the federal land selection process.

In addition, the board may request any state land from the Department of Natural Resources. Upon receipt of the written request the Commissioner of the Department of Natural Resources must reserve the land in the railroad's name for 180 days.

Section 42.40.370 When the railroad requests state land under the preceding section the Commissioner has 90 days to reply in writing whether or no the request has been denied, denied in part or if the request has been granted. A conveyance under this section may be for less than fair market value and, absence a reservation to the contrary, vest full ownership of surface and subsurface rights. The land may be reconveyed back to the state if it is no longer necessary for the corporation's purposes.

The House Bill, [CSHB 512 (Trsp)], does not contain a provision allowing transfer to the corporation for less than fair market value.

Section 42.40.380 The corporation is authorized to relocate rail facilities to state land when an emergency exists. The Chief Executive Officer makes the determination that it is necessary to relocate for safe and adequate rail operations. After the relocation the corporation is required to notify the Department of Natural Resources.

The House Bill, [CSHB 512 (Trsp)], does not require an emergency condition, rather it says simply that a physical condition must require relocation. However, the House Bill requires concurrence of Department of Natural Resources before the move.

Section 42.40.390 The board may develop rules governing land used by a third party. The rules are to protect the common health, safety, and welfare of the public and may not be limited by leases, contracts or other transaction.

No comparable provisions in the House Bill.

Section 42.40.400 The corporation is authorized to exercise the power of eminent domain and declaration of taking.

Section 42.40.410 The corporation may vacate land acquired for railroad purposes by filing in the appropriate recording district.

Section 42.40.420 The corporation may acquire interests in federal land on its own behalf.

Section 42.40.430 The corporation may authorized municipal use of rail land. It may also authorize a walkway or trail on the utility corridor so long as parallel uses are not restricted. Before authorizing the use of either rail land or the utility corridor, the municipality must sign a hold harmless agreement and indemnify the corporation for any judgment against it for use related to the municipal use. When the corporation determines the use is inconsistent with expansion or replacement of railroad facilities the municipal use must be stopped.

The House Bill, [CSHB 512(Trsp)], allows the granting of a right-of-way on any rail property for use of a pedestrian walkway or trail. It does not contain a provision protecting parallel uses of the railroad corridor nor does it state who shall determine when the municipality shall vacate the right-of-way if it interferes with rail use.

Section 42.40.440 The corporation may acquire surplus property from either the federal government or the state.

Special Note: The House Bill contains a provision requiring compliance with state law if pesticides or herbicides are used by the corporation.

Section 42.40.500 A liability incurred by the corporation may be satisfied only from the assets of the corporation and no creditor has a right of action against the state.

Section 42.40.510 The corporation must obtain a fidelity bond for its board members and officers responsible for finances.

Section 42.40.520 The corporation is required to keep in force all manners of insurance to protect its assets, services, and employees from any potential liability. It may, however, provide for certain self-insurance retentions.

The corporation must provide public liability insurance under the House Bill. It is not authorized to self-insure.

Section 42.40.530 Revenue generated by or appropriated to the corporation shall be retained and used for railroad purposes by the corporation.

Section 42.40.540 With the concurrence of the governor, the corporation may request an appropriation from the legislature to assist it in carrying out its general powers and preparing long-range expansion and capital improvement plans.

Analysis, HB 512 & SB 352, (cont'd)

Section 42.49.600 The corporation may issue bonds and bond anticipation notes. The principal and interest are payable from corporation assets. The board shall by resolution establish the form and manner of execution of bonds or bond anticipation notes. They may be sold as determined by the board and shall mature at the time, not exceeding 50 years from their date, determined by the board. The proceeds from the bonds may not be used for any other purpose than that for which the instruments were originally issued. There is also a list of mandatory requirements that the instruments must comply with.

Special Note: The House Bill, [CSEB 512(Trep)], sections on bonds and notes is substantially different from the Senate version. However, the powers, duties and obligations, of the corporation in relation to its ability to raise money through bonding ostensibly remains the same.

Section 42.40.610 Bonds and notes issued by the corporation are negotiable instruments.

Section 42.40.620 Bonds and notes issued by the corporation are securities in which all public bodies of the state and other financial entities may invest funds.

Section 42.40.630 Payment of the principal or interest on bonds may be made from assets or revenue of the corporation regardless of the source.

Section 42.40.640 This section authorizes the board to enter into certain agreements with holders of the bonds or bond anticipation notes and provides for a general authority to enter into additional agreements in the absolute discretion of the board if an agreement will make bonds or notes more marketable.

Section 42.40.650 The corporation may issue interim receipts or temporary bonds or bond anticipation notes exchangeable for bonds or bond anticipation notes once they have been executed.

Section 42.40.660 The corporation may issue refunding bonds. They may be sold or exchanged for outstanding bonds and the proceeds applied to the purchase, redemption or payment of outstanding bonds.

Section 42.40.670 The board is required to retain a financial advisor independent of an underwriter who is negotiating with them for a bond sale.

Section 42.40.680 The signatures of corporation officers on bonds or notes are valid regardless of the officers' subsequent relationship to the corporation.

Section 42.40.690 The pledge of assets of the corporation to the payment of bonds or notes is valid [illegible] bonds are subject to the lien of the pledge without physical delivery or other act. The corporation is not prohibited from selling assets subject to a pledge.

Section 42.40.700 A holder of bonds or notes or a trustee may enforce all rights under this chapter, the trust agreement or resolution, or any other contract executed by the corporation relating to the bonds or notes and may compel the performance of duties of the corporation required by law or the trust agreement or resolution.

Section 42.40.710 The state is not liable for the debts of the corporation. Bonds and notes are payable solely from the revenue or assets of the corporation and are not a liability of the state or a pledge of the faith and credit of the state. Each bond and note issued by the corporation must contain a statement that the corporation is not obligated to pay it except from the revenue or assets pledged for it and neither the faith and credit nor the taxing power of the state is pledged to the payment of it.

Section 42.40.720 An officer, board member, or employee of the corporation is not subject to personal liability because of the execution or issuance of bonds or notes.

Section 42.40.750 Employees of the railroad are employees of the corporation and not of the state. Laws relating to public employees do not apply.

Section 42.40.760 The provisions of the Public Employee Relations Act do not apply. However, non-executive officials may organize and engage in collective bargaining.

Section 42.40.770 The board or the employees organization may request the Department of Administration to participate in their contract negotiations. Any labor agreement accepted by the two parties must have a grievance procedure which has binding arbitration as its last step.

The House Bill, [CSEB 512(Trep)], provides that the Department of Administration may participate in labor negotiations without stating at whose invitation or if in fact they need to be invited to participate. In addition, the corporation is required to confer with the Department of Administration before entering into labor negotiations.

Section 42.40.780 There is created a railroad labor relations agency made up of three members appointed by the governor. The agency shall perform the functions described in AS 23.40.090 - 23.40.190 which are the functions currently carried out by the state personnel board for all state employees.

It should be noted that the House Bill, [CSEB 512(Trep)], has spelled out the provision of AS 23.40.090 - 23.40.190 rather than cite them as the Senate Bill does. Those provisions can be found in the House Bill at; 42.40.760 which is cited as AS 23.40.230 in the Senate Bill; 42.40.780 which is cited as AS 23.40.100 in the Senate Bill; 42.40.780 which is cited as AS 23.40.110 in the Senate Bill; 42.40.770 which is cited as AS 23.40.120 in the Senate Bill; 42.40.780 which is cited as AS 23.40.130 in the Senate Bill; 42.40.790 which is cited as AS 23.40.140 in the Senate Bill; 42.40.800 which is cited as AS 23.40.150 in the Senate Bill; 42.40.810 which is cited as AS 23.40.160 in the Senate Bill; 42.40.820 which is cited as AS 23.40.170 in the Senate Bill; 42.40.830 which is cited as AS 23.40.180 in the Senate Bill; and 42.40.850 which is a slightly modified version of AS 23.40.130 cited in the Senate Bill. The difference between the Senate cite and 42.40.840 is that the railroad labor relations agency acts on its own to initially name the mediator while the Senate cite allows one of the parties to request a mediator. In addition, the House version requires that the mediator be mutually agreeable to both parties and shall be chosen from a list of seven qualified mediators/arbitrators knowledgeable in railway labor agreements. The Senate cite has no similar provision.

Section 42.40.790 Railroad employers have a full right to strike if a collective bargaining unit votes to do so by secret ballot. However, the parties may agree in writing to submit interpretation or application disputes to an arbitrator. Under this provision the railroad employees clearly fall under 23.40.200(a)(3) which are commonly referred to as "class 3" employees.

The House Bill has a substantial rewrite of this section. Basically the House has the employees somewhere between class 2 employees and class 3 employees (see AS 23.40.200). In the House version the employees are permitted to strike for a limited time and may be enjoined by a court of law at the request of the corporation. After being enjoined the dispute is automatically sent to binding arbitration. The arbitrator is the same person as was the original mediator chosen under 42.40.840.

Section 42.40.800 Prohibits use of corporation money, assets or property for political activity except lobbying on matters which directly affect the corporation. It provides for a $5000 penalty for violation of this section.

The House Bill, [CSEB 512(Trep)], has no similar provision.

Section 42.40.810 Prohibits requiring or coercing employees to undertake activities, or restrain from activities, except as directly related to the performance of their official duties.

The House Bill, [CSEB 512(Trep)] has no similar provision.

Special Note: In addition to the provision found in the Senate Bill, the House Bill contains two additional provisions; 42.40.870 and 42.40.880. 42.40.870 allows the deduction of union dues from an employee's wages, it should be noted that the power to make such an agreement exists under 42.40.760(b)(2) which is cited as AS 23.40.130 under the Senate Bill. 42.40.880 provides for a religious exemption from the payment of union dues.

Section 42.40.900 Claims involving activities of the railroad shall be brought against the corporation and not against the state. The corporation board members and employees have the same immunities from liability for claims against the corporation as do other state officers. Claims against the corporation must first go through an administrative appeal process to the Department of Administration before going to court action.

Section 42.40.910 The property of the corporation and its assets are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds and notes issued by the corporation are exempt from taxation except for inheritance, transfer, and estate taxes.

Section 42.40.920 The corporation is exempt from the jurisdiction of the Alaska Transportation Commission. In addition, it is exempt from the following statutes.

The statutes are:

AS 19 - Title 19 is the statute which sets out the duties of state agencies in regard to highways and ferries and related activities.

AS 23.40 - Chapter 40 deals with the relationship between state entities and labor organizations. But see Article 8 of this legislation for Personnel and Labor Relations provisions.

Analysis, HB 512 & SB 352, (cont'd)

AS 30.15 - Chapter 15 is concerned with state participation in port facilities and development.

AS 35 - Title 35 sets out the duties and powers of DOT&PF with regard to public facilities.

AS 37.05 - Chapter 05 is the Fiscal Procedures Act. For provisions in this legislation which replace similar provisions in the Fiscal Procedures Act see Section 1, 3(A) and (F); 42.40.100(1) and (8); 42.40.120(b)(4), (C)(11); 42.40.260; 42.40.270.

AS 37.07 - Chapter 07 contains the Executive Budget Act. For similar provisions in this legislation see 42.40.260; and 42.40.270 and 42.40.280.

AS 37.10.010 - 37.10.060 - Give the Department of Administration duties related to Public Funds.

AS 37.10.085 prohibits financial aid to corporations by state or political subdivisions.

AS 37.20 sets out a method for the state to receive federal property. Sec. 42.40.360; 42.40.420 and 42.40.440 for comparable provisions.

AS 37.25 is the miscellaneous provisions of the public finance title.

AS 38 - Title 38 is the Public Lands statute. For similar provisions see 42.40.350; 42.40.360; 42.40.370; 42.40.380; 42.40.390; 42.40.400; 42.40.410; 42.40.420 and 42.40.430.

AS 39 - Title 39 the public officer and employee statute. See sections 112.40.01 42.40.030; 42.40.040; (see also Sections 3,4,5, and 6); 42.40.050; 42.40.060 and Article 8 of this Act.

AS 44.62.040 - 44.62.300 - is the Administrative Procedures Act. But see 42.40.150; 42.40.160; 42.40.170; 42.40.180; (see also Section 8); 42.40.200, 42.40.210; 42.40.220 for similar provisions contained in this Act.

Section 42.40.930 If provisions of this Act conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of the Act shall be construed so that they do not conflict with the Alaska Railroad Transfer Act of 1982.

Section 42.40.940 The assets of the corporation revert to the state if it ceases to exist.

Section 42.40.980 Definitions of the chapter are provided.

The House Bill, [CSHB 512(Trans)], has a substantially different list of positions under executive officer.

Section 42.40.990 The short title of this chapter is the Alaska Railroad Corporation Act.

Section 3 Amends 42.40.010 by removing the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

Section 4 Amends 42.40.020(a) if the Constitutional Amendment passes by removing the Commissioner of Commerce and Economic Development from the board and increases the appointed members of the board from seven to eight.

Section 5 Amends 42.40.020(e) by removing reference to the Commissioner of Commerce and Economic Development if the Constitutional Amendment passes.

Section 6 Amends 42.40.030 if the Constitutional Amendment passes by removing reference to the Commissioner of Commerce and Economic Development and by removing the ability of the governor to remove board members at his pleasure.

Section 7 Amends 42.40.030 if the Constitutional Amendment passes by adding a new section which would state specific reasons for which a governor may remove board members.

Section 8 Repeals 42.40.180 if the Constitutional Amendment passes and replaces it with a new section. The new section gives the board discretion in adopting a rule making process.

Section 9 The corporation must prepare a report on the long-term operations of the railroad that is due January 1, 1988. The report shall include recommendations on the transfer of railroad operations to the private sector.

Section 10 Members of the first board of directors serve terms that differ in length and will result in staggered terms for members that follow.

Section 11 Existing collective bargaining agreements are to be adopted by the corporation and remain in effect for two years. Within 180 days of the first meeting the board and the unions shall establish a procedure for renegotiating the existing collective bargaining agreements.

Section 12 Repeals 42.40.190 and 42.40.200 if the Constitutional Amendment passes.

Section 13 The effective date of Section 3-8 and 12 is the effective date of the Constitutional Amendment should it pass. Section 12 sections 1,2 and 9-11 take effect immediately.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER
Alaska Railroad Transfer Team

March 23, 1984

The Honorable Bette Cato
Chairman, House Transportation Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Enclosed per your request is a fiscal note on the committee substitute for HB 512, an Act establishing the Alaska Railroad Corporation. Also enclosed is a detailed analysis with supporting documentation to explain its contents.

The estimates in this fiscal note are based on the results of the Alaska Railroad Transfer Team's Alaska Railroad Acquisition Assessment, released in December 1983. Although our "worst case" scenario has been used for these calculations, current indicators regarding uncertainty over potential traffic increases suggest this analysis for FY 85 is a more realistic forecast for determining actual fiscal impact.

Based on a request from the Senate Transportation Committee, the Transfer Team is re-assessing these estimates to develop a "best case" alternative for legislative consideration. This analysis will factor in the full impact of increased revenues from the export coal movement, SeaWay Express' entry into Seward, and additional special trains to meet the summer cruise ships at Whittier. This information will be provided to your committee as soon as it becomes available.

All estimates are presented in constant 1985 dollars and have been inflated from our original 1983 constant dollar estimates using an annual 6% inflation factor. The "general fund" line under the "funding component" is the projected annual shortfall to the State resulting from acquisition of the railroad. In FY 85, an overall appropriation of $15.8 million will be needed to cover the expected shortfall.

The figures in this note are basically the same as those presented to the Senate Transportation Committee for the CS for SB 352. Another $50,000 per year has been added to this note in response to the higher compensation levels for board members in Sec. 42.40.050, and the additional notice requirements in Sec. 42.40.090.

The FY 85 estimate is based on an assumption that actual transfer will occur somewhere between November and January of that fiscal year. Accordingly, most of the figures (e.g., revenues) are merely prorated for a seven month fiscal year ending in July 1985.

In addition, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which causes the sizeable shortfall during FY 85. Included in this area are such items as $4.9 million for replacement of the railroad's working capital fund, $4.5 million for initiation of compliance with OSHA requirements and state and local building codes, and $2 million for specific transition expenses to be incurred by the new corporation in taking over the railroad.

Another $1.75 million of the 300 level contractual category is for the Alaska Railroad Transfer Team to perform its duties during FY 85. These funds are to support several one-time transition activities, most of which are already underway in this fiscal year. All other FY 85 fiscal impact to state agencies as a result of enacting this legislation has also been included in this submittal.

I trust this information helps to explain the highlights of the enclosed fiscal note. If you would like any additional assistance, please do not hesitate to contact me at 465-3900.

Sincerely,

Mark S. Hickey
State Railroad Coordinator

Enclosure

cc: Ray Gillespie, Legislative Liaison,
Office of the Governor
Ben Harding, Special Staff Assistant,
Office of the Governor
R. J. Knapp, Commissioner,
Department of Transportation &
Public Facilities
House Transportation Committee Members

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 512
Title: Alaska Railroad Corporation Act of 1984
Sponsor: Hayes, et. al.
Requestor: Representative Cato
Date of Request: 3/22/84

FISCAL DETAIL
Agency Affected:
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Alaska Railroad

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		24,350				
200 TRAVEL		300				
300 CONTRACTUAL		4,800				
400 SUPPLIES		5,200				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING	-0-	37,350	57,800	58,050	57,350	57,950
CAPITAL	-0-	15,800	20,450	20,450	20,450	20,450
REVENUE	-0-	37,350	67,200	70,200	73,300	76,350

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,800	11,050	8,300	4,500	2,050
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	37,350	67,200	70,200	73,300	76,350
TOTAL	-0-	53,150	78,250	78,500	77,800	78,400

POSITIONS:

FULL-TIME	-0-	478	478			
PART-TIME	-0-	38	38			
TEMPORARY	-0-	64/300	64/300			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund (Although the legislation does not speak to chis point, every indication suggests use of a general fund appropriation to offset fiscal impact.)

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coord. MSH Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 3/22/84

Approved by Commissioner: R. V. Knapp Date: 3/22/84
Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
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12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Bill/Resolution No.: HB 512
Title: Alaska Railroad Corporation Act of 1984

BILL ANALYSIS

Overview:

This fiscal note is based upon the results of the Alaska Railroad Team's Alaska Railroad Acquisition Assessment, released in December 1983. That document provides a comprehensive analysis of the major issues concerning acquisition of the Alaska Railroad (ARR). It includes a thorough assessment of the financial exposure to the State from ensuring continued rail operations in accordance with the requirements of the Alaska Railroad Transfer Act of 1982 (ARTA).

The estimates presented in this fiscal note are derived from the "worst case" scenario of future railroad activity. Current indicators such as the continued uncertainty over the export coal contracts suggest use of this analysis as the most realistic forecast for determining actual fiscal impact. Please note that the acquisition cost of $22.3 million for railroad purchase has been addressed in a separate fiscal note attached to the acquisition legislation.

While the data and forecasts used in both the Acquisition Assessment and this fiscal note reflect the input and work of the railroad and the United States Railway Association (USRA), the final estimates are based on independent analysis and downward adjustment by the Transfer Team. Our work includes such factors as removal of uncertain revenue increases, increased costs for compliance with state and local building codes, and additional adjustments for necessary capital rehabilitation.

This bill analysis is limited to providing explanations of the fiscal impact resulting from the proposed legislation. It should be noted that there exist policy conflicts between provisions of this legislation and the Sheffield Administration's Policy Statement of January 26, 1984.

Assumptions:

The FY 85 figures are based upon an assumption that actual railroad transfer will occur somewhere between November and January of that fiscal year. As a result, most of the estimates are merely prorated for a partial fiscal year ending in July 1985. However, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which cause the sizeable shortfall during what is only a partial fiscal year.

Although a breakout of specific operating expenditures has been provided for FY 85 in order to provide the railroad operating entity a functioning program during its first year of operations, an actual budget structure has not been included to avoid prejudicing the new operating entity's prerogatives to formulate its own budget structure and subsequent submissions. Please note that the FY 85 submittal also contains the request for all funds needed by the Transfer Team and other state agencies to perform the duties resulting from passage of this legislation and acquisition of the railroad.

Although the current legislation places the Alaska Railroad within the Department of Commerce and Economic Development for purposes of the constitution, other sections of this bill anticipate moving it if a proposed constitutional amendment passes next November. Accordingly, this note does not address a specific "agency affected" to avoid a future conflict in this area.

Since the constitutional amendment cannot become effective until November if it passes, this note is predicated on an assumption that all funds for the corporation will be passed through by the respective line agency under which the corporation is located. Funds for all other state agencies will be passed on to the Transfer Team for further processing as appropriate.

Administrative costs incurred by the line agency under which the corporation is located should be minimal and will be covered as part of the corporation's overhead. Please note that all fiscal impact to state agencies resulting from this legislation have been coordinated by the Transfer Team and are reflected in this note.

All estimates are presented in constant 1985 dollars. An annual inflation factor of 6% has been used to convert the original 1983 constant dollar estimates in the Acquisition Assessment.

Operating Expenditures:

This estimate includes both general operating expenses and new expenditures resulting from the railroad transfer (i.e., additional costs due to potential loss of railroad gravel reserves under third-party claims). Included in the former category are costs for maintenance-of-way, maintenance of power and equipment, transportation services, communications, administration and overhead, marketing and real estate management. The latter category includes increased legal and overhead expenses, additional insurance and risk management contributions, fiscal impact to the Transfer Team and other state agencies because of railroad acquisition, and one-time, start-up costs for items such as the printing of new letterhead and the marking of personal property.

Although revenue is projected to increase during FY 87-89, costs during that period are not significantly larger than the first two years of operations due to the sizeable, one-time transfer related expenses immediately following transfer. These estimates are based on historical data provided by current railroad personnel and reflect anticipated operating expenditures needed to comply with the terms of ARTA.

Attachment A provides more details on the FY 85 submittal by object of expenditure. Some $4 million of this estimate is to cover immediate expenditures resulting from actual transfer of the railroad. This includes the following:

(1) $1.750 million for the Alaska Railroad Transfer Team to perform its duties as outlined in Attachment B;

(2) $2 million for specific one-time, start-up costs to be incurred by the new entity for items such as the marking and inventorying of personal property, the printing of new stationery and payment warrants, additional legal costs, and certain corporation expenditures for the new Board of Directors;

(3) $200,000 in funds to conduct a final pre-transfer audit to establish the accuracy of balance sheets and the identification of accounting problem areas; and

(4) $80,000 in additional fiscal impact to the Department of Administration to ensure preservation of railroad archival records and additional labor relations work not budgeted for in the Transfer Team's FY 85 budget memo.

Another component of the FY 85 submittal includes $270,000 in funds in direct response to the following requirements of the legislation:

(1) $200,000 to initiate the Special Report required in Section 9 on the feasibility of attracting private sector involvement in the railroad's operations;

(2) $35,000 to the Department of Natural Resources to respond to any state land request by the corporation under Section 42.40.360; and

(3) $35,000 to fund costs for the new railroad employees labor relations agency as provided in Section 42.40.780.

The remaining estimates in this area reflect the normal operating expenses by category for the part of FY 85 involving state operation of the railroad. These specific estimates have been prepared with the close cooperation of railroad administration and budgeting personnel. All expenditures for per diem and compensation of the Board of Directors have been included in the general estimates for the 100 and 200 categories.

Capital Expenditures:

The capital component of this fiscal note represents a combination of increaed capital costs resulting from transfer and prorated expenditures for ongoing railroad operations. The analysis contained in Chapters 4 and 5 of the Acquisition Assessment serve as the basis for both of these estimates.

In addition, the results from the State's independent engineering condition assessment have been used to project an increased level of expenditure minimally acceptable to begin reversing deterioration of the railroad's physical plant, including the initiation of a systematic plan for replacing aged rolling stock. It is important to understand that engineering condition alone cannot be the basis for a projected level of sustained capital expenditure, but must be tempered by national trade-offs between long-term plant condition and available revenues.

The capital estimate of $15.8 million includes a one-time expenditure of $4.9 million to replace the railroad's working capital fund. ARTA establishes a process where little, if any, money will be transferred from the ARR's Revolving Fund because of pre-transfer federal claims and contingent liabilities that must be paid by the fund. As a result, an amount equal to about one month's worth of operating expenses (which is similar

to working capital requirements for other railroads) is needed to fund and maintain adequate working capital for the railroad after transfer.

Another capital expenditure resulting from railroad transfer is the initiation of compliance with Occupational Safety and Health Act (OSHA) requirements and state and local building codes. Approximately $4.5 million per year has been set aside during the forecasted period to move toward compliance in these areas. Chapter 5.3 of the Acquisition Assessment provides more details regarding this requirement.

The remaining $6.4 million of this estimate covers general railroad capital needs, prorated for the period of state ownership during FY 85. An additional $7.85 million is projected for expenditure by the railroad for this program. Attachment C provides additional information regarding the capital improvement program to be performed during FY 85.

It should also be noted that based on a recent audit review of the ARR's financial statements, about $4 million per year of capital expenditures could just as easily be categorized as operating costs (primarily maintenance-of-way expenditures) if generally accepted accounting principles are applied to the railroad. However, no adjustments have been made with our estimates to avoid creating greater confusion by conflicting with existing railroad procedures prior to a general system overhaul by the corporation upon transfer.

Revenue:

This estimate on a prorated basis represents projected FY 85 revenues from its freight, passenger and real property rental activities. The FY 85 revenue figure is based on a projected commodity mix fairly similar to the last two years of railroad operations. Attachment D contains some additional information from the ARR's 1983 Draft Annual Report regarding FY 82 and FY 83 operations.

These projections are based on information from the railroad and USRA, which were then adjusted downward by the Transfer Team to remove 50% of the net cash from anticipated revenue increases in export coal, interline and pipe traffic. If either of these movements were in fact to materialize in a significant way, it could sizeably reduce the need for general fund assistance during FY 87-89. Likewise, any major downswing from our projections would probably result in the need for even larger general fund assistance during those years.

Funding Source:

The "Other Funds" appearing on the fiscal note are railroad revenues.

Positions:

ARTA basically mandates a two-year period of full protection of current salaries and benefits for all employees who choose to transfer. What happens following that period becomes a matter for contractual negotiation between management and employees.

The figures presented in this part of the fiscal note are the actual number of employees in each category as of March 1, 1984. No estimate can be made of the actual number of those choosing to transfer, although it is anticipated that most employees will do so. In the case of temporary employees, the first number on this line is the actual number today, while the second estimate reflects the average number of temporary hires used in the summer for major maintenance work.

Summary:

The estimates provided in the attached fiscal note are primarily based on the Transfer Team's assessment of the likely fiscal impacts from state acquisition of the Alaska Railroad. It is important to reiterate that the acquisition cost of $22.3 million has been addressed in a separate fiscal note attached to the acquisition legislation.

It is our view that the corporation's overall organization as currently envisioned in the proposed legislation will not have any appreciable impact immediately on the railroad's general financial condition. Beyond the increased cost for modifying the existing administrative and management systems during the first two or three years following state takeover, it is difficult to predict whether the proposed organizational arrangements in this legislation will generate cost efficiencies not enjoyed during federal ownership.

The philosophy in the current legislation is, to the extent possible, to foster a self-sustaining business orientation for railroad operations. This is consistent with the Transfer Team's analysis of the types of steps necessary to achieve a break-even position at some point during the first decade of state operations.

There is no specific mandate in this legislation for new extensions or any more services than those currently in existence. This should allow the railroad adequate time to reorganize and streamline its existing operations. In addition, although several specified planning responsibilities have been added to the railroad's duties, the long-term savings from performing these kinds of systematic assessments should more than compensate for any short-term costs resulting from performance of these efforts.

Attachment E is a ten year summary (FY 73-82) of the railroad financial operations during federal ownership. It should be noted that an additional $66.2 million dollars in congressional appropriations was provided during this period to cover passenger expenses and certain capital needs.

ATTACHMENT A

Operating Budget - FY85

In Thousands (000) of Dollars

This operating budget is prorated for FY 85 except for the impacts to state agencies depicted in the 300 level. All amounts shown are in 1985 dollars. These estimates represent the total prorated FY 85 operating budget for the railroad following state acquisition. Projected revenues from the railroad's operations will serve as the main source of funds for these expenditures, with limited assistance from general fund appropriations.

Category	Amount	Explanation
100 Personal Services	$24,350.0	This funding level is based upon current work force of 478 permanent full-time, 38 part-time and 64 temporary positions. Of this amount salary comprises $19,980 and benefits comprise $4,370. Also included in this estimate are the Board of Directors' compensation expenses.
200 Travel	300.0	This funding level is the estimate of travel funding needs, including the Board of Directors' travel expenses.
300 Contractual	4,100.0	This funding level includes coverage of the following areas: continuation of Transfer Team activities for FY 85 - $1,750.0 (see Attachment B); Transfer Financial Audit - $200.0; $200.0 for initiation of the Special Report required in Section 9 of the bill; Department of Administration - $80.0 for archives preservation and labor relations coordination; costs for the labor relations agency under Article 8 of the bill - $35.0; Department of Natural Resources - $35.0 for land designation activities under Article 5 of the bill. The remainder of these funds are for the railroad's general contractual needs resulting from capital improvement, operations and financial planning activities.

400 Supplies	5,200.0	This funding level is required for the day-to-day operations of the railroad, supporting all facets of operations from administration to maintenance of way.
500 Equipment	1,200.0	This item is the complement of the supply item also supporting day-to-day railroad operations.
700 Grants & Claims	1,500.0	This item provides for funds for the railroad's risk management expenses, payment of damage claims, workmen's compensation expenses and other money claims against the railroad. No grants are anticipated.
TOTAL:	37,350.0	

Attachment B
3/14/84

ALASKA RAILROAD TRANSFER PROJECT

FY 85 PROJECT BUDGET

The goal of the Alaska Railroad Transfer Team is to provide an orderly and informed decision-making process for possible transfer of the Alaska Railroad from federal ownership, thus ensuring continuation of essential rail services in Alaska. If a decision is reached to pursue state take-over of the railroad, then it is also the goal of the Alaska Railroad Transfer Team to organize and oversee a systematic transition from federal ownership.

This document discusses the major work components of the FY 85 budget submittal. The need to pursue some of these efforts is entirely contingent on a decision to acquire, while other work efforts are separate from that decision. Attachment A provides the FY 85 budget submittal as introduced by the Governor. Attachment B is the project budget for FY 84 and provides considerable detail regarding several work tasks, many of which are ongoing in 1985.

The following breakdown is structured on a component or agency basis, versus reiterating specific details regarding ongoing work tasks. As a result, some of this explanation should be read in conjunction with Attachment B in order to fully understand all of the scheduled work efforts.

Work Component #1 - Alaska Railroad Transfer Team Staff

As indicated in Attachment A, funding is needed to support four positions in the Office of the Commissioner, Department of Transportation and Public Facilities. These positions are as follows: a State Railroad Coordinator (Special Assistant II); a Planner IV; a Planner III; and a Correspondence Secretary III. These four individuals comprise the Transfer Team Staff with direct responsibility for performance and coordination of all team activities. This group reports directly to the Commissioner of DOT&PF in the performance of their duties. The following breakdown represents expenditures directly related to this area by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DOT&PF	$195,100
Travel	4 Positions - DOT&PF	66,000
Contractual	Printing/limited Professsional Services	35,000
Supplies	Miscellaneous	8,000
	Total	$304,100

Work Component #2 - Department of Natural Resources Assistance

An existing Reimbursable Services Agreement with the Department of Natural Resources will be continued during FY 85. Work efforts covered by this assistance include ongoing support activity by the Division of Technical Services for conveyance documents and related title review work. Additional support by DNR will be provided for coordination with the Bureau of Land Management's cadastral survey work and assistance from the Division of Land and Water Management to implement the railroad transfer. The following breakdown by object of expenditure presents the needed funding for these services.

Object of Expenditure	Description	Amount
Personal Services	4 Positions - DNR	$191,900
Travel	4 Positions - DNR	20,000
Contractual	Miscellaneous Professional Services	30,000
Supplies	Miscellaneous	8,100
	Total	$250,000

Work Component #3 - Department of Labor Assistance

Specific assistance is still needed by the Department of Labor to perform an extensive survey of the railroad's physical facilities in relation to federal and state occupational safety and health laws, regulations and standards. Although this was scheduled for performance during FY 84, insufficient funding required postponement of this work effort until FY 85. Scheduled funds during FY 84 for this effort were diverted to cover additional labor relations work by the Department of Administration and the use of an Engineer-in-Training position to assist with the engineering condition assessment. The following breakdown provides an estimate for this activity by object of expenditure.

Object of Expenditure	Description	Amount
Personal Services	2 Full-time - DOL 2 part-time	$142,700
Travel	2 Full-time - DOL	7,300
Training	2 Full-time	5,200
Contractual	Miscellaneous Professional Services	39,800
Supplies	Miscellaneous	6,500
Equipment	Health Sampling Equipment/ Memory Typewriter	12,000
	Total	$213,500

Work Component #4 - Department of Administration Assistance

Activity in the area will consist of continuing work efforts initiated during FY 84 explained under task #6 of Attachment B. Particular attention must be paid to the analysis of the five collective bargaining agreements, which will support the full scale initiation of the two-year renegotiation process in conjunction with the new entity established to operate the railroad. Another important work effort will be to conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met by the new organization established to operate the railroad. Other efforts include assistance with insurance and risk management needs. The following breakdown by object of expenditure presents the necessary funding for this area.

Object of Expenditure	Description	Amount
Personal Services	1 Full-time Position	$105,000
	2 Part-time Positions	45,000
Travel	1 Full-time, 2 Part-time	[illegible]
Contractual	Liaison Assistance/ Miscellaneous Professional Services	105,000
Supplies	Miscellaneous	2,400
	Total	$257,400

Work Component #5 - Department of Law Assistance

Assistance from the Department of Law is needed for several tasks to be performed by existing AG staff and retained special counsel. Included are the following work efforts: (1) legal work pertaining to the 3(e) (ANCSA) claims against railroad property by native village corporations, including ongoing negotiation and staff work to support the State's position during the adjudication process; (2) legal assistance for the preparation of transfer documents and attention to related land conveyance problems; (3) resulting from the response to various court actions by third parties because the railroad transfer; (4) ongoing legal assistance with issues involving regulation by the Interstate Commerce Commission (ICC); and (5) support of efforts relating to personnel/ labor relation matters. The following breakdown by object of expenditure presents the needed funding for this area.

Object of Expenditure	Description	Amount
Personal Services	Staff Attorneys	$180,000
Travel	Staff Attorneys	20,000
Contractual	Wickwire Lewis	150,000
	David Walsh	75,000
	David Rogers	75,000
	Total	$500,000

Work Component #6 - ICC Rate Valuation/Capital Plan Activity

Work efforts under this component will consist of the following: (1) initiation of planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification; and (2) performance of ongoing capital planning analysis. This second task will be a continuation of efforts performed under task #7 in Attachment B. It will be coordinated with the initiation of the ICC valuation studies to maximize generation of a data base useful to both efforts. Funding in this area is needed for contractual assistance, which will be directly managed by the Transfer Team Staff.

Object of Expenditure	Description	Amount
Contractual	Consulting Assistance	$225,000
	Total	$225,000

ALASKA RAILROAD TRANSFER PROJECT BUDGET

PROJECT BUDGET

The following depicts the project budget by work component and amount:

		Amount
(1)	Alaska Railroad Transfer Team Staff	$ 304,100
(2)	Department of Natural Resources Assistance	250,000
(3)	Department of Labor Assistance	213,500
(4)	Department of Administration Assistance	257,400
(5)	Department of Law Assistance	500,000
(6)	ICC Rate Valuation/Capital Plan Activity	225,000
	Project Total	$1,750,000

ATTACHMENT C

Capital Improvement Program - FY85

In Thousands (000) of Dollars

This CIP is prorated for FY 85. All amounts shown are in 1985 dollars. These estimates represent costs to the State, and are only part of the ARR's total capital budget. Revenues from the ARR for capital improvements will be added to State funding.

Item	Amount	
Working Capital Fund	$ 4,900	As with all businesses, the ARR will need working capital. It is estimated that one month's worth of operating expenses will be adequate working capital for the ARR.
OSHA/Code Compliance	$ 4,500	As a federal agency, the ARR has not been subject to many health, safety, and building code standards that would otherwise apply. These codes will apply upon transfer, and initial surveys conducted by the State have been used to determine necessary compliance levels. See Appendix C of the Alaska Railroad Acquisition Assessment for more details.
Other Capital Improvements	$ 6,400	These expenses represent the minimal expenditure necessary for the ARR to maintain current levels of service, while initiating efforts to reverse deterioration of physical plant condition. Component priorities have been selected using the findings of the State's independent condition assessment. As indicated in the attached supplement, most capital improvements are for track and roadbed, upgrade of certain cargo handling facilities, and motive power and equipment purchases.
TOTAL	$15,800	

Supplement to Item #3, Attachment C

Track & Roadbed - $6,185,000

Ties - Install 50,000 @ $42.00 ea.	= $2,100,000
Rail - Install 6 miles @ $350,000 ea.	= $2,100,000
Ballast - Install 85,000 yd^3 @ $14 yd^3	= $1,190,000
Other - (Turnouts, sledding, culverts, ditching)	= $ 795,000

Bridges - $883,000

Replace stringers, bents, and spans
Res[illegible] bearings, piles, and abuttments

Tunnels - $1,060,200

Line with multi-plate
Excavate rock fall areas

Docks - $706,800

Preliminary work to rebuild barge slip #1 at Whittier

Communications - $570,000

Complete microwave system
Remove pole lines
Acquire equipment

Motive Power & Equipment - $4,845,000

Locomotives	= $2,250,000
Upgrade Facilities	= $1,845,000
Equipment	= $ 750,000

Note: This totals $14.25 million and [illegible]s the ARR's overall FY 85 capital budget, of which $6.4 million is covered under this fiscal note.

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The following four financial statements (Tables VIII through XI) describe the financial situation (Note 1) of The Alaska Railroad.

TABLE VIII: STATEMENT OF INCOME
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
REVENUES (Note 2):		
Operating Revenues:		
Freight	$43,787	$47,877
Passenger	3,305	2,627
Other (Note 15)	5,305	4,941
Total Operating Revenues	52,397	55,445
Non-Operating Revenues (Note 16)	3,697	3,352
Total Revenues	$56,094	$58,797
EXPENSES (Note 3):		
Operating Expenses:		
Maintenance of Way & Structures (Note 4)	$9,859(1)	$8,554
Maintenance of Equipment	12,326	11,702
Transportation	19,551	18,685
Traffic Management	865	757
Incidental	4,529	4,152
General and Administration (Note 5)	5,863	5,128
Total Operating Expenses	52,993	48,978
Non-Operating Expense (Note 17)	277	258
Total Expenses	$53,270	$49,236
NET PROFIT (Surplus)	$2,824	$9,561
Add Depreciation included in Expenses	4,404	3,712
CASH FLOW (Gain)	$7,228	$13,273

Notes follow Table XI

(1) Includes $1.7 million which was part of Congressional Appropriation major maintenance and not included in FY 1982 expense.

Expense/Revenue Ratio	94.97%	83.74%

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TABLE IX: BALANCE SHEET
SEPTEMBER 1982-83
(Thousand dollars)

CATEGORY	1983	1982
ASSETS:		
Current Assets:		
Cash (Note 8)	$9,646	$14,966
Trust and Deposit Funds (Note 9)	32	7
Accounts Receivable	14,195	13,105
Materials and Supplies (Note 10)	10,143	7,040
Prepaid Expenses	20	0
	34,036	35,118
Properties:		
Land (Note 11)	265	265
Buildings	12,943	12,921
Roadway Structures & Facilities	127,215	125,000
Equipment	57,895	49,864
Non-Operating Property	1,947	1,877
Total Properties	200,265	189,927
Less Accumulated Depreciation:	60,516	57,678
Properties - Net	139,749	132,249
Additions & Betterments in Progress (Note 12)	11,599	12,059
	151,348	144,308
Other Assets and Deferred Charges	2,526	3,029
Total Assets	$187,910	$182,455
LIABILITIES & PROPRIETARY INTEREST OF THE U.S. GOVERNMENT:		
Current Liabilities:		
Accounts Payable	$4,721	$3,416
Accrued Payrolls Payable	1,320	1,056
Trust and Deposit Funds (Note 9)	32	7
	6,073	4,479
Other Liabilities and Unadjusted Credits	2,209	3,152
Total Liabilities	$8,282	$7,631
Proprietary Interest (Note 13):		
Net Investment	200,621	192,995
Retained Earnings from July 1, 1954	(18,171)	(23,578)
Current Year Operating Results	2,824	9,561
Extraordinary Items (Note 6)	(5,646)	(4,154)
Total Proprietary Interest (Note 13)	179,628	174,824
Total Liabilities & Proprietary Interest	$187,910	$182,455

Notes follow Table XI

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TABLE X: STATEMENT OF CHANGES IN FINANCIAL POSITION
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
Funds were provided by:		
Revenues and Other Receipts	$56,438	$58,699
Appropriations from Congress (Note 14)	7,600	6,160
Total Funds Provided	64,038	64,859
Funds were used for:		
Labor	35,579	33,221
Other	14,044	17,839
Capital Improvements & Replacements	16,348	11,821
Total Funds Used	65,971	62,881
Increase (Decrease) in Government Equity	(1,933)	1,978
Other Increases (Decreases):		
Undelivered Orders	(2,924)	3,983
Supplies and Materials	3,103	1,119
Properties	7,040	3,964
Other	(482)	513
Total, Other	6,737	9,579
Total Increase (Decrease) in Government Equity	$4,804	$11,557
Proprietary Interest:		
Beginning Balance	$174,824	$163,267
Increase (Decrease)	4,804	11,557
Ending Balance (Note 13)	$179,628	$174,824

Notes follow Table XI

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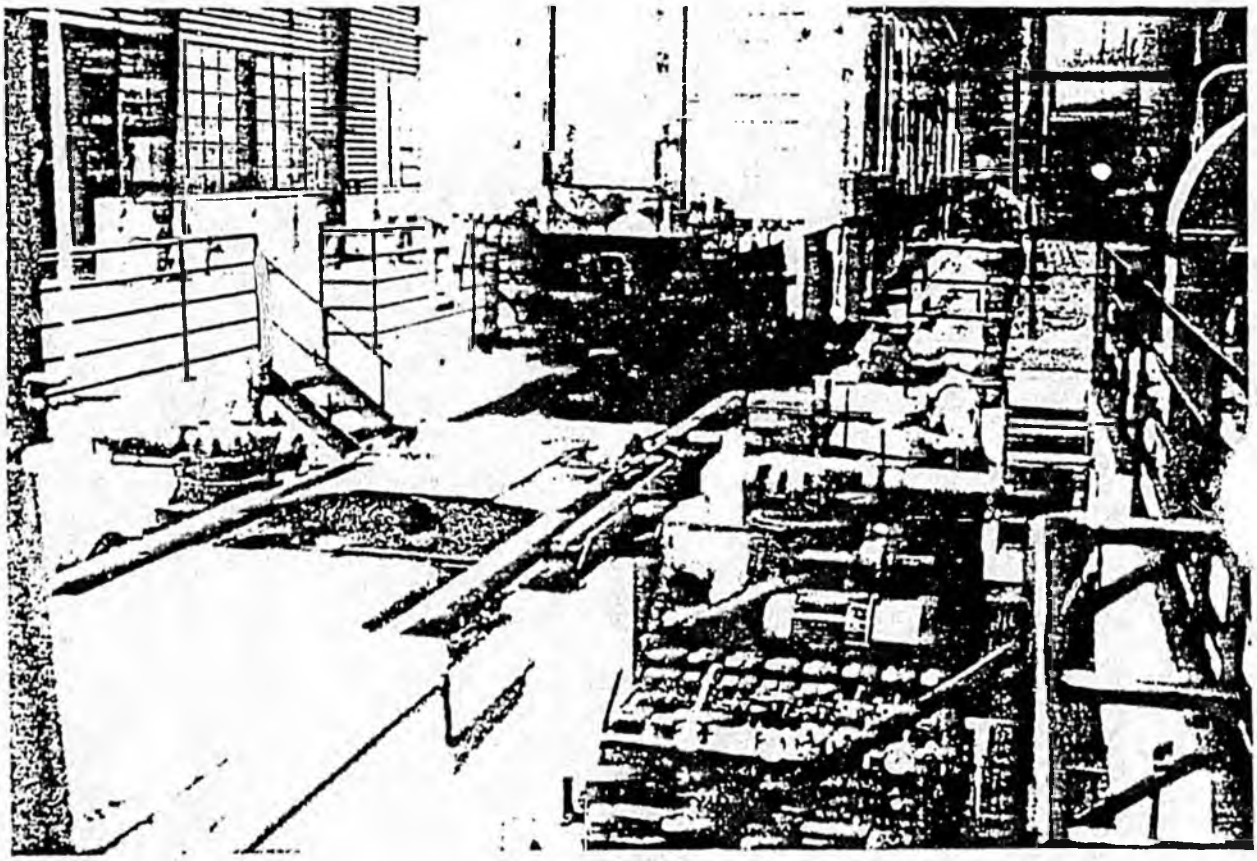
TABLE XI: FIVE-YEAR CONDENSED SUMMARY OF OPERATIONS
FISCAL YEARS 1979-83
(Thousand dollars)

CATEGORY	1983	1982	1981	1980	1979
REVENUES:					
Operating	$52,397	$55,445	$40,782	$26,737	$23,200
Non-Operating (Note 16)	3,697	3,352	3,159	2,155	2,081
Total Revenues	$56,094	$58,797	$43,941	$28,892	$25,181
EXPENSES:					
Operating	$52,993	$48,978	$40,358	$34,380	$31,285
Non-Operating (Note 17)	277	258	273	344	204
Total Expenses	$53,270	$49,236	$40,631	$34,724	$31,489
NET PROFIT (LOSS)	$2,824	$9,561	$3,310	($5,832)	($6,308)
Less Extraordinary Items (Note 6)	($5,646)	($4,154)	($204)	($69.	($319)
Annual Retained Earnings	($2,822)	$5,407	$3,106	($6,524)	($6,627)
Expense/Revenue Ratio	94.97%	83.74%	92.47%	120.19%	125.05%

Notes follow Table XI



A modern wheel truing machine was installed in a newly constructed shop building in 1983.

NOTES TO FINANCIAL STATEMENTS

1. SUMMARY OF ACCOUNTING POLICIES

The Alaska Railroad uses the generally accepted principles, standards, and related requirements of governmental accounting as approved by the Comptroller General of the United States. Operations are conducted in a manner consistent with related commercial enterprises and, at the same time, in conformance with the requirements incumbent upon a Government agency.

As is the customary practice of the industry, the Railroad uses betterment and retirement accounting instead of depreciation accounting for roadbed and track. Under this method, prescribed by the Interstate Commerce Commission, the cost of replacing tracks and structures--less salvage recovered--is charged to the appropriate operating expense account and only the cost of betterments is capitalized. These capitalized items are not depreciated, but upon retirement of the tracks and structures, the entire capitalized amounts--less salvage recovered--are charged to expense.

The accounting system and related procedures disclose financial condition and operating results to provide full accountability of the Government's investment in the Railroad and to afford management the necessary data to carry out its responsibility in the most efficient and economical manner.

The Railroad is financed from a revolving fund.

2. REVENUES

Revenues from rail operations are included in income on an accrual basis upon the completion of service.

3. EXPENSES

Expenses are accrued or applied or both on a basis consistent with generally accepted accounting principles.

4. MAINTENANCE OF WAY AND STRUCTURES

Maintenance of way and structures include expenses incurred by engineering ($9,207,000) and communications ($652,000).

5. GENERAL AND ADMINISTRATION

General and administration accounts include expenses for headquarters and staff ($1,378,000) and the administration department ($4,485,000).

6. EXTRAORDINARY ITEMS

Extraordinary items include the loss on excess current inventories ($23,000), deferred outlays ($3,760,000), prior-year adjustments ($697,000), and costs associated with the transfer evaluation ($1,166,000).

7. DEPRECIATION

Depreciation is computed using the straightline method and is based on estimated service lives of depreciable properties, except for the railway track and structures, which are computed using the industry betterment method. Depreciation charges are determined by using the composite or group rates applicable to various classes of property.

The following is a list of depreciation charges in FY 1983:

	(Thousand dollars)
Mechanical - equipment	$2,807
Engineering - buildings and structures	892
Transportation - docks	438
Communications	170
Non-operating	66
Other	31
Total	$4,404

8. CASH

Cash refers to the fund balance with the U.S. Treasury, which is the net amount of cash receipts, e.g., revenues, proceeds from sales, and amounts of congressional appropriations, less disbursements.

9. TRUST AND DEPOSIT FUNDS

Trust and deposit funds include special deposits and other collections not covered by the revolving fund and cleared by disbursement or transfer, as appropriate. A contra account to this asset account is reflected in the liability section.

10. MATERIALS AND SUPPLIES

Inventories, consisting of replacement or repair parts for equipment and road property, construction materials, and fuel, are valued at average cost, including freight.

11. LAND

Land includes only property purchased by the Railroad from private owners and carried at acquisition cost. The Railroad owns over 38,000 acres withdrawn from the public domain at no cost; this land is not included in the financial records.

12. ADDITIONS AND BETTERMENTS IN PROGRESS

This is a control account for authorized capital projects during the period of construction or procurement. Upon completion of the capital project, the related costs are transferred into the appropriate fixed asset property account.

13. PROPRIETARY INTEREST OF THE U.S. GOVERNMENT

The proprietary interest shows the Federal Government's net interest in The Alaska Railroad. At the end of FY 1983, it is summarized as follows:

	(Thousand dollars)
Appropriation by Congress	$259,496
Allotments from other agencies, sales of lots, etc.	1,724
Property transferred or donated (not public domain)	19,903
Earthquake losses	(16,738)
Deficits from operations and capital losses to 6/30/54	(63,764)
Retained earnings (7/1/54 to 9/30/82)	(18,171)
FY 1983 operating results	2,824
Extraordinary Items (Note 6)	(5,646)
Total proprietary interest of the U.S. Government	$179,628

14. CONGRESSIONAL APPROPRIATIONS

Funds appropriated by Congress were obligated within the fiscal year, as shown below:

	(Million dollars)	
	FY 83	FY 82
Congressional appropriations received	$7.60	$6.16
Obligated during fiscal year	$7.60	$6.16
Amount unobligated at end of fiscal year	$0.00	$0.00

15. OTHER OPERATING REVENUES

Other operating revenues include those revenues that were neither freight nor passenger. Individual accounts exceeding $90,000 in FY 1983 were:

	(Thousand dollars)
Reimbursable services	$2,036
Sale of non-invested property	1,301
Reimbursements - real estate, utilities, and equipment	541
Whittier shuttle - vehicles	533
Wharfage and handling	148
Mail	145
Switching	116
Equipment rentals	90
All other	395
Total	$5,505

16. NON-OPERATING REVENUES

Non-operating revenues in FY 1983 were:

	(Thousand dollars)
Miscellaneous rentals	$3,466
Interest earned	144
All other	87
Total	$3,697

17. NON-OPERATING EXPENSES

Non-operating expenses in FY 1983 were:

	(Thousand dollars)
Buildings	$199
Depreciation	60
Equipment	10
All Other	2
Total	$277



At a re-enactment of the original golden spike ceremony Governor Sheffield wields the same maul used by President Harding in 1923.

DRAFT

FREIGHT

Table II shows freight revenue tons and freight revenue dollars by major classification of commodities for fiscal years 1983 and 1982. Total tonnage for fiscal year 1983 exceeded fiscal year 1982 by 34 percent. For the third consecutive year sand and gravel led all other commodities in percentage gains. The primary cause of the 60-percent escallation was a vigorous private and business construction year plus increases in public works projects in Anchorage. The drop in movements of iron and steel products from Seward to Fairbanks destined for the North Slope from its peak in 1982 accounted for the return of manufacturers and miscellaneous products to a lower level, but still above FY 1981.

TABLE II: FREIGHT TRAFFIC BY COMMODITY

COMMODITY	1983 FY	1982 FY	% CHANGE
REVENUE TONS CARRIED (000's)			
Sand and Gravel	4,397.7	2,753.8	+ 59.7
Coal	625.8	653.6	- 4.2
Petroleum, Oil, Lubricants	462.2	439.4	+ 5.2
Manufacturers and Misc.	323.1	449.9	- 28.2
TOFC/COFC (Piggyback)	98.0	122.4	- 19.9
Products of Forests	105.1	77.0	+ 36.5
Products of Agriculture	6.1	6.8	- 10.3
Total Tonnage	6,018.0	4,502.9	+ 33.7
REVENUE DOLLARS (000's)			
Sand & Gravel	6,647	4,556	+ 45.9
Coal	5,007	5,072	- 1.3
Petroleum, Oil, Lubricants	9,723	8,376	+ 16.1
Manufacturers and Misc.	15,704	22,512	- 30.2
TOFC/COFC (Piggyback)	3,625	4,915	- 26.2
Products of Forests	2,955	2,301	+ 28.4
Products of Agriculture	126	145	- 13.1
Total Revenue	43,787	47,877	- 8.5

PASSENGER

Aggressive and expanded advertising and marketing resulted in an overall increase of 21 percent in passenger ridership as shown in Table II. The marketing efforts included active promotion of tour packages which attracted, for the first time, nine cruise ships to stop at the Railroad's Port of Whittier, and provided over 14,000 of the special train riders.

TABLE III: PASSENGERS HANDLED

SERVICE	1983 FY	1982 FY	% CHANGE
Anchorage-Denali-Fairbanks	61,887	60,810	+ 1.8
Anchorage-Portage-Whittier (Shuttle)	117,740	95,449	+ 23.4
Specials	31,732	18,857	+ 68.3
Total Passengers Handled	211,359	175,116	+ 20.7

The number of vehicles carried on the Anchorage-Portage-Whittier (shuttle) service was 19,516, up 10 percent over FY 1982.

TARRIFS

The major rate adjustments made in FY 1983 are reflected in Table IV:

TABLE IV: FY 1983 TARIFF CHANGES

TYPE	DATE	% INCREASE
Interline	1-17-83	5
Intrastate:		
General Commodities	2-12-82	5
Gravel	4-19-83	3
Passenger:		
Anchorage - Fairbanks	1-01-83	10
Whittier Shuttle	7-01-83	10

Attachment E
3/14/84

ALASKA RAILROAD OPERATIONS SUMMARY
(Dollar Amounts in Thousands)
Fiscal Years 1973-1982*

	FY 1973	FY 1974	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982
Operating Revenue	$16,996	$20,783	$41,416	$52,517	$33,376	$27,440	$23,100	$26,737	$40,782	$55,445
Non-Operating Revenue	681	703	871	1,161	1,646	1,651	2,081	2,155	3,159	3,352
Total Revenues	17,677	21,486	42,287	53,678	35,022	29,091	25,181	28,892	43,941	58,797
Operating Expenses	$20,057	$22,389	$35,883	$49,387	$35,703	$33,301	$31,285	$34,380	$40,358	$48,978
Non-Operating Expenses	153	158	272	191	255	213	204	344	273	258
Total Expenses	20,210	22,547	36,155	49,578	35,958	33,514	31,489	34,724	40,631	49,236
Gain (Loss)										
Before depreciation - cash flow	($ 7)	$ 1,300	$ 8,513	$ 6,628	$ 2,186	($ 1,227)	($ 3,089)	($ 2,306)	$ 6,567	$13,274
After depreciation	($ 2,533)	($ 1,061)	$ 6,132	$ 4,100	($ 936)	($ 4,423)	($ 6,308)	($ 5,832)	$ 3,310	$ 9,561
Capital Expenditures	$ 1,260	$ 313	$ 2,772	$ 8,602	$ 8,316	$ 5,823	$ 8,181	$ 6,893	$11,409	$11,821
Revenue Tons of Major Commodities (in thousands of tons)										
Sand and Gravel	2	1	1	104	700	727	637	596	1,797	2,754
Bulk Petroleum	363	414	557	624	532	374	220	252	379	439
Coal	565	563	584	607	550	593	524	590	653	654
Iron & Steel Pipe & Fittings	11	15	107	174	16	28	33	37	83	165
Piggyback	48	57	95	114	100	100	89	92	113	122
Forest Products	49	56	120	124	82	68	55	109	101	77
Manufactured Iron & Steel	18	37	60	89	19	12	12	10	8	19
Cement	15	14	25	32	42	33	33	32	43	51
Machinery and Machines	12	21	60	31	47	47	24	16	28	24
Mfrs. & Misc. NOS	32	34	44	29	17	13	25	26	11	**
Other	216	165	209	260	200	183	156	181	146	198
TOTAL	1,331	1,337	1,862	2,188	2,305	2,178	1,808	1,741	3,362	4,503
Passengers	74,000	84,000	81,000	84,500	103,632	126,277	151,045	150,678	161,068	175,116

* The Federal Government changed its fiscal year from July 1-June 30 to October 1-September 30 beginning in FY 1977, resulting in a transition quarter in 1976. To avoid a 15-month fiscal year for comparisons, these statistics use July 1, 1975 through June 30, 1976 as FY 1976, and October 1, 1976 through September 30, 1977 as FY 1977, dropping the transition quarter.

**Mfrs. & Misc. NOS. (not otherwise specified) discontinued, now included in specific categories.

10/82/WFC

MAR 2 0 1984

Anchorage
CHAMBER of COMMERCE

Crossroads of | the Air World

Representative Bette Cato
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Cato,

For several years the Anchorage Chamber of Commerce has been closely following the transfer and operation issue of the Alaska Railroad. The Anchorage Chamber has expressed its support of a strong independent railroad which operates as a business entity.

We feel our objectives, and the citizens of the state, are best achieved through passage of HB 512. The major elements in this legislation which we support are as follows:

1. Specific reference under the legislative purpose of the eventual transfer of the railroad to the private sector.

2. The independent status of the Corporation as an entity of the State.

3. The strength of the Corporation Board of Directors identified by its powers and duties.

4. The establishment of the Executive Officers of the railroad to manage the day-to-day activities of the railroad.

5. We strongly support the Railroad Corporation right to hold and manage its lands including the right of eminent domain, and the right to request additional lands for railroad purposes.

6. We support the inclusion of the strong bonding authority of the Alaska Railroad Corporation.

7. We support the railroad generated revenues staying within the Corporation for future railroad purposes.

8. And finally, we support the Alaska Railroad employees being employees of the Corporation.

We would like to propose one addition to Article 4, Section 42.40.300 General Powers. We recommend that the Corporation be permitted to lease a portion or all of the operation of the railroad to a private entity. We feel this addition should be granted to the Corporation as an option to their management prerogatives and is within the overall intent of the proposed legislation.

We recommend your support of this legislation.

Sincerely,

Al Fleetwood, President
Anchorage Chamber of Commerce

QUESTIONS/CONCERNS OF COMMITTEE

Railroad Land

- Surface and subsurface rights -- gravel deposits
- Classification of lands by DNR -- who has power of eminent domain?
- Legal requirements/restraints for land disposal by Railroad
- Revenues from managing subsurface resource development
- Open dock facility in Seward

Constitutional Questions

- Dedication of funds
- Is is constitutional to set-up separate department or corporation-independent Railroad authority or state-owned
- Governor appointed Board of Directors with legislative confirmation-constitutional amendment
- Oversite for Railroad-Executive Budget Act, Admin Procedures Act, Fiscal Procedures Act--and, who administers

Miscellaneous

- Value of non-operating properties
- Ultimate liability for Railroad
- Bond rating-default by Railroad, Borrowing level from State-bond selling power-state's credit rating
- Do we want labor contracts as part of transfer bill-who is responsible for negotiation of collective bargaining agreements-state or corporation?
- Consistency in bill wording-as long as Railroad gets public money must get public oversite
- OSHA and FRA requirements-how do we want to handle them-waivers of compliance for the state
- ICC exemption for state
- Number of states that own Railroad and the type of authorities set-up

FEB 27 1984

Sea-Land Service, Inc.

100 WEST HARRISON STREET, SUITE 522
SEATTLE, WASHINGTON 98119

February 22, 1984

H. L. SCHUYLER
Director Public Affairs
Alaska Division

TELEPHONE:
(206) 938-6349

Honorable Bette Cato
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Cato:

Attached to this letter are a few suggested amendments which we believe to be in the best interest of the State, the citizens, and various modes of the transportation industry in the State of Alaska.

We do not feel that our suggestions are so restrictive that the Alaska Railroad will not be able to carry on with an economical/operational program and keep the Alaska Railroad a viable institution. The Authority, composed of astute businessmen and a General Manager who knows how to operate and market his railroad as a free enterprise business, will succeed. After all, we are all working for our share of the Alaska freight "pie." The only difference is that the private sector pays taxes to City, State, and Federal Governments, and pays the commercial interest rate for his capital.

Trust these suggestions are accepted and reviewed in an unbiased manner.

Thank you for your consideration and taking the time to review. All we, in the private sector, are asking for is to be able to compete on an equal basis.

Sincerely,

Hal Schuyler

HLS:kt
Attachment

SENATE BILL NO. 352

Suggested amendments that should make for a better bill:

1. Page 2, Section 1, Line 17. Add: "and to apply for any Federal monies to which the State would be entitled, or may be available;" §605 of ARTA.

2. Page 2, Section 1, Line 21. Add the word "rail" between "economical" and "transportation" in the middle of the sentence.

3. Page 2, Section 1, Line 28. Add: Paragraph "(H) The Corporation will not use State investments, subsidy money, non-taxable property and chattles in considering the pricing of the property services of the railroad."

4. Page 7, Article 1, Section 42.40.110, Delegation, Line 7. Add: "(12) Applying for subsidies, grants and endowments available from Federal, State or Private entities."

5. Page 8, Article 3, Administrative Provisions, Line 19. Add: "This shall be a public document."

6. Article 8, General Provisions, Page 27, Line 26. Prior to "Where possible," add: "The Corporation shall comply with and be subject to, all provisions of the Antitrust Laws." If this sentence cannot be added, strike out "Where possible."

FEB 27 1984

City of Soldotna
BOX 409 PHONE 262-9107
SOLDOTNA, ALASKA 99669



CITY OF OPPORTUNITY

February 21, 1984

The Honorable Bette M. Cato
Chairman
House Transportation Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

As a follow-up to the public hearing held by the Transportation Committee on Saturday, February 18, 1984 at the Borough Building, Soldotna, Alaska, please enter the following comments concerning House Bill No. 512, "An Act establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date".

I, personally, am in favor of the transfer of the Alaska Railroad from the Federal Government to the State of Alaska for 23 million dollars. The plan to establish the Alaska Railroad Corporation to manage and operate the railroad is a good one, and similar plans have been used successfully many times.

The assets of the railroad in the Anchorage area alone far outweigh the purchase price.

Were the State of Alaska to consider continued economic activity and growth in minerals and agriculture, respectively, the acquisition of the railroad becomes a critical and essential first move. The mining and exportation of coal, and the production and transportation of barley may determine the economic health of at least three large regions of Alaska. One has to visualize the movement of gravel from areas of abundance to urban sections to appreciate the ability of a railroad to move freight cheaply and safely.

The acquisition of the railroad presents problems as well as benefits. The problems are not beyond resolution.

Mr. Tatsuya Ishikara, Managing Director, Market Survey, Japan Railway Technical Service Association, Tokyo, gave a fine report on the benefits of a railroad system at the International Conference on Alaska's Resources that was sponsored by the Resource Development Council for Alaska, Inc. and the State of Alaska. The conference was held February 15 -16, 1984.

This is not a burning issue on the west side of the Kenai Peninsula, but one feels that with not too much effort, a great amount of support for the railroad purchase could be located.

Sincerely,

Justin G. Maile

Justin G. Maile
Mayor

Greater Fairbanks **Chamber** of Commerce

First National Center
100 Cushman Street
(907) 452-1105
P.O. Box 74446
Fairbanks, Alaska 9970?

February 24, 1984

Representative Bette M. Cato
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

The Alaska Railroad is an important asset to the state and vital to the economy of Fairbanks. For this reason, the Greater Fairbanks Chamber of Commerce and particularly its Transportation Committee has devoted a great deal of attention to the details of the pending acquisition and proposed plans for operation. This has been reflected in our annual Interior Transportation Needs Report published for the past three years and substantial input provided at various public and private meetings.

We have carefully reviewed legislation pending for railroad management and operation. It is apparent that the authors of HB 512 and SB 352 wished to establish a state owned entity to manage the railroad that was as close to a private sector entity as possible given the transfer constraints. We highly support this philosophy and offer the following comments and suggestions to further strengthen this concept.

* We noted that the preamble of HB 512 and SB 352 contains the basic intent and powers of the legislation, but the intent and powers are not repeated in the body of proposed AS 42, Chapter 40. Would it not strengthen this intent by setting it in State Statute also?

* SB 352 and HB 512 offer the most attractive organization to operate the railroad within the state government. We believe it is preferable to have the railroad as an operating entity separate from the Department of Transportation and Public Facilities (DOTPF) or any other state department provided that DOTPF is substantially involved in railroad expansion efforts.

* All legislation is similar in that the governor appoints a board of directors to provide overall railroad direction; however, SB 10 establishes a stronger criteria for membership selection. The composition of the board will determine if the railroad is to be

operated successfully as a prudent state investment. For this reason, we believe it important to consider that the appointed board members will have a vastly different responsibility than most other state boards, commissions and advisory groups.

The board of directors for the railroad will direct a megacorporation which will be dependent upon the expertise of the directors for profit and growth. The talents and expertise of the board members will be utilized for profit and their obligations are similar to those of directors of corporations in the private sector. For these reasons, we believe their selection and remuneration should be similar. While SB 10 provides better criteria for board membership selection, neither bill addresses the question of remuneration adequately. We suggest that perhaps renumeration should be similar to that of a legislator. This could ensure the incentive necessary for full commitment by the board members.

* Neither bill ensures that Interior Alaska (or any other area) is represented on the board. This is of utmost importance to the position of the Chamber of Commerce. We are not prepared to endorse any legislation unless we are assured that Interior Alaska has proper representation on the board of directors.

* It is our interpretation that HB 512 (SB 352), as they are now written, would not allow railroad expansion into other modes of transportation other than contractual arrangements. We concur with this wording as long as the railroad remains in controlling state ownership.

* The most significant difference between SB 10 and HB 512 (SB 352) lies in state overview of railroad operations. This is an extremely sensitive issue. SB 10 provides a close overview by the administration and the legislature; while HB 512 reflects almost no overview. This lack of overview extends to other state assets made available to the railroad. It appears that the authors of SB 512 tried to incorporate mecnanisms to insure prompt and economically sensitive attention from other state agencies based upon frustrations experienced in the past when dealing with these agencies. While we are sympathetic to these frustrations, we do not believe it wise to attempt to cure ills of other state agencies through the "Department of Railroads." They should be addressed in a more direct manner. In our opinion departments within the state should not have their primary responsibility compromised by overriding authority from another department.

State land and funds used for railroad operation demand some overview, yet the railroad should not be subject to constant review and approval by the administration and/or legislature. We offer the following suggestions to deal with this sensitive issue:

1. A distinction be made between railroad operation and railroad expansion. Railroad operation would be defined as operating the railroad as received from the federal government, the initial operating budget as set by the legislature and future subsidies as requested by the governor and/or provided by the legislature. The board of directors should have complete authority over railroad operation. Subsequent subsidies would have automatic state overview since they would be at the discretion of the legislature. Land ownership, as received from the federal government, should be transferred to the railroad corporation in fee simple (both surface and subsurface rights). Bonding for the railroad operation (new equipment, upgrading track, etc.) would be limited to railroad revenue bonds and would not obligate any other state asset. Since these bonds would reflect only the railroad's financial strength, the board of directors should have complete authority to obtain such bonding.

2. Expansion or certain railroad services (such as passenger service) may be desirable for reasons other than profit motive, and the state may wish to provide services or extensions to guide and promote the state's development. State land, funding and/or bonding based upon other state assets will be necessary. A board with a profit mandate would be reluctant to embrace these measures if they would adversely affect the profitability of the railroad, and the state government should share in this responsibility and authority. Therefore, it is suggested that action requiring state assets (land, funding or bonding) receive close overview. State land used for railroad purposes should be surface rights only (excluding gravel and possibly coal extraction). Future rights-of-way should be by permit within a state-owned transportation corridor established for all modes and utilities.

The above described concept provides for complete board authority and responsibility for current railroad operation and profitability and limits liability to railroad assets. State overview would be assured when assets other than the railroad's were pledged and when expansion or services were deemed in the state's best overall interest even though adversely affecting the railroad's economy.

* Neither bill adequately addresses private ownership. One method which might be considered is that the railroad corporation create stock and schedule its sale to private investors at market value. Such a schedule must reflect the state's best interest and as a minimum include 51 percent ownership for ten years and perhaps longer to meet the federal criteria for continued operation. A sunset requirement for a percentage of state ownership might be

the best vehicle to use. If the legislature did not extend the minimum percent of state ownership at the end of any time increment, then an increased share of ownership would be made available to private investors.

We appreciate the opportunity to provide our thoughts and wish to continue our involvement in developing this legislation.

Sincerely,

Buki Wright
President

LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

AVRUM M. GROSS
SUSAN A. BURKE

(907) 586-2777

February 22, 1984

MEMORANDUM

TO: Senate Transportation Committee

FROM: Gross & Burke

RE: Organization of Public Corporation to Operate the Alaska Railroad

At your request, we have reviewed the drafts of SB 10 and SB 352, with a view toward determining the extent to which those bills create a valid legal structure to operate the Alaska Railroad after its proposed purchase. Initially, we were asked whether the legislature had the power to require that gubernatorial appointments to the governing authority[1/] of the railroad be confirmed by the legislature. Both SB 352 and SB 10 presently require confirmation of executive appointments. At a second committee hearing we were requested to advise you of the minimum number of executive branch controls which must be placed on any entity created by law to operate the railroad to insure that the entity would be a part of the executive branch and, therefore, constitutionally sound. We shall answer the questions in the order posed.

SB 10 and SB 352 both provide that appointments made by the Governor be confirmed by the legislature in joint session.

1/ SB 10 speaks of an "Authority" while SB 352 creates a similar organization but describes it as the "Railroad Corporation." Purely for the purposes of simplicity, we will refer to the basic organizational structure at issue here as an "Authority."

We assume that if a similar section remains in a bill, which passes the legislature, the Governor will probably choose to submit the names of his appointees for confirmation just as he submits his appointees to a host of other boards and commissions in state government. It is our opinion, however, that should an occasion arise when the Governor decides not to submit a name or names for confirmation, the legislature would have no legal right to insist he do so.

Our conclusion is based both on the words of the Alaska Constitution and a decision of the Alaska Supreme Court. The constitution provides in Art. III, sec. 25 that:

> The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the Governor, subject to confirmation by a majority of the members of the legislature in joint session . . .

Sec. 26 of the same article states that:

> When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the Governor subject to confirmation by a majority of the members of the legislature in joint session . . .

The wording of the constitution is clear on its face. The legislature may confirm the heads of all departments, whether they are single executive officers or a board. The legislature may also confirm boards or commissions which are "regulatory or quasi-judicial" agencies. A regulatory authority is, as it implies, one whose basic function is to regulate a particular public activity. The Fish and Game Board is a classic example of such a regulatory board. A quasi-judicial

agency is one in which individual rights are adjudicated. An example of such a board would be the Public Utilities Commission, where contested proceedings determine rates.

The Railroad Authority as established in SB 352 or SB 10 fits under none of these definitions. It is not at the head of a department[2/] nor is it a quasi-judicial or regulatory agency. Under the constitution, then, the legislature has no power to confirm executive appointments to the Authority, unless the legislature can add to the powers of confirmation which are granted in the constitution.

The legislature attempted to do just that in 1975 when it passed a statute authorizing confirmation of a whole list of lesser executive branch officials, including deputy commissioners and certain division directors. The Alaska Supreme Court held that the statute granting the legislature the additional confirmation power was unconstitutional. Bradner v. Hammond, 553 P.2d 1 (Ak. 1976) In the Supreme Court's view, the power to appoint to positions in the executive branch is a power reserved to the Governor under the doctrine of separation of power, except as the constitution permits the legislature to participate in the process through confirmation. If the constitution does not specifically

2/ We recognize that SB 352 provides, "The corporation shall be considered a principal department only for the purposes of Art. III, sec. 26, Constitution of the State of Alaska." (emphasis added) In our view, however, the courts would almost certainly view this purely nominal designation as one purely of form, since the bill does not actually establish a new department with the kinds of gubernatorial controls normally associated with a principal department of state government. This issue of gubernatorial controls is addressed in detail later in this memorandum.

authorize confirmation, there is no legal power to do so and the Governor's power of appointment can not be subjected to confirmation by the legislature. Put another way, the Bradner case holds that the constitution states the outer limits of legislative powers of confirmation; the legislature may not expand that power by statute. While neither SB 10 or SB 352, as presently structured, would withstand constitutional challenge on the issue of confirmation, there are options available to the legislature which would provide a valid legal basis for the confirmation of appointments. We will set these options out briefly for your consideration.

The first and most obvious manner for the legislature to obtain confirmation power is to pass a joint resolution placing before the voters a constitutional amendment that would specifically authorize the legislature to confirm appointments to the Railroad Authority. This amendment could be placed before the voters during this year's election. If the amendment passed, the first appointees of the Governor to the authority or commission would be constitutionally subject to confirmation; if it did not pass, the situation would remain as it is today -- confirmation if and when the Governor chooses to submit the names. We should note that following the Bradner case a constitutional amendment granting broad additional confirmation powers to the legislature was put before the voters and failed, but whether that would be the fate of a more narrowly drawn provision would be difficult to predict.

The second option to insure confirmation would be to create an entirely new department of state government, which would be headed by the Railroad Authority. The sole purpose that new department would be to the railroad. In such an instance, the Authority would be at the head of a department and under Art. III, sec. 26 of the Alaska Constitution, the members of the Authority, would be subject to confirmation. There are, however, certain serious problems which might result from this approach. One of the basic purposes of the present bills creating an independent public corporation or authority (located nominally within a department) is to permit the Railroad Authority to raise money for operations without involving the general credit of the state. If, however, the authority which manages the railroad is a full department of state government there is some real question about its ability to successfully perform this fundraising activity without the involvement of state credit. Art. IX, sec. 8 of the constitution provides that no state debt may be incurred unless (1) it is authorized by law; (2) is for capital improvements; and (3) is ratified by the voters. Sec. XI of the same article provides that the restrictions of sec. 8 do not apply to debts incurred through revenue bonds issued by public corporations or public enterprises of the state when the only security is the revenue of the enterprise or the corporation. Whether or not an entire department of state government can be made a "public corporation" or whether

or not the entire activity of a department of state government would qualify as a "public enterprise" are questions that have never been decided in this state by any court. While the committee can certainly receive advice from legal counsel as to the possible or probable outcome of litigation on these subjects, it would at best be an educated guess. The result might well be that in order to obtain confirmation powers the committee would create a department which, in the end, might be subject to the same bonding restrictions applicable to all other departments of state government. I gather there is no disagreement within the committee that such a result would be highly undesirable. We cannot recommend this method of insuring confirmation powers because the risks are simply to great -- the legislature would be in totally unchartered waters and the magnitude of the questions involved is simply to great to accept that degree of risk.

Having discussed the issue of confirmation, we now move to the second issue posed by the committee. Specifically, that question involves the extent to which a public corporation may be established independently of the authority of executive branch and yet be a part of that branch of government. Art. III, sec. 22 of our constitution requires that all agencies of state government and their respective functions shall be allocated within no more than 20 principal departments.

The only exceptions provided are for "regulatory, quasi-judicial, and temporary agencies." As we view the functions of the operation of the Railroad -- whatever form of entity is chosen -- those functions are not primarily "regulatory" or " quasi-judicial." Further, the railroad operation would not necessarily be "temporary." Although conceivably the railroad could be sold or leased at some point in the future to a private corporation, the existence of the operating entity could well be permanent.

We think it is clear that the Alaska Supreme Court would view the Railroad Authority as performing operational or executive functions and would, therefore, require that the Authority be either a separate principal department or located within one of the already established principal departments. We have already reviewed the problems that would be created if the Railroad Authority would be made the head of an entirely separate principal department. Therefore, we are left with the conclusion that the only other constitutionally sound option is to place the governing board or authority within an existing department of state government.

Simply stated, then, the legal issue you have asked reduces itself to this. On the one hand, the legislature seeks to create an "independent" authority -- one which has financial and political autonomy and is not subject to direct gubernatorial control. On the other hand, the constitution

requires that all executive or managerial functions be a part of the executive branch, which, in turn, is under the supervision and control of the Governor. What then are the limits -- how much gubernatorial control is required to make the "independent" authority a constitutionally valid part of state government?

The cases that the Alaska Supreme Court has reviewed concerning the requirements of Art. III, sec. 22 make it clear that more than mere nominal placement of an independent corporate entity within a department in the executive branch is required. For example, in De Armond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962), it was claimed that the legislation creating the Alaska State Development Corporation was unconstitutional because it sought to create an independent agency that was nominally within the Department of Commerce, but which the challengers claimed was not in actuality within that department. The Alaska Supreme Court rejected this contention and upheld the constitutionality of the Development Corporation. In doing so, the court enumerated a number of features contained in the enabling legislation for the corporation, which demonstrated sufficient ties with the Department of Commerce to justify the conclusion that the corporation was (at least for constitutional purposes) truly within the Department of Commerce.

The factors that the court cited were as follows:

(1) the Commissioner of Commerce had a permanent seat on the board of directors and thus had "considerable influence" on the board;

(2) the other six members of the board were appointed by the Governor, and served at his pleasure;

(3) the board was required to submit comprehensive annual reports to the Governor and legislature;

(4) the financial records were to be audited annually by the legislative auditor; and

(5) the state's bank examiner was required to examine the corporation's records each year.

Additionally, although the court did not make clear what significance this fact had, it noted that the corporation was "temporary" and could be dissolved by a majority vote of the board subject to legislative approval.

Four years later, the court reviewed a similar challenge to the constitutionality of the Alaska State Mortgage Association; i.e. that it was only a nominal rather than a legitimate part of the department of state government in which it had been placed. Walker v. Alaska State Mortgage Association, 416 P.2d 245 (Alaska 1966). The court, however, noted that the mortgage association legislation contained most of the same features which it had cited in De Armond to support its conclusion that the development corporation was properly established within a department of state government. Like

the development corporation in De Armond, the mortgage association members were appointed by the Governor and served at his pleasure. The commissioner of Commerce had a permanent seat on the board of the association. Additionally, the court noted that as further evidence of gubernatorial control, the mortgage association was required to submit detailed annual reports to the Governor and legislature, the financial records were subject to an annual legislative audit, and certified copies of the minutes of every meeting of the association were required to be sent to the Governor.

Neither of these decisions, unfortunately, provide any guidance on the question of the minimum number of factors that will be required in order to meet the constitutional requirements of executive supervision or control. In both cases, however, the court seemed to emphasize two factors over and above all the others. The first was that board members served at the pleasure of the Governor. The second was that the Commissioner of the department within which these independent entities were located served on the board and was a full voting member. These two features were emphasized by the court to demonstrate that the Governor exercised at least partial control over the activities of the board. The court, for instance, noted that while the commissioner was only a single member of a multi-member board his position as a cabinet member would give him

substantial influence. The court further emphasized that the Governor was in a position to exercise influence on an otherwise independent board through the fact if there were a real disagreement in policy, he could exert control over the board members through his ultimate power to reove them. The court, in Walker, cited with approval language from the Superior Court decision in the case to this effect:

> If the Governor is dissatisfied with the executive director in either his capacity as a member of the Alaska State Housing Authority or the Alaska State Mortgage Association, he can assert his authority over the board members to effect the director's removal, and should they disregard his wishes, his alternative is to appoint members to the board who will appoint an executive director satisfactory to the Governor.

Walker, at 250 n.19.

At the same time, the court recognized that there may be important and legitimate reasons for the legislature to insulate a board or authority from direct gubernatorial influence over particular decisions. In the courts words:

> It is true that the Commissioner of Commerce can not dictate the decisions of the Board. Nor can any other state official . . . . It is quite apparent that the legislature intended the board to be free from outside control in making decisions on particular loans.

De Armond, at 724 (emphasis added).

Nonetheless, it is clear from the decisions that there are limits to the degree of insulation that the court will

tolerate and still uphold the constitutionality of the placement of the independent corporation nominally within a department of state government.

Accordingly, it is our view that to insure constitutionality of this bill the legislature should, at an absolute minimum:

1. create an independent authority which is part of an enumerated department of state government;

2. provide that the board for the public corporation or authority be comprised of persons appointed by the Governor and who serve at his pleasure;[3/] and

3. that the commissioner of the department in which the authority is placed serve as a voting member of the board.

3/ There is a secondary, but perhaps no less important, reason why the appointees to the governing body of the railroad should serve at the Governor's pleasure. As a constitutional matter, there is a serious question as to whether any appointee of the executive branch with the exception of those who serve in regulatory or quasi-judicial positions can be subject to any other restrictions but that they serve at the Governor's pleasure. The U.S. Supreme Court has interpreted that under the federal constitution, if an office is "executive" in nature, legislative efforts to restrict the president's power to remove an official are invalid. Myers v. United States, 272 U.S. 178. That opinion has been modified slightly in Humphries Executor v. United States, 295 U.S. 602, as the court held that a member of the Federal Trade Commission could have his term set by Congress and be insulated from removal by the president, but the court was clear to limit its opinion to quasi-legislative or judicial agencies, i.e. those that were actually passing regulations or resolving legal disputes as their prime function. The Railroad Authority would fall in neither of these categories, but would be within a traditional executive agency structure.

We raise this issue because we can be reasonably sure that the content of this bill will be litigated in the courts, if there is any reasonable basis to do so. The appointment of commissioners to the Railroad Authority who serve at the Governor's pleasure would reduce the possibility of legal attack on yet another basis.

It would be advisable, as well, to include at least some of the kinds of provisions (such as the annual reports to the Governor and legislative audits) which the court in De Armond cited as significant, although these may not be essential. Beyond that, the legislature may, in our view, limit the application of acts such as the Executive Budget Act, Administrative Procedures Act and others which impact most executive branch agencies, but are not, in our view, critical to upholding the constitutionality of this public corporation structure.

AMG/SAB/yw

January 26, 1984

Alaska Railroad Operating Entity
Sheffield Administration - Policy Statement

The Alaska Railroad is a fundamental link in Alaska's overall transportation system. Ensuring the continuation and development of this rail system as Alaska's transportation needs grow should be a major public policy objective in the years ahead.

Along with most Alaskans, I share this objective. I hope to see the Alaska Railroad provide the maximum benefit to our residents with minimum involvement by State government for regulatory oversight and public funding.

I support the development of the Alaska Railroad from its present status of a federally owned and operated agency to one which is funded and operated to the maximum extent possible by the private sector through a private company management contract or similar form of lease arrangement. I believe it will take a period of time to reach this goal. Consequently, it is important that any legislation provide adequate and specific provisions mandating that these alternatives be addressed.

It is important to keep in mind one essential fact: as long as the Alaska Railroad receives public funding, there must be comparable public oversight and accountability for its operation and management. If we accept anything less, we will be shirking our responsibility to all Alaskans to prudently and properly manage public funds.

I commend the members of our Legislature for the extensive interest they have demonstrated in the Alaska Railroad transfer issue. I know that many legislators have worked hard to develop acceptable transfer legislation which addresses a wide range of State policy concerns and interests over the past several years. Rather than introduce legislation of my own, I look forward to working with the legislation already in preparation provided that it is consistent with my following basic policy considerations:

(1) Railroad operations should be insulated from political interference but remain responsive to the public interest. The public entity selected should be one best able to accomplish this goal.

(2) The railroad entity should be constituted so that it has broad latitude in its operation and financing subject to public interest safeguards in existing state law, including the Executive Budget Act, Fiscal Procedures Act, and Administrative Procedures Act. I realize that certain sections of these laws may not be entirely applicable, and therefore limited exemptions may be necessary.

(3) All revenues generated by the railroad should only be expended for railroad and related purposes.

(4) The railroad should be able to incur bonded indebtedness to an extent consistent with its ability to repay the indebtedness from its own revenues.

(5) The railroad should hold title to the surface estate of all lands received in the purchase and enjoy access to subsurface material necessary for actual rail operations. Specific arrangements should be included to ensure consistency with general state land policies, and to provide that sale of real property cannot occur without the approval of the Department of Natural Resources.

(6) To minimize the State's exposure to railroad liabilities and to lower administrative costs, the railroad should take advantage of the economies of scale afforded by participation in the State's insurance and risk management plans. The Department of Administration should have primary responsibility for the negotiation of collective bargaining agreements with railroad employees.

(7) The railroad should prepare and implement operating and capital plans, and explore long-range expansion needs. No later than three years after acquisition, the railroad must prepare a report for the Governor and the Legislature recommending a method for obtaining private sector participation in railroad operations.

CITY OF SEWARD AND SEWARD CHAMBER OF COMMERCE JOINT
POSITION PAPER ON STATE ACQUISITION AND MANAGEMENT
OF THE ALASKA RAILROAD

As the community from which the Alaska Railroad had its beginning, Seward has been closely tied to the railroad for its lifeblood, for all of it's 80 year history. The acquisition and management of the railroad by the State of Alaska is of vital concern to the citizens of this community.

The present Alaska Railroad operation, despite some physical plant problems, is basically a sound operation. Clearly there is a need for plant improvements and it needs the ability to extend rail to the resource rich areas of our state. Any new proposal for management must seek to maintain those parts of the railroad that are operating effectively, and to cure, when possible, the liabilities of the present system. The City of Seward is concerned that without this analysis, the railroad could become less of a rail service. We should improve its physical plant, allow it to function under professional management. If this becomes the case, the City of Seward would fully support the railroad transfer even if a price has to be paid. We would not, however, support such a transfer if the rail system is not improved, and still requires a cash outlay by the State.

MANAGEMENT:

As an integral part of the State's long term economic development policy, the Alaska Railroad must be managed in such a way as to minimize the influences of political cycles resulting from our election process. It must be operated with the fiscal strength necessary to overcome the short term changes in government, inflation rates, commodity prices and operating cost.

It is our desire that any Authority created to manage the Alaska Railroad be as professional, efficient and aggressive as possible. We feel that the Authority should operate as similar as possible to private enterprise and if possible, should have the option of contracting for the operation of the railroad with a private company.

To achieve these goals, the Railroad Authority should not be a Department of the State government, but a separate entity. The Board should represent professionals in the business and service areas allied to railroad operations. The Board should be appointed by the governor, and serve terms of six years. The board members should delegate a significant percentage of the management of the railroad to the railroad's chief executive. The chief executive must be the best person available and possess railroad operating experience, and be compensated accordingly.

The Railroad Authority should have the ability to bond or otherwise obtain funds for upgrading and expansion. The railroad will initially require an investment underwritten by the State.

It is important that the revenues generated by the Alaska Railroad do not become part of the General Fund of the State of Alaska, but be put back into the Railroad's General Fund for operation of the railroad. Equally important is the need for all of the assets, including land to be in the control of the Railroad Authority, not under the Department of Natural Resources. As part of the

transfer agreement, the Federal Government must allow the State clear title to all Alaska Railroad lands. The Alaska Railroad Authority should also possess the right of eminent domain.

DEVELOPMENT OF ALASKA RESOURCES:

Because of Alaska's size of land area, small population centers, and frontier transportation infrastructure, Alaskans are particularly dependent upon the Alaska Railroad for the growth and development of interior resources.

The City of Seward feels the railroad should be expanded and utilized as the primary tool in developing the resources within the State of Alaska. Careful expansion of the railroad will improve the overall business climate in Alaska. We feel it is a legitimate use of State funds for for the State to use its railroad to assist in opening up the undeveloped areas of the state.

PORTS:

Most Alaskan ports are operated by local governments. Recognizing that, it is probable that with transfer of the railroad and its associated ports, the State will find itself competing with local ports. Every effort should be made, if possible to transfer railroad port operations to willing local governments.

IN SUMMARY, we stress that:

The Alaska Railroad be used to promote development and that the transfer and enabling legislation promote that philosophy.

In conjunction with railroad expansion, the impact of a long lead time necessary for railroad extension be recognized and shortened where possible.

Any State acquisition of the railroad be predicated upon the State's commitment to provide funding to upgrade the capital and rolling stock facilities of the existing system.

If the State acquires the Alaska Railroad, it should explore the option of contracting the railroad's operation to a qualified private contractor rather than running it as a State enterprise.

If a State Constitution change is necessary to accomplish the creation of an independent authority, we would support legislation to place the issue on the ballot.

Cook✓

AMENDMENT

Offered in the HOUSE By Miller

TO: HB 512

Page 16, after line 10, insert a new section to read:

"Sec. 42.40.460. MUNICIPAL RIGHT-OF-WAYS. Upon request of a municipality the corporation shall grant to the municipality a right-of-way in a railroad utility corridor or in land owned by the corporation to be used for a pedestrian walkway or trail. Before granting a right-of-way under this section the board may require the municipality to agree to hold the corporation harmless for any use made of the right-of-way and to execute the agreement in a form approved by the board."

RECOMMENDATIONS FOR THE ALASKA RAILROAD CORPORATION

1. The corporation should have full control over the surface and subsurface railroad lands.

   The purchase of the Alaska Railroad is often referred to as "a real estate deal" because of the value of land included in the transfer package.

   Some private leaseholders and municipal governments with railroad-owned waterfronts or city centers would like to see the land transferred to themselves. The corporation, as a matter of policy, should not sell revenue-producing property because it is in the interest of the entire state that the railroad hold these properties for its own needs.

2. The corporation and its union employees should cooperate in modernizing existing labor agreements during the two-year transitional period mandated in the federal transfer legislation.

   Particular attention should be given to any archaic work rules that inhibit efficiency. The goal should be to increase productivity rather than diminish compensation to employees.

   Efficient utilization of railroad employees is essential for a self-sufficient operation.

3. The corporation should not be mandated to propose or conduct feasibility studies for cross-country track extensions or sale of the railroad.

   Major rail extensions and sale issues are not operating issues. The mission of the railroad corporation should be closely focused on matters that affect economics and service to shippers and passengers on existing routes. Feasibility studies are expensive, require extensive staff time, and could drain the limited funds of the railroad.

   Extensions and sale proposals have broad policy implications that can best be considered by the executive and legislative branches of state government or private entities.

4. Passenger operations should be modified to take advantage of revenue opportunities and re-evaluate uneconomic services; a system should be devised to accurately identify passenger service costs.

   Just as land leasing by the railroad is projected to be profitable, passenger service will likely remain a loss operation if all related expenses and capital costs are considered. To control these costs, however, it is important to account for them accurately.

   Reliable cost information is crucial in considering service levels, pricing issues, and capital expenditure decisions.

5. The Board of Directors of the Alaska Railroad Corporation should consist of five to seven voting members representing the interest of the entire public; no board member should be appointed to represent a special interest.

   Directors should be chosen for their professional judgment rather than their representations of special interests or home town. Similarly, non-voting membership is inappropriate.

   Board members should be limited to two five-year terms of service and with staggered terms to mix continuity of experience with new ideas.

THE FOLLOWING INFORMATION HAS BEEN PREPARED FOR YOU:

1. List of questions/concerns expressed by committee members during meetings

2. Committee Minutes:
   2/7/84
   2/9/84
   2/15/84 - HB 543 passed out of committee as CS
   2/16/84
   2/18/84 - Soldotna Hearings - Amendments offered-AFGE
   2/21/84
   2/22/84
   2/23/84 - Anchorage Hearings - Suggestions

3. Seward City Position Paper

4. Amendment offered by Mike Miller

5. Commonwealth North Recommendations

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: Soldotna 2-18-84

BILLS: HB 512

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Jack F. Burton	P.O. Box 9, Moose Pass 99631	AFGE - 183	288-3644	✓
Gordon Burton	P.O. Box 9 Moose Pass 99631	SELF	288-3644	✓

Alaska State Legislature

House of Representatives

Committe on Transportation

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Joyce Fischer	Box 784 Soldotna	Senator Paul Fischer	262-9269	✓
STAN THOMPSON	Box 850 "	KENAI 13070	2624441	✓
ALEX SHADURA	BOX 3907 KENAI	SELF	283 4955	✓
Justin Maile	Box 467 Soldotna	Self - city	262-4543	
T J. Thrasher	3943 Minnesota Anchorage.	Alaska Trucking Assoc.	(276-1149	✓
John Marrs	Box 4330, KENAI	PENINSULA CLARION	283-7551	✓

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: 2-23-84

BILLS: HB 512

Anchorage Public Hearing

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STEVE CONNELLY	444 W. 7th Anchorage	Resource Devel. Council		Observer
Richard F. Barnes	510 L Suite 461	Commonwealth North		
Randy Hatch	401 W. Bliss #4	KTUA-TV		O
Lonnie RATLIFF.	P.O. BOX 10-1827 ANCHORAGE.	ALL-STATE BUILDERS.		

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: 2-25-84
BILLS: HB512
AK RR
FAIRBANKS

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ROBERT L. CROWE	42 GOLD RUSH FAIRBANKS, AK 99701	ARR	479-5654	OBSERVER
J.B. JACK COGHILL	P.O. Box 268 NENANA-ALASKA 99760	SELF	832-5471	WITNESS ✓
Susan S. Khapman	1/2 mile Copper Rd Fairbanks AK	Alaska Visitors Ass. Fairbanks	488-2649	Witness ✓
Earl Beistline	P.O. Box 80148, FBKS 99708	self	452-5352	Observor
Joseph E. Usibelli	Pouch I, Healy, Ak 99743	Usibelli Coal Mine, Inc	683-2226	Witness ✓
Jan Olendorff	110 GLACIER FAIRBANKS.	ARR	4567736	OBSERVER
SUSAN FISHER	DAILY NEWS-MINER	—	452-6661	OBSERVER
JERRY RAFSON	600 UNIVERSITY AVE FBX	DOT/PF	479-4281	OBSERVER
BOB THOMAS	Box 80783 Fairbanks AK	Chamber of Commerce	479-4472	witness ✓
KAREN Hutton	3329 E. 16th Anch., AK 99508	AFGE	279-7088	Witness ✓
GD Valinske	807 W 5th Anch AK 99502	UTU	562 0857	OBSERVER
Steve Hansen	Pouch V; Capitol; Juneau, AK 99811	Rep. Hayes	465-3720	Observer

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House of Representatives

Committe on Transportation

HEARING DATE: Feb. 25 '89

BILLS: HB 512
AK·RR

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NAME (PLEASE PRINT)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	WITNESS/OBSERVER
Joe Vogler	Box 40 Fbks AK	Self.	479-2344	Witness ✓
Karen Ward	PO 81423 FBks 99701	Self	479-2213	Witness ✓
Stu Bellant	1755 Beaver Rd Fairbanks Ak	Self	4740797	?
Robert Leach	P.O. Box 74080 FBKS 99707	Tyhothele Corp	452 1415	Observer
Jack DiMarchi	P.O. Box 82628 FBK 99708	self	479-5017	WITNESS ✓
Ed. Merdes	Box 910 FBKS	Self	452378	WITNESS
Frank. DeLong	317 Senate Loop FBKS 99701	SELF	452-2683	OBSERVER/WITNESS?

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: Feb. 25 '84

BILLS: HB 512
AK. RR

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Timothy C. Gunderson	P.O. Box 80548 Fairbanks, AK. 99708	The Alaskan Trucker Magazine	456-8797	Witness
STANLEY C RYBACHEK	PO BOX 55698 N Pole AK 99705	SELF	488 6453	"
Cindi Rybachek	Po Box 55698 North Pole Ak 99705	Self	488-6453	Observer
Rose Rybachek	Po Box 55698 North pole, AK	Self	488 6453	Witness
RICK WHITESIDE	313 IDITAROD AVE FBKS AK	SELF	456 5491	OBSERVER
HARRY GRANT	318 DUNBAR FBKS AK	SELF	452-4969	"
BERNICE GRANT	" " " "	SELF	452-4969	"
Bill Sturdevant	POBox 82915 College, AK	self	—	"

Alaska State Legislature

House of Representatives

HEARING DATE: 4-18-84

BILLS: CSSB 387(Fin)

HB 660

Committe on Transportation

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MARK EARNEST		SEN. SACKETT		
Bob Munk	Box 537 Kenai AK 99611	Rep Malone		

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: 2/17/84

BILLS: HB 512

Seward

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NAME (PLEASE PRINT)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	WITNESS/OBSERVER
MICHAEL JAMES	PO BOX 405 SEWARD	KRXA	224-3456	X
John F. Gillespie	Box 1115 Seward 99664	City of Seward	224-3446	X
GENE C. KINGREA	Box 1652 SEWARD	SLAC	224-5257	X
NANCY M. BLAEDORN	Box 511, SEWARD, AK 99664	Seward Police Dept	224-3338	X
Alice C. Pickett	Box 632, Seward, AK. 99664	Seward Police Dept	224-3338	X
T. J. Thrasher	3443 Minnesota Anch. AK 99503	Alaska Trucking Assoc	276-1149	X
Robert P.P. VALDATTA	Box 1267 SEWARD AK 99664	ASSOC ALASKA BALKHAWKERS	224-5256	X
Beverly Dunham	Box 37, Seward	G RR Transfer Comm & self	224-5623	X
Mark J Patterson	SR. Box 465 Seward, AK. 99664	P&B Custom Homes Seward	288-3181	X
Connie Bencardino	BOX 1431 Seward AK. 99664	Eagle's Nest Realty Comm & self		X
Annetta Gillespie	Box 1225 Seward AK 99664		224-5765	X
Louis BENCARDINO	Box 167 Seward, AK 99664	City of Seward	224-3338	X
JACK WERNER	156 Seward AK 99664	Merchant	2243044	X
RON GARZINI	Box 167 SEWARD Alaska 99664	City of Seward	224-3331	X

Alaska State Legislature

House of Representatives

Committe on Transportation

HEARING DATE: _____

BILLS: _____

_____ _____

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NAME (PLEASE PRINT)	ADDRESS, CITY, STATE, ZIP	REPRESENTING	PHONE	WITNESS/OBSERVER
C Keith Campbell	Box 772 Seward, AK 99664	Chamber of Comm.	5631	X
HERMAN E LEIRER	Box 524 SEWARD, AK - 99664	SEWARD SERVICE	224-5615	X
JOHN SMITH	BOX 935 SEWARD, AK. 99664	Chamber Comm	2245237	X
Donald W. Cripps	PO Box 1501 Seward AK 99664	City of Seward and Self	224-3734	X
Guillard E Dunham	Bl 37 SEWARD AK 99664	City Dpt. Trans Bd Self	224-5623	X
Sandy Wassilie	Box 1576 Seward, Ak 99664	Planning & Zoning Self	224-3322	X
Madelyn Walker	Box 112 Seward, AK 99664	self	224 3322	X

HB

543

House Journal 2/15/64

HB 543

The Transportation Committee has had HOUSE BILL NO. 543 (authorizing acquisition of the Alaska Railroad; authorizing the governor to negotiate the transfer terms; effective date) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 543 (Transportation) (same title) and reports it back as follows: Cato (Chairman), Bettisworth, Flood, McBride, Herrman, Abood, Davis and M.W. Miller recommend do pass; Representative Szymanski recommends do pass "Woo-Woo".

HB 543 was referred to the Finance Committee.

INTRODUCTION OF CITATIONS

The following citations were received:

In Memoriam - Vietnam Casualties
by Representatives Furnace, Barnes, Hayes and Liska and Senators Halford and Kelly

Honoring - Theodore Williams
by Representatives Furnace and Barnes and Senators Halford and Kelly

In Memoriam - George Beck
by Representative Shultz

Honoring - Northway Girls Basketball Team
by Representative Shultz

The citations were referred to the Rules Committee for placement on the calendar.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/19/84

REQUEST
Bill/Resolution No.: HB 543
Title: Alaska Railroad Acquisition Act
Sponsor:
Requestor: Rules, by request of Governor
Date of Request: 1/18/84

FISCAL DETAIL
Agency Affected: N/A
Program Category Affected: N/A
BRU, Program or Subprogram(s) Affected: N/A

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING *						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	22,271.0	-0-	-0-	-0-	-0-
REVENUE *	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	22,271.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	22,271.0	-0-	-0-	-0-	-0-

POSITIONS: *

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: GENERAL FUND

*This fiscal note only covers the actual purchase price. Specific estimates for these other needs will be presented in subsequent fiscal notes relating to proposed operating entity legislation.

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coordinator Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 1/19/84

Approved by Commissioner: H. Glenzer, Jr. Date: 1/19/84
Agency: Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

If the State elects to acquire the Alaska Railroad in accordance with the Alaska Railroad Transfer Act of 1982, it must compensate the United States for its fair market value. The Alaska Railroad Transfer Team has determined the valuation of $22,271,000 performed by the United States Railway Association should be accepted as reasonable.

In addition to the purchase price, the Transfer Team has identified the total liability to the State associated with acquisition of the railroad. Although there are a few unknowns still under investigation, we have determined that under a low-end or "best case" scenario, that approximately $23.5 million will be needed for additional "start-up costs" to cover the first years of operations. Under a high end or "worst case" scenario, the additional financial exposure to the State from ensuring continued rail operations for the next ten years may run as high as $47.9 million (in 1983 dollars).

The railroad is an important link in Alaska's transportation network, particularly for the surface movement of bulk commodities. Abandonment of rail service would, at the very least, result in costly impacts to the State's highway system.

The federal government has the authority to dispose of the railroad, and appears committed to doing so. There is no guarantee that service will be continued under another disposition. Nor is there any current evidence of a private sector interest willing to step in and guarantee continued rail services.

Acquisition ensures continuation of essential rail services, gives the State control over the railroad's operations, and preserves all future options regarding its final disposition. It also offers the State an opportunity to restructure the existing organization to obtain greater efficiencies and make the railroad more responsive to our goals.

For these reasons, the Sherrieb Administration has accepted the recommendation of the Transfer Team that the State should proceed with acquisition of the Alaska Railroad. Furthermore, additional discussion with the federal government over compensation terms has lead to the conclusion to seek a direct cash acquisition versus more complicated land trades or financing packages.

COMMITTEE REPORT

HOUSE

(9) FURTHER: FINANCE

1/27/84 Date: 2-15-84

The Committee on TRANSPORTATION has had HB 543

"An Act authorizing the acquisition of the Alaska Railroad; authorizing the governor to negotiate the transfer terms; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 543 (Transportation) [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
R B Ellisworth	
[illegible] "Woo-Woo"	
[illegible]	
[illegible]	
[illegible]	
[illegible]	
[illegible]	
[illegible]	
M W Miller	

[illegible]
CHAIRMAN

Cook
2/10/84

Original sponsor: Rules/Governor

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 543 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing the acquisition of the Alaska Railroad; authorizing the governor to negotiate the transfer terms; and providing for an effective date."

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

* Section 1. ACCEPTANCE OF CERTIFICATION REQUIREMENTS OF ALASKA RAILROAD TRANSFER ACT OF 1982. The state accepts, for itself and any entity that might subsequently be created to operate the Alaska Railroad, the certification requirements under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of January 14, 1983). Accordingly, the state agrees to

(1) acquire the Alaska Railroad and accept all rail property of the Alaska Railroad under 45 U.S.C. 1203(a);

(2) operate the Alaska Railroad as a rail carrier in intrastate and interstate commerce;

(3) assume all rights, liabilities, and obligations of the Alaska Railroad existing on the date of transfer to the state, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by 45 U.S.C. 1201 - 1214;

(4) protect the employment interests of the employees of the Alaska Railroad during the two-year period commencing on the date of transfer, as required by 45 U.S.C. 1203(d)(3)(A) and 45 U.S.C. 1206;

(5) protect the employment interests of the officers of the Alaska Railroad as required by 45 U.S.C. 1203(d)(3)(E);

(6) allow representatives of the United States Secretary of

Transportation adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of federal ownership; and

pay now, obligate that we will pay (7) compensate the United States at the value determined by the United States Railway Association under 45 U.S.C. 1204(d).

* Sec. 2. (a) The governor may enter into transfer agreements, compensation agreements, and any other related agreements with the United States Secretary of Transportation in order to secure certification by the secretary that the state has met the requirements of 45 U.S.C. 1203 and in order to secure the transfer of the Alaska Railroad to the state.

(b) Transfer of the Alaska Railroad shall not occur until after the effective date of an Act establishing or otherwise providing for an entity to operate the state-owned railroad.

* Sec. 3. DEFINITIONS. In this Act, unless the context clearly indicates otherwise,

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the U.S. Department of Transportation as a rail carrier in Alaska under authority of 43 U.S.C. 975 - 975(g) (Alaska Railroad Act) and 49 U.S.C. 1655(i) (Department of Transportation Act) or, as the context requires, the railroad operated by that agency;

(2) "certification requirements" means the conditions under 45 U.S.C. 1203 that the United States Secretary of Transportation must certify as having been satisfied by the state before transfer of the Alaska Railroad to the State of Alaska may occur under 45 U.S.C. 1203(a);

(3) "compensate" means payment in full or by credit agreement with cash or pledged funds;

(4) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer to the state: general manager; assistant general

manager; assistant to the general manager; chief of administration; and chief counsel.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 26, 1984

The Honorable Joe Hayes
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will authorize the state to acquire the Alaska Railroad. The bill is required so that the certification process mandated by the Alaska Railroad Transfer Act (ARTA; P.L. 97-468) can be effected. Once this certification process is completed, acquisition of the railroad can occur as soon as practicable.

The bill essentially says that the state agrees to meet the transfer conditions set out in the Transfer Act. A more detailed analysis of the bill follows:

Section 1 says that the state agrees to the transfer conditions set out in the Alaska Railroad Transfer Act. Specifically, these points of agreement are as follows:

1) The state agrees to acquire all the rail property of the railroad.

2) The state agrees to operate the railroad as a rail carrier in intrastate and interstate commerce.

3) The state agrees to assume all rights, liabilities, and obligations of the railroad that exist on the date of transfer.

4) The state agrees to protect the employment interests of the railroad employees as required by sec. 604(d)(3)(A)(i) -- (vii) and sec. 607 of ARTA.

5) The state agrees to protect the employment interests of the officers of the railroad as required by sec. 604(d)(3)(E) of ARTA.

6) The state agrees to allow the Secretary of Transportation access to employees and records of the Alaska Railroad.

7) The state agrees to compensate the United States at the appraisal value that was determined by the United States Railway Association.

Section 2 authorizes the governor to enter into the various transfer agreements that relate to the points listed above and that will be required in order to secure certification of compliance with the Transfer Act and thus to secure the transfer of the railroad.

Section 3 defines certain terms used in the bill.

Section 4 provides for an immediate effective date.

I urge your favorable action on this bill as soon as possible so that the transfer of the ownership of the Alaska Railroad to the state can become a reality.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/19/84

REQUEST
Bill/Resolution No.: HB 543
Title: Alaska Railroad Acquisition Act
Sponsor:
Requestor: Rules, by request of Governor
Date of Request: 1/18/84

FISCAL DETAIL
Agency Affected: N/A
Program Category Affected: N/A
GRU, Program or Subprogram(s) Affected: N/A

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING *						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	22,271.0	-0-	-0-	-0-	-0-
REVENUE *	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	22,271.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	22,271.0	-0-	-0-	-0-	-0-

POSITIONS: *

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: GENERAL FUND

*This fiscal note only covers the actual purchase price. Specific estimates for these other needs will be presented in subsequent fiscal notes relating to proposed operating entity legislation.

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coordinator Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 1/19/84

Approved by Commissioner: H. Glenzer, Jr. Date: 1/19/84
Agency: Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

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The railroad is an important link in Alaska's transportation network, particularly for the surface movement of bulk commodities. Abandonment of rail service would, at the very least, result in costly impacts to the State's highway system.

The federal government has the authority to dispose of the railroad, and appears committed to doing so. There is no guarantee that service will be continued under another disposition. Nor is there any current evidence of a private sector interest willing to step in and guarantee continued rail services.

Acquisition ensures continuation of essential rail services, gives the State control over the railroad's operations, and preserves all future options regarding its final disposition. It also offers the State an opportunity to restructure the existing organization to obtain greater efficiencies and make the railroad more responsive to our goals.

For these reasons, the Sherrieb Administration has accepted the recommendation of the Transfer Team that the State should proceed with acquisition of the Alaska Railroad. Furthermore, additional discussion with the federal government over compensation terms has lead to the conclusion to seek a direct cash acquisition versus more complicated land trades or financing packages.

HB

601

FEB 27 1984

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Representative Bette Cato, Chair
House Transportation Committee

FROM: Representative Jim Duncan

DATE: February 23, 1984

RE: Ridesharing Program

I am writing this memo to urge you to schedule House Bill 601 for a hearing in your committee as soon as possible.

House Bill 601 represents the enabling legislation to allow Juneau to embark on a model ridesharing program, which, if successful, could be emulated in other Alaskan communities.

Informal ridesharing is currently occurring in Juneau to some extent; however for the impact to be seen in parking availability, much more needs to be done.

House Bill 601 is the first step in that direction. It would allow the State to purchase vans for van-pooling use. Van-pooling is a federally recognized program eligible for 100% federal funding if properly implemented. It would also allow ridesharing in state owned sedans.

Jeanne Erskine, a local ridesharing consultant has submitted a study which proposes purchase of several vans, enlisting and retaining reliable driver-coordinators and levying of user fees (ranging from $33 to $48 per month) appropriate to the actual cost incurred for each van pool. Each van would carry 9-11 passengers and be provided a reserved parking space in the State parking garage.

Experience has shown that in order to obtain maximum participation there must be a strong commitment by management to the program.

Representative Mike Miller has requested that DOT/PF perform a cost/benefit analysis to determine feasibility of the program.

I have asked Representative Bob Bettisworth to consider inserting $25,000 in DOA's budget to plan and implement the program.

This program has the potential for great success at small cost to the State. I would appreciate your personal attention to this matter.

HB

622

Introduced: 2/13/84
Referred: Transportation and Finance

Funding Information
General Fund $1,049,100
Other Funds -0-
$1,049,100

IN THE HOUSE BY DAVIS AND KOPONEN

HOUSE BILL NO. 622

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for access road, signing, and illumination improvements for public schools in the Fairbanks North Star Borough; and providing for an effective date."

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

* Section 1. The sum of $1,049,100 is appropriated from the general fund to the Department of Transportation and Public Facilities for access road, signing, and illumination improvements for the following public schools in the Fairbanks North Star Borough in the amounts listed:

Badger Road Elementary School	$ 15,000
Hutchison Career Center	3,100
New North Pole High School	600,000
Pearl Creek Elementary School	160,000
Two Rivers Elementary School	125,000
Weller Elementary School	111,000
West Valley High School	35,000

* Sec. 2. The appropriation made by this Act is for capital projects and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1984.

To: ALL members of House TRANSPORTATION & Senator Moss

TELECOPY COVER SHEET
FAIRBANKS INFORMATION OFFICE
Cato

TO: JNU [redacted]: _____ PHONE: _____

FROM: Margaret Baseom — PHONE: 488-1932

ADDITIONAL INSTRUCTIONS: Testimony for meeting at 8:30 AM Tuesday 4/17/84

DATE/TIME SENT: 4/16/84 3:20 SENT BY: Annie

PLEASE ACK. RECEIPT: ✓ HOLD FOR PICK-UP: _____

NUMBER OF PAGES 1 (NOT COUNTING COVER SHEET)

Please deliver before meeting

April 16, 1984

House Transportation Committee
Pouch V
Juneau, Alaska 99811
c c Senator Moore.

Department of Transportation
State of Alaska

In consideration of House Bill 622. We the members of House District 18, wich to express the urgent need for a consideration of this appropriation to improve the roads and signs involving public access as well as school access to the Richardson Highway portion of our district.

It is iminent that a more adaquate caution be placed at the crossing of Badger Road and Richardson Highway near Market Basket.

It behooves us to make you aware that we have had more than five fatalities at this intersection.

The hazards of our students embarking on or from school buses is enough to make any parent have grey hairs.

You would have our undying gratitude to assist us in making this appropriation in House Bill 622 become a reality.

Sincerely,

Frank Belts

Connie Watson

Scott Matthews

Gayle Pierce

Arthur Medley

Margaret Bascom

Thomas Strickland

Don Bascom

Joan Coston

Bill Lewis

Freda Russell

Jewell B. Smith

P.O. Box 73238
Fbks ak. 99707
Margaret Bascom
488-1932

Alaska State Legislature

Representative Mike Davis

Pouch V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

MEMORANDUM

To: Rep. Cato

From: Rep. Davis

Date: March 29, 1984

Re: HB 622

Dear Rep. Cato,

Enclosed is the back-up material for HB 622, which is scheduled to be heard in House Transportation on April 4.

Sincerely,

J. L. S.

Jonathan Sperber
Admin. Asst. to Rep. Davis

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DIVISION OF PLANNING AND PROGRAMMING, INTERIOR REGION

University Plaza - West, Suite D
590 University Avenue
Fairbanks, Alaska 99701
(907) 479-4281

January 30, 1984

Re: School Access Improvements

The Honorable Mike Davis
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Enclosed as requested of Mim Dixon is information on School Access Improvements in the Fairbanks North Star Borough area. The cost estimates given are as telephoned to you earlier.

The School District has identified several schools with road access problems. Most of the problems can be corrected by improved visibility of the roads to the schools and/or advance signing and illumination. The School District's top priority for improvements is the access to the new North Pole High School. Following is an explanation of the problems at each site and the costs for those improvements.

1. West Valley High

The principal access, which serves the student parking lot, is Geist Road, with a secondary access on Noatak Drive serving the faculty lot. These two access points are not connected. Since the student parking lot is off Geist, there tends to be significant delay in the morning and at noon for traffic attempting to leave the school grounds. School officials are concerned the students are taking too many chances trying to get in and out, especially during the short lunch period. In an attempt to correct this, the School District is studying the possibility of eliminating or making Geist a one-way entrance and connecting the parking lots to Noatak to make it the primary access. This would put existing traffic on a lower volume road that is then controlled by a traffic actuated signal at Geist Road. Les Riedlinger of the Fairbanks North Star Borough School District presented the District's Plans at the January 16 meeting of the West Valley Parent Advisory Committee.

The school district would like State assistance to complete the lot connection, provide advance signing advising of the turnoff, and illuminate the intersection at Geist to increase visibility.

Continuous illumination has been in place on Geist Road since it was widened. There is already one luminaire at the throat of the intersection which was installed by the school.

West Valley is well off the roadway and hidden from view, making the guide signs suitable. The total estimated cost is $35,000 (1985 dollars) broken out as follows:

Advance signing and illumination:	
Preliminary Engineering	$ 2,500
Construction (including 15% construction engineering)	10,250
SUBTOTAL	$ 12,750
Supplement to connect the two parking lots	22,250
TOTAL	$ 35,000

2. Hutchison

Two entrances to Hutchison Career Center near West Valley are from Geist Road. It does not have the problems that West Valley has but the school district feels advance signing is needed.

The estimated cost of advance signing is $3,100 (1985 dollars) broken out as follows:

Preliminary Engineering	$ 550
Construction (including 15% construction engineering)	2,550
TOTAL	$ 3,100

3. New North Pole High School

The entrance to the new school is planned to be the Old Richardson at Eighth Avenue. The intersection is at a right angle onto a very narrow 8th Avenue, making turns from one direction difficult and, for school buses, nearly impossible. The school district would like to see a turn lane with a flashing light and illumination. The cost estimate includes the illumination, flashing warning lights, a center left turn lane, and a right turn lane.

The total estimated cost is $600,000 broken out as follows:

Preliminary Engineering	$ 36,750
Right-of-Way	1,250
Construction (including 12% construction enginering)	562,000
TOTAL	$600,000

4. Pearl Creek

The entrance to Pearl Creek Elementary School is off Auburn Drive, which is on the State system. A line item appropriation of $225,000 from Chapter 10, SLA 83 was made for the Auburn Student Access project to provide a bike/pedestrian path along Auburn Drive from Farmers Loop to Herried Drive. The School District would like a separated footpath the entire distance. Because of existing property development immediately adjacent to the right of way, the first half of the project consists of a ten foot shoulder.

The second (northern) half could be a separated facility. The cost for the separated facility is estimated at $120,000 (1985 dollars), broken out as follows:

Preliminary Engineering	$ 10,000
Construction (including 12% construction engineering)	110,000
SUBTOTAL	$120,000

The necessary property is owned by the School District, so there should be no right-of-way costs.

In addition, the School District feels advance signing and illumination are needed.

Ilumination includes extending the parking lot lighting circuit to Auburn and one luminaire. The cost of operating and maintaining this light should be borne oy the school. The estimated cost for advance signing and illumination (in 1985 dollars) is $40,000 broken out as follows:

Preliminary Engineering	$ 4,000
Construction (including 15% construction engineering)	$ 36,000
SUBTOTAL	$ 40,000

Pearl Creek TOTAL $160,000

5. Weller

The entrance to Weller Elementary School is at approximately 1 mile Chena Hot Springs Road. The intersection is at the top of a rise in the road, which limits visibility. A new turn lane (eastbound), signing and flashing lights are to be installed as part of the $180,000 project funded in FY84. The School District has also suggested a westbound turn lane at the intersection. The estimated cost of this turn lane (1985 dollars) is $111,000 broken out as follows:

Preliminary Engineering	$ 9,000
Construction (including 15% construction engineering)	$102,000
TOTAL	$111,000

6. Two Rivers

The Two Rivers Elementary School is on Taurus Road, off 18.5 Mile Chena Hot Springs Road. The School District is proposing a chip seal at a cost of $125,000 for Taurus Road this year. In addition, they would like the State to provide illumination and advance signing.

Advance intersection warning signs with street name plaques and one luminaire have recently been installed by the State.

7. Salcha

With access at 38 Mile Richardson, the Salcha School is located on a slight rise and curve. The School District feels larger signs and illumination are needed. Standard school advance signs and one luminaire have been in place for many years. Although, larger signs are usually warranted only on expressways and freeways, we are looking into the possibility of a change in standards or else an exception for Salcha.

8. Badger Road

The access for Badger Road Elementary is either Bradway Road or Woll Road. The School District has suggested several improvements:

Badger/Bradway intersection - school zone signs (minimum), time controlled flashing caution lights (maximum). If warranted, this could be incorporated in the proposed Badger Road reconstruction project. Funding for $933,700 for the right of way and utilities phase of the project is included in the Department's FY85 capital budget request.

Bradway - illumination and a flashing yellow light

The school signs have already been installed by the State. The following estimate is for the cost of extending the lighting system to include one additional luminaire at the main driveway. Maintenance and operation cost of this luminaire should be borne by the school. The estimated cost of illumination is $15,000 (1985 dollars), broken out as follows:

Preliminary Engineering	$ 2,500
Construction (including 15% construction engineering)	12,500
TOTAL	$ 15,000

9. Tanana Junior High

Tanana is located off Trainor Gate Road and F Street. Some minor improvements the School District would like are a flood light and a permanent land bridge (driveway) to F Street.

Two newly constructed illumination systems, one at Trainor Gate Road and F Street, and one on F Street itself do give illumination for the school driveway. One luminaire is already centered on the driveway. The State designer of the intersection illumination and the City Engineer's office in charge of the newly constructed luminaires on F Street concur with each other that additional illumination is not needed. We will get back with the School District to try to resolve this.

An apparent problem in addressing school safety is that the Alaska Traffic Manual makes no specific provisions for these concerns and the DOT&PF is required to adhere to the Manual. Advance signing is normally installed only in rural areas where the school is some way off the main road. Flashing warning lights are generally installed only where there is an identified problem. We are looking internally into the advisability of either changing the manual or allowing more flexibility to make exceptions.

Sincerely,

William B. McMullen
Acting Deputy Commissioner

CF:lf
Attachment

cc: E. Cronick, Special Assistant, Statewide Programs
R. Gillespie, Legislative Assistant, Office of the Governor
J. Wagner, Planning, Northern Region

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: H.B. 622
Title: Spec. Appro. to DOT/PF for Access Rd., Signs & Illum. for Schools
Sponsor: Reps. Davis & Koponen
Requestor: Rhonda Carghill
Date of Request: 3/29/84

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Design & Construction
BRU, Program of Subprogram(s) Affected: Northern Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						
CAPITAL		1,049.1				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,049.1				
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL		1,049.1				

POSITIONS:

FULL TIME		-0-				
PART TIME		-0-				
TEMPORARY		-0-				
TOTAL		-0-				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis

Prepared by: D. Truax Phone: 479-4281
Division: Planning Date: 4/2/84

Approved by Commissioner: Date: 4-3-84
Department: DOT&PF
J. J. KNAPP

Distribution:
Original to Legislative Finance
copy to Office Management and Budget (for Legislature introduced bills)
copy to Department (for Governor introduced bills)
copy to Sponsor

ASSUMPTIONS

The School District has identified several schools with road access problems. Most of the problems can be corrected by improved visibility of the roads to the schools and/or advance signing and illumination. The School District's top priority for improvements is the access to the new North Pole High School. Followig is an explanation of the problems at each site and the costs for those improvements.

1. West Valley High School

The principal access, which serves the student parking lot, is Geist Road, with a secondary access on Noatak Drive serving the faculty lot. These two access points are not connected. Since the student parking lot is off Geist, there tends to be significant delay in the morning and at noon for traffic attempting to leave the school grounds. School officials are concerned the students are taking too many chances trying to get in and out, especially during the short lunch period. In an attempt to correct this, the School District is studying the possibility of eliminating or making Geist a one-way entrance and connecting the parking lots to Noatak to make it the primary access. This would put existing traffic on a lower volume road that is then controlled by a traffic actuated signal at Geist Road. Les Riedlinger of the Fairbanks North Star Borough School District presented the District's Plans at the January 16 meeting of the West Valley Parent Advisory Committee.

The school district would like State assistance to complete the lot connection, provide advance signing advising of the turnoff, and illuminate the intersection at Geist to increase visibility.

Continuous illumination has been in place on Geist Road since it was widened. There is already one luminaire at the throat of the intersection which was installed by the school.

West Valley is well off the roadway and hidden from view, making the guide signs suitable.

2. Hutchison

Two entrances to Hutchison Career Center near West Valley are from Geist Road. It does not have the problems that West Valley has but the school district feels advance signing is needed.

3. North Pole High School

The entrance to the new school is planned to be the Old Richardson at Eighth Avenue. The intersection is at a right angle onto a very narrow 8th Avenue, making turns from one direction difficult and, for school buses, nearly impossible. The school district would like to see a turn lane with a flashing light and illumination. The cost estimate includes illumination, flashing warning lights, a center left turn lane, and a right turn lane.

4. Pearl Creek

The entrance to Pearl Creek Elementary School is off Auburn Drive, which is on the State system. A line item appropriation of $225,000 from Chapter 10, SLA 83 was made for the Auburn Study Access project to provide a bike/pedestrian path along Aubrun Drive from Farmers Loop to Herried Drive. The School District would like a separated footpath the entire distance. Because of existing property development immediately adjacent to the right of way, the first half of the project consists of a ten foot shoulder.

The second (northern) half could be a separated facility.

The necessary property is owned by the School District, so there should be no right of way costs.

In addition, the School District feels advance signing and illumination are needed.

Illumination includes extending the parking lot lighting circuit to Auburn and one luminaire. The cost of operating and maintaining this light should be borne by the school.

5. Weller

The entrance to Weller Elmentary School is approximately 1 mile Chena Hot Springs Road. The intersection is at the top of a rise in the road, which limits visibility. A new turn lane (eastbound), signing and flashing lights are to be installed as part of the $180,000 project funded in FY84. The School District has also suggested a westbound turn lane at the intersection.

6. Two Rivers

The Two Rivers Elementary School is on Taurus Road, off 18.5 Mile Chena Hot Springs Road. The School District is proposing a chip seal at a cost of $125,000 for Taurus Road this year. In addition, they would like the State to provide illumination and advance signing.

Advance intersection warning signs with street name plaques and one luminaire have recently been installed by the State.

7. Badger Road

The access for Badger Road Elementary is either Bradway Road or Woll Road. The School District has suggested several improvements:

Badger/Bradway intersection - school zone signs (minimum), time controlled flashing caution lights (maximum). If warranted, this could be incorporated in the proposed Badger Road reconstruction project. Funding for $933,700 for the right of way and utilities phase of the project is included in the Department's FY85 capital budget request.

Bradway - illumination and a flashing yellow light.

H.B. 622 (cont'd)

The school signs have already been installed by the State. Maintenance and operation costs of this luminaire should be borne by the school.

PROGRAM SUMMARY

Positions: No new positions would be created.

Other Expenditures:

West Valley

Advance signing and illumination:	
Prelminary Engineering	$ 2,500
Construction (including 15% construction engineering)	10,250
SUBTOTAL	$ 12,750
Supplement to connect the two parking lots	22,250
TOTAL	$ 35,000

Hutchison

Prelminary Engineering	$ 550
Construction (including 15% construction engineering)	2,550
TOTAL	$ 3,100

NEW NORTH POLE HIGH SCHOOL

The total cost estimated is $600,00 broken out as follows:

Prelminary Engineering	$ 36,750
Right of way	1,250
Construction (including 12% construction engineering)	562,000
TOTAL	$600,000

PEARL CREEK (Northern Half)

Prelminary Engineering	$ 10,000
Construction (including 12% construction engineering)	110,000
SUBTOTAL	$120,000

PEARL CREEK (Signing & Illumination)

Peliminary Engineering	$ 4,000
Construction (including 15% construction engineering)	36,000
SUBTOTAL	$ 40,000
PEARL CREEK TOTAL	$160,000

Weller

Preliminary Engineering	$ 9,000
Construction (including 15% construction engineering)	102,000
TOTAL	$ 111,000

Badger Road

Preliminary Engineering	$ 2,500
Construction (including 15% construction engineering)	12,500
TOTAL	$ 15,000

FUNDING: Estimates were provided by the Division of Highways, Design, Northern Region, DOT&PF, based on past experienc with similar projects.

SECTION COST ANALYSIS: See detailed project estimates under "other expenditures".

COMPUTATIONS: See project cost estimates under "other expenditures".

ECONOMIC IMPACT: These projects would not impact the State's economy.

IMPACT ON LOCAL GOVERNMENT: Although the school district would be responsible for maintenance and operations on some of these projects, cost would be minor, therefore it is felt that there would be no impact.

Dept. of Transportation & Public Facilities

Position Paper

BILL NO: HB 622

APPROVED: R. D. Knapp
Commissioner

TITLE: An Act making a special appropriation to the DOT&PF for access road, signing, and illumination improvements for public schools on the Fairbanks North Star Borough

DATE: April 2, 1984

State DOT&PF recognizes that safety for school children going to and coming from school is of the highest priority. The School District has identified several schools with road access problems. Most of the problems can be corrected by improved visibility of the roads to the schools and/or advance signing and illumination. All of these facilities are on State-maintained roadways. The State DOT&PF does not anticipate any difficulties completing projects to meet the identified needs.

For more information, contact Paula Ramsey at 465-3900

COMMITTEE REPORT

HOUSE

(9)

FURTHER: FINANCE

2/13/84

Date: 4/17/84

The Committee on TRANSportation has had HB 622

"An Act making a special appropriation to the Department of Transportation and Public Facilities for access road, signing, and illumination improvements for public schools in the Fairbanks North Star Borough; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note Supp 129 [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

M.W. Miller

MEMBERS HAVING OTHER RECOMMENDATIONS:

_____
CHAIRMAN

Rhonda -

Call Jonathan

Some DOT from
Fairbanks who will testify

1. Mim Dixon (MS)) 80 TPF
2. John Martin
3.

4/16/84

HB 622 - Rep Davis

Teleconference

Les Reidlinger 452-4461 — # called from 452-2000 Supt office

[redacted] Facilities planner for FNSB School District — Gus Zetra - Assoc Supt [redacted]

John Martin ~~Jim Dixon~~ 479-4281
Planning DOTPF
& Programming
Jonathon Widdis
DOTPF
Project Planner for DOTPF - Fairbanks

Bridge ~~#~~ 0 312-399-1730 call-in at 8:30 or 8:20 to be on-line
calling for House Transp Committee meeting

x 3836 - Ken / Doris - Leg Tele

1- 0 - 312-399-1730
collect call from UFO - Unfunded Site -
calling for House Transp. Committee
2- call at least 5 min before start

April 16, 1984

House Transportation Committee
Pouch V
Juneau, Alaska 99811
c c ⓒ Senator Moore

Department of Transportation
State of Alaska

In consideration of House Bill 622. We the members of House District 18, wish to express the urgent need for a consideration of this appropriation to improve the roads and signs involving public access as well as school access to the Richardson Highway portion of our district.

It is iminent that a more adaquate caution be placed at the crossing of Badger Road and Richardson Highway near Market Basket.

It behooves us to make you aware that we have had more than five fatalities at this intersection.

The hazards of our students embarking on or from school buses is enough to make any parent have grey hairs.

You would have our undying gratitude to assist us in making this appropriation in House Bill 622 become a reality.

Sincerely,

Frank Belts

Connie Watson

Scott Matthews

Jayle Pierce

Arthur Medley

Margaret Bascom

Thomas Strickland

Don Bascom

Joan Coston

Bill Lewis

Freda Russell

Jewell B. Smith

(P.O. Box 73238
Fbks ak. 99707
Margaret Bascom
488-1932

HB

660

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/16/84

REQUEST
Bill/Resolution No.: HB 660
Title: Kenai River Bridge

Sponsor: Malone
Requestor:
Date of Request: 2/16/84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: D&C

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS			20.0	20.0	20.0	20.0
TOTAL OPERATING						
CAPITAL		5,672.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		5,672.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by bill sponsor.

ANALYSIS: Attach a separate page for any Analysis

Prepared By: William R. Snell
Phone: 266-1462
Division: Planning
Date: 4/16/84

Approved by Commissioner: R. J. Knapp
Date: 4/18/84
Agency: DOT&PF

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS HB 660

1. Would increase the maintenance and operations budget for the Department.

2. Fiscal impact on new programs or activities: Unknown

3. Cost estimate prepared by Design and Construction based on data provided from project design; Departmental M&O standard costs based on $5,500 per lane mile (12 ft. widths -- approximately 2 miles)

4. This project would fund:

   a. Construction of a bridge over the Kenai River.

   b. Construct a road from bridge to Funny River Road (South) and from the bridge to Scout Lake Road (North).

   Cost estimate includes Design Completion (bridge design completion, materials work, and specifications update), ROW, Utilities, and Construction.

HB

661

Alaska State Legislature

REPRESENTATIVE
BETTE CATO
DISTRICT 6
BOX 775
VALDEZ, ALASKA 99686
(907) 835-4568

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4958
(907) 586-2660

House of Representatives

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
HOUSE COMMUNITY AND REGIONAL AFFAIRS

CS By Transportation Changes:

- Adds new section "Sec.37.15.730 Knik Arm Crossing. Notwithstanding the provisions of AS 37.15.720 the first state toll facility to be constructed is the Knik Arm Crossing near Anchorage."

  The provisions of Sec.720 authorize the state to "...Acquire, construct, equip and maintain toll bridges, highways, roads, crossings and causeways found to be necessary by the commissioner of DOTPF."

- Adds reference to 730 throughout the bill (.730 explained above).

- Transportation CS clean up language throughout the bill. "Crossings" is also added to the definitions of "toll facilities" in the definition section of the bill.

Neil Munson - Speakers office
- Suggested we look at HB 294 & 295 dealing w/Knik Arm to help in finding back-up for SJR 661
- also John Olson of DOTPF will be coming to talk to committee on bill

4/12

COMMITTEE REPORT

HOUSE

(9) FURTHER: FINANCE

2/13/84 Date: 4/12/84

The Committee on TRANSPORTATION has had HB 661

"An Act relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority,,"

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for HB 661 (transportation) [ ] same title [X] new title

and recommends

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

Sep 12.7

MEMBERS SIGNING DO PASS

[signature]

[signature]

[signature]

M.W. Miller

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature] Do Not Pass

[signature] Do not pass

[signature] No Rec

M.W. Miller

CHAIRMAN

BILL SHEFFIELD
GOVERNOR

HB 661

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to toll bridges and highways. This bill addresses both the authority for construction and maintenance of the facilities and their funding through revenue bonding. The bill gives this authority to the Department of Transportation and Public Facilities and avoids unnecessary duplication of personnel in the administration of toll facilities. The language in the bill is based on language in AS 37.15.-410 -- 37.15.550, dealing with international airports revenue bonds.

The bill provides that the acquisition, construction, or equipping of toll facilities may be accomplished through the issuance of revenue bonds. It creates special funds for the accounting and management of proceeds of the bond sales and for the redemption or refunding of the bonds. It further allows the retention, in the toll facilities revenue fund created in AS 37.15.630, of money generated through toll collection. This money will then be used for payment of interest on the bonds and redemption as the bonds mature.

Money received from tolls collected and placed in the revenue fund is also made available for the purposes of paying for normal maintenance and operation of the toll facilities, replacement of the facilities, and other costs associated with the ownership of the facilities. The money would not be available for general appropriation by the legislature but would be protected for use for those purposes set out in AS 37.15.630. This does not violate the "dedicated funds" prohibition contained in art. IX, sec. 7, of the Alaska Constitution inasmuch as the funds are segregated for the purpose of guaranteeing payment of bonds and securing the collateral for the bonds.

This bill provides an opportunity to meet certain needs of the state's highway system in an era when general fund appropriations might not be possible for that important purpose. I urge your prompt consideration and action on this measure.

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.:
Title: DOT&PF Toll Facilities Financing Bill
Sponsor: Office of the Governor
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Major Projects Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0 (1)*				
CAPITAL		0 (2)*				
REVENUE		0 (3)*				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		0 (4)*				
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0 (5)*				
PART-TIME						
TEMPORARY						

*See attached notes

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Costs of issuing revenue bonds will be recovered in the bond sale and liquidated from project revenues. There is, therefore, no fiscal impact from the bill. Fiscal impacts from specific projects will be considered if and when legislation is introduced to contribute capital or operating funds to the projects.

ANALYSIS: Attach a separate page for analysis

Prepared By: John B. Olson Phone: 266-1447
Division: Major Projects Management Date: 2/3/84

Approved by Commissioner: Date: 2/3/84
Agency: DOT&PF

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE BACKUP

TOLL FACILITIES FINANCING

(1) The bill will allow DOT&PF to sell revenue bonds to finance toll producing transportation facilities. Costs associated with the bond issues will be recovered with the issue and paid from revenues. Operating and other costs will also be paid from toll revenues. As a result, no net operating costs will accrue from the bill. Any legislated contributions to operating costs for specific facilities, should such contributions be required, would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(2) The bill seeks to construct capital facilities through the sale of revenue bonds. Any legislated contributions to capital, if required, would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(3) Facilities constructed under the bill will be revenue producing. The revenues will contribute to capital and operating costs as explained in notes (1) and (2) above.

(4) Federal Fund eligibility will be determined on a project by project basis.

(5) Employee costs and positions arising from facility operation will be paid from project revenues.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: HB 661
Title: DOT&PF Toll Facilities Financing Bill
Sponsor: Governor
Requestor: House Transportation
Date of Request:

FISCAL DETAIL
Agency Affected: State Bond Committee
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	63000.0	63000.0	63000.0	63000.0	63000.0
	TOTAL OPERATING	-	-	-	-	-	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	63000.0	63000.0	63000.0	63000.0	63000.0
	TOTAL	-	-	-	-	-	-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury
Phone: 465-2350
Date: 2-23-84

Approved by Commissioner:
Agency:
Date: 2/28/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HB 661
Fiscal Note Analysis

$63,000,000 is the estimated annual debt service on the $500,000,000 revenue bonds authorized in HB 661. This debt service estimate assumes 20 year bonds at 11% interest to be conservative. Bonds may have longer maturities and higher or lower interest rates.

The source of funds for debt service would ordinarily be the toll facilities revenue fund. However until the first project is operating, there will be no revenues. Therefore, for FY 85 at least, the fund source would be the toll facilities construction fund.

(operation/ expenses)

tions for operating expenses of the legislature, and would allow the Executive Director of the Legislative Affairs Agency to pay those expenses through the Department of Administration by requisition. Funds would have to be disbursed on properly drawn vouchers signed by a certifying officer of the legislature appointed by the Executive Director. Duplicate copies of each voucher would have to be sent to the Department of Administration within 15 days after the end of each calendar month.

Redefines "state agency", "agency", "department" or similar terms under the Fiscal Procedures Act by stating that the term does not include the legislature.

Provides Act takes effect July 1, 1984.

State Bond Committee (members/ meetings/ duties/staff)

HOUSE BILL NO. 609, by Reps. Uehling, Hayes, Adams, Abood, Bettisworth, Fuller, Goll, Lindauer, Ringstad and Shultz. Under this bill the State Bond Committee would function within the Department of Revenue (currently functions independently), and adds to its membership the Commissioner of Community and Regional Affairs and a member of the board of directors of a public corporation which is an instrumentality of the state authorized to issue bonds. The board member would be appointed by and serve at the pleasure of the Governor. The Commissioner of Revenue would become the chairman of the State Bond Committee (currently the Commissioner of Commerce and Economic Development is the chair).

Would allow the committee to meet and transact business by electronic media if proper notice is given-states that 24 hours or more is adequate for a meeting of the committee at which the issuance of bonds is authorized), participants and members of the

HB 609. (cont'd)

public can hear and have the same rights to participate as if the meetings were conducted in person, and if copies of pertinent information is available.

Would require the committee to prepare and submit an annual report to the governor and legislature before January 31 of each year. ". . .The report must show (1) all outstanding debt of debt issuing entities of the state; (2) the anticipated impact on the finances and credit of the state, including the effect on long-term capacity and creditworthiness resulting from that debt; (3) which long-term debt is tax supported and which is supported only by revenues attributable to the project being financed by the debt; (4) all long-term lease obligations of the state; (5) the volume of short-term debt issued and retired during the year by debt issuing entities of the state; and (6) specific identification of each issue for which the state has pledged some form of indirect support for the debt including any moral obligation of the state to support the debt. . . ."

Also requires the committee to:

--require that true interest costs be the basis for determining the lowest bid on debt issued by debt issuing entities of the state;

--develop written informational guidelines concerning management of all debt by each debt issuing entity of the state, including recommended level of debt, structuring of debt offerings, and repayment schedule;

--require that a person who provides financial programming or marketing assistance in connection with the issuance of debt of debt issuing entities of the state shall be compensated for services on a determined fee basis that may not be based on the amount of the debt issued;

--require the debt issuing entities of the state to prepare and submit to the committee by January 15 of each year a calendar of all debt proposed to be issued showing the amount and type of the debt and the month in which issuance is proposed.

Would allow the State Bond Committee to appoint an executive director who may, with approval of the Committee, select and employ additional staff as necessary. Employees of the Committee would be in the partially exempt service under the State Personnel Act.

Provides Act takes effect immediately.

Construction Contractors (Board of Builders)

HOUSE BILL NO. 610, by Rep. Furnace. Would establish the Board of Builders under AS 08.18 (Construction Contractors). The Board would be responsible for requesting the Department of Commerce & Economic Development to investigate the practices of a contractor or a person who appears to be engaged in contracting. The Board would be responsible for holding disciplinary hearings, and if it finds that a person has violated state law or regulation,

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

May 11, 1983

SUBJECT: Legislators serving on the Alaska Toll Bridge and Causeway Authority

TO: Representative Bette Cato
Chairman, House Transportation Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

You have asked whether legislators are constitutionally prohibited from serving on the Alaska Toll Bridge and Causeway Authority under HB 295. In my opinion they would be prohibited from so serving.

Two questions arise relating to the constitutionality of that provision. The first is whether the position is an office or position of profit which a legislator is prohibited from holding under section 5 of Article II of the Constitution of the State of Alaska. The second is whether the Authority exercises functions which are of such an executive nature that appointment would constitute a violation of the constitutional doctrine of separation of powers.

Section 5 of Article II reads:

> Section 5. No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

This provision has been considered by our Supreme Court in Begich v. Jefferson, 441 P.2d 27 (Alaska 1968) where the issue was whether legislators were prohibited from holding positions as school teachers under the State of Alaska while serving as legislators, and Warwick v. State ex rel Chance, 548 P.2d 384 (Alaska 1976) concerning the appointment as Commissioner of Administration when less than one year from the end of his term had elapsed.

The purpose of the prohibition was stated in Warwick to be:

> The terms of art. II, sec. 5 of the Alaska Constitution are clear and unambiguous. The purpose sought to be accomplished by that section is not merely to prevent an individual legislator from profiting by an action taken by him with bad motives, but to prevent all legislators from being influenced by either conscious or unconscious selfish motives.

Section 6 of Article III of the Constitution provides:

> Section 6. The governor shall not hold any other office or position of profit under the United States, the State, or its political subdivisions.

The Court in Begich examined the intended meaning of the term "position of profit" in context of similar prohibitions on the governor and the judiciary saying:

> "We have concluded that the trial court correctly determined that the provisions of article II, section 5 of the Alaska constitution are unambiguous. Upon a reading of the constitution as a whole, we deem it of paramount significance that the phrase 'position of profit,' in addition to restricting members of the legislature, has also been employed as a restriction upon members of the judicial council, justices of this court, superior court judges, and the chief executive officer of the State of Alaska. Use of the term 'position of profit' in these articles of Alaska's constitution illuminates the reach the framers of our constitution intended to impart to this term in article II, section 5. This usage, considered with the fact that the constitution itself provides only two exceptions to the scope of 'position of profit,' namely, Article II, section 5's proviso that the section itself be inapplicable 'to employment or

> election to a constitutional convention,' and article XII, section 3's provision that 'service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this constitution,' indicates to us that the framers intended to prohibit members of the legislature, judiciary, judicial council, and the state's chief executive officer from holding any other salaried non-temporary employment under the United States or the State of Alaska.
>
> * * *
>
> "Our study has convinced us that the framer's choice of 'position of profit' in the various sections of the constitution to which we have referred reflects their intent to adopt a term which was broad in scope. This same analysis results in the conclusion that the phrase 'position of profit' was intended to bar members of the legislature, justices of this court, superior court judges, members of the judicial council, and the governor of the State of Alaska from concurrently holding any other salaried, non-temporary employment under the State of Alaska."

In my opinion membership on the authority by legislators or the governor constitutes dual office holding prohibited by the constitution.

Although the doctrine of separation of powers does not explicitly appear in our constitution, our Court has consistently held the doctrine as applicable in Alaska (e.g., Public Defender Agency v. Super. Ct. 3rd Jud. Dist., 534 P.2d 947 (Alaska 1975); and Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

There is a substantial body of case law holding that legislators may not serve on bodies performing executive functions because of the doctrine of separation of powers. Our Court has held that appointment of executive officers is an executive function saying in Bradner v. Hammond, 553 P.2d 1 (Alaska 1976):

> Appellee [Hammond] contends that the appointment of executive officers is an executive function. We find appellee's contention most persuasive. In addition to vesting the executive power of the state in the

> governor, Section 16 of Article III provides that "[t]he governor shall be responsible for the faithful execution of the laws." In view of the responsibilities imposed by Section 16, and the authority granted by Section 1, the governor is necessarily clothed with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska. Thus we conclude that the appointment of executive officers is an executive function; for without such a power, the responsibility for executing executive duties would be diffused and the goal of separation of branches of government, avoiding too great a concentration of power in one branch, would be defeated.

The United States Supreme Court dealt with the separation of powers question in Buckley v. Valeo, 424 U.S. 1 (1976) which concerned the regulations and the constitutional status of the Federal Election Campaign Act's regulation of federal election campaigns. Among the questions considered was the constitutionality of the appointment of the members of the Federal Election Commission. The committee consisted of six members, four of whom were appointed by Congress.

The Court examined the powers of the commission and found the commission, in addition to record keeping, disclosure and investigative functions, had extensive rule-making and adjudication powers. It also found the commission's enforcement power is "both direct and wide ranging."

The Court stated:

> Congress viewed these broad powers as essential to effective and impartial administration of the entire substantive framework of the Act. Yet each of these functions also represents the performance of a significant governmental duty exercised pursuant to a public law. While the President may not insist that such functions be delegated to an appointee of his removable at will, Humphrey's Executor v. United States, supra, none of them operates merely in aid of congressional authority to legislate or is sufficiently removed from the administration and enforcement of public law to allow it to be performed by the present Commission. These administrative functions may therefore be exercised only by persons who are "Officers of the Untied States".

The Court quoted from Myers v. United States, 272 U.S. 52 (1926). In that case the Court upheld the authority of the President to remove an officer he was initially authorized to appoint. The Court said:

> The vesting of the executive power in the President was essentially a grant of power to execute the laws. But the President alone and unaided could not execute the laws. He must execute them under a system of subordinate . . . As he is charged specifically to take care that they be faithfully executed, the reasonable implication, even in the absence of express words, was that as part of executive power he should select those who were to act for him under his direction in the execution of laws.

The Court held the appointment requirement to be a violation of the doctrine of separation of powers.

The test to determine whether appointment of legislators to serve on a commission is a violation of the doctrine of separation of powers is whether the powers of the commission are executive or judicial in nature. This requires in each case examination of the powers granted to the commission.

Very broad executive authority is granted under Sec. 44.57.111.

In my opinion legislators are clearly prohibited from serving as officers of the authority as contemplated by this bill under the separation of powers doctrine and both legislators and the governor are prohibited from serving under the respective dual office holding provisions of the constitution.

JGB:ljb
19/022

Toll Facility Revenue Bonds

HOUSE BILL NO. 661, by the Rules Committee by Request of the Governor. Relates to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds. See accompanying letter from the Governor. Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced February 13 and referred to Transportation, Finance.

In his message transmitting the bill, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to toll bridges and highways. This bill addresses both the authority for construction and maintenance of the facilities and their funding through revenue bonding. The bill gives this authority to the Department of Transportation and Public Facilities and avoids unnecessary duplication of personnel in the administration of toll facilities. The language in the bill is based on language in AS 37.15.-410 -- 37.15.550, dealing with international airports revenue bonds.
>
> The bill provides that the acquisition, construction, or equipping of toll facilities may be accomplished through the issuance of revenue bonds. It creates special funds for the accounting and management of proceeds of the bond sales and for the redemption or refunding of the bonds. It further allows the retention, in the toll facilities revenue fund created in AS 37.15.630, of money generated through toll collection. This money will then be used for payment of interest on the bonds and redemption as the bonds mature.
>
> Money received from tolls collected and placed in the revenue fund is also made available for the purposes of paying for normal maintenance and operation of the toll facilities, replacement of the facilities, and other costs associated with the ownership of the facilities. The money would not be available for general appropriation by the legislature but would be protected for use for those purposes set out in AS 37.15.630. This does not violate the "dedicated funds" prohibition contained in art. IX, sec. 7, of the Alaska Constitution inasmuch as the funds are segregated for the purpose of guaranteeing payment of bonds and securing the collateral for the bonds.
>
> This bill provides an opportunity to meet certain needs of the state's highway system in an era when general fund appropriations might not be possible for that important purpose. I urge your prompt consideration and action on this measure.

Parole of Offenders

HOUSE BILL NO. 662, by the Rules Committee by Request of the Governor. Relates to the parole of offenders. See accompanying letter from the Governor. Provides Act takes effect January 1, 1985.

Introduced February 13 and referred to the Judiciary, Finance.

In his message transmitting the bill, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the administration of parole. The bill updates the statutory authority for parole administration, clarifying apparently conflicting dictates of court decisions, and providing a higher degree of certainly in the parole process. Under the bill, existing AS 33.15, governing parole administration is repealed; re-organized and revised parole administration statutes are placed in new AS 33.16.

Legal

Comparison w/airport

If not restrict use of $ to spec. project — how can it be restricted

Legal analysis

Comparison

w/ int'l airport

revenue fund

2) Notebook as

1) Do comparison of this program w/ airport

2) How & if restrict
if restrict
How to

D R A F T

TO: Billy G. Berrier
Director
Legal Services

FROM: Representative Bette Cato
Chairman
House Transportation Committee

RE: Committee Substitute for House Bill 661

We have been told by the Department of Transportation that HB 661 is modeled after the revenue bond provisions of the Airport Revenue Fund. Please provide us with a comparison of the proposed program in HB 661 and the Internation Airports Revenue Funds (AS 37.15.410-.550).

We also would like to know if CSHB 661 language restricts the use of money to special projects or if under this bill the money is discretionary. If the funds are restricted, how are they restricted.

If the funds are discretionary, would you please provide language that would restrict the use of the money for special projects.

Thank you for your assistance on this matter.

Attachment: Draft copy of CSHB 661

Folta
3/15/84

Original sponsor: Rules/Governor

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 661 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority."

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

* Section 1. AS 37.15 is amended by adding new sections to read:

ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of providing part or all of the money to be used, with or without any grants or other money that may become available, the issuance and sale of revenue bonds of the state in the total principal sum of not to exceed $500,000,000 is authorized to acquire, construct, equip, and install the additions, improvements, extensions, and facilities authorized in AS 37.15.720 and 37.15.730. The principal of and interest on these bonds are paid out of and secured by the gross revenues derived by the state from the ownership, use, and operation of the toll facilities, and out of any other revenue or money that the state legislature may provide exclusive of any state tax or license.

Sec. 37.15.620. CONSTRUCTION FUND. (a) The toll facilities construction fund is established for deposit of proceeds of the sale of the bonds authorized by AS 37.15.610 and any grant or other money that is legally provided for the same purposes for which the bonds are authorized except for any accrued interest paid on the bonds by the

purchaser. The money in the construction fund is used to pay the cost of acquiring, constructing, and equipping facilities authorized in AS 37.15.720 and 37.15.730 and costs incidental to those activities, including costs of the authorization, issuance, and sale of the bonds. To the extent allowed in the bond resolution, money in the construction fund may also be used for the payment of interest on the bonds during the time of actual construction, and for any additional time, not exceeding one year after construction is completed. Money in the construction fund may also be transferred to the bond redemption fund, as permitted by the bond resolution, to establish a reserve for the payment of the principal and interest on the bonds.

(b) The bond resolution may provide for the investment of money in the construction fund as the committee determines. The interest earned upon or any profit derived from the sale of the investment is deposited in the construction fund.

Sec. 37.15.630. REVENUE FUND. (a) The toll facilities revenue fund is established and shall be set apart from all other money of the state. The toll facilities revenue fund is a trust fund for the purposes under AS 37.15.610 - 37.15.760, where all revenue, fees, tolls, charges, and rentals are deposited that are derived by the state from the ownership, lease, use, and operation of the facilities authorized by AS 37.15.720 and 37.15.730. The revenue, fees, tolls, charges, and rentals may not include the proceeds of any state tax or license. The money in the revenue fund may only be used to

(1) pay or secure the payment of the principal of and interest on the toll facilities bonds and principal of and interest on any other revenue bonds issued by authorization of the legislature to provide money to acquire, construct, and equip facilities authorized by AS 37.15.720 and 37.15.730 and to be payable out of the revenue

fund;

(2) pay the normal and necessary costs of maintaining and operating the facilities acquired, constructed, or equipped under AS 37.15.610 - 37.15.760;

(3) pay the costs of renewals, replacements, and extraordinary repairs to facilities acquired, constructed, or equipped under AS 37.15.610 - 37.15.760;

(4) redeem before their fixed maturities any and all revenue bonds issued for the purpose of acquiring, constructing, and equipping facilities authorized by AS 37.15.720 and 37.15.730;

(5) provide money to acquire, construct, and equip necessary additions and improvements to facilities authorized by AS 37.15.720 and 37.15.730; and

(6) provide money to pay any and all other costs relating to the ownership, use, and operation of the facilities.

(b) The investment of money in the revenue fund may be made as the committee determines. The interest earned upon or any profits derived from the sale of an investment under this subsection shall be deposited in the revenue fund.

Sec. 37.15.640. BOND REDEMPTION FUND. The toll facilities revenue bond redemption fund is established for deposit in trust of money for paying and securing the payment of principal of and interest and redemption premium, if any, on bonds and is set apart from all other money of the state. The committee, on behalf of the state, shall obligate the state to set aside and pay into the bond redemption fund from the revenue fund an amount of money sufficient to pay the principal of and interest and redemption premium, if any, on the bonds as the payments become due and, if the committee considers it necessary, to set aside and maintain a reserve for this purpose. The bond

redemption fund is drawn upon for the purpose of paying the principal of and interest and redemption premium, if any, on the bonds, and the bonds do not constitute a general obligation of the state.

Sec. 37.15.650. BOND TERMS. (a) The toll facilities bonds are sold in the amounts or series and at the time as determined by the committee. Before selling a series of bonds, the committee shall give notice inviting sealed bids. If satisfactory bids are received, the bonds offered for sale are awarded to the highest responsible bidder. If the committee determines that a bid received is not satisfactory as to price or responsibility of the bidder, the committee may reject the bid received. Bonds, or a series of bonds, may not be sold if the effective interest rate over the life of the bonds exceeds 11 percent per year or that rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of the bonds, whichever is higher. Interest is payable annually or semiannually.

(b) The bonds mature at the time fixed by the committee. The bonds may be subject to redemption before their fixed maturities as determined by the committee and with the premium fixed by the committee, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds

(1) may be in denominations determined by the committee;

(2) may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under regulations and conditions the committee provides;

(3) are payable as to principal and interest at the place determined by the committee;

(4) shall be signed on behalf of the state by the governor

and shall be attested to by the lieutenant governor, both of which signatures may be facsimile signatures, and each of the interest coupons attached to them shall be signed by the facsimile signatures of these officials;

(5) shall have the seal of the state impressed, printed, or lithographed on them; and

(6) shall be issued under and subject to the terms, conditions, and covenants, providing for the payment of the principal of and interest on the bonds and the other terms, conditions, covenants, and protective features safeguarding this payment and relating to the maintenance, operation, and improvement of the toll facilities as found necessary by the committee, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of the principal and interest.

(c) If found reasonably necessary, the committee may select a trustee or trustees for the holders of the bonds or any series of the bonds, for the safeguarding and disbursement of any of the money in any of the funds created by AS 37.15.620, 37.15.630, and 37.15.640, or for the duties for authentication, delivery, and registration of the bonds as the committee may determine. The committee shall also fix the rights, duties, powers, and obligations of the trustee or trustees.

(d) In the committee's determination of all of the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions, and covenants of the bonds as provided in (a) - (c) of this section, the decisions of the committee shall be those found to be reasonably necessary for the best interests of the state and its inhabitants, and those that will accomplish the most advantageous sale of the bonds, with due regard,

however, (1) to necessary or normal costs of maintenance and operation; (2) to renewals and replacements of and repairs to the toll facilities; (3) to all improvements to toll facilities and property of toll facilities owned, used, operated, or leased in connection with toll facilities; and (4) to the future growth and expansion of all of the facilities and the possibility of additional revenue bond financing for toll facilities purposes. A decision of the committee, as expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

(e) A bond resolution may provide that the bonds issued contain a recital that they are issued under AS 37.15.610 - 37.15.760, and any bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with AS 37.15.610 - 37.15.760.

(f) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction.

Sec. 37.15.660. BOND RESOLUTION. The committee is authorized and directed to adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The committee shall also determine and provide for the date and manner of sale of the bonds, and shall provide whether the notice of sale is to be published elsewhere in addition to the publication required by AS 37.15.650.

Sec. 37.15.670. ENFORCEMENT BY HOLDER. The holder of any bonds or the trustee for the holders of the bonds or any series of them, may, by appropriate proceedings in the courts of record of the state, compel the transfer, setting aside, and payment of money and the enforcement of all of the terms, conditions, and covenants as required and provided in AS 37.15.610 - 37.15.760 and in the bond resolution.

Sec. 37.15.680. AMOUNTS REQUIRED FOR PAYMENTS. The committee shall, before December 31 of each year, commencing with the year in which the bonds are issued, certify to the commissioner of revenue and the commissioner of transportation and public facilities the amounts required in the next ensuing calendar year by a bond resolution to be paid out of the revenue fund into the bond redemption fund and to be paid into and maintained in any reserve fund or account or any other fund or account created by a bond resolution. The committee shall also certify to the commissioners the last date upon which payments may be made.

Sec. 37.15.690. BOND NEGOTIABILITY. The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state.

Sec. 37.15.700. REFUNDING. (a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the state if in the opinion of the committee refunding is advantageous to and in the best interest of the state and its inhabitants.

(b) The issuance of refunding bonds need not be authorized by an act of the legislature, and the committee shall adopt the resolution and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the bonds. All provisions of AS 37.15.610 - 37.15.760 applicable to revenue bonds are applicable

to the refunding bonds and to the issuance, sale, or exchange of the bonds, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide money for the payment of all bonds to be refunded by them, and, in addition, for the payment of all expenses incident to the calling, retiring, or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest on the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid under the call of the bonds or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on the outstanding bonds to the date of the call or retirement.

Sec. 37.15.710. BONDS AS LEGAL INVESTMENTS. Toll facilities bonds are legal investments for all banks, trust companies, savings banks, savings and loan associations, and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees, and other fiduciaries. The bonds may be accepted as security for deposits of all money of the state and its political subdivisions.

Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized to acquire, construct, equip, and maintain toll bridges, highways, roads, crossings, and causeways found to be necessary by the commissioner of transportation and public facilities.

Sec. 37.15.730. KNIK ARM CROSSING. Notwithstanding the

provisions of AS 37.15.720 the first state toll facility to be constructed is the Knik Arm Crossing near Anchorage.

Sec. 37.15.740. TOLL FACILITY CHARGES. The commissioner of transportation and public facilities shall fix and collect the fees, charges, tolls, and rentals derived by the state from the ownership, lease, use, and operation of the facilities authorized by AS 37.15.720 and 37.15.730 and improvements of the facilities as will provide revenues sufficient to comply with all of the covenants of the bond resolution.

Sec. 37.15.750. STATUTORY CONSTRUCTION. AS 37.15.610 - 37.15.760 shall be liberally construed in order to carry out the purposes for which the provisions were enacted, and all existing laws in conflict with AS 37.15.610 - 37.15.760 are superseded as necessary to accomplish the purposes of AS 37.15.610 - 37.15.760.

Sec. 37.15.760. DEFINITIONS. In AS 37.15.610 - 37.15.760, unless the context requires otherwise

(1) "bond redemption fund" means the toll facilities revenue bond redemption fund created by AS 37.15.640, including any accounts that are created in that fund after the effective date of this Act;

(2) "bond resolution" means the resolution authorizing the issuance of bonds, adopted by the committee under AS 37.15.660;

(3) "bonds" means the toll facilities revenue bonds authorized by AS 37.15.610 - 37.15.760;

(4) "committee" means the state bond committee created by AS 37.15.110, or any other committee, body, department, or officer of the state that or who succeeds to the rights, powers, duties, and obligations of the state bond committee by act of the legislature;

(5) "construction fund" means the toll facilities

construction fund created by AS 37.15.620;

(6) "revenue fund" means the toll facilities revenue fund created by AS 37.15.630;

(7) "toll facilities" means highways, roads, bridges, crossings, and causeways upon which tolls, charges, rentals, or other user fees are placed by the commissioner of transportation and public facilities.

* Sec. 2. AS 19.05.040 is amended to read:

Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

(1) acquire property;

(2) exercise the power of eminent domain;

(3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means;

(4) acquire rights-of-way for present or future use;

(5) control access to highways;

(6) regulate roadside development;

(7) preserve and maintain the scenic beauty along state highways;

(8) dispose of property acquired for highway purposes;

(9) accept and dispose of federal funds or property available for highway construction, maintenance, or equipment;

(10) enter into contracts or agreements relating to highways with the federal government, municipalities, a political subdivision, or with a foreign government, if the contract is approved by the federal government; [AND]

(11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, crossings, and causeways; and

(12) exercise any other power necessary to carry out the

purpose of AS 19.05 - 19.25.



KNIK ARM CROSSING

Presentation

to the

Governor

and the

Legislature

March 1984

LEGISLATIVE ASSIGNMENT

Highway Crossing of Knik Arm with Connections to Parks & Glenn Highways

- Design Criteria
- Environmental Assessment
- Right-of Way Studies
- Location Selection
- Preliminary Design & Cost Estimates

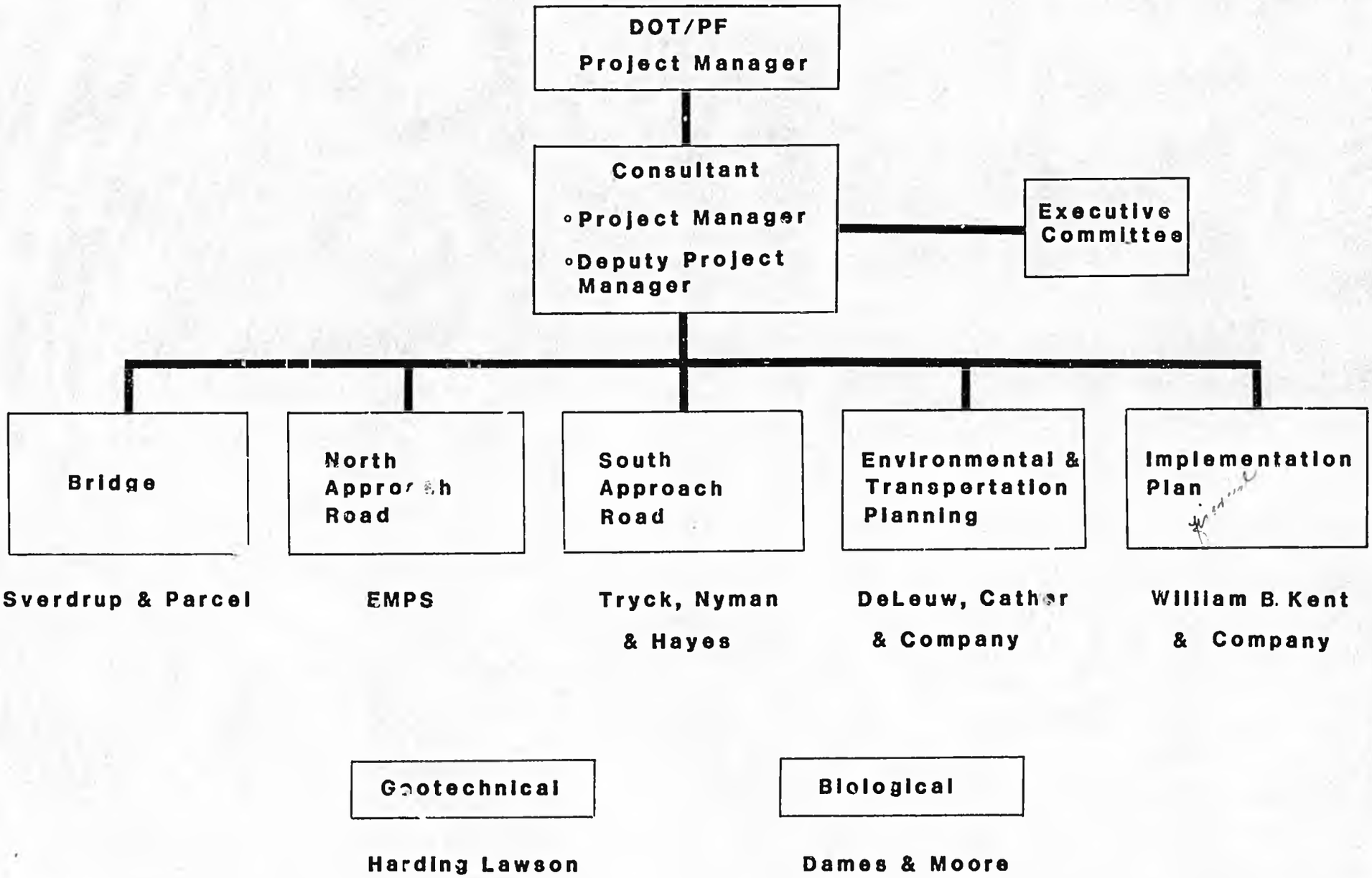
BUDGET

° 1981 Appropriation	$5.5 million
° Consultant Contract	$4.5 million
° Balance (January 1984)	$3.0 million
° FY 85 Request	$5.4 million

PROJECT RESOURCES (DOT/PF)

- Total Department Resources
  - Contract Administration & Accounting
  - Planning
  - Environmental Coordination
  - Surveys
  - Right-of Way
  - Utilities
  - Materials & Geology
  - Legislative Liaison
- Director
  - Major Projects Management Division
- Project Manager
  - Leads Department & Consulting Team

Consultant Resources



AGENCIES

- Steering Committee
  - ADOT/PF
  - Municipality of Anchorage
  - Matanuska-Susitna Borough
  - Military (Air Force, Army, Navy)
  - Alaska Railroad

- Federal Agencies

ARR	FHWA	EPA
BLM	DOA	USAF
COE	DOC	USCG
FAA	DOI	USF&W

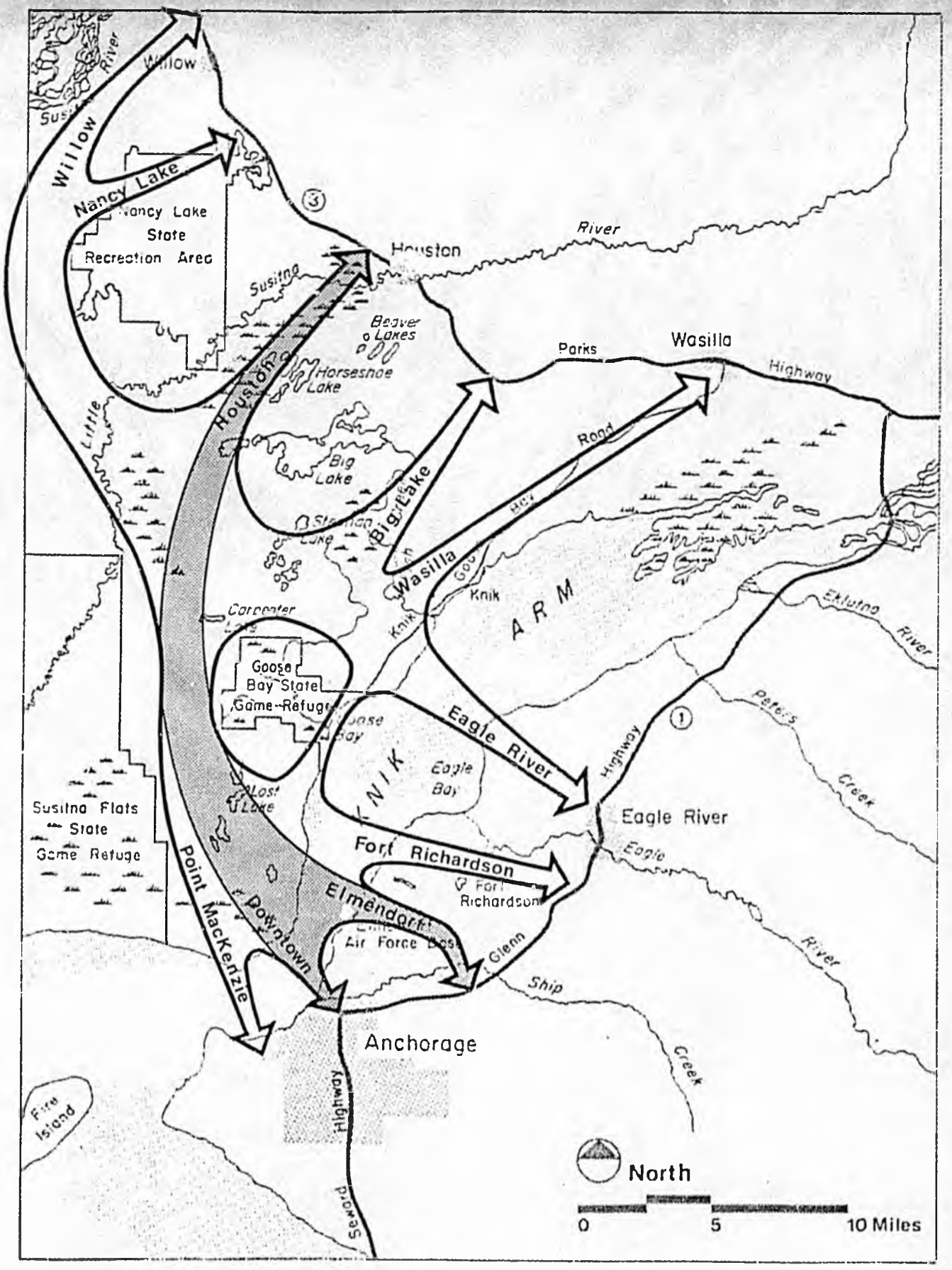
- State Agencies
  - Dept. of Comm. & Reg. Affairs
  - Dept. of Envir. Conservation
  - Dept. of Fish & Game
  - Dept. of Natural Resources
  - OMB - Div. of Strategic Planning
  - UAA - Inst. of Soc. & Eco. Research

WORK COMPLETED

- Scoping Public Participation Environmental
- Economic Feasibility Report
- Corridor Alternatives Analysis - Final
- Alignments Definition

WORK UNDERWAY

- Conceptual Design
- Environmental Impact Statement Late May
- Geotechnical Investigations This summer
- Implementation Plan next session finance plan
- Right-of-Way Evaluation
- Bid Documents - Crossing After bid next session



Willow
Willow
Nancy Lake
Nancy Lake State Recreation Area
Houston
River
Susitna
Beaver Lakes
Horseshoe Lake
Houston
Big Lake
Big Lake
Parks
Wasilla
Highway
Road
Wasilla
Knik
ARM
Eklutna River
Goose Bay State Game Refuge
Eagle River
Eagle Bay
KNIK
Highway
Eagle River
Eagle
Fort Richardson
Fort Richardson
Elmendorf
Air Force Base
Glenn
Ship
Creek
River
Susitna Flats State Game Refuge
Point MacKenzie
Downtown
Anchorage
Highway
Seward
Fire Island
North
0
5
10 Miles

CROSSING ALTERNATIVES

Downtown Project

- Seward Connector
- Downtown Crossing
- Houston Connector
  - Segment 1
  - Segment 2

Elmendorf Project

- Glenn Connector
- Elmendorf Crossing
- Houston Connector
  - Segment 1
  - Segment 2

NO-CROSSING ALTERNATIVES EIS Requires no-c alt.

- No Action Option
  Other Transportation Plans of DOT, AMATS, & Mat-Su
- Transit Option
  2 Hovercraft
- Low Capital Option
  Additional Glenn & Parks Highway
  Improvements

ALASKA RAILROAD

- Possible for either Downtown or Elmendorf
- Costs to Accomodate Future Rail on Highway Bridge
  $50 million to $100 million Bridge strong enough to carry RR, 15-20 yrs. from now
- Railroad Related Activities in Progress
  - Conceptual Design & Cost Estimates
  - Environmental Assessment
  - Right-of-Way Studies
- Railroad Financing
- Separate Bridge - Concept design for consideration
- Decision Timing
- Finance/Design/Build RR Crossing
  Separate Project of Alaska Railroad

ESTIMATED COSTS

Millions of 1983 Dollars

- Does not incl. mitigation & relocation costs.

	Downtown Project				Period	Elmendorf Project			
	Design	ROW	Constr.	Total		Design	ROW	Constr.	Total
Anchorage Connector	12.0	2.0	80.0	94.0	2000-2001	2.1	1.0	14.3	17.3
Highway Crossing (Bridge)	18.4	1.0	530.3	549.7	1986-1990	15.0	0.3	358.5	373.8
Mat-Su Connector (Elevated viaduct)									
* Segment 1	1.3	0.0	24.5	25.8	1989-1990	1.3	0.0	24.5	25.8
* Segment 2	1.6	2.3	23.0	27.0		1.6	2.3	23.0	27.0
Total	33.3	5.3	657.8	696.5	1986-2001	20.0	3.6	420.3	443.9

Note: Does not include cost of strengthening bridge for Alaska Railroad ($50 to $100 million).

FINANCING ALTERNATIVES

- Connectors
  - 90% Federal
  - 10% State

- Crossing
  - Toll Revenue Bonds
  - Private Venture
  - Land Sales
  - Local Improvement District
  - State Appropriation
  - Combination

For Representative Hayes

Regarding CSHB 661...authorizing construction of Knik Arm Crossing and relating to acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority.

The language in the bill specifies that the Knik Arm Crossing is to be the first toll facility constructed with the proceeds of revenue bonds authorized. How does it preclude use of construction fund for other means of acquiring toll facilities or converting existing state roads, highways, bridges, causeways or crossings to toll facilities?

Does the language in this bill restrict the use of money to special projects or is the money discretionary?

If not restricted, what language could be used to do so?

We have been told that CSHB 661 is based on the international airport revenue bonds but the difference we wonder about is:

The maximum amount of airport bonds that can be sold is $62.8 million; the resolution authorizing the sale of airport bonds requires rentals, fees and other airport charges be set at a level sufficient to provide annual net revenues at least 30 percent higher than annual debt service requirements.

CSHB 661 authorizes sell of $500 million in revenue bonds and does not imply that the entire amount will be sold or would be used to construct the Knik Arm crossing.

Thus, the question being that what happens if there is a cash shortage throughout the life of the 20 year bond issue, which option will be taken to cover these cash shortages?

ROUGH ROUGH DRAFT

Anchorage Caucus - Knik Arm Crossing Presentation by John Olsen, DOT

Started off with a historical chronology and small amount of philosophy.

1972 study made of Knik Arm Crossing and proposed a bridge crossing that would cost about $120 million. It pays to remember that when start to talk about the other numbers that are bigger today, but in 1972, $120 million was a very, very large figure as the numbers are still today.

1984 is much of a narrower focused picture showing Anchorage with its current state of development. If you look and compare here, you will see that the Chugach Mountains on the East, the military reservation, reserved blocks of lands at the airport and other locations of the town, and what we know to be the zoning practices within various areas of the city, shows the city to be very nearly full.

A planning municipality study, show that within 3 years, 3000 acres of available land is diminished to about 300 or 400. So the northeast quadrant of the city is growing very rapidly, as we know other areas of the city to be growing.

From there we can see that there is alot to be said for the quality of life in Anchorage. As we grow, from the 1972 population to the now doubled from $120-130 to $250. In another 10 years, about the time the Knik Arm Crossing is going to be in use, we can see another 50% growth, about 380,000 people. That's a rather large land use imposed on the land everyone is already near full. So quality of life in Anchorage will be enhanced ...Knik Arm Crossing.

The Mat-Su Borough would also anticipate a ...they have their own interest and we're working with them to incorporate them in our studies.

Referred to map and pointed out that from Sheep's Creek Channel down to Tudor and out to Lake Otis, you can see the enormous amount of land that's available on the Mat-Su side of the Knik Arm. Too, recognize the central business district proximity to this new land and consider the type of development that would be occurring just on the other side - I believe it will be high value commercial development corresponding to the general population growth that's occurring in this town.

Last item of philosophy is you'll see in some of the right-of-way costs, engineering development cost that I'm showing you. Right-of-way costs now are very small. If we wait another 10 years alot of development will be developing, to put a bridge across at that time will still be expensive. (Remember in 1972 $120; 1984 something over $500 million, large numbers) The ROW costs and other ...costs of putting a project in would be quite high. Also if we wait there will, it takes along time to build a bridge like this, there will be continuous development, higher density in Anchorage, and I think that it would probably be harmful for the Anchorage area to wait for that high density and then sell, this area. It happened in an area I'm familiar with in L.A.; the L.A. - Orange County shift was not good generally to L.A. It would have happened a little bit more orderly as I think the finding would indicate

here, both areas have probably been alot better off. So that essentially sets the stage for what I want to work my flip charts.

The Legislative assignment that DOT received was to develop a highway crossing of Knik Arm with Connections to the Parks and Glenn Highways. Realize that this assignment includes both a bridge and highway; we're looking at quite a large number of miles of connecting roads to make access to the bridge, to make a functional utility. So we're looking at both a highway and bridge project.

We are well within the State of the Arts from an engineering stand point for building a bridge, but it is a .... of the art we do have to develop a design criteria for which to base our design on. We're going to be using some federal monies for the approach roads and for other reasons, producing an environmental assessment and impact statement; right-of-way studies and alot of ROW to identify and move on so that it's obtained timely way for the bridge, we want to accelerate and move this schedule as fast as we can. We have done location, selection and preliminary design and cost estimates. This in summary is our scope of work.

We address the scope of work in two ways with our department own resources and with consultant resources. The department is handling the contract administration and planning; planning being the ... to integrate the bridge within the Mat-Su planning area and the Anchorage planning area for the road connections primarily and for other reasons. Surveys, ROW's, the other things that the, where the rubber meets the road on developing a major capital project like this. I'm the Director of the Major Projects Management Division, this provides a single point, accountability, responsibility, authority for the project, that is my job. I have a full time project manager who works with me to lead the in-house and consultant resources.

Consultants, there are a number of them, each with their own speciality and purpose. Working under our project manager and myself, is a Prime PRoject Manager from Sverdrup and Parcel who has responsibility for design development on the bridge; EMPS, Tryck, Nyman and Hayes have the approach road responsibility; DeLeuw, Cather, & Co. have responsibility for environmental and transportation planning; Bill Kent & Co., I'll be getting to this in a little awhile, is the financial planner, will be working up an implementation plan, that's very important for the Legislature in the first quarter of next year. We plan to bring that plan to you. Harding Lawson doing alot of geotechnical work that will be completed this summer; and Biological work for the environmental studies and other reasons is Dames & Moore. A conventional day to day man power loading on the project will be about 25-30 people.

QUESTION: Were these contracts out for bidding?
ANSWER: Yes, they were

QUESTION: You referred earlier to legislative assignment, could you give us the reference in statutes I'd like to look up and read that assignment.
ANSWER: I don't have them, let me respond to you, I'll get back to you this afternoon with that.

We have a real good (pluralistic) decision development here. Many agencies influence the way this bridge is developed and its timing.

Some federal agencies, the state agencies, have if not the authority to kill the project, or not to give permits, some of them have that authority, many of them have a perrogative if they will to delay the project. It's our responsibility to try and keep with these agencies, and keep them moving on our schedule. We understand they have other work to do, but we try to like trying for them to accomplish their role, but we have a Steering Committee that has the most involved agencies, Municipality of Anchorage, Mat-Su Borough, Air Force, Army, Navy, Alaska Railroad participate on that Steering Committee. But I've only just written down a few of the acronyms for the various federal agencies that we are working with and the State agencies that appear also. Just by the number of people to keep communications open with when we need something from them, they know it and have time to respond.

We have completed several items of work, a scoping required by the environmental process, also part of the public participation involvement process; an economic feasibility report that shows the project to be quite economic. Economically valuable project. Corridor Alternative Analysis, is a report that I believe all of you have sent a copy of a final corridor alternatives analysis and the alignments definition which narrowed the corridors down from, I'm sure you've seen this octopus drawing; we're looking at essentially one road corridor two bridge corridors and we have those alignments refined. I might point out to you on the strip map, is a part of the alignment that they did in Anchorage, it heads out towards your left over Knik Arm in the downtown crossing alignment....beginning at Sheep Creek ... and ending out at the other side. The second alignment which is the Elmendorf Crossing which would run through Elmendorf Air Force Base. (Referred to a different strip map)

The work we have underway is conception of the design with a bridge, an environment impact assessment statement will be out in late May, and that I guess is important for you people to know that we will be back to give you a presentation on that. Geotechnical Investigations this summer; we don't want to do geotechnical investigations to far in advance of the alignment selection because we want to drill these very expensive holes where we expect the bridge to be located, so those will be done this summer, it's an expensive activity. Implementation planning is what we want to bring back you next session for how to finance and carry forward this project. Right-of-Way Evaluation is in process and we have some preliminary reading on that. Bid Documents for the Crossing will be prepared and we'll be ready to go to the street by the time I'm back here next year.

The budget from our original appropriation is $5.5 million. Our contracts with our consultant team is a total of about $4.5 million and our balance in January was $3 million. Balance in June will be about $1.9 million and through the summer as we drill the holes and get into the first quarter of next year, all of those funds will be consumed because we will produce what we were assigned to produce in the form of (business? bidding?) documents.

This year there was a Senate appropriation of $5 million for north and south approach roads and highway matching funds of $5 million also for a north and south approach roads. I'm sure many of you understand the (distirft) difference between the authority that we receive and expend this appropriation so I won't draw that distinction, I'll try to answer questions.

QUESTION: Once that environmental impact statement is released, (late in May) will you come back to us and give us an accelerated road project plan? Expound on it?

ANSWER: Yes

QUESTION: What I'm trying to do is step up the ....What I'm asking, is how much of a time line do you give us that information?

ANSWER: Let me speak to the schedule of the ...and I'll show you what we have to accomplish before the first quarter of next year.

CROSSING ALTERNATIVES are the downtown and Elmendorf project, they include several components, we've broken them into forms because of the very large expense, so that we can schedule and program these expenses or to mitigate the one time chance for them.

(Referring to map) On the downtown project the Seward Connector, the downtown crossing is the bridge from the intersection at almost the water's edge, will be the bridge crossing itself would be defined to begin and runs up to the Spruce interchange on the Mat-Su side. Then segment one of the Mat-Su connector goes ...up to Pt. McKenzie access road. Segment 2 runs from that point up to the Parks Hwy, again to decree our legislative assignment. The Elmendorf project has a Glenn connector which connected with the Glenn Hwy. The crossing which the is the bridge itself and identically the same approach road on the Mat-Su side of the arm.

The environmental impact statement clauses requires that we consider some no crossing alternatives, a no-action option is fundamental, we have to have it in there. It would be essentially continue to construct AMATS, Mat-Su, and DOT plans without the bridge. The transit option would be couple ....which is we certainly .....and a little capital option which would be essential to expand the existing highways as they run around Knik Arm.

QUESTION: The chart shows highway crossing in 1986-1990, what is the highway crossing?

ANSWER: That's the bridge.

QUESTION: Then Anchorage connector 2000-2001, that's

ANSWER: That is east-west viaduct if you will that runs over the Seward Highway, and I'll explain why that is shown in that schedule.

Let me explain right now, we want to identify what is the minimum cost to get a bridge crossing, highway crossing across the Knik Arm. Then, because the first year utilization won't be its ultimate utilization, how long can we defer the connecting road costs until there are needed. I think the key thing to know, is that by 1991 when we open the bridge, we'll certainly not know an awful lot better, what the demand will be for that Seward connector and we want to identify that decision that can be deferred so that they don't overwhelm the project cost.

An important consideration that the bridge crossing is the Alaska Railroad. In the final corridor alternatives analysis report we gave to you indicated the downtown alignment could not receive the railroad crossing causes....that was incorrect. The ...will make that correction.

Both crossings can receive a rail in combination with the highway. It will cost $50-100 million more to strengthen the bridge so that it would support a railroad crossing. That does not get you the crossing, that just gives you the bridge strong enough to install the railroad later on.

We are carrying along with this process, for the benefit of the legislature to make a determination, the conceptual design cost estimates, environmental assessment, right-of-way studies for a railroad crossing. The financing will be broken out. The concept of a separate bridge will be considered. I think that's because the points in decision timing. We are looking at the bridge or a rail crossing, maybe 15 years from now. $50-100 million expense now for a bridge that might be used 15-20 years from now is a substantial commitment of funds. We want to make sure that that's identified and broken out and analyzed very carefully.

QUESTION: Could you clarify strengthening the rail? Is that a decision that has to be made now? Or can the design be such that we can add the strengthen components at any time. In other words we have to spend the $100 million or whatever up-front? Or is that going to be the cost of the additional support which we can add 5 years from now or 10 years from now?

ANSWER: No, it's a decision that this is on the advise of our bridge engineers, it will have to be made when the bridge is released for bid. Consider for example that the bridge on the downtown alignment would probably run down the middle of the bridge. It would come up at a different grade from the highway approaches, more gradual slope and merge with the bridge, it needs to be in the middle, so the piers have to be set farther apart for the east and west traffic lane.

QUESTION: If I may then, when we make the financing plan we have to make that decision at that time with the finance; it's going to roll into the financing package at that time we'll have to make the railroad decision.

QUESTION: Could you provide us at a time that is convenient the cost of such a reinforcement now ....

ANSWER: Well, the railroad says gee we don't know, but we think 15-20 years from now is there input. We will know an awful lot more about the disposition of the railroad after this legislative session, conclusion of next year. We're working with the railroad to develop that. We want to bring to you much more facts then I can present right now. We're not completed with our work. We want to consider, because of the very large expense, the project as a separate project. It can be builts with this project. We want to make sure that we identify not add without clarifying clearly to you that $50-100 million more would be needed. We're going to show that on a different breakout.

QUESTION: There's been alot of legislation that we've had before that is providing for revenue bonds. And if I understand my revenue bonds, being different from general obligation bonds where the voters must vote, revenue bonds is something we have to deal with as the legislature. If we deal with revenue bonds this legislature and we have your toll bridge concept how does this impact your timing. We may want to pass in this legislature our authority and our bonding mechanism which would put the finances with the financial mechanism into place to do the project. Do you feel that you're sufficiently coordinated with that timing mechanism?

ANSWER: Yes, as a matter of fact, on the CSHB 661, it'll be beneficial to have that legislation pass this session, cause in our implementation we would be dealing with a known mechanism. We're not present to the legislature which I think could be best described as a menu. We're going to make a recommendation, maybe one or two recommendations on how best to finance this. But, it would be very nice to have known to us that we can't have the authority to sell revenue bonds ...toll collection capability.

Let me talk to that financing plan just a minute. The downtown crossing to get the highway across the arm connected into a road system properly, about $500 million; the Elmendorf is about $375 million. The Elmendorf crossing, that includes relocating military facilities on Elmendorf (refer to strip map) there's alot different things we have to dodge. The military has alot of secret missions, they're going to be coming back to us with what their relocation costs are, but it could be somewhat more; they could run this cost up considerably. But those are key numbers to keep in mind. About $550 million for downtown, $375 million for Elmendorf. That east-west viaduct is $100 million, that's why we've broken it out separately; it's not essential to the bridge to get into operation and be useful for some time before this bill.

QUESTION: Is the military prepared to give up the ROW across the land? How are we protected again cost overrun? What's our protection, are you talking hard money contract?

ANSWER: The military is not at this time prepared to give that ROW up. They want to do a study, they have their ...consultant on board to do that. The cost overrun protection. Well, when we complete our study and have our bidding documents we will have a conservative cost estimate, our engineers will be preparing that for us. We should be taking a look at the potential for sensitivity in some of those costs. I think

the best encouragement you would have there is if we had an estimate, put it out to bid, the bids will come back, and that bid is a construction bid and there are always ...contingency money, but it should be very close to what we get back to the bid.

Very quickly, and this gets, and I could spend quite a bit of time with this, but again our menu, to the legislature would involve several potential mechanisms. The revenue bonds, private design built finance concept, maybe the sell of some resource to raise money, that's a possibility. Line the local improvement district or portion of the bridge, state appropriation, or combination of these and other mechanisms.

Important chart shows the benefit and cost as they crew to the project. Conservative estimate requires an investment from the STate. Our toll revenues can essentially support a certain amount of borrowing. Federal funds are available for the connecting roads. This would speak to Senator Pestinger questions about why move these investments down later on, is essentially so we don't have just an enormous 3-5 year appropriation.

QUESTION: It looks to me like there's about 20,000 acres of land here that in all liklihood would be developed and I don't know if some of this is swamp (alot of it is pretty good) but 20,000 acres ...let's say that the depreciation in value of those 20,000 acres would pay the $10,000 an acre would that be fair? Is the day the bridge..more than it is now.

ANSWER: (Ward)The day the bridge is done it worths $10,000 more an acre, yes.

QUESTION: That's $200 million in net increase of the value of that property.

ANSWER: (Ward) That is one of his planning scenarios that will be presented to the Legislature next year, the land acquisition into the base which the, under the International Airport bonding mechanism, they can accept the land injection or money injection. So that is one of the scenarios that should be coming back in the menu that he is speaking. Where we will not use money we will land which is the same as money, but it will have a land base such as maybe mental health or the U of A does it at present time.

Very quickly responding to that, keep in mind that alot of that land was in STate ownership has been claimed by the Mat-Su Borough. The land status is owned by the Mat-Su borough, the value capture which is a term often used for that delta, value depreciation is also owned by Mat-Su because...the land. The State does own some land there, but not as much as you might think.

QUESTION: The ROW corridor that goes all the way up to Houston, that should have equal appreciation in...I'm sure there's alot of State land that's owned ...

ANSWER: That land is more of what we'll be looking at, we can't sell land the State doesn't own. But also, the real appreciation is remember the ....there is going to be on the land ...opposite the downtown development of Anchorage, I think we'll see a Twin City type development package and that will be very high value land. Much more.....

We have a number of activities that have to be completed and we can talk a little bit more in detail when I have a little more time about what those things are, but the conclusion is that we will need authority, probably funding from the Legislature and that's why we're targeting even though we're going to be done a little bit early. We're on schedule and we want to stay that way, but we want to work with the Legislature as we develop some of these ...the EIS, and various other things to be able to respond to questions, and this group is very important to that process, so that when we come back in the next legislative session, we will have some exchange of information, everybody will be reading off the same sheet of music, but we will then have a chance to communicate.

QUESTION: Last year the House passed a bill for the Knik Arm authority, and that was on the advise of the commissioner who said that, at least to the... the department felt no legislation...this has changed now.

ANSWER: The bill CSHB 661 would be our recommendation that that be passed, give DOT the authority to ...and use those tolls to make principal interest payments on revenue bonds.

QUESTION: So it's not the ..concept....

Ward: Speak towards HB 294 and HB 295 which passed the House. Last year speaking to Commissioner Casey and the House felt that we wanted to take this project out of the Department of Transportion and Public Facilities planning and put it into an authority. This apparently was too the Governor came and lobbies along with the Commissioner saying that they did not need legislation to build the Knik Arm Crossing, so these two bills sponsored by Speaker Hayes died in the Senate, or are still in the Senate.

House Bill 661 was introduced this year at the request of the Governor and by Mr. Olsen who has gone through and found that there does need to be some legislation, you can's build large things without the legislature approving them. We found a small oversight on HB 661 and we've corrected that a put a CS in and so that they forgot to put the word Knik Arm in there, that was an oversight and that has been taken care of. So the CS now reflects....I told the Governor about the oversight and he looked very astonished that it had fallen out through the cracks like that, so here I am carrying his water once again...it is in there now it's in the CS and it was an oversight and incidentally there is no objection from the Department of Transportation and Public Facilities for it being place in there. They wanted a framework one and we, some of the people involved, that there cold be a misunderstanding since the Gastineau Channel wanted a bridge too, we wanted to be sure that Knik got first, so that's why the CS reads the way it is.

Asked for Sub-committee for purpose of adopting a resolution to support the KNik Arm crossing for next week's agenda.

Made motion that form a subcommittee for the purpose of creating a resolution from the Anchorage Caucus for supporting the KNik ARm Crossing in conjunction with the legislation that's before us now as supporting the project.

Brief discussion

Sub-Committee Members: Representatives Lindauer, Liska, Ward; Senators Pettyjohn, Josephons, Halford

QUESTION: I don't quite understand, we have two concepts here the downtown bridge and an Elmendorf bridge, it appears to me the DOT feels the Elmendorf crossing is the best way to go. Has that decision been made.

ANSWER: I think the key to note is they're very different projects in the way that they approach Anchorage ...

QUESTION: But the decision has not yet been made.

ANSWER: We are carrying both alternative to the environmental impact statement process, the decision is made after that.

QUESTION: The downtown crossing requires no military lands ROW?

ANSWER: Yes,

Further questions/answers couldn't understand as several people talking at once.

We can not., we don't have enought information to eliminate the Elmendorf Crossing.....we have (not) completed our studies for officially rule on that....

Bussell: ...haven't spoken about the enterprise fund or this inclusion of land into the fund, the enterprise fund as you know holds the Anchorage Airport as well as the Fairbanks Airport and a great deal of State land is in involved in that enterprise fund. When they talk about adding land t the crossing fund, the thoughts were that that fund could be expanded and possibly renamed to include the crossing authority. By adding additional land to the enterprise, it then would be able to collect its own fees and tariffs much as the, same way the International Airport does right now. In conjunction with those other two sources, would become a viable source to sell its own bonds and build its own bridge and collect possibly its own accesses. Those of you who have talked to Mr. Olsen, incidentally, I'm awfully glad that MR. Olsen's on board, it's the first indication that I've had that the Dept. of Hwys is serious and it's going to respond to the legislature in building this bridge. Up until the time he came, I absolutely believe that all we got was rhetoric and run around at the continued expense for nothing. And I am very happy to see him here.

I think the enterprise fund, even though the DOT doesn't think its worth considering, I think it is definitely worth considering and probably the most viable way of getting that bridge built and having it control its own destiny and getting it done on time.

Brief thank yous, end of meeting.

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

MApril 10, 1984

To: Rep. Bette Cato
Chairman/ House Transportation Committee

From: Joe L. Hayes
Speaker

Re: HB 661

HB 661 relating to revenue bonds for highway, road and bridge facilities is currently in your committee. This bill was introduced by the Governor. I also understand the administration supports the proposed substitute by the committee.

To give this bill an opportunity for passage by the Senate, it is imperative it be moved along quickly. I request that you move the bill from your committee as soon as possible.

Thanks.

HB 661

BILL HB0661
PAGE 02562
DATE 02/13/84
CHAMBER HOUSE
TEXT HOUSE BILL NO. 661 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority."

was read the first time and referred to the Transportation and Finance Committees.

BILL HB0661
PAGE 02563
DATE 02/13/84
CHAMBER HOUSE
TEXT A fiscal note was attached which appears in House Journal Supplement No. 92. The Governor's transmittal letter dated February 13, 1984, appears below:

"Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to toll bridges and highways. This bill addresses both the authority for construction and maintenance of the facilities and their funding through revenue bonding. The bill gives this authority to the Department of Transportation and Public Facilities and avoids unnecessary duplication of personnel in the administration of toll facilities. The language in the bill is based on language in AS 37.15.-410 -- 37.15.550, dealing with international airports revenue bonds.

The bill provides that the acquisition, construction, or equipping of toll facilities may be accomplished through the issuance of revenue bonds. It creates special funds for the accounting and management of proceeds of the bond sales and for the redemption or refunding of the bonds. It further allows the retention, in the toll facilities revenue fund created in AS 37.15.630, of money generated through toll collection. This money will then be used for payment of interest on the bonds and redemption as the bonds mature.

Money received from tolls collected and placed in the revenue fund is also made available for the purposes of paying for normal maintenance and operation of the toll facilities, replacement of the facilities, and other costs associated with the ownership of the facilities. The money would not be available for general appropriation by the legislature but would be protected for use for those purposes set out in AS 37.15.630. This does not violate the "dedicated funds" prohibition contained in art. IX, sec. 7, of the Alaska Constitution inasmuch as the funds are segregated for the purpose of guaranteeing payment of bonds and securing the collateral for the bonds.

This bill provides an opportunity to meet certain needs of the state's highway system in an era when general fund appropriations might not be possible for that important purpose. I urge your prompt consideration and action on this measure.
Sincerely,
/s/ Bill Sheffield
Bill Sheffield
Governor"

BILL HB0661
PAGE 03304
DATE 04/12/84
CHAMBER HOUSE
TEXT The Transportation Committee has had HOUSE BILL NO. 661 (relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 661 (Transportation):

"An Act authorizing the construction of the Knik Arm Crossing and relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority."

and reports it back as follows: M. W. Miller (Chairman), Abood, Szymanski and Bettisworth recommend do pass; McBride and Davis recommend do not pass; Flood has no recommendation.
A fiscal note was attached.
HB 661 was referred to the Finance Committee.

The fiscal note appears in House Journal Supplement No. 127.

Toll Facility Revenue Bonds

HOUSE BILL NO. 661, by the Rules Committee by Request of the Governor. Relates to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds. See accompanying letter from the Governor. Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced February 13 and referred to Transportation, Finance.

In his message transmitting the bill, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to toll bridges and highways. This bill addresses both the authority for construction and maintenance of the facilities and their funding through revenue bonding. The bill gives this authority to the Department of Transportation and Public Facilities and avoids unnecessary duplication of personnel in the administration of toll facilities. The language in the bill is based on language in AS 37.15.410 -- 37.15.550, dealing with international airports revenue bonds.
>
> The bill provides that the acquisition, construction, or equipping of toll facilities may be accomplished through the issuance of revenue bonds. It creates special funds for the accounting and management of proceeds of the bond sales and for the redemption or refunding of the bonds. It further allows the retention, in the toll facilities revenue fund created in AS 37.15.630, of money generated through toll collection. This money will then be used for payment of interest on the bonds and redemption as the bonds mature.
>
> Money received from tolls collected and placed in the revenue fund is also made available for the purposes of paying for normal maintenance and operation of the toll facilities, replacement of the facilities, and other costs associated with the ownership of the facilities. The money would not be available for general appropriation by the legislature but would be protected for use for those purposes set out in AS 37.15.630. This does not violate the "dedicated funds" prohibition contained in art. IX, sec. 7, of the Alaska Constitution inasmuch as the funds are segregated for the purpose of guaranteeing payment of bonds and securing the collateral for the bonds.
>
> This bill provides an opportunity to meet certain needs of the state's highway system in an era when general fund appropriations might not be possible for that important purpose. I urge your prompt consideration and action on this measure.

Toll Facility Revenue Bonds

HOUSE BILL NO. 661, (see page 372). Reported back to the House April 12 by Transportation recommending it be replaced with a substitute and as follows: M. W. Miller (Chair), Abood, Szymanski and Bettisworth recommend it do pass. McBride and Davis recommend do not pass. Flood has no recommendation. To Finance.

Transportation adds a new section that states: "Sec. 37.15.730. Knik Arm Crossing. Notwithstanding the provisions of AS 37.15.720 the first state toll facility to be constructed is the Knik Arm Crossing near Anchorage." (The provisions of sec. 720 authorize the state to " ... acquire, construct, equip and maintain toll bridges, highways, roads, crossings, and causeways found to necessary by the commissioner of transportation and public facilities."--"crossings" is added by this substitute.) Adds reference to section 730 throughout the bill.

Transportation cleans up language throughout the bill. "Crossings" is also added to the definition of "toll facilities" in the definition section of the bill.

COMMITTEE REPORT

HOUSE

4/25

(11)

FURTHER: Rule

4/12/84

Date: 4-25-84

The Committee on FINANCE has had HB 661

"An Act relating to the acquisition, construction, equipping, and maintenance of toll facilities funded by revenue bonds and providing toll collection authority."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 661 (trsp). [ ] same title [X] new title

and recommends DO PASS

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note 2nd 4-19-84 3-27-84 Sup 134

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Albert P. Adams

R Bettisworth

T H Martin

Walt Furnace

Vernon Hurlbut

Jerry Ward

[illegible]

[illegible]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[illegible] (no rec)

Jim Duncan (NO REC)

[illegible] (No Rec)

Albert P. Adams

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST Page 1 of 2
Bill/Resolution No.: CSHB 661(Trsp)
Title: DOT&PF Toll Facilities Financing Bill
Sponsor: Office of the Governor
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected:
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Major Projects Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0 (1)*				
CAPITAL		0 (2)*				
REVENUE		0 (3)*				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		0 (4)*				
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0 (5)*				
PART-TIME						
TEMPORARY						

*See attached notes

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Costs of issuing revenue bonds will be recovered in the bond sale and liquidated from project revenues. There is, therefore, no fiscal impact from the bill. Fiscal impacts from specific projects will be considered if and when legislation is introduced to contribute capital or operating funds to the projects.

ANALYSIS: Attach a separate page for analysis

Prepared By: John B. Olson Phone: 266-1447
Division: Major Projects Management Date: March 29, 1984

Approved by Commissioner: Date: 3/29/84
Agency: DOT&PF R. J. Knapp

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

March 29, 1984

FISCAL NOTE BACKUP

TOLL FACILITIES FINANCING

CS HB 661(Trsp)

(1) The bill will allow DOT&PF to sell revenue bonds to finance toll producing transportation facilities. The first project to be financed will be the Knik Arm Crossing near Anchorage. Costs associated with the bond issue will be recovered with the issue and paid from revenues. Operating and other costs will also be paid from toll revenues. As a result, no net operating costs will accrue from the bill. Any legislated contributions to operating costs for specific facilities, (such as Knik Arm Crossing) would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(2) The bill seeks to construct capital facilities through the sale of revenue bonds. Any legislated contributions to capital, if required, would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(3) Facilities constructed under the bill will be revenue producing. The revenues will contribute to capital and operating costs as explained in notes (1) and (2) above.

(4) Federal Fund eligibility will be determined on a project by project basis.

(5) Employee costs and positions arising from facility operation will be paid from project revenues.

HC Supp 34

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST
Bill/Resolution No: CS HB 661 (Trans.)
Title: Knik Arm Crossing and Toll Facilities
Sponsor: House Transportation
Requestor: House Finance
Date of Request: April 13, 1984

FISCAL DETAIL
Agency Affected: State Bond Committee
Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
	OPERATING						
100	PERSONAL SERVICES	-	-	-	-	-	-
200	TRAVEL	-	-	-	-	-	-
300	CONTRACTUAL	-	-	-	-	-	-
400	SUPPLIES	-	-	-	-	-	-
500	EQUIPMENT	-	-	-	-	-	-
600	LANDS & STRUCTURES	-	-	-	-	-	-
700	GRANTS, CLAIMS	-	-	-	-	-	-
800	MISCELLANEOUS	-	63000.0	63000.0	63000.0	63000.0	63000.0
	TOTAL OPERATING	-	-	-	-	-	-
	CAPITAL	-	-	-	-	-	-
	REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	GENERAL FUND	-	-	-	-	-	-
	FEDERAL FUNDS	-	-	-	-	-	-
	OTHER	-	63000.0	63000.0	63000.0	63000.0	63000.0
	TOTAL	-	-	-	-	-	-

POSITIONS:

	FULL-TIME	-	-	-	-	-	-
	PART-TIME	-	-	-	-	-	-
	TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury
Phone: 465-2350
Date: April 17, 1984

Approved by Commissioner: Bill O'Neill
Agency: Revenue
Date: 4/19/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

$63,000,000 is the estimated annual debt service on the $500,000,000 revenue bonds authorized in CS HB 661. This debt service estimate assumes 20 year bonds at 11% interest to be conservative. Bonds may have longer maturities and higher or lower interest rates.

The source of funds for debt service would ordinarily be the toll facilities revenue fund. However, until the first project is operating, there will be no revenues. Therefore, for FY 85 at least, the fund source would be the toll facilities construction fund.

NOTE: The amounts requested in this fiscal note need only be appropriated if there is an appropriation enacted to construct toll facilities with bond proceeds. That is, the fiscal note solely for the authorization of $500,000,000 in bonds is actually zero.

- Clean bill
- No obligations on Leg No 8
- Last Revenue bonds
- Demon. public effort @ Long Meeting

661 HB

Rhonda -

Linda Cortez (4939) from Jerry Ward's office called & said he has an amendment to 661 which he would like a CS for. She said the amendment would be coming from the Speaker's office. She needs to know how the process will work. Please call her. I guess we need to check with Neil on that, no?

- Carin

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

April 4, 1984

MEMORANDUM

TO: Representative Bette Cato
Attention: Rhonda Cargill

FROM: David Teal
Legislative Analyst

RE: HB 661-Knik Arm Crossing
Research Request 84-080

You requested a brief analysis of HB 661, which authorizes the construction of the Knik Arm crossing. We offer the following comments on the draft committee substitute dated March 15, 1984.

Explanation of HB 661

The bill is a framework for the sale of revenue bonds for the purpose of constructing, acquiring, equiping and maintaining toll facilities such as bridges and highways. The emphasis (in the bill title) on the Knik Arm crossing is therefore somewhat misleading; the bill authorizes the sale of bonds for any toll facility "found to be necessary by the commissioner of transportation and public facilities." Note, however, that Sec. 37.15.730 specifies that the Knik Arm crossing will be the first toll facility to be constructed under the proposed law.[1]

As you may know, the State issues three types of bonds. Each of the three types is briefly described below.

General Obligation Bonds (G.O. Bonds) are backed by the full faith, credit and resources of the State. This means that annual debt

---

[1]The present language specifies that the Knik Arm crossing is to be the first toll facility constructed with the proceeds of the revenue bonds authorized by HB 661. The language does not preclude use of the construction fund for other means of acquiring toll facilities or for converting existing state roads, highways, bridges, causeways or crossings to toll facilities. Once a facility is designated as a toll facility, the tolls can be used to pay the cost of operating, maintaining, renewing, replacing and repairing the facility.

service requirements (that is, payment of both principal and interest) have the first claim on all revenues of the State. General Obligation Bonds must be authorized by legislation for capital improvements and be ratified by the voters of the state.

International Airport Revenue Bonds are special obligations of the State. They are payable from and secured by a first lien on gross operating revenues derived from operations of the Anchorage and Fairbanks International Airports. The resolution authorizing sale of the airport bonds requires that rentals, fees and other airport charges be set at a level sufficient to provide annual net revenues at least 30 percent higher than annual debt service requirements. In practice, the net revenue of the airports has been more than five times the amount required for debt service.

Agency Bonds are issued by a number of agencies that have a legal existence independent of the State. The Alaska Housing Finance Corporation is responsible for about 90 percent of bonded debt held by State agencies. Like revenue bonds, agency debt is self-liquidating. That is, principal and interest are payable from earnings derived from user charges.

HB 661 is nearly identical to current statutes related to revenue bonds for international airports (AS 37.15.410-.550). The maximum amount of airport bonds which can be sold is $62.8 million and the amount of airport revenue bonds outstanding on June 30, 1983 was $17.4 million. Similarly, the authorization to issue $500 million in revenue bonds for toll facilities does not mean that the entire amount will be sold and certainly does not imply that the entire amount would be used to construct the Knik Arm crossing.

Analysis of the Knik Arm Crossing

The following analysis of the Knik Arm crossing is based on information contained in a feasibility study of the project.[2] The analysis is highly simplified and is intended to emphasize issues and options rather than to project actual circumstances. The attached tables were prepared by the agency to aid the analysis. Table A shows projected revenues and debt service in a "no inflation" scenario. Table B assumes that tolls increase by five percent per year to offset inflation. The columns in the tables are discussed below.

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[2]Knik Arm Crossing: Economic Feasibility, prepared for the Alaska Department of Transportation and Public Facilities by EMPS-Sverdrup, April 15, 1983.

- Crossings are based on the projections in the feasibility study. Note that the expected traffic in the first year of operation is equivalent to one vehicle every four seconds throughout the year. Projected traffic nearly doubles by 2030. Although these figures appear somewhat optimistic, I have no suggested alternative projections. Optimistic traffic counts will overstate revenue from tolls.

- Revenue is computed by multiplying annual traffic by the amount of the toll. Table A is a "no inflation" scenario and assumes that tolls remain at $2 per crossing throughout the life of the project. Table B shows higher revenues because tolls are assumed to increase by five percent per year, which is the rate of inflation used in the feasibility study.

- Debt Service is based on the following assumptions:

  1) Bonds are sold to finance only the crossing itself; the approaches and other requirements of the project are assumed to receive funding from other sources.

  2) The crossing is expected to cost $334.6 million, which is about 65 percent of the total cost of the project. All costs are in 1983 dollars.

  3) The bonds have a maturity of 20 years and carry an interest rate of 10.5 percent. Debt service is based on standard amortization schedules. If the bonds were sold at a lower interest rate, annual and total debt service costs would be lower. If the maturity were extended, annual debt service would be lower but total interest costs would be higher.

  4) The total amount of bonds sold to finance the crossing is 15 percent above the anticipated cost of the crossing. The 15 percent cushion is typical of revenue bond sales. The excess is used to cover the costs of the bond issue and to set up reserve accounts.

  5) The bonds are sold as required to meet the construction cost schedule on page III-5 of the feasibility study. Although this schedule of sales is unlikely to occur--interim financing is often used while a project is under construction and bonds are often sold as a large issue after a project is completed--it is used because it provides an approximation of interim financing requirements.

- Debt Service - Revenue is self-explanatory. The figures would change if either debt service or revenues were altered.

- Cumulative Cash Shortage is the cumulative amount by which debt service exceeds anticipated revenue from tolls. The amount does not include the costs of operating or maintaining the project.

The analysis shows that expected revenues from tolls exceeds cumulative debt service by the year 2030. However, there is a cash shortage throughout the life of the 20-year bond issue. Three options to cover the cash shortages are discussed below.

- The debt service can be capitalized, which means that more bonds are sold than are required to construct the crossing. The proceeds of the "excess bond" sale are then used to pay the difference between toll revenues and debt service on the bond package. If the revenue bonds are a tax free issue, the interest cost of the bonds is likely to be less than the interest that can be earned by investing the bond proceeds. Investing money at a higher interest rate than the cost of funds is called "arbitrage" and is generally discouraged by the Internal Revenue Service. In addition, bond purchasers might be wary of an issue which required capitalization of large portions of total debt service costs. Capitalization of interest could increase the interest rate on the bond issue, thereby raising the total cost of the project.

- The legislature could annually appropriate funds to pay debt service costs that exceeded annual revenue from the crossing. This situation would not be attractive to potential bond purchasers, especially because one legislature cannot bind future legislatures to a course of action.

- The bond issue could be reduced so that only a portion of the cost of the crossing is borrowed in the bond market. This would mean that all costs in excess of the bond proceeds would have to come from another source. The proposed Major Projects Fund is one potential source of funds for the crossing. Under current law, the capital budget is the most likely source of the funds necessary to reduce the level of bonding required to construct the crossing.

A reduced bond issue is the most likely scenario. John Olson, director of major projects for the Department of Transportation, expects that borrowing would be limited to about $200 million for a downtown crossing and to no more than $125 million if the access is through the Elmendorf Air Force Base. Debt service on a $200 million bond issue would be about $24 million per year under the assumptions listed earlier in this

memorandum. Debt service on $125 million would be about $15 million per year. The Department of Transportation expects toll revenues from the Elmendorf crossing to be sufficient to pay the debt service costs of a $125 million bond issue.

* * *

If you have questions on the material in this memorandum or would like us to provide additional information, please call the agency.

DT

Attachments

TABLE A
ANALYSIS OF THE KNIK ARM CROSSING
(DOLLARS ARE IN MILLIONS)

YEAR	CROSSINGS	REVENUE*	DEBT SERVICE	DEBT SERVICE - REVENUE	CUMULATIVE CASH SHORTAGE
1985	0	$ 0.00	$ 0.43	$ 0.43	$ 0.43
1986	0	0.00	13.51	13.51	13.94
1987	0	0.00	27.54	27.54	41.48
1988	0	0.00	38.17	38.17	79.65
1989	0	0.00	46.75	46.75	126.40
1990	23,500	17.16	46.75	29.60	156.00
1991	23,895	17.44	46.75	29.31	185.30
1992	24,297	17.74	46.75	29.01	214.31
1993	24,706	18.04	46.75	28.71	243.03
1994	25,122	18.34	46.75	28.41	271.44
1995	25,544	18.65	46.75	28.10	299.54
1996	25,974	18.96	46.75	27.79	327.33
1997	26,411	19.28	46.75	27.47	354.80
1998	26,855	19.60	46.75	27.15	381.95
1999	27,307	19.93	46.75	26.82	408.76
2000	27,766	20.27	46.75	26.48	435.24
2001	28,233	20.61	46.75	26.14	461.38
2002	28,708	20.96	46.75	25.79	487.18
2003	29,191	21.31	46.75	25.44	512.62
2004	29,682	21.67	46.75	25.08	537.70
2005	30,182	22.03	46.32	24.29	561.99
2006	30,689	22.40	33.24	10.84	572.82
2007	31,206	22.78	19.21	-3.57	569.25
2008	31,730	23.16	8.58	-14.58	554.67
2009	32,264	23.55	0.00	-23.55	531.12
2010	32,807	23.95	0.00	-23.95	507.17
2011	33,359	24.35	0.00	-24.35	482.82
2012	33,920	24.76	0.00	-24.76	458.05
2013	34,491	25.18	0.00	-25.18	432.88
2014	35,071	25.60	0.00	-25.60	407.28
2015	35,661	26.03	0.00	-26.03	381.24
2016	36,261	26.47	0.00	-26.47	354.77
2017	36,871	26.92	0.00	-26.92	327.86
2018	37,491	27.37	0.00	-27.37	300.49
2019	38,122	27.83	0.00	-27.83	272.66
2020	38,763	28.30	0.00	-28.30	244.36
2021	39,415	28.77	0.00	-28.77	215.59
2022	40,078	29.26	0.00	-29.26	186.33
2023	40,752	29.75	0.00	-29.75	156.58
2024	41,438	30.25	0.00	-30.25	126.33
2025	42,135	30.76	0.00	-30.76	95.58
2026	42,844	31.28	0.00	-31.28	64.30
2027	43,564	31.80	0.00	-31.80	32.50
2028	44,297	32.34	0.00	-32.34	0.16
2029	45,042	32.88	0.00	-32.88	-32.72
2030	45,800	33.43	0.00	-33.43	-66.15

* assumes 0.0% per year inflation

PREPARED FOR REPRESENTATIVE BETTE CATO BY THE HOUSE RESEARCH AGENCY 04-04-1984

TABLE B
ANALYSIS OF THE KNIK ARM CROSSING
(DOLLARS ARE IN MILLIONS)

YEAR	CROSSINGS	REVENUE*	DEBT SERVICE	DEBT SERVICE - REVENUE	CUMULATIVE CASH SHORTAGE
1985	0	$ 0.00	$ 0.43	$ 0.43	$ 0.43
1986	0	0.00	13.51	13.51	13.94
1987	0	0.00	27.54	27.54	41.48
1988	0	0.00	38.17	38.17	79.65
1989	0	0.00	46.75	46.75	126.40
1990	23,500	17.16	46.75	29.60	156.00
1991	23,895	18.32	46.75	28.43	184.43
1992	24,297	19.56	46.75	27.19	211.62
1993	24,706	20.88	46.75	25.87	237.50
1994	25,122	22.29	46.75	24.46	261.96
1995	25,544	23.80	46.75	22.95	284.91
1996	25,974	25.41	46.75	21.34	306.25
1997	26,411	27.13	46.75	19.62	325.87
1998	26,855	28.96	46.75	17.79	343.65
1999	27,307	30.92	46.75	15.83	359.48
2000	27,766	33.02	46.75	13.73	373.21
2001	28,233	35.25	46.75	11.50	384.71
2002	28,708	37.64	46.75	9.11	393.83
2003	29,191	40.18	46.75	6.57	400.39
2004	29,682	42.90	46.75	3.85	404.24
2005	30,182	45.80	46.32	0.52	404.76
2006	30,689	48.90	33.24	-15.66	389.10
2007	31,206	52.21	19.21	-33.00	356.09
2008	31,730	55.75	8.58	-47.17	308.93
2009	32,264	59.52	0.00	-59.52	249.41
2010	32,807	63.54	0.00	-63.54	185.87
2011	33,359	67.84	0.00	-67.84	118.02
2012	33,920	72.43	0.00	-72.43	45.59
2013	34,491	77.34	0.00	-77.34	-31.75
2014	35,071	82.57	0.00	-82.57	-114.31
2015	35,661	88.15	0.00	-88.15	-202.47
2016	36,261	94.12	0.00	-94.12	-296.59
2017	36,871	100.49	0.00	-100.49	-397.08
2018	37,491	107.29	0.00	-107.29	-504.36
2019	38,122	114.55	0.00	-114.55	-618.91
2020	38,763	122.30	0.00	-122.30	-741.21
2021	39,415	130.57	0.00	-130.57	-871.78
2022	40,078	139.41	0.00	-139.41	-1,011.19
2023	40,752	148.84	0.00	-148.84	-1,160.03
2024	41,438	158.91	0.00	-158.91	-1,318.94
2025	42,135	169.66	0.00	-169.66	-1,488.60
2026	42,844	181.14	0.00	-181.14	-1,669.74
2027	43,564	193.40	0.00	-193.40	-1,863.14
2028	44,297	206.49	0.00	-206.49	-2,069.63
2029	45,042	220.46	0.00	-220.46	-2,290.08
2030	45,800	235.37	0.00	-235.37	-2,525.46

* assumes 5.0% per year inflation

PREPARED FOR REPRESENTATIVE BETTE CATO BY THE HOUSE RESEARCH AGENCY 04-04-1984

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 661
Title: DOT&PF Toll Facilities Financing Bill
Sponsor: Office of the Governor
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected:
Program Category Affected: Transportation
BRU, Program or Subprogram(s) Affected: Major Projects Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0 (1)*				
CAPITAL		0 (2)*				
REVENUE		0 (3)*				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		0 (4)*				
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0 (5)*				
PART-TIME						
TEMPORARY						

*See attached notes

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Costs of issuing revenue bonds will be recovered in the bond sale and liquidated from project revenues. There is, therefore, no fiscal impact from the bill. Fiscal impacts from specific projects will be considered if and when legislation is introduced to contribute capital or operating funds to the projects.

ANALYSIS: Attach a separate page for analysis

Prepared By: John B. Olson
Division: Major Projects Management
Phone: 266-1447
Date: March 29, 1984

Approved by Commissioner: Dan Walsh
Agency: DOT&PF R. J. Knapp
Date: 3/29/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

March 29, 1984

FISCAL NOTE BACKUP

TOLL FACILITIES FINANCING

(CS HB 661)

(1) The bill will allow DOT&PF to sell revenue bonds to finance toll producing transportation facilities. The first project to be financed will be the Knik Arm Crossing near Anchorage. Costs associated with the bond issues will be recovered with the issue and paid from revenues. Operating and other costs will also be paid from toll revenues. As a result, no net operating costs will accrue from the bill. Any legislated contributions to operating costs for specific facilities, (such as Knik Arm Crossing) would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(2) The bill seeks to construct capital facilities through the sale of revenue bonds. Any legislated contributions to capital, if required, would be the subject of separate legislation and the fiscal impact would be considered with such legislation.

(3) Facilities constructed under the bill will be revenue producing. The revenues will contribute to capital and operating costs as explained in notes (1) and (2) above.

(4) Federal Fund eligibility will be determined on a project by project basis.

(5) Employee costs and positions arising from facility operation will be paid from project revenues.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

MAJOR PROJECTS MANAGEMENT CENTRAL REGION

4111 AVIATION AVENUE
POUCH 6900
ANCHORAGE, ALASKA 99502
(TELEX 25-185)

(907) 266-1448

APR 23 1984

April 20, 1984

Re: CSHB 661 - April 12, 1984 Inquiry
From Representative Bette Cato,
House Transportation Committee

Honorable Joe Hayes
Speaker of the House
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Hayes:

In response to a request from Mr. Neil Phelps-Munson of your office, following are answers to questions raised in an April 12, 1984 letter from Representative Betty Cato on CSHB 661.

QUESTION - "The language in the bill specifies that the Knik Arm Crossing is to be the first toll facility constructed with the proceeds of revenue bonds authorized. How does it preclude use of construction fund for other means of acquiring toll facilities or converting existing State roads, highways, bridges, causeways or crossings to toll facilities."

ANSWER - There are three forms of protection against abuses of borrowing authority created by CSHB 661.

1. State Constitution - The constitution allows funds to be created (such as the construction fund, revenue fund and bond redemption funds in CSHB 661) to collect moneys associated with revenue bond payments. The constitution will not allow DOT&PF to charge tolls on a facility and pledge those funds to another facility. If DOT&PF collects tolls on any project for which revenue bonds have not been sold the money would go directly to the general fund. In fact, after the revenue bonds for the Knik Arm Crossing (or any other facility) are paid off, toll revenues will flow to the general fund.

2. Bond market requirements - The bond resolution and other representations associated with selling revenue bonds will assure bond buyers that funds obtained from the bond sale will only be used for the project identified in the offering. No way could any proceeds of a bond sale be used for another project. The "bond test" is probably the best assurance of realistic revenue forecasting and appropriate fund utilization that can be offered to the legislature.

3. Revenue constraints - Toll bridge or highway projects in Alaska characteristically have traffic volumes that are too low to recover even a portion of capital costs from toll revenues. At present the Knik Arm Crossing is the only project we can identify that can generate toll revenues sufficiently in excess of operation and maintenance costs to warrant sale of toll revenue bonds. Even so, action from the legislature will be needed next year to implement the project. We can foresee no Alaska bridge or highway project that will be so lucrative in toll revenue that the DOT&PF would be able to implement the project without discretionary review and support from the legislature.

QUESTION - "Does the language in this bill restrict the use of money for special projects or is the money discretionary? If not restricted, what language could be used to do so?"

ANSWER - The bill allows the sale of revenue bonds first for the Knik Arm Crossing, and then for other projects that can produce toll revenues sufficient to make debt service payments. There is no discretion to use the revenue bond money for anything but toll bridges and highways for which revenue bonds have been sold. Language in the CSHB 661, combined with the State constitution, bond market requirements, and revenue constraints for toll bridges and highways (as discussed above) are adequate restrictions to assure the legislature that the bill will be used in the manner intended by the legislature.

QUESTION - "We have been told that CSHB 661 is based on the international airport revenue bonds but the difference we wonder about is:

The maximum amount of airport bonds that can be sold is $62.8 million; the resolution authorizing the sale of airport bonds requires rentals, fees and other airport charges be set at a level sufficient to provide annual net revenues at least 30 percent higher than annual debt service requirements."

ANSWER - The bond market will require a revenue-to-debt service ratio of 1.2 to 1.5. Rather than fix this ratio in law, we would prefer to establish the ratio as a bond covenant in the offering along with other variables such as revenue forecast, debt retirement schedule, term of bonds, and reserve amounts. In other words, the revenue-to-debt service ratio should be set at the time of sale as part of the marketing mix offered to bond buyers.

QUESTION - "CSHB 661 authorizes sell of $500 million in revenue bonds and does not imply that the entire amount will be sold or would be used to construct the Knik Arm Crossing."

ANSWER - That is correct. At the present time it appears the project will support about $200 million in revenue bond borrowing. If interest rates are lower at the time of the sale we could borrow more. The balance of bond

authority remaining after the bond sale for the Knik Arm Crossing would be available for other projects under the framework legislation concept. Again, the authority to sell bonds for other projects will only be used if the project withstands a bond test, which means it must demonstrate sufficient toll revenues to repay the bonds.

The legislature is definitely not offering carte blanche to other toll bridge and highway projects. The legislature will continue to have funding discretion over every project even before it goes to a bond test. At the risk of being repetitious, this is primarily because toll bridges and highways in this State will not produce sufficient revenues to fully repay capital costs over annual operation and maintenance.

QUESTION - "Thus, the question being that what happens if there is a cash shortage throughout the life of the 20 year bond issue, which option will be taken to cover these cash shortages?"

ANSWER - As mentioned earlier, revenues will be programmed to exceed debt service by 20 to 50 percent. There will also be a reserve fund to hold a percentage of bond proceeds to pay debt service. If, however, revenue shortages begin to materialize, DOT&PF could act to increase revenues by toll enhancement (i.e. encourage additional user volume; raise tolls). If these precautions and remedies fail it would be necessary to seek state aid to avoid a default. The bonds are not a general obligation of the State so the legislature could decline to give aid. Not aiding a state bonded project would, of course, have an adverse effect on other state bond issues. The tendency for a state to "rescue" lenders from default on state bonds is often referred to as a "moral obligation" that attaches to all bond issues in the state. Revenue bonds issued by State authorities typically prescribe a procedure whereby the legislature will be notified of an impending shortage, in time for action to be taken. Adding this procedure serves to improve the bond rating.

Realize that there is considerable conservatism in a revenue bond issue to avoid the need for a rescue effort by the legislature. Bond holders demand this conservatism which also works to protect the state from failing revenue bonded facilities.

If you have further questions, please let me know.

Sincerely,

John B. Olson
Director
Major Projects Management

csh

cc: Ray Gillispie, Legislative Ass't, Office of the Governor
Paula Ramsey, Budget Analyst/Legislative Liaison, Statewide Programs

Comments on the applicability of CSHB 661 to financing the Knik Arm Crossing.

1. DOT&PF Position and Perspectives on CSHB 661

2. Summary of Briefing Materials

3. Correspondence from private firms that have expressed interest in financing the Knik Arm Crossing (These letters were requested by the House Transportation Committee on March 28, 1984).

Presented to House Transportation Committee
April 5, 1984
John B. Olson
Telephone 266-1447

DOT&PF Position and Perspectives on CSHB 661

BACKGROUND

The original HB 661 was submitted to accomplish two purposes:

1. Provide DOT&PF the authority to sell revenue bonds to finance toll bridges and highways; and

2. Authorize DOT&PF to collect tolls on bridges and highways to make principal and interest payments on the revenue bonds.

The bill was introduced to provide a financing mechanism for the Knik Arm Crossing. A framework approach was taken on advice of the Attorney General's office, recognizing the State Constitution's requirements to avoid legislation specific to a location or region. We also wanted to preserve the option to recommend the mechanism for future revenue producing highway or bridge projects.

The bill is modeled after the revenue bond provisions of the Airport Revenue Fund. The model was used because it is known to the legislature, and has a good track record to present to bond underwriters and rating organizations.

DEPARTMENT POSITION ON CSHB 661

The DOT&PF continues to recommend a framework concept for bills like HB 661. However, we recognize the committee substitute to be a reasonable bill that addresses concerns expressed by legislators. We, therefore, support the committee substitute and recommend its passage.

APPLICATION TO KNIK ARM CROSSING

The bill provides a mechanism for applying the toll revenue stream expected from the Knik Arm Crossing to the construction of the facility. This mechanism will be considered, along with other financing approaches, in an implementation plan to be presented to the legislature next year. We expect the implementation plan will lead to the legislative direction needed to construct the crossing. No sales of revenue bonds or other related action will be taken before the next legislative session. DOT&PF staff will be working with legislators to exchange information prior to finalizing our recommendations and presenting the implementation package to the legislature.

APPLICATION TO OTHER PROJECTS

If the Knik Arm Crossing uses the revenue bond sales concept outlined in CSHB 661, the mechanism will be available for other projects. (The bill requires application to the Knik Arm Crossing before any other project.) Is should be recognized that bridge and highway projects that can generate revenues in excess of their operations and maintenance costs are quite unique in Alaska. To the extent such projects are identified in the future (we have none to suggest at this time) the legislature would play an active role in their development and financing.

Presented to the House Transportation Committee, April 5, 1984

KNIK ARM CROSSING - FINANCING

1. Financing Choices
   - Pay Cash
   - Borrow
   - Save
   - Get Equity Partner
   - Combination of Above

2. Pay Cash
   - Appropriation
     - Lump Sum
     - By Component
   - Federal Funds
     - Highway Matching Funds
     - Connecting Roads Only
   - Raise Cash
     - Land Sales/Exchanges

3. Borrow
   - General Obligation Bond
     - Full Faith and Credit Pledge
     - Lowest Cost Borrowing
   - Revenue Bonds (CSHB 661)
     - DOT&PF to Collect Tolls
     - Tolls Pledged to Retire Debt
   - Private Lending Sources
     - Available Through Equity Partnerships

4. Save
   - Allows Cash Payments
   - Major Projects Fund (Or Other "Savings Account" Approach)
     - Toll Revenues Returned to Fund
     - O&M From Account in Major Projects Fund or General Fund

   - General Fund (G.F.)
     - Annual Appropriation to G.F. Account
     - Build By Components
     - Toll Revenues Flow to G.F.

5. Equity Partnership
   - Local Government (Unlikely Equity Partner for Knik Arm Crossing)
   - Private Enterprise (Several Expressions of Interest Received)
     - Service Contract, Lease
     - Full Faith and Credit Pledge (Often Requested to Minimize Risk/Borrowing Cost; Requires Statewide Vote)

   - Constitutional Constraints
     - State Debt
     - Annual Appropriation
     - Direction of Funds
     - Contract Negotiation

   - Source of Funds
     - Tax-Exempt Borrowing
     - Non-Exempt Borrowing (Expensive)

   - Federal Legislation
     - Industrial Revenue Bond Limit (Per Capita Basis)
     - Accelerated Depreciation in Question

6. CSHB 661
   - Model: Airport Revenue Fund
   - Desired This Year
     - Known Entity of Implementation Plan
     - Likely to be Used

   - The CS is a Reasonable Bill
     - Responds to Concerns for Framework Concept
     - Timely for the Knik Arm Crossing Project

Correspondence From Firms Interested In Financing Or Constructing The Knik Arm Crossing.

WILLIAM KENT AND COMPANY
900 WEST FIFTH AVENUE, SUITE 610
ANCHORAGE, ALASKA 99501
(907) 276-0660

March 16, 1984

Mr. Jack Allen, P.E.
Project Manager, Knik Arm Crossing
Sverdrup & Parcel and Associates, Inc.
430 C Street, Suite 200
Anchorage, AK 99511

Dear Mr. Allen:

On March 14, John Olson and I met with Mr. Gopinath, Vice President of Corporate Affairs, Calista Corporation and Mr. Denji, Vice President of Calista International Corporation.

Calista has been dealing with Mitsui Shipbuilding and Engineering regarding the Knik Arm Crossing. Mitsui has done some work on design for the bridge, and has talked to their partners at the Mitsui Bank. Calista offered to meet with us to discuss engineering and financing in more detail, and offered to have Mitsui people come over.

We explained some of the more important constraints in state financing or other state participation, and our timetable for the project, and we offered to meet with them to discuss financing. We did not encourage them to bring any engineers over from Japan, at least not yet. I will arrange a meeting with Calista regarding financing in the next few weeks -- probably during the week of March 26.

Calista seemed interested in getting the following messages to us:

1. Confidentiality of their work is important to them. They believe that they have an advantage in their ability to bring financing into a package deal, and they do not want their concept, or their own engineering, to be public information before the bid.

2. They want the full faith and credit of the state behind the financing.

3. They were interested in seeing the project go forward, whether they were involved in the construction or not.

Sincerely,

Steven A. Rieger
Vice President

SAR/bsb

cc: ADOT/PF

K C Concep
Copy - Hamel

Brown & Root, Inc. 200 Porter Drive, San Ramon, California, 94583

W. D. Arnold
Manager - Business Development
Marine Services

(415) 838-6149

March 19, 1984

John B. Olson
Director, Division of Major Project Management
State of Alaska
Department of Transportation and Public Affairs
Pouch 6900
4111 Aviation Avenue
Anchorage, Alaska 99502

SUBJECT: Knik Arm Crossing

Dear Mr. Olson:

It was a pleasure to have visited with you in your offices in Anchorage on February 21st. The time you spent with us in explaining the situation regarding the Knik Arm Crossing was very much appreciated.

As discussed in our meeting, Brown & Root is very interested in bidding the Engineering/Construction of the Knik Arm Crossing and has had three consortia approach us about possible financing of portions of this project.

During our discussions you indicated that it would be difficult for the Department of Transportation or the State to negotiate an unsolicited bid for the overall package. Therefore, we would like to prequalify for the work in the routine manner that you plan to use later this year. Brown & Root has been involved in several major water crossings in the United States and has the expertise and the equipment available, including derrick barges that might be required for some of the heavy lifts.

Thanks again for the time that you allowed us back in February. We are looking forward to working with you on this project as it develops.

Kind Regards,

Bill

W. D. Arnold
Manager, Business Development
West Coast and Alaska

WDA/lmw

RECEIVED

MAR 27 1984

DOT & PF
Major Projects MGMT.

Copy - Hdqtrs
File - KAC Comp

SAMWHAN CORPORATION

ARCHITECTS, ENGINEERS & CONTRACTORS

58-20, WOONI-DONG, CHONGRO-KU, C.P.O. BOX 42, SEOUL, KOREA

HEAD OFFICE:
TELEX: SAMWHAN K26212
SAMWHAN K24369
SAMWHAN K25117
CABLE: GREENLIGHT SEOUL
PHONE: 765-0151/9

OVERSEAS BRANCH

JEDDAH BRANCH
Palestine Rd. (Behind Dallah Co.)
Jeddah, Saudi Arabia P.O. Box 1934
Telex : 602111 SWCJED SJ
Cable : SAMWANH JEDDAH
Phone: 671 6937, 6956, 2957, 3151

RIYADH BRANCH
Airport Road, Matar Bldg., No. 20 Al Ferazdek
St. Riyadh, Saudi Arabia P.O. Box 5743
Telex : 201414 SAMWAN SJ
Phone: 476-2347/7014

DAMMAM BRANCH
Bldg. 2 ... Street No. 2 ... P.O. Box 1602
Neseem Khaldeen, Dammam, Saudi Arabia
P.O. Box 2502
Telex : 602103 SAMWAN SJ
Phone: 84-27540, 84-21486, 84-21100

Al Shmeisani Arab College Main St.
Jamal Bin Abu Nemeh Bldg., Ground flr.
P.O. Box 926291, Amman, Jordan
Telex : 23290 SWC JO
Phone: 66343

HODEIDAH BRANCH
P.O. Box 3294, Hodeidah,
Yemen Arab Republic
Telex : 5932 SWCHOD YE
Phone: 210360

SANA'A BRANCH
P.O. Box 1499 Sana'a, Yemen Arab Republic
Telex : 2483 SWCSNA YE
Phone: 71736

TOKYO BRANCH
Green Nishizaki Bldg. 212, 17-14, 3-Chome,
Nishi Azabu, Minato-Ku, Tokyo, Japan
Telex : SAMWHAN J26363
Cable : SAMWHANLIGHT
Phone: 479 0637

JAKARTA BRANCH
Room 605, Kuwe Center Bldg., Jalan Gatot
Subroto No. 38 Jakarta, Indonesia
P.O. Box 2874/JKT
Telex : 46195 SAMNUGOIA
Cable : GREENLIGHT JAKARTA
Phone: 317439, 510131

MANILA BRANCH
2nd Floor, Alfonso Bldg., Herrera Cor.
Sakesio St., Legaspi Village, Makati, Metro
Manila, Philippine
Telex : 23163 SWC MNL
Phone: 86-60-86, 86-61-62

SINGAPORE BRANCH
Rm. 5D, Yen San Bldg., 268 Orchard Rd.,
Singapore 0923
Telex : SAMWHAN RS 22086
Cable : SAMWHAN SINGAPORE
Phone: 7377853, 7376...

KUALA LUMPUR BRANCH
Unit 2-7, 2nd Flr., Wisma Sreberni,
Jalan Raja, Chulan, Kuala Lumpur,
05 12, Malaysia
Telex : SWCKL MA 32477
Phone: 41 ...42

SAN FRANCISCO BRANCH
28th, Newhall Street, San Francisco Calif.
94123 U.S.A.
Telex : 275347 SWCUSAR,
171362 SWC SFO
Phone: (415) 6... 5020

LONDON BRANCH
Suite No. 43, 3rd flr., Mount Pleasant
57 to 53, Grand London, WC 2H 0AR, U.K.
Telex : 8811543 SAMWHAN
Phone: 240-2482

AMSTERDAM BRANCH
Kinsor Stadel Bldg., Amstel 344,
1029 DJ Amsterdam, Netherland
Telex : 18764 SWC NL
Phone: (020) 130...

February 20, 1984

John B. Olson

Director
Division of Major Projects Development
Dept. of Transportation &
Public Facilities

Dear Sir,

I would like to express my sincere gratitude for your warm hospitality rendered during my visit to your office on February 10,1984, sharing time from your busy schedule.

You were very kind and helpful in conducting my successful survey on future Alaska construction market prospective for our business activities. Our technical engineering Dept.has just begun reviewing the draft of tender documents regarding Nome Harbour Project furnished to me in anticipation of your invitation.

Meanwhile, I sincerely hope that we would be invited to the tenders for the Knit Arm Bridge Project and other various projects planned for the five years ahead according as you promised that our Corporation would be registered with prospective bidder list applicable for your esteemed State Government's projects.

We assure you of our best service to highest standard if an opportunity be given to us.
Wishing the ever-lasting prosperity of your esteemed Department.

Yours Sincerely,

SAMWHAN CORPORATION

Young-Ju Moon
Director

RECEIVED
FEB 27 1984
DOT & PF
Major Projects MGMT.

NIPPON KOKAN K.K.

1-1-2, MARUNOUCHI, CHIYODA-KU, TOKYO 100
PHONE: (03) 212-7111
TELEX: 222-2811 NKK J
CABLE ADDRESS: KOKANNK TOKYO

January 27, 1984

Alaska Department of Transportation
and Public Facilities
State of Alaska
4111, Aviation Drive
Anchorage Alaska, 99502

Attn : Mr. J. B. Olson

Gentlemen,

Re : Knik Arm Crossing

We, NIPPON KOKAN K.K. (hereinafter called NKK), have the honour to express out keen interest in participating in the captioned project and to submit herewith our company brochures, experience record and technical documents in which you will find activities and performance of our company.

As you may see from the above documents, NKK is now ranked as the third largest steelmaker in the world and in terms of all around technical expertise, NKK holds an unrivaled position because it is simultaneously a world leader in three major industrial fields - Steelmaking, Heavy Industries and Shipbuilding - allowing it to supply a comprehensive range of products and services to you.

In the field of bridge construction, NKK has considerable experience about supply and erection of steel superstructure of various type of bridge and has enjoyed good reputation in our achievement abroad as well as domestic.

Furthermore NKK has remarkable speciality of steel structures for low temperature service and has executed structural steel works in your esteemed province, such as Kenai Bridge, Sagavaiktok River Croosing,

- Cont'd on Page 2 -

Alyeska Pipe Support Bridge, Gulkana Bridge and Pipe Support structures for Trans Alaska Pipeline Project, etc.

Judging from the foregoing, we are confident that NKK is capable enough in undertaking and proceeding this bridge construction project meeting with your expectation and requirements of price, engineering service, performance and quality.

We would highly appreciate it if you could invite us to the forthcoming qualification and tender and let us have a chance to work together with you toward successful construction of this bridge.

Thank you for your attention and we are looking forward to serving you in the near furtue.

Very truly yours,

T. Suganami
Deputy General Manager
Steel Structures &
Construction Dept.

MITSUBISHI BANK, LIMITED
7-1, MARUNOUCHI 2-CHOME, CHIYODA-KU,
TOKYO 100, JAPAN

August 6, 1983

Mr. Mead Treadwell
Executive Director
Governor's Economic Commitee
On North Slope Natural Gas
P.O. Box 1700
Anchorage, Alaska 99510

Dear Mr. Treadwell,

Mr. Norio Yamamoto of Mitsubishi Research Institute kindly forwarded to us your Economic Feasibility Report on the Knik Arm Crossing dated April 15, 1983 for our reference.

After a brief review, we have found the project interesting and wish to cooperate with you for the promotion of the project.

Accordingly, we appreciate it if you could let us know the area in which we shall be of assistance to you as a member of the Mitsubishi group which is the largest industrial groups in Japan. At the same time, it will be most helpful to us if you could provide us with a detailed financial plan for the project so that we shall be able to better analyze the project from the financial point of view.

It will be a great pleasure for us to exchange ideas with you how to promote the project and we wish to continue a dialogue on the development of the project. Please contact us at any time when you need our assistance.

Looking forward to hearing from you soon, and please give my best regards to Mr. Walter J. Hickel.

Very truly yours,

K. Nakamura

Kazuo Nakamura
Director

KN/ri

P.S.

For your reference we enclosed herewith a memorandum in regards to the Yen-Financing market.

Copy - Jerry Hamel for Ref (Keep original here - give to me) JO

YUKON PACIFIC CORPORATION

12/15 Copied J Allen

November 4, 1983

Mr. John Olsen
Major Projects Management
Department of Transportation and Public Facilities
4111 Aviation Drive
Pouch 6900
Anchorage, Alaska 99502

Dear John,

Enclosed is the letter I received from Mr. Kazuo Nakamura at the Mitsubishi Bank. Governor Hickel and I have had dinner with Mr. Nakamura twice before in Japan and he shares a strong interest in Alaska.

Either his bank, or some other part of the Mitsubitshi Group could be called upon to play a role in the Knik Arm Project. I'd keep chumming the waters by providing information his way so that they can respond when the time comes.

Congratulations on your appointment. We should be working together as time passes.

With best wishes,

Sincerely,

Mead Treadwell
Secretary

/Enclosure

RECEIVED
Project Development
NOV 7 '83
R1

	Copy	Act
Project Dev. Engr.	0	
Recon. Engr.		
Consultant	Hamel w/attach	✓
Locations		
Other		
FILE		

RECEIVED
NOV 07 1983
DOT & PF
Major Projects MGMT.

P.O. Box 101700 • Anchorage, Alaska 99510 • 907-279-1596 • Telex 25-340 Capt. Cook AHC
515 South Post Oak Road • Suite 225 • Houston, Texas 77027 • 713-960-1889 • Telex 775202 SUPRA

[illegible] to prepare a response for this
Jack Allen - carefully consider his well thought
out suggestion

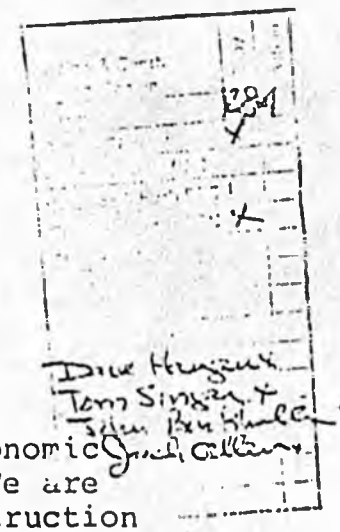
action 6/20

RECEIVED

June 2, 1983

'83

Mr. Richard S. Armstrong, P.E.
Director, Central Region
Design and Construction
State of Alaska
Dept. of Transportation and Public Facilities
4111 Aviation Avenue, Pouch 6900
Anchorage, Alaska 99502



Re: Knik Arm Crossing

Dear Mr. Armstrong:

Dave Hayes
Tom Singer
John Barkhuller
Jack Allen

Thank you for your letter of May 18 and the Economic Feasibility Report on the Knik Arm Crossing. We are strongly interested in financing, design, construction and operation of the toll bridge.

Based on our experience in similar projects in Greece and Kuwait, we imagine that a possible scenario may look as follows:

1. Project will be formulated by the State. Bridge design criteria will be set; evaluation criteria for prequalification and final contract award will be laid out; and the terms of the eventual contract between the State and Contractor will be spelled out.

2. State will prequalify bidders (typically consortia of banks, engineering consultants and general contractors) on their financial, engineering and management strengths.

3. The prequalified bidders will submit their final designs, construction schedules and operation plans. State will select a successful bidder according to the preset criteria.

(continued)

[illegible] 360 POST STREET SAN FRANCISCO [illegible]
[illegible] VISIO UR Telephone [illegible] Telephone VISIO [illegible]

4. Contractor will construct, operate and maintain the toll bridge.

5. After a certain number of years, State will purchase the bridge from Contractor for a predetermined price, and take over the operational responsibilities.

It appears from your report that most work necessary for establishment of design criteria has already been done. You could easily prepare a final design with State's fund and let bidders bid for it. This approach will simplify your task of bid evaluation, but you may miss an opportunity to take advantage of bidders' design ingenuity and particular strengths in performing certain types of construction.

Simple and loosely written design criteria helped the Government of Kuwait to get an ingeniously designed bridge (Bubiyan Bridge) inexpensively while the same approach muddled everything in the case of Rion-Antirion Crossing in Greece. My personal preference for the Knik Arm Crossing is to have relatively tight design specifications--at the level of your Conceptual Details--and permit the bidders to design only the details and construction methods to suit their capabilities.

Even with tight design specifications, the task of bid evaluation will not be simple. The fundamental question is what variable should be used as the main determinant of the bid when the construction cost is not a visible factor. One possibility would be the "Sell-back Price" if it is allowed to be bid on. All others being equal (or meeting the minimum criteria), State could pick up the bidder who offers the lowest sell-back price for a given target year.

As a part of the Contract terms, we expect the State to stipulate the maximum tolls chargeable to each type of vehicle for each period of years. We also expect the State to guaranty the minimum revenue traffic, and subsidize the Contractor if the traffic volume does not reach it. It will be a formidable task to devise a subsidy formula that will satisfy both the State and the Contractor. However, it is essential that it will be spelled out before bidding.

(continued)

Finally, because of Alaska's proximity to Japan, we expect Japanese consortia, and perhaps some Koreans, to offer very competitive bid packages. We also work closely with Japanese companies. We therefore urge you to keep the competition open to all international bidders and eliminate any and all Buy-American and U.S.-Flag requirements and penalties from this project, except that the local labor should be used for construction and operation, and that the operating company should be an Alaskan corporation.

If you wish, we will be happy to provide more detailed input as a potential bidder. Please feel free to call me anytime for informal discussion.

We wish you a great success in this challenging project.

Sincerely,

Tito.

Y. Tito Sasaki
President

STATE OF ALASKA
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

March 29, 1984

Re: DOT&PF Position and
Perspectives on CSHB 661

The Honorable Joe Hayes
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

In response to a March 28, 1984 request from Mr. Neil Phelps-Munson of your office, following is a brief summary of the DOT&PF position and perspectives on CSHB 661. I have discussed this information with Commissioner Knapp to assure accurate presentation of our Department's position.

BACKGROUND

The original HB 661 was submitted to accomplish two purposes:

1. Provide DOT&PF the authority to sell revenue bonds to finance toll bridges and highways; and

2. Authorize DOT&PF to collect tolls on bridges and highways to make principal and interest payments on the revenue bonds.

The purpose of the bill was to provide a financing mechanism for the Knik Arm Crossing. A framework approach was taken on advice of the Attorney General, recognizing the State Constitution's requirements to avoid legislation specific to a location or region. We also wanted to preserve the option to recommend the mechanism for future revenue producing highway or bridge projects.

The bill is modeled after the revenue bond provisions of the Airport Revenue Fund. The model was used because it is known to the legislature, and has a good track record to present to bond underwriters and rating organizations.

DEPARTMENT POSITION ON CSHB 661

The DOT&PF continues to recommend a framework concept for bills like HB 661. However, we recognize the committee substitute to be a reasonable compromise recognizing concerns expressed by legislators. We, therefore, support the committee substitute and recommend its passage.

APPLICATION TO KNIK ARM CROSSING

The bill provides a mechanism for applying the toll revenue stream expected from the Knik Arm Crossing to the construction of the facility. This mechanism will be considered, along with other financing approaches, in an implementation plan to be presented to the legislature next year. We expect the implementation plan will lead to the legislative direction needed to construct the crossing. No sales of revenue bonds or other related action will be taken before the next legislative session. I and other DOT&PF staff will be working with legislators to exchange information prior to finalizing our recommendations and presenting the implementation package to the legislature.

APPLICATION TO OTHER PROJECTS

If the Knik Arm Crossing uses the revenue bond sales concept outlined in CSHB 661, the mechanism will be available for other projects. (The bill requires application to the Knik Arm Crossing before any other project.) It should be recognized that bridge and highway projects that can generate revenues in excess of their operation and maintenance costs are quite unique in Alaska. To the extent such projects are identified in the future (we have none to suggest at this time) the legislature would play an active role in their development and financing.

Please contact me if you have any questions regarding our position on CSHB 661 or the Knik Arm Crossing.

Sincerely,

FOR R. J. Knapp
Commissioner

ajh

cc: Ray Gillispie, Legislative Assistant, Governor's Office
Jerry Hamel, Project Manager, Knik Arm Crossing
David Haugen, Deputy Commissioner, Central Region
Paula Ramsey, Budget Analyst/Legislative Liaison
William R. Snell, Director Planning & Programming, Central

HB

701

Revision Date:

REQUEST
Bill/Resolution No.: H.B. 701
Title: Renaming Klutina Rd. as Brenwick/Craig Rd.
Sponsor: Resources Committee
Requestor: Rep. Cato
Date of Request: 3/27/84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Northern Region

BRU, Program or Subprogram(s) Affected: Maintenance & Operations - Southcentral District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING			.10			
100 Pers. Svc.						
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment			.60			
600 Lnd & Struc						
700 Grnts, Clms						
800 Misc.						
TOTAL OPERATING			.70			
CAPITAL			.70			
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund			.70			
Federal Funds						
Other						
Total			.70			

Positions:

Full-Time			-0-			
Part-Time			-0-			
Temporary			-0-			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Source of offsetting funds not identified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: D. Truax
Division: Planning & Programming
Phone: 479-4281
Date: 3-28-84

Approved by Commissioner: Daniel F. Malick
Agency: DOT&PF
Date: 3/29/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

H.B. 701
Analysis Attachment

Assumptions

Assume replacement of old road sign with new one identifying new road name and two new advance signs on the north and south ends of roads intersection. Signs would be erected by Maintenance & Operations forces.

Program Summary

Positions: No new positions would be required.

Other Expenditures: One new road sign at approximately $200.00
Two new advance signs at approximately $150.00 (each)
M&O forces time (based on 25% of equip. costs) = $125.00
Total cost (rounded to nearest $100.00) = $700.00

Funding: Would assumably come from general funds.

Section Cost Analysis: Explained under "other expenditures".

Computations: Explained under "other expenditures".

Economic Impact: None

Impact on Local Government: None

HB 701

BILL HB0701
PAGE 02938
DATE 03/15/84
CHAMBER HOUSE
TEXT HOUSE BILL NO. 701 by the Resources Committee, entitled:
"An Act renaming Klutina Road as Brenwick/Craig Road."
was read the first time and referred to the Transportation Committee.

BILL HB0701
PAGE 03101
DATE 03/29/84
CHAMBER HOUSE
TEXT The Transportation Committee has had HOUSE BILL NO. 701 (renaming Klutina Road as Brenwick/Craig Road) under consideration and reports it back as follows: Cato (Chairman), Herrmann, McBride, Davis, Flood, Szymanski and M. W. Miller recommend do pass. A fiscal note was attached. The Speaker added a Finance Committee referral to HB 701, and so HB 701 was referred to the Finance Committee. The fiscal note appears in House Journal Supplement No. 117.

Klutina Road (renaming) HOUSE BILL NO. 701, by the Resources Committee. Seeks to rename the Klutina Road near Copper Center the Brenwick/Craig Road. Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced March 15 and referred to Transportation.

Klutina Road (renaming) HOUSE BILL NO. 701, (see page 565). Reported back to the House March 29 by Transportation recommending it do pass. Concurring: Cato (Chair), Herrmann, McBride, Davis, Flood, Szymanski

COMMITTEE REPORT

HOUSE

4/6 Rules

(11)

FURTHER:

Date: 4-5-84

3/29/84

The Committee on FINANCE has had HB 701

"An Act renaming Klutina Road as Brenwick/Craig Road."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
R Bettisworth	J. Duncan (No Rec)
Walt Furnace	Ben Sumner (no rec)
T. H. Martin	Fred L. Zharoff (No Rec)
[illegible]	
MILO H FRITZ	

R Bettisworth

COMMITTEE REPORT

3/29

HOUSE

(9) FURTHER:

3/15/84 Date: 3-29-84

The Committee on TRANSPORTATION has had HB 701

"An Act renaming Klutina Road as Brenwick/Craig Road."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

BACKGROUND ON HOUSE BILL 701

RENAMING KLUTINA ROAD

THE KLUTINA ROAD HAD ITS BEGINNING IN THE FALL OF 1963 WHEN LEONARD BRENWICK AND OSCAR CRAIG WORKED TO CONSTRUCT AND MAINTAIN THIS ROAD AT THEIR OWN EXPENSE. THE ROAD FOLLOWS THE TRAIL USED BY THE MINERS OF 1898-99 IN TRAVELING FROM VALDEZ TO THE INTERIOR. ALONG THE EDGE OF THE ROAD ARE THE REMAINS OF CABINS USED BY THE MINERS WHEN THEY WERE FORCED TO WINTER THERE IN 1898.

LEONARD BRENWICK AND OSCAR CRAIG STARTED TO CONSTRUCT THIS PIONEER ROAD IN 1963 AND COMPLETED 12 MILES OF ITS 125 MILE LENGTH AT HIS OWN EXPENSE. PERMISSION FOR THIS PROJECT WAS GRANTED BY THE DEPARTMENT OF HIGHWAYS AND THE BUREAU OF LAND MANAGEMENT.

IN 1964 LEONARD BRENWICK WAS GIVEN A CONTRACT TO COMPLETE THE REMAINING 13 MILES. THIS CONTRACT AMOUNTED TO $6,440.00 AND IT IS INTERESTING TO NOTE THE DEMANDS OF THE CONTRACT. THE CONTRACT STATED THAT IF HE DID NOT COMPLETE THE PROJECT WITHIN THE ESTIMATED COST THEN HE WOULD BE OBLIGATED TO COMPLETE THE REMAINDER OF THE ROAD AT HIS OWN EXPENSE. LEONARD ACTUALLY MET AND COMPLETED THIS CONTRACT--AT HIS OWN EXPENSE BECAUSE EVEN IN THOSE EARLY DAYS THIS WAS NOT ENOUGH MONEY FOR THIS SIZE PROJECT. OSCAR CRAIG ACTED AS HIS OPERATOR-MECHANIC. NEITHER OF THESE MEN DREW ANY SALARY FOR THEIR EFFORTS.

IT IS ESTIMATED THERE ARE 5 to 10 THOUSAND VISITORS USING THIS ROAD FOR HUNTING, FISHING, SIGHT SEEING AND THE GATHERING OF HISTORIC INFORMATION. THIS ROAD ENCOMPASSES ONE OF THE BETTER SCENIC AREAS OF ALASKA AND ITS HISTORIC ATTRIBUTES ARE UNSURPASSED.

THERE IS A PETITION ON FILE SIGNED BY 60 MEMBERS OF THE COMMUNITY OF COPPER CENTER REQUESTING THE TITLE CHANGE. THE TOTAL POPULATION OF THIS COMMUNITY IS APPROXIMATELY 250 PEOPLE AND THERE WOULD HAVE BEEN MORE SIGNATURES OBTAINED BUT TIME DENIED AS WE WANTED TO GET THIS NAME CHANGE ACCOMPLISHED THIS YEAR AND THE PETITION HAD TO BE MAILED TO JUNEAU.

BOTH OF THESE MEN ARE NOW DECEASED BUT THIS ROAD REMAINS AS A MONUMENT TO THEIR COMMUNITY EFFORT.

HCR

2

how about "Alaska" in Title under committee substitute?

again, if it is not discriminatory to H but I think it will be challenged.

DRAFT

LETTER OF INTENT TO ACCOMPANY
HCR 2
HOUSE TRANSPORTATION COMMITTEE

It is the intent of the House Transportation Committee that the Department of Transportation and Public Facilities establish a procedure to define "space available basis".

The Committee intends the definition of "space available basis" in the context of this resolution to require passengers so traveling, be on stand-by until all paying passengers have been accommodate. Passengers would not be allowed to receive confirmed reservations unless they are paying passengers and would not be allowed reimbursement in the event that they purchased tickets and were later able to travel "space available".

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR 2 - Re travel by senior citizens aboard vessels
Title of the state marine highway system.
Requested by Grussendorf & Fritz Date 1/17/83

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Transportation
BRU, Program, Or Subprogram(s) Affected Marine Highway Systems
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		0	0			

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 1/26/83 PREPARED BY Marty Nusbaum, Acting Director
AGENCY Marine Highway Systems
PHONE 465-3950

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

III. ANALYSIS

House Concurrent Resolution No. 2, references space available free passage for all senior citizens on an annual basis. It further specifies only the smaller "feeder class" vessels of the system. The exception would be the M/V TUSTUMENA but still one of the smaller vessels.

The Department of Transportation and Public Facilities is in the process of completing a "User Survey" of travelers on vessels of the system. The survey reveals that during the winter, (Sept. 15 through May 14) the majority (about 70%) of the passengers on the Marine Highway are Alaskans, of this group approximately 10% are traveling under the Senior Citizen Free Passage program. Therefore, the majority of beneficiaries of Senior Citizen Free Passage are Alaskans.

In the summer (May 16 through Sept. 30) the majority of the systems users (approximately 80%) as reflected in the survey, are from out of state. It would appear then that the beneficiaries of Senior Citizens Free Passage during this time would be from out of state and the state would be subsidizing this travel. Senior Citizens' groups are well organized on both local levels and nationally. We believe these groups would tend to fill the system vessels to the detriment of full fare paying passengers and would require an expansion of service to meet the needs of the older passengers.

Capacity loads are already experienced on the M/V BARTLETT during the summer on her Valdez to Whittier route. Increasing the number of travelers competing for this space, through free passage incentives, might well be counter productive. This also applies to the M/V CHILKAT and M/V TUSTUMENA on certain portions of their routes.

The "User Survey" information reflects that approximately 10% of the passengers on the Marine Highway would be eligible for Senior Citizen routes. Reducing passenger revenue by 10% for the summer months on the specified vessels would approximate the following estimates of reduced revenue.

Vessel	1982 Passenger Revenue 15 May - Oct. 1	10% of 1982 Passenger Revenue for Period
M/V AURORA	275,000	27,500
M/V LeCONTE	271,000	27,100
M/V CHILKAT	42,000	4,200
M/V BARTLETT	710,000	71,000
M/V TUSTUMENA	468,000	46,800

Free Senior Citizen passage for a full twelve months could approximate a loss of revenue of $175,000 each year.

Assuming a 50% discount was passed on the Senior Citizens for staterooms, for a full twelve months per year, the loss of additional revenue would approximate an additional $100,000.00. This estimate is founded using the same approach as the estimate on revenue loss on passage.

We believe there would be insurmountable administrative problems by the establishment of discounted stateroom tariffs for senior citizens. The main problem would be the establishment of priorities. Would these reduced fare senior citizens be allowed to make reservations for staterooms or would the staterooms be on a "space available basis?

We believe that senior citizens from out of state would again be the beneficiaries of such a program.

III. ANALYSIS - HCR 2

House Concurrent Resolution No. 2, references space available free passage for all senior citizens on an annual basis. It further specifies only the smaller "feeder class" vessels of the system. The exception would be the M/V TUSTUMENA but still one of the smaller vessels.

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Free Senior Citizen passage for a full twelve months could approximate a loss of revenue of $175,000 each year.

HCR 2 (cont'd)

Assuming a 50% discount was passed on the Senior Citizens for staterooms, for a full twelve months per year, the loss of additional revenue would approximate an additional $100,000.00. This estimate is founded using the same approach as the estimate on revenue loss on passage.

We believe there would be insurmountable administrative problems by the establishment of discounted stateroom tariffs for senior citizens. The main problem would be the establishment of priorities. Would these reduced fare senior citizens be allowed to make reservations for staterooms or would the staterooms be on a "space available" basis?

We believe that senior citizens from out of state would again be the beneficiaries of such a program.

The figures outlined above are viewed as conservative losses because more senior tourists would change travel plans and travel on these vessels in Southeast Alaska instead of the larger vessels for short trips. We also believe that special rates on certain vessels would cause confusion among people not familiar with the various vessels and greatly increase the demand for expansion of free service to all vessels.

HCR

4

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 8, 1983

MEMORANDUM

TO: Governor Bill Sheffield
√Commissioner Casey

FROM: Representative John Lindauer

I deeply resent the inaccurate and misleading testimony presented by the Marine Highway officials at the HCR 4 hearing.

The complete lack of faith which those officials indicate they have in the ability of the Commissioner and the Governor suggests that either you or they should resign.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

(907) 465-3900

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – ADMINISTRATION

POUCH Z
JUNEAU, ALASKA 99811

March 7, 1983

The Honorable Bette Cato
Chairman
House Transportation Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Cato:

As requested by a member of your staff, we are providing the attached position paper on HCR 4, "Relating to expansion of ferry service."

Sincerely,

Donna Page

Donna Page
Acting Deputy Commissioner

Attachment

cc: Commissioner Casey

25A-T3L 1

HCR 4 - Relating to expansion of ferry service.

The preamble of HCR No. 4 alludes to issues and concerns the Department of Transportation and Public Facilities has recently addressed. These overall objectives and sensitive public concerns were addressed in the "Southeast Alaska Transportation Study" by Wilber Smith and Associates, et al. As a major transportation link, MHS operations were addressed in depth. The study does not bear out an immediate requirement to expand ferry service nor did it identify any Alaskan communities needing or requesting ferry service that were not presently connected with a marine transportation link to a larger community or on to a road or highway connection.

In the third paragraph of the resolution there is an assumption that there are, "private companies and the governments of British Columbia and the State of Washington to provide ferry service to Ketchikan without subsidy by the State of Alaska:".

At the present time there are no known, privately owned, U.S. registered vessels, capable of R.O. and R.O. plus passenger capacity available to operate either to or from Ketchikan to other ports except those of the Alaska Marine Highway Systems. To our best knowledge the State of Washington does not presently own a vessel capable of "coastwise" service as certificated by the U.S. Coast Guard.

Canada does own two vessels that are adequate and would meet our needs for R.O. and R.O. cargo plus passengers. These vessels are now fully committed to B. C. Ferry routes between Vancouver, B. C. and Prince Rupert, B. C. Should the B. C. Ferry abandon their own commitments, some major problems would have to be addressed.

The basic disadvantage to ending the Alaska Marine Highway in Ketchikan is that Ketchikan is not where the people wish to go.

The primary destination of people traveling the Marine Highway south from Petersburg is not Ketchikan, it is Prince Rupert or Seattle where the highway network begins.

For northbound traffic, the primary destination is not Ketchikan, it is north of Ketchikan. Only some 25% of the traffic wishes to disembark in Ketchikan.

To force everyone off of one vessel at Ketchikan and onto another would be a considerable inconvenience to 75% of the travelers and an inefficient use of time as well as money.

If the vessels discharging traffic were not of a similar capacity to those receiving that traffic, there would be gross inefficiencies, i.e., the larger vessel would depart less than full and the smaller would leave people behind.

All unaccompanied vehicles, such as vans, trailers, new cars, etc. would require unnecessary handling at Ketchikan to move them from one vessel to another. This would be an added expense to the consumer as these costs would be passed along.

Another possible issue would be the State's liability to the U. S. Government

for past and present Federal Aid funds expended on the present fleet. The Alaska Marine Highway is just what the name implies, a highway. Stopping the marine highway at a point short of a connection with another highway would be parallel to building two-thirds of a highway between two population centers. Not much practical use to either.

At the present time the Ketchikan Maintenance Facility is in the second stage of its construction. Upon completion of this stage, Marine Highway Systems vessels should be able to moor along side and perform both voyage maintenance and emergency repairs not requiring drydocking. This facility will not be capable of full maintenance of vessels until funding is appropriated to complete the vessel lift mechanism and specialty shops that are necessary to make the facility functional as a total vessel maintenance operation.

The Division of Marine Highway Systems does to the extent possible under the law operate its vessels using Alaska-based crews.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HCR 4 Date on Bill: 1/18/83
Title: Relating to expansion of ferry service
Sponsor:
Requestor: Lindauer

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total								

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

N/A

3. Assumptions:

"See Attached"

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Martin J. Nusbaum Phone: 465-3950
Division: Division of Marine Highway Systems Date: 3/4/83

Approved by Commissioner: [signature] Date: 3-7-83
Department: Transportation & Public Facilities

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

ASSUMPTIONS

Since the inception of Marine Highway Systems, the Administrations and Legislators have directed the system to operate on a cost to revenue ratio of approximately two to one. Basic tariffs and routes have been tested against this philosophy. A demonstration of what this change would do to the system's revenue follows:

Assumptions - All of the systems' vessels would be operating approximately the same number of hours annually. Cost of Operations would not change. The same number of passengers and vehicles would be transported annually. The same basic traffic would be in effect.

	In Millions
Anticipated System Operational Cost - present operation	$60.0
Anticipated System Revenue - present operation	$31.4
Ratio 2 to 1 approximately.	
Adjusted System Operational Cost - Ketchikan Base	$60.0
Adjusted System Revenue - Ketchikan Base	$20.3
Ratio 3 to 1 approximately.	

To adjust the ratio back to the directed 2 to 1 ratio would require a substantial tariff increase.

One important issue would be clearing vehicles and passengers through either U. S. Customs or Canadian Customs. There are presently no facilities in Ketchikan for this operation. It probably would be necessary to expand the existing shore facility by approximately three times. There would be a need for an additional docking facility, a sterile area for customs checking as well as Customs offices. The details of such an operation would rest primarily with the Customs agencies.

If Customs issues were not addressed in Ketchikan they would have to be accomplished at the other end of the route at a cost to that operator.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 7, 1983

TO: House Transportation Committee

FROM: Representative John Lindauer

RE: House Concurrent Resolution #4: "Relating to expansion of ferry service."

House Concurrent Resolution 4 asks the governor to direct the Commissioner of Transportation and Public Facilities to do three things to expand the amount of ferry service.

First, the resolution calls for the administration to integrate the schedules of the Alaska Marine Highway system with the schedules of ferry systems operated by public and private companies.

Second, the resolution calls for the southern terminus to be designated in an American or Canadian community which can provide adequate service to Ketchikan without subsidy from the State of Alaska.

Third, the resolution calls for the administration to repair and maintain Alaska's ferrys within Alaskan ports. The resolution also asks that there only be Alaskan-based crews.

HCR

10

CS FOR HOUSE CONCURRENT RESOLUTION NO. 10 (TRANSPORTATION)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to access to Whittier, Alaska.

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

WHEREAS there are a number of places along the railbed of the Alaska Railroad that are paved for temporary use by automobiles when snowslides cover the Seward Highway, making it impassable; and

WHEREAS a significant number of people seek access to and from Whittier, Alaska, and access is limited to service on the Alaska Railroad; and

WHEREAS the railroad service to and from Whittier is inadequate or inconvenient and a significant number of people would prefer to drive to and from Whittier;

WHEREAS highway development to Whittier would create greater recreational opportunities for Southcentral Alaska and provide access to beautiful Prince William Sound thereby adding another important tourism attraction base, along with future harbor facilities;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the Department of Transportation and Public Facilities to complete (before the convening of the second session of the Thirteenth Legislature) a preliminary design for one way traffic facilities through Whittier tunnels and, if needed, ventilation, lighting and other amenities such as traffic control systems; and provide the legislature with construction cost estimates and projected cost per passenger based on anticipated traffic volume.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HCR 10 Date on Bill: 1/21/83
Title: Relating to access to Whittier, Alaska
Sponsor: Fritz, Szymanski & Barnes
Requestor: House State Affairs

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	* 250.0	0	0		
Operating								
Total			0	250.0	0	0		

b. Revenues:

Revenue			0	0	0	0		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

Cost of Preparing the existing tunnel for:

One Way Joint Use: $77,220,000 assuming 42 months design period and construction beginning in the summer of 1987.

Two Way Joint Use: $135,300,000 assuming 42 months design period and construction beginning in the summer of 1987.

* A new feasibility study to examine one way joint use, two way joint use, and (cont'd)

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Phone:
Division: Date:

Approved by Commissioner: J Bates Date: 3/4/83
Department: DOT+PF

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Assumptions (cont'd)

a new automobile tunnel would cost approximately $250,000. Due to the lead time needed for design of this project, and the progress in transferring the Alaska Railroad to the State, it would be more appropriate to begin negotiations at a later stage of the design process.

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION and PUBLIC FACILITIES

RECEIVED
MAR 24 1983

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)

March 21, 1983

The Honorable Mitch Abood
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood:

The following is in response to your recent request regarding Whittier Access.

Attached are xerox copies of the section of the Executive Summary of the Whittier Transportation Options Study (WTOS) which outlines the Alternatives which were considered and the conclusions reached.

The WTOS included an effort to estimate demand for facilities which would increase access to Whittier as well as to assess the technical feasibility of such facilities. In that effort it was assumed that demand resulted from full development of Whittier according to the City comprehensive plan in existence at that time as well as an existing Shotgun Cove Road and Small Boat Harbor. Based on these assumptions and comments received from the public and other interested agencies, the demand to be expected was forecast. In consideration of the extensive technical analysis of the various options coupled with the demand forecast, Alternative 1A was recommended as a short-term solution and Alternative 1 was recommended as a medium to long-term solution. Now that time has provided perspective on the factors underlying the demand forecast, it is appropriate to update and further refine those underlying assumptions. Similarly, it is also an appropriate time to refine the engineering assumptions in light of any new technology which has become available in the interim.

Alternative 1A was developed as a short-term improvement to provide an increase in capacity and convenience until traffic increased significantly in response to full development of the Whittier area. Four trips between Portage and Whittier would be scheduled instead of the existing three. Minor track modifications would facilitate more efficient operations and reduce loading time. An additional two trips daily could be scheduled by basing the shuttle train in Whittier instead of Anchorage, for a total of six trips daily, and bus service would be provided between Portage and Anchorage. Selection of this alternative would not preclude selection of a different alternative at a future date.

Alternative 1A includes the following:

1) Ramp and track modifications and improvements and passenger stations at Whittier and Portage. These improvements would facilitate more efficient operations, at a cost of $854,000 (1983 dollars).

2) Additional rolling stock and equipment, at a total cost of $1,464,000 (1983 dollars).

3) If the Alternative 1A improvements are used for a longer period (10-20 years), significant tunnel repair work will be needed, at a total cost of about $10.0 million (1983 dollars). This work would also be required for any other rail-based alternative, including joint rail auto use of the tunnel and to facilitate continued use of the tunnel by the Alaska Railroad. Therefore, expenditures for tunnel improvements would not be "wasted" if an additional "long-term solution" alternative using the existing tunnel is implemented at a future date.

The Department will be looking at the feasibility of converting the existing railroad tunnel into a vehicular tunnel. This would allow an increase in access to Whittier and Prince William Sound. A study to determine the feasibility will begin this spring and there should be sufficient information available on such a proposal of paving the tunnel for vehicular travel by the next legislative session. Once this information is available, a copy will be sent to you.

If our office can be of further assistance please call.

Sincerely,

William R. Snell
Acting Deputy Commissioner
Central Region

Attachments

FINAL REPORT
System Alternatives & Recommendations

WHITTIER TRANSPORTATION OPTIONS STUDY

PREPARED FOR

STATE OF ALASKA
DEPARTMENT
OF TRANSPORTATION
AND PUBLIC FACILITIES

ANCHORAGE, ALASKA 99502

MARCH 1981

DMJM

420 L STREET/SUITE 406/ANCHORAGE,ALASKA 99501 907/274-1554
3250 WILSHIRE BOULEVARD/LOS ANGELES, CALIFORNIA 90010 213/381-3663

IV. TRANSPORTATION ALTERNATIVES, COMPARISONS AND EVALUATION

This chapter describes options applicable to Whittier access and discusses them from several standpoints including feasibility, construction costs, operating costs, convenience of users, safety, short and long term benefits to users, land owners, developers, etc. The options are based on current railroad technology and highway vehicles in various combinations. It is presumed that any selected alternative will require soils investigations, title searches, Environmental Impact Statements and Federal, State and Municipal reviews and approvals prior to engineering, design and construction. These items therefore are not developed further in this section. This discussion is concluded by a summary matrix which compares the features of each alternative.

Null Alternative

This is the existing system and is included only for use as a basis for comparison with alternatives that would improve access to and from Whittier. Under this alternative, Whittier residents will continue to be relatively isolated and will continue to compete with visitor and ferry traffic in and out of Whittier. With the expansion of the Whittier small boat harbor doubling its capacity, increased congestion will occur. Access will continue to become more and more inconvenient under this alternative and the existing system and service level cannot meet the maximum demand. Furthermore, the limited access capacity will act as a constraint to future growth and development in Whittier.

Alternative No. 1 - Improved Auto/Passenger Shuttle Between Bear Valley and Whittier

This alternative is a significant upgrading of the existing shuttle access to Whittier. It would reduce both travel and turn around time by relocating the western terminal from Portage to new facilities in Bear Valley with a new road connecting to the Portage Glacier Visitor's Center access road. The shuttle train would be

based in Whittier rather than Anchorage. It also reduces the waiting time by providing additional regularly scheduled shuttles and extends the daily period of shuttle service. Initially, seven (7) shuttle trips each way over a 12-hour span would be provided with provisions to increase service to thirteen (13) trips each way over 16 hours when travel demand warrants.

The initial service level would have a total capacity of about 350 vehicles per day each direction and approximately 2,100 passengers. In the expanded service, this capacity would increase to approximately 590 vehicles and 3,900 passengers each way. This service would meet about 45% of peak day person trip demand. However, additional passenger coaches could be added to the shuttle train and total person trip demand could thus be met. Auto capacity cannot meet the potential summer maximum demand, however, winter capacity would be adequate.

Total capital cost including the Bear Valley access road, improved terminal facilities, tunnel improvements, new passenger cars, etc. would be approximately $20 million for the initial system and about $24 million for the expanded level of service. Annual operating and maintenance costs were estimated at $559,000 for initial service and just over $1 million for the expanded system.

Alternative 1 could be implemented relatively quickly and its selection would not preclude the future choice of another alternative. Convenience for Whittier residents is greatly improved without opening Whittier up to unlimited access and the potential congestion which would result. A gradual development of Whittier would be encouraged by this alternative. It would also open Bear Valley to recreational use and to more spectacular views of Portage Glacier. Alternative 1 would result in increased revenues and potential funding subsidies might exist for this alternative.

Alternative No. 1-A - Improved Auto/Passenger Shuttle Between Portage and Whittier

This alternative also consists of upgrading the existing shuttle access to Whittier but retains the existing Portage terminal point. It too reduces waiting time by providing additional regularly scheduled shuttles to provide four (4) trips initially with potential for expansion to six (6) and extends the daily period of shuttle service. The initial service level retains the rail connection to Anchorage but the expanded system calls for bus service on the Anchorage link. Because the distance is identical to the existing route, travel time is the same but by improving the auto loading procedure and adding one set of rail passenger and flat cars, turn around time can be reduced. This alternative has somewhat limited capacity and could not accommodate the full maximum demand levels. However, the initial service improvements would allow about a 33% increase in existing demand and, if expanded, could provide capacity for more than double the average demand experienced during 1979.

This alternative is also a logical first step in a phased development approach. Under any of the other alternatives, some period of time will be required for necessary design and construction before they can be placed in operation. That period could range from two to five years depending on which alternative was selected. Thus, this alternative could serve either as an interim improvement or as a longer term solution. In any event, it does not preclude a later decision to select one of the other options when the demand levels warrant such action.

This alternative is both the least costly and could be implemented in the shortest period of time. Total estimated capital cost for improved terminals, parking, equipment and tunnel improvements is $8.8 million with annual operating costs ranging from $504,000 to $546,000. This alternative would also have the least overall environmental impacts.

Alternative No. 2 - Improved Rail Passenger Service

This alternative includes the rail shuttle between Bear Valley and Whittier as in Alternative No. 1 but also provides direct passenger-rail service from Anchorage to and from Whittier. No loading, unloading, or rehandling of baggage or recreational gear, etc. is necessary along the line. Some persons would find this more attractive, as it provides fast, efficient and convenient service into Whittier. The existing rail/auto shuttle would still be necessary and would be improved by reducing the length of the rail running time by extending the road into Bear Valley.

Initial service on this alternative would provide four (4) shuttle trips each way plus three (3) round trips between Whittier and Anchorage. Expansion potential could increase service to eight (8) shuttle trips and four (4) round trips to Anchorage on the passenger rail.

System capacity would be similar to Alternative No. 1 in that maximum person trip demand could readily be met but auto ferry capacity would not meet the maximum potential demand at full Whittier development. Capital costs would be similar to those of Alternative No. 1 and were estimated at about $22 million initial and $26 million for the expanded service. Annual operating costs, however, would be about 50% greater than Alternative No. 1 being estimated at $793,000 initial and $1,500,000 for the expanded service.

Overall development and environmental impacts of this alternative are approximately the same as Alternative No. 1.

Alternative No. 3 - One-way Joint Use of Existing Tunnel

This alternative would provide direct auto access by utilizing the existing railroad tunnel through Maynard Mountain between Whittier and Bear Valley. Major tunnel improvements would be required to allow use by both rail and vehicular traffic. Improvements would include lighting, ventilation, widening in selected locations to permit turnouts for disabled cars, paving the tunnel floor for rubber tired vehicles, installation of traffic signals and barriers at

each portal, grouting and lining to eliminate water leakage and ice buildup in winter months, and track reconstruction.

This alternative would have adequate theoretical capacity to accommodate the maximum potential demand. However, delays during peak demand periods could be excessive due to long queues waiting for opposing traffic to clear the tunnel. In addition, disabled vehicles in the tunnel could cause further delays since the tunnel width is inadequate to allow for automobiles to pass. The possibility of a vehicle fire presents safety problems, again due to the inability to clear the tunnel. There are also unresolved institutional issues in this option, particularly acceptance of risk or liability by the State or railroad.

Capital cost for this alternative, estimated at $36.7 million, is higher than the various rail options but lower than other direct access options. The ventilation requirement is a major item in cost for this alternative. Since the existing tunnel does not have adequate height to allow installation of the required ventilation plenum, the tunnel would have to be enlarged, resulting in extensive rock excavation. Maintenance and operating costs have been estimated at $390,000 per year. Direct access would eliminate the rail shuttle fares but the possibility of tunnel use tolls could offset these user savings.

Alternative No. 4 - Two-way Joint Use of Widened Existing Tunnel

This alternative would provide direct access to Whittier by widening the existing railroad tunnel to permit adequate highway width for two auto traffic lanes with the rail line confined to one lane. Other improvements to the tunnel would include the same features as in Alternative No. 3.

Operationally, this alternative is much simpler than the single lane tunnel but signals would still be required at each end to control traffic when a train is approaching or in the tunnel. Safety issues are also reduced but potential conflicts still exist as do the liability issues. This alternative has adequate capacity to meet the maximum demand but some potential for delays exist when train movement would close the tunnel to auto use.

Maintenance of rail facilities during the extensive tunnel expansion work would also be difficult. Capital costs for this alternative have been estimated at $64.3 million with annual operating and maintenance costs of $440,000.

Alternative No. 5 - New Two-way Highway Tunnel

In this alternative, a new two-lane highway tunnel would be constructed just south of the existing rail tunnel. The new tunnel would be approximately two and one-half miles long, provide lighting, ventilation and emergency phones. As with all highway options, the roadway into Bear Valley would be required but the rail terminal facilities would not be constructed.

Operationally, this alternative presents no rail/auto conflicts and would function simply as a highway. This alternative would provide the highest level of service and reliability of all options considered, would meet maximum demand, and also eliminate the institutional problems associated with joint tunnel use. It would also be the most expensive with capital cost estimated at $68.3 million and $440,000 annual operating and maintenance cost.

Alternative No. 6 - Portage Pass Highway

This alternative would provide a two-lane highway from the existing Portage Glacier Visitor's Center into Bear Valley and along the face of Maynard Mountain passing the end of Portage Glacier and over Portage Pass. Several locations in the section on Maynard Mountain may require either snow sheds or a short tunnel to reduce probable avalanche problems in areas of major snow chutes.

From an operational standpoint, this option would function much as other mountain highways and would have adequate capacity to meet maximum demand volumes. However, heavy winter snows, icing conditions and avalanche dangers would present severe road hazards in the winter months and high winds through Portage Pass would be a year round problem, particularly for campers and trailers. There are also steep grades (up to 9%) required between Portage Pass and Whittier which make the roadway more hazardous, particularly in winter months.

There is also a high probability of the highway being closed for periods in the winter, particularly during adverse weather conditions. Since the rail shuttle operations would probably be terminated under this option, this could result in periods of almost total isolation for the residents in Whittier.

Total capital costs for this alternative have been estimated at $47.8 million with annual maintenance and operating cost of $270,000.

Summary of Environmental Issues

While no environmental impact studies were made to quantify the various impacts, an overall assessment was conducted. In general some impact would be associated with all options. However, Alternative No. 1-A would produce by far the least impact with only minor upgrading of the Portage terminal area and Whittier terminal involved. Whittier impacts associated with development pressure would also be less than with other options.

Alternatives No. 1 and No. 2 would have similar impact since essentially the same facilities would be developed in both options. The environmental impacts would relate primarily to the Bear Valley Access Road and new terminal facilities in Bear Valley. Development pressures in Whittier would be somewhat greater than with Alternative 1-A, however, they would be more gradual and easier to control than with any of the direct access options.

In the highway options, Alternatives No. 3, 4 and 5 would have approximately equal impacts as they all require development of the Bear Valley road and extensive tunnel construction activities. Development pressures in Whittier would be about equal also given the perception of direct auto access. However, the traffic problems would be greatest with Alternative No. 3 if maximum demand was reached due to the long lines of traffic waiting to use the tunnel. Direct access could also produce severe traffic problems in Whittier given the relatively small land area and limited opportunity to develop adequate circulation and parking systems.

The Portage Pass Highway, Alternative No. 6, has all of the impacts associated with the other direct access options plus a much greater environmental consequence because of the cut along Maynard Mountain and the road through the Pass. While this route would offer excellent vistas of the glacier, it would also be visible from the visitor's center and would detract from that visually aesthetic experience.

Table S-4 presents a comparison matrix summarizing the various features of each alternative.

Cost Effectiveness

In addition to the evaluation factors summarized in Table S-4, an assessment of the relative cost effectiveness of each alternative was accomplished. This analysis was based on the assumption that the maximum demand levels would be reached at some point in time. Capital costs were annualized at various discount rates and then added to annual operating cost. Total annual costs were then divided by annual person trips to determine a cost per trip. Annual person trips were determined on the basis of maximum demand for the direct access alternatives and at system capacity for the rail systems. Tabel S-5 shows the result of this analysis.

It should be noted that this analysis tends to favor the direct access alternatives since they reflect accommodation of the number of trips under the maximum demand projections while the rail options reflect only the system capacity described in the report. However, as noted in the report, it would be possible to meet person trip demand by adding more passenger cars to the rail options even though auto access would still be limited and therefore user convenience would be lower. If maximum demand were met by the rail systems, direct cost per trip would be substantially lower than for the auto access options. Similarly, the rail options are lower in direct cost at any comparable demand level. This is particularly important since volumes lower than the maximum would undoubtedly prevail for at least a number of years.

Revenue estimates were also made for the rail systems to provide a comparison of potential net public costs since that could bear

TABLE S-4
COMPARISON MATRIX

	ALTERNATIVE							
	NULL	1	1-A	2	3	4	5	6
	No Change	Improved Auto/ Passenger Shuttle	Improved Portage Whittier Shuttle	Improved Rail Passenger Service	One-way Joint Use of Existing Tunnel	Widened Existing Tunnel, Two-way Joint Use	New Vehicle Tunnel	Portage Pass Highway
Use Existing Tunnel	X	X	X	X	X			
Enlarge Existing Tunnel						X		
New Highway Tunnel							X	
New Surface Highway								X
Bear Valley Road		X		X	X	X	X	X
Bear Valley Parking & Facilities		X		X	X			
Tourism/Recreation	None	Low	Low	Low to Medium	Medium	Medium to High	High	High
Employment opportunities	None	Low	Low	Medium	Low	Medium	High	High
Whittier Area Development	None	Low	Low	Medium	Low	Medium	High	High
Environmental Impact	None	Low	Very Low	Low	Low	Medium	Medium	High
Service Level/Capacity	Low	Medium	Medium	Medium	Medium	High	Very High	Very High
Summer Reliability	High	High	High	High	Medium	High	Very High	Very High
Winter Reliability	Medium	High	High	High	Low	High	High	Very Low
Summer Availability	Medium	High	High	High	Medium	High	High	High
Winter Availability	Very Low	Medium	Medium	Medium	Medium	High	High	Very Low
Convenience/Comfort	Very Low	Medium	Medium	Medium	Medium	High	Very High	Very High
Safety	High	High	High	High	Medium	Medium	High	Medium
Probability of Funding	N/A	Medium	Medium	Medium	Medium	Low	Low	Low
Construction/Implementation Time	N/A	Short	Very Short	Short	Medium	Long	Long	Long
Annual Maintenance & Operating Costs (thousands)	N/A	$559 Initial $1041 Exp.	$504 Initial $546 Exp.	$793 Init. $1500 Exp.	$390	$440	$440	$270
Construction/Capital Cost (millions)	N/A	$20.0 Init. $24.2 Exp.	$8.8	$21.9 Init $26.0 Exp.	$36.7	$64.3	$68.3	$47.8

TABLE S-5

ESTIMATED COST EFFECTIVENESS

Assumed Discount Rates		Alt. 1		Alt. 1-A		Alt. 2		Alt. 3		Alt. 4		Alt. 5		Alt. 6	
		10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%	10%	15%
Annual Cap. Cost	($1000)	2,055	3,030	909	1,203	2,273	3,326	3,706	5,509	6,496	9,862	6,894	10,254	4,875	7,197
Annual O/M Cost	($1000)	559	559	504	504	793	793	390	390	440	440	440	440	270	270
TOTAL	($1000)	2,614	3,589	1,413	1,707	3,066	4,119	4,096	5,899	6,936	10,302	7,334	10,794	5,145	7,467
Cap or Demand	(1000)	756	756	432	432	576	576	2,727	2,727	2,727	2,727	2,727	2,727	2,727	2,727
Cost Per Trip		$3.46	$4.75	$3.27	$3.95	$5.32	$7.15	$1.50	$2.16	$.54	$3.78	$2.69	$3.96	$1.89	$2.74
Revenue/Trip[1]		$3.96	$3.96	$3.96	$3.96	$3.96	$3.96								
Net Cost/Trip		$+0.50	$0.79	$+.69	$+.01	$1.36	$3.19	$1.50	$2.16	$2.54	$3.78	$2.69	$3.96	$1.89	$2.74

[1] Revenue per trip based on passenger only revenue as generated in 1979.

on financing feasibility. Revenue per person trip was estimated based on average per passenger (excluding vehicle revenue) during 1979. As shown in the table, when potential revenue is applied, the public cost would be completely covered for both Alternatives 1 and 1-A while being reduced significantly for Alternative No. 2. It would be possible to impose tolls in the direct access options as well and thereby reduce the public costs. However, that would eliminate one of the most significant benefits of those systems.

Summary of Funding Opportunities

The last step in evaluating the various options was to look at potential funding sources. While funding sources and mechanisms are obviously a policy issue, it was considered appropriate to look at possible existing sources, both Federal and State.

At the Federal level, the most likely sources were considered to be the Urban Mass Transit Administration (UMTA), Federal Highways (FHWA) and Federal Railway Administration (FRA). Of these, the UMTA funds were considered highly unlikely since most are applicable to communities over 50,000 population. That would mean funding would have to come through the Municipality of Anchorage where other transit programs are also under consideration. The UMTA Section 18 funds for rural area transit are relatively small and would be inadequate to cover this program.

FHWA funds are allocated to the State in a formula basis. Funds for the direct access options, particularly the new tunnel and Portage Pass Highway would undoubtedly come from the Federal-Aid Primary (FAP) monies. While the allocation of those funds is a policy issue, it did not appear proper to count on such funds for a project of this magnitude given the other highway programs with possible higher immediate demand levels.

At the state level, a current support program is operational on the Whittier shuttle as part of the Marine Highway System. In addition, HR 11737 permits the State to divert up to 5% of its annual FAP funding for capital improvement and operating

assistance on the rail service between Whittier and Portage. These funds could produce between $750,000 and $2.5 million annually depending on the allocation methods used. Again, whether these funds would be applicable to joint use options has not been determined.

FRA funds, Section 511, provide up to 100% financing for railroad rehabilitation and improvements primarily oriented to freight related programs. Given the condition of the existing tunnel and trackage, it would appear that participation in the rail alternatives (1, 1-A, or 2) could be a possibility since the improvements would also benefit freight operations. Whether such participation in the joint use options could be obtained is an institutional issue beyond the scope of this study.

In addition, there is the possibility that funding for this project could be obtained through the State Legislative process. This option is obviously a policy issue which would be addressed by the Legislature based on the merits of the specific project proposal and evaluated relative to other priorities statewide.

Based on the evaluation in this study, the most likely sources of funding have been concluded to be:

1. FHWA funding (FAP) through the 5% diversion.
2. FRA participation through loans or grants.
3. Special legislation.

VI. SUMMARY AND CONCLUSIONS

A. Summary

As in virtually every analysis of transportation alternatives, the findings and conclusions of this study represent some compromise and trade-offs between analysis factors. Such trade-offs and compromises are necessary since rarely is one alternative identified as being superior according to all criteria used in the comparison. Furthermore, the relative importance of the evaluation factors depends in some measure on the subjective judgment of the evaluator. This study has maintained an objective position while recognizing the current and potential future growth, development and resulting travel demand in the Whittier area.

Improved Whittier access has been an issue for several years and the subject of several prior studies. Basic findings from this study are not markedly different from those of the prior efforts, although conclusions may vary. Principal findings include the obvious fact that current access is inconvenient and often inadequate. In addition, vehicle access is relatively expensive compared to conventional highway travel.

The cost factor is particularly important to Whittier residents who require an automobile. The need for an auto by non-residents who enter Whittier is reduced because of the small size of the area and the convenient location of the rail terminal. Yet, for those persons wishing to use trailered boats on Prince William Sound, the cost becomes a significant factor and diminishes the desirability of the area. However, with increasing cost for gasoline, the rail shuttle may offer a least costly alternative when compared to other more distant locations which require additional fuel costs offsetting the shuttle fare.

For Whittier residents, one of the major inconveniences, relative to time and costs, is the fact that a person cannot leave and return the same day even during summer months. This situation is aggravated in the winter months because of the three-day per week service schedule. However, all of the alternatives eliminate or reduce this problem.

3. Conclusions

These considerations combined with the analysis conducted in this study lead to the following conclusions:

1. There is a definite need for improved access to Whittier.
2. Improved access can enhance the social and economic climate in Whittier by generating development which in turn will foster improvements to existing services and increase employment opportunities.
3. Expansion of the existing small boat harbor coupled with the relatively short distance to the major population center in Alaska will produce an immediate increase in travel demand. Other factors, such as increased recreation demand as the Anchorage population grows and expanding statewide tourism, will contribute to increased demand for access to Whittier and Prince William Sound in the future. The possibility also exists for increased demand associated with natural resource development and expanded port activity.
4. The existing Whittier - Valdez segment of the State Marine Highway System provides an attractive tourist resource, which possibly could be expanded in the future, and Whittier access is a vital link in that system.
5. Existing population levels in Whittier and the lack of visitor facilities combine to produce a relatively low demand at present.
6. The major highway access alternatives are very expensive and current demand levels do not warrant such costly investments.
7. The single lane joint-use tunnel Alternative No. 3 has many operational and inherent safety problems. In order to produce a reasonable degree of safety, ventilation,

and reliability, this alternative becomes nearly as expensive as the Portage Pass Highway.

8. Unresolved institutional issues, such as the ultimate acceptance of risk and liability by the State or the Alaska Railroad in a joint use operation, further contributes to the questionable feasibility of the joint use options, particularly in single-lane operations.

9. Any of the alternatives examined have adequate reserve capacity to accommodate significant growth in person trip demand. Furthermore, the rail based alternatives have exceptional flexibility to accept future increases by adding additional passenger coaches. The rail based alternatives are, however, somewhat limited in their ability to accommodate major growth in the number of automobiles transported.

10. Traffic congestion and parking problems in Whittier could become severe with the unlimited auto access alternatives and would produce significant increases in local costs for streets, parking facilities, police and security.

11. At maximum demand or capacity levels, the highway based alternatives show better cost effectiveness in terms of total annual capital and operating cost per trip. However, the revenues generated by fares in the rail based systems more than off-set the public sector costs for Alternatives 1 and 1-A. Furthermore, maximum demand levels identified will not occur immediately, and at demand levels under about 1.2 million person trips per year, the total cost per trip for Alternatives 1 and 1-A is less than any highway option even without considering revenue off-sets.

12. Only Alternative No. 1-A offers almost immediate access improvement. All others will require from three to five years to implement since engineering design, environmental studies, permit and review processes as well as construction are required. In addition, most costs associated with Alternative 1-A are applicable to Alternatives 1 and 2. Suggested improvements in the rail system under this alternative will benefit future rail operations even if one of the highway alternatives (except Number 3 and 4 which introduce auto/rail conflicts) is ultimately implemented.

13. Implementation of Alternative 1 or 1-A does not preclude access improvements in the future since all higher level alternatives require access to or through Bear Valley and the improvements to the existing rail tunnel will benefit all future rail operations.

C. Recommendation

Based on the analysis and evaluation conducted in this study, the potential funding options and the conclusions reached, this study recommends that Alternative 1-A be implemented as a first stage toward developing Alternative 1 when design and funding become available.

That action would provide some early improvement to relieve existing problems and would, with implementation of Alternative 1, provide adequate capacity for significant increase in demand in the future. A further significant advantage to this approach is that virtually all investment for capital improvement is fully applicable to a decision to implement one of the more expensive direct access alternatives in the event that future demand or other factors warrant such as major harbor expansion with attendant rail demand warrant a higher level facility or preclude use of the existing railroad tunnel.

consideration should be given to utilizing some funds through the 5% diversion of the State allocation of FAP funds for capital cost and operating assistance. The level of operating subsidy to reduce user cost is a policy issue to be decided at the Legislative level.

HCR

25

NIKISHKA CHAMBER OF COMMERCE

RESOLUTION 83-2

CREATE A 35 MILE SPEED ZONE PARALLELING THE NIKISHKA SHOPPING CENTER.

WHEREAS, the Nikishka Chamber of Commerce requests a lower speed zone from 55 mph to 35 mph; and

WHEREAS, this zone will be between Land Marine and the old Pines Bar; and

WHEREAS, this zone relates to mile 26 to mile 26.7 Spur Highway; and

WHEREAS, a crosswalk will be painted at mile 26.1 in front of the laundry building to the shopping center;

NOW THEREFORE, BE IT RESOLVED BY THE STATE DEPARTMENT OF TRANSPORTATION:

Section 1: That this proposal will insure the safety to the pedestrian who is doing business at this location.

ADOPTED BY THE NIKISHKA CHAMBER OF COMMERCE ON THIS 10th DAY OF February, 1983.

ATTEST:

Billy McCann, President

Dee Rappe, Secretary

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

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STATE OF ALASKA
Police Accident Report
12-208 Revised 1/76

*EXPLAIN IN ACCIDENT DESCRIPTION

IF A QUESTION DOES NOT APPLY, ENTER A DASH

IF AN ANSWER IS UNKNOWN, ENTER AN "X"

INTERSECTION RELATED
1. At Intersection
2. Not At Intersection

PEDESTRIAN ACTION
1. Crossing With Signal
2. Crossing Against Signal
3. Crossing, No Signal, Marked Crosswalk
4. Crossing, No Signal or Marked Crosswalk
5. Walking Along With Traffic
6. Walking Along Against Traffic
7. Emerging In Front of/Behind parked vehicle
8. Child Getting On/Off School Bus
9. Getting On/Off Vehicle Other than School Bus
10. Pushing/Working On Car
11. Working in Roadway
12. Playing in Roadway
13. Other Actions in Roadway *
14. Not in Roadway (Indicate) *
15. Alcohol Involvement

TRAFFIC CONTROL
1. None
2. Traffic Signal
3. Stop Sign
4. Flashing Light
5. Yield Sign
6. Officer/Flagman/Guard
7. No Passing Zone
8. RR Crossing Sign
9. RR Crossing Flashing Light
10. RR Crossing Gates
22. Other *

LAND USAGE OF ACCIDENT LOCALITY
1. School/Playground
If No School/Playground, Select One Below
2. One/Two Family Residential
3. Apartment Residential
4. Business/Shopping
5. Industrial/Manufacturing
6. Agricultural/Undeveloped
7. Recreational/Park/Camping

ROADWAY CHARACTER
1. Straight and Level
2. Straight and Grade
3. Straight and Hillcrest
4. Curve and Level
5. Curve and Grade
6. Curve at Hillcrest

ROADWAY SURFACE CONDITION
1. Dry
2. Wet
3. Muddy
4. Snow/Ice
5. Slush
15. Other *

LIGHT
1. Daylight
2. Twilight
3. Dark, Streetlight
4. Dark
5. Rain
6. Snow
7. Sleet/Hail Freezing Rain
8. Fog/Smog/Smoke/Blowing Sand
10. Other *

WEATHER
1. Clear
2. Cloudy

SIGNED TEMPERATURE INDICATION (°F)

WHICH VEHICLE OCCUPIED
Enter Vehicle No. 1 - 99 or B, P, O
B. Bicyclist
P. Pedestrian
O. Other *

POSITION IN/ON VEHICLE
1. Driver
2-7 Passengers
8. Riding/Hanging On Outside

SAFETY EQUIPMENT USED
1. No Restraint Used
2. No Restraint Available
3. Lap Belt
4. Harness
5. Lap Belt and Harness
6. Child Restraint
7. Motorcycle Helmet
10. Other *

EJECTION FROM VEHICLE
1. Not Ejected
2. Partially Ejected
3. Ejected

APPARENT CONTRIBUTING FACTORS
1. None

HUMAN
2. Alcohol-Test Given
3. Alcohol-No Test Given
4. Alcohol Suspected, Not Proven
5. Backing Unsafely
6. Driver Inattention (Indicate)*
7. Driver Inexperience (Indicate)*
8. Drugs (Illegal)
9. Failure to Yield
10. Fell Asleep
11. Following too Closely
12. Illness
13. Lost Consciousness
14. Passenger Distraction
15. Passing or Lane Usage Improper
16. Pedestrian Error/Confusion
17. Physical Disability
18. Prescription Medication
19. Traffic Control Device Disregarded
20. Turning Improperly
21. Unsafe Speed
22. Other *

VEHICULAR
41. Accelerator Defective
42. Brakes Defective
43. Headlights Defective
44. Other Lighting Defects
45. Oversized Vehicle
46. Steering Failure
47. Tire Failure/Inadequate
48. Tow Hitch Defective
49. Windshield Inadequate
50. Other *

ENVIRONMENTAL
61. Animal's Action
62. Glare
63. View Obstructed/Limited
64. Other *

ROADWAY
71. Lane Marking Improper/Inadequate
72. Construction Debris
73. Pavement Deteriorated
74. Pavement Slippery
75. Shoulders
76. Signs Missing/Inoperative
77. Traffic Signal Inoperative
80. Other *

Vehicle 1 → 12
Vehicle 1 → 23
Vehicle 2 → 24
Vehicle 2 → 25
Driver 1 → 26
Alcohol Test Result
Driver 2 → 27
Alcohol Test Result

Direction Of Travel
N, NE, E, SE, S, SW, W, NW (1–8)
Vehicle 1 → 28
Vehicle 2 → 29

PRE-ACCIDENT VEHICLE ACTION
1. Going Straight Ahead
2. Making Right Turn
3. Making Left Turn
4. Making U-Turn
5. Starting from Parking
6. Starting in Traffic
7. Slowing or Stopping
8. Stopped in Traffic
9. Entering Parked Position
10. Parked
11. Avoiding Object in Roadway
12. Changing Lanes
13. Overtaking
14. Merging
15. Backing
16. Skidding
17. Out of Control
20. Other *

Vehicle 1 → 30
Vehicle 2 → 31

LOCATION OF FIRST EVENT
1. On Roadway
2. Off Roadway
→ 32

TYPE OF ACCIDENT

Collision With
1. Pedestrian
2. Pedalcycle
3. Train
4. Animal
5. Moose

M.V. In Transport
6. Head On
7. Read End
8. Angle

M.V. In Other Roadway
9. Head On
10. Rear End
11. Angle

Fixed Object
12. Bridge/Overpass
14. Building
15. Culvert
16. Curb/Wall
17. Ditch
18. Divider
19. Parking Meter
20. Traffic Light
21. Light Support
22. Sign Post or Utility Post
24. Other Support
25. Embankment
26. Fence
27. Guard Rail
28. Machinery
29. Tree/Stump
30. Other Object
31. Aircraft

Parked M.V.
12. Parked

Non-Collision
40. Overturn
41. Fire/Explosion
47. Immersion
48. Gas Inhalation
50. Other *

First Collision Event → 33
Second Collision Event → 34
Vehicle 1 → 34
Vehicle 2 → 35

Location of Most Severe Physical Complaint
1. Head
2. Face
3. Eye
4. Neck
5. Chest
6. Back
7. Shoulder/Upper Arm
8. Elbow/Lower Arm/Hand
9. Abdomen/Pelvis
10. Hip/Upper Leg
11. Knee/Lower Leg/Foot
12. Entire Body
17. None

Type of Physical Complaint
1. Amputation
2. Concussion
3. Internal
4. Minor Bleeding
5. Severe Bleeding
6. Minor Burn
7. Moderate Burn
8. Severe Burn
9. Fracture/Dislocation
10. Contusion/Bruise
11. Abrasion
12. Complaint of Pain
13. None Visible

Victim's Physical and Emotional State
1. Apparent Death
2. Unconscious
3. Semiconscious
4. Incoherent
5. Shock
6. Conscious

Injured Taken To:
1. Hospital
2. Clinic
3. Residence
4. Mortuary
5. Other
6. Unknown

Injured Taken By:
1. Services Ambulance
2. Air Ambulance
3. Police (Reg. Veh.)
4. Private Vehicle
5. Airplane
6. Helicopter
7. Other
8. Unknown

Telephone → 21

11 | 12 | 13 | Time Date → 14 | Day → 15 | 16 | 17 | 18 | 19 | 20

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ca...side swipe

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26.0–26.7

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-GRAM	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND
7901166	790218	1645	117600	26.43	9	2				1,300	07	1	04
7903360	790403	0001	117600	26.49	9	1				4,500	40	5	04
7908436	790831	1740	117600	26.44	9	1			2	1,000	05	3	01
8014272	801215	1645	117600	26.44	3	2			2	7,100	08	2	04
8013898	801215	1645	117600	26.44	3	2			1	6,400	08	1	04
8010629	800915	0100	117600	26.44	9	1			1	[illegible]	17	2	02
7819254	781102	1743	117600	26.64	9	2		1	2	4,000	06	6	01
7713066	770909	1640	117600	26.16	9	1			1	2,800	40	1	02
7715266	771024	1355	[illegible]0	26.54	4	2				220	08	1	01
7715608	771031	1600	117600	26.50	8	2				1,200	08	1	04
7712153	770821	1730	117600	26.50	9	1				300	14	-	-

RECORD STATS: 13 FOUND; 11 READ; 11 QUALIFIED.
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MORE

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-GRAM	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND
7701826	770202	1710	117600	26.34	1	2				3,500	07	1	02
8106689	810707	1245	117600	26.57	3	3			5	4,200	08	2	01

RECORD STATS: 13 FOUND; 13 READ; 13 QUALIFIED.

25.3–27.4

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-GRAM	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND
8000261	800106	2050	117600	25.69	2	2				3,500	08	3	04
8013980	801219	1945	117600	25.39	1	2			2	1,900	07	1	01
7811162	780920	0800	117600	25.69	9	2			4	3,000	07	3	02
7801479	780128	1425	117600	25.69	4	2		2		7,000	08	3	04
7803644	780317	1040	117600	25.42	9	1				5,000	40	1	01
7801979	780207	1745	117600	25.93	9	2		1	2	10,000	05	1	04
7819372	781219	2100	117600	25.69	9	1				100	40	2	04
7814639	781108	0830	117600	25.69	1	2				100	08	1	01
7718820	771224	1250	117600	25.59	9	1				2,550	30	2	04
8107005	810714	1415	117600	25.79	1	2				502	07	1	02
7901166	790218	1645	117600	26.43	9	2				1,300	07	1	04

RECORD STATS: 32 FOUND; 11 READ; 11 QUALIFIED.
TYPE 'X' BEFORE DEPRESSING 'ENTER' KEY TO STOP READING. > <

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-GRAM	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND
7911247	791026	1700	117600	26.94	9	2				2,000	08	1	02
7903360	790403	0001	117600	26.49	9	1				4,500	40	5	04
7908436	790831	1740	117600	26.44	9	1			2	1,000	05	3	01
8001238	800125	0650	117600	26.80	9	1				3,500	05	1	04
8014272	801215	1645	117600	26.44	3	2			2	7,100	08	2	04
8013898	801215	1645	117600	26.44	3	2			1	6,400	08	1	04
8010629	800915	0100	117600	26.44	9	1			1	1,000	17	2	02
7906878	780915	1400	117600	25.94	9	1		1			40	3	01
7902887	780225	1100	117600	27.12	9	2				700	12	1	05
7819254	781102	1743	117600	26.64	9	2		1	2	4,000	06	6	01
7713066	770909	1640	117600	26.16	9	1			1	2,800	40	1	02

RECORD STATS: 32 FOUND; 22 READ; 22 QUALIFIED.

TYPE 'X' BEFORE DEPRESSING 'ENTER' KEY TO STOP READING. > <

ACCNBR	ACCDTE YYMMDD	TIME	ROUTE	MILE POINT	ACC DIA-GRAM	NBR VEH	TOT FAT	MAJ INJ	MIN INJ	DAMAGE	TYPE	ROAD CHAR	ROAD COND
7713765	770923	2115	117600	25.94	1	2		2	3	5,000	07	1	01
7711112	770731	2100	117600	27.10	1	2				900	12	1	01
7710832	770725	0016	117600	27.04	9	1		3		6,000	15	3	01
7705060	770329	1718	117600	26.80	4	1		1		1,100	08	6	10
7715266	771024	1355	117600	26.54	4	2				220	08	1	01
7715608	771031	1600	117600	26.50	8	2				1,200	08	1	04
7712153	770821	1730	117600	26.50	9	1				300	14	-	-
7701826	770202	1710	117600	26.34	1	2				3,500	07	1	02
8107400	810725	1500	117600	26.74	9	2				600	08	1	01
8106689	810707	1245	117600	26.57	3	3			5	4,200	08	2	01

RECORD STATS: 32 FOUND; 32 READ; 32 QUALIFIED.

RECORD STATS: 32 FOUND; 32 READ; 32 QUALIFIED.

TYPE 'X' BEFORE DEPRESSING 'ENTER' KEY TO STOP READING. > <

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29

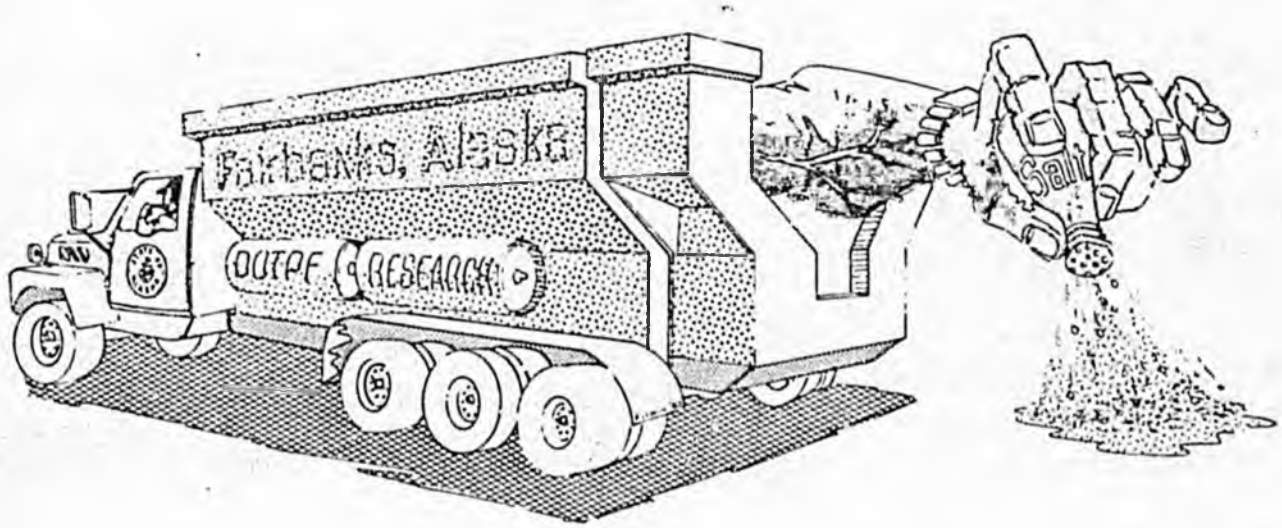
State of Alaska Department of Transportation and Public Facilities

RESEARCH NOTES

DIVISION OF PLANNING AND PROGRAMMING
RESEARCH SECTION

January 1983
Vol. 2 No. 7

CMA—An Alternative Road Deicer



The use of sodium chloride (common salt) and calcium chloride has raised controversy both in Alaska and nationwide. These materials can definitely reduce the hazard of wintertime driving but do so at tremendous expense. Pollution and corrosion damage attributable to chloride salts effectively boosts their real cost by a factor 10 to 15 when long term effects are considered. For example, sodium chloride presently selling in Fairbanks for about $125 per ton would be expected to generate long term damages in excess of $1,000. The regard for public safety which demands continued use of these readily available materials, has also fueled a search for something better. A safe and economically viable alternative may now be on the horizon.

National research aimed at providing improved road deicing compounds has identified Calcium Magnesium Acetate (CMA) as a potential substitute for calcium and sodium chloride. CMA is essentially made by dissolving crushed limestone into acetic acid. Its composition, $CaMg(CH_3CCOO)_4$, is characterized by a varying ratio of calcium (Ca) to magnesium (Mg) which depends upon the type of limestone used. The deicing power of CMA increases with increasing Mg content but is generally within the range of standard chloride salts. The real advantage in its use stems from its low damage potential. It is non-corrosive to most metals, even when compared to tap water. Toxicity is also low and the material decomposes into the three harmless components; carbon dioxide, water and limestone. Limestone residue would actually serve as a soil conditioner for unpaved areas bordering the roadway in sharp contrast to the ground poisoning effect of a chloride salt. Unfortunately, calcium and magnesium acetates can presently be obtained only in the very costly and purified form of laboratory reagents. Availability of CMA in a much less expensive industrial grade must proceed its use as a deicing agent.

A DOTPF funded research project was recently completed which examined the possibility of manufacturing low grade CMA within Alaska. A final report outlining this study was authored by M. J. Economides and R. D. Ostermann of the University of Alaska titled "Preliminary Design and Feasibility Study for a Calcium-Magnesium Acetate Unit." The authors discuss production of a "highway grade" saturated CMA solution on a small scale not exceeding 75 tons (dry weight) per day. CMA was shown to be economical at production levels above approximately 17 tons per day with predicted costs running $290—$590 per ton depending on production rate and the base price of acetic acid. For comparison calcium chloride costs almost $650 per ton F.O.B. Fairbanks.

The DOTPF is continuing to sponsor a program of CMA research along two different lines. One study involves a refinement of the manufacturing process and will result in the design of a CMA pilot plant. Another project is attempting to take advantage of CMA's ability to retain moisture in a soil mixture. The possibility exists that it can be used to replace calcium chloride as a dust controller and soil stabilizer for unpaved roads.

Robert L. McHattie, P.E.
Senior Research Engineer

DOTPF RESEARCH

Further information on any of the topics covered in "Research Notes" may be obtained by contacting Larry Sweet, Research Manager. A list of publications produced by the Research Section may be obtained by writing Barbara Trego, Publications Specialist, 2301 Peger Road, Fairbanks, Alaska 99701 or by calling the Research Section at (907)479-2241.

State of Alaska
Dept. of Transportation and Public Facilities
Division of Planning and Programming
2301 Peger Road—Research Section
Fairbanks, Alaska 99701

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STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: HCR 29
Title: Encourage use of Non-Corrosive
Sponsor: Miller, Duncan, Grussendorf
Requestor: House Trans. Committee

II. FISCAL DETAIL
Agency Affected: U of A & DOT&PF
Program Category Affected: Research
BRU, Program or Subprogram(s) Affected: Interior Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		70.0				
200 TRAVEL		5.0				
300 CONTRACTUAL		10.0				
400 COMMODITIES		25.0				
500 EQUIPMENT		40.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
		50.0				
TOTAL OPERATING		200.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		5				
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Offsetting of funding not identified in bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Larry Sweet
Phone: 479-2241
Division: Research Section, Planning and Programming
Date: 3/18/83

Approved by Commissioner: H. Glenzer, Jr.
Date: 4/13/83
Department: Transportation & Public Facilities

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. Analysis

Calcium Magnesium Acetate (CMA) is a non-corrosive ice control agent which could replace the corrosive chloride salts currently in use. CMA may also be useful as a dust control agent. CMA can be produced locally from limestone and acetic acid. The objectives of the proposed research are to develop a process design (based on previous work) for the production of CMA, construct and operate a small scale pilot plant based on this design, and demonstrate, through road tests, the effectiveness of CMA as an ice and dust control agent. The evaluation of the process design would entail a complete economic investment analysis. The effectiveness of CMA as an ice and dust control agent would be done by comparison with salt. Work progress will be documented through quarterly progress reports, followed by a comprehensive field report including the process design.

The benefits to the State would be threefold: (1) a new industry employing 20-30 people would be created; (2) the high costs of salt corrosion currently borne by the public and the state and local government would be eliminated; and and (3) the"blight" caused by salt poisoning of plants along roadways would be reduced, resulting in a more attractive community.

Specifically the objectives of the demonstration are:

1. The development of a final process design for the production of CMA from acetic acid and native limestone. This design would also include a complete economic analysis of the process.

2. The successful operation of a pilot scale production facility, to demonstrate the validity of the process design.

3. The demonstration of the effectiveness of CMA as a road deicing agent in arctic conditions. This would entail a strip test to be conducted by the State DOT&PF.

4. The evaluation of CMA as a dust control agent for potential use on the Dalton highway.

5. The development of a method of application for CMA as a winterization treatment for sand storage piles.

6. The development of an optimal application method for CMA to insure maximum cost-effective use.

RESEARCH PROPOSAL

Process Plant Design and Test Application Program for Calcium Acetate as a Non-Corrosive De-icing and Dust Control Agent in Interior Alaska

EXECUTIVE SUMMARY

Calcium-Magnesium Acetate (CMA) is a non-corrosive, environmentally benign ice control agent which could be used to replace the corrosive chloride salts currently in use in Alaska. We also believe that CMA can be used to replace calcium chloride as a dust control agent. The adverse effects of salt on automobiles, bridge structures and plant life are well known. We have estimated tha damage to automobiles alone in Alaska may exceed $20,000,000 annually. An obvious incentive exists for the use of non-corrosive chemicals for ice control.

In previous work performed under contract to the Alaska State Department of Transportation, we have demonstrated that CMA can be produced locally through the dissolution of naturally occuring limestones in acetic acid. We have developed a preliminary process design and economic evaluation based on our work. We estimate that CMA could be produced in Alaska for $300-600/ton (salt equivalent), compared to $650/ton for calcium chloride delivered to Fairbanks. In view of the "corrosion costs" of chloride salts, CMA at $600/ton is a bargain.

The results of our previous work, are highly encouraging. We have developed kinetic data on the reaction of acetic acid with limestone, and have constructed a bench scale reactor in our laboratories to gather further design data. What remains to be done, is the completion of a full scale process design and the construction of a pilot plant facility. Furthermore, a road test of CMA as an ice control agent and dust control agent under arctic conditions should be conducted.

Research Objectives

We have identified the following objectives for the proposed project:

1. The development of a final process design for the production of CMA from acetic acid and native limestone. This design would also include a complete economic analysis of the process.

2. The successful operation of a pilot scale production facility, to demonstrate the validity of the process design.

3. The demonstration of the effectiveness of CMA as a road deicing agent in arctic conditions. This would entail a strip test to be conducted by the State D.O.T.

4. The evaluation of CMA as a dust control agent for potential use on the Dalton highway.

5. The development of an optimal application method for CMA to insure maximum cost-effective use.

Project Cost

The total cost of the proposed research would be $196,000, of which $67,000 would be salaries and benefits, $41,000 would be supplies and services (chemicals), and $36,000 would be equipment. The remaining $52,000 would be for university overhead.

WORK PLAN

Dr. Ostermann and Dr. Economides will use the results of previous kinetic studies and ongoing bench scale work to develop a process design for a full scale production facility. Both Dr. Ostermann and Dr. Economides have degrees in chemical engineering and experience in the process industry. It is well within their expertise to perform such a design. The design will include the selection of the optimal process scheme, and a complete economic analysis of the process. A flowsheet and equipment list will also be provided.

A pilot plant facility capable of producing 100 gal/day (8 hr. day) will be built based on the process scheme. This pilot plant will be operated to demonstrate the feasibility of the process, develop bulk kinetic data and other design data, and to produce CMA for road tests.

CMA produced in the pilot plant will be applied to a test strip or test intersection in the Fairbanks North Star Borough. This test will be conducted during the winter of 1983-84 by Alaska D.O.T. personnel. A truck equipped with a sand spreader and spray pump will be used since CMA is best applied in saturated solution. The performance of the CMA will be compared with that of salt.

Additional CMA will be used to evaluate its effectiveness as a dust control agent. The primary mechanism of dust control is moisture retention and partial agglomeration. CMA will be compared to calcium chloride using artificially prepared laboratory roadway samples which can be "aged" and observed for weight loss and ease of "dusting".

Sand is stored in large piles. If these piles are not winterized, they will freeze solid in the winter. Currently, salt crystals are added at 5-10 wt % to prevent freezing. It is proposed that CMA solution could be sprayed over the pile with the same effect. This hypothesis will be checked with a series of small scale tests involving several methods of application.

In conjunction with the road tests, several methods of application will be tried to determine the "best" application method.

Russell D. Ostermann
Petroleum Engineering Dept.
University of Alaska, Fairbanks
474 7234

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)
(907) 465-3900

June 4, 1982

Re: Ice Control Methods
and Materials

Mr. R. A. Bundy
P.O. Box 3-5000
Juneau, Alaska 99802

Dear Mr. Bundy:

This refers to your recent letter concerning ice control methods and materials used by this Department.

In Juneau we use three basic materials to control ice on the highways and increase traction when ice is present, namely (1) aggregate consisting of coarse sand and/or small rock chips, (2) sodium chloride crystals, and (3) calcium chloride in pellet form or mixed with water to form a brine solution. We only use the sodium chloride and calcium chloride on the high traffic volume highways, i.e., Egan Expressway and Loop Road where aggregates are ineffective because the high speed and high volume traffic literally blows it off the road. Aggregates, of course, do not melt ice already formed - the chemicals do. They also stop new ice formation through a wide temperature range.

Chemicals are superior to aggregates for ice control. We are, and will continue, to experiment with new materials that, hopefully, will be less corrosive, cost effective and still do the job the public expects. When we find something with those characteristics, I assure you that we will stop using the materials now in use.

Sincerely,

Robert W. Ward
Commissioner

cc: Patrick P. Ryan
Deputy Commissioner, M&O

A-T1LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DIVISION OF PLANNING AND PROGRAMMING
RESEARCH SECTION

2301 PEGER ROAD
FAIRBANKS, ALASKA 99701-6394
PHONE: (907) 479-2241

March 25, 1982

Re: Calcium Magnesium Acetate (CMA)
Substitute for Salt on Highway
Icing

Mr. Tom Johnson
Senate Resource Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Johnson:

Per your request, the following is some information regarding efforts to find a substitute for the common salt that has attained widespread use in this country for deicing highways. There has been considerable research on the problem of corrosion associated with common salt and Calcium Magnesium Acetate (CMA) has been shown to be an effective substitute.

Our own research has not been directed toward further investigation of the deicing and environmental qualities of CMA because that information already exists. Rather our effort has been to study methods of producing CMA from industrial grade acetic acid and Alaskan limestone so that an economically feasible process can be developed to produce CMA here in Alaska. Many people feel that some substitute will have to be found to avoid the current widespread damage to vehicles and other equipment.

Dr. Michael Economides of the Petroleum Engineering Department of the University of Alaska is working on our study. A summary report of his work should be available in three months.

I have enclosed a page further describing the use of CMA for highway icing. I hope this information is of use to you. I will see that you get a copy of our report when it becomes available.

Sincerely,
Heinrich Springer
Director

Larry Sweet
Research Manager

LS/emc

Attachment as stated.

cc: John Bates, Deputy Commissioner

Road deicing chemical called superior to salt

Iowa Department of Transportation researchers have developed a deicing material that is less corrosive than salt, effective at a lower temperature and is not harmful to the environment. If it proves out in tests this winter, the agency expects to patent the compound and convince a manufacturer in the state to produce it in large quantities.

The material, consisting of sand coated with calcium magnesium acetate, was developed last month by DOT's chief chemist, Wallace Rippie. So far the compound has been tremendously expensive to produce—$500 a ton compared with $30 a ton for salt, according to Charles Huisman, a DOT highway engineer who is heading the research. "But we are doing it now with a beaker and a mixer in a laboratory," he says. Huisman expects that commercial production will bring the cost down considerably.

The mixture does not corrode steel in pavements and structures. Huisman says that its use could double the life of bridge decks. In addition, it does not harm plants or pollute water, he says, and in fact is beneficial to soil. Also, indications are that the compound can be formulated to work at temperatures below 20° F, the lowest limit of salt's effectiveness.

One drawback is that it can cause concrete to spall slightly, says Huisman. "But we don't think it would be so detrimental as to preclude its use." □

From: Engineering News Record Jan 28 1982

40 315057

ALTERNATE HIGHWAY DEICING CHEMICALS. EXECUTIVE SUMMARY

A search has been made for road deicing chemicals to replace sodium chloride (NaCl). The impetus for this search stems from the numerous drawbacks associated with the prevalent use of NaCl as a road deicer. All types of chemical compounds were reviewed. Selections were made on the basis of criteria such as water solubility and freezing point lowering, corrosion, toxicity, relative cost or cost potential, effect on soils and plants and water supplies, flammability, concrete compatibility, traction, friction, highway performance, etc. Information was sought first in the literature, then supplemented or verified in the laboratory as needed. Two candidate deicers were found to be as effective as sodium chloride. One, methanol, reacts almost immediately upon contact with snow and ice but is less persistent than NaCl. The other candidate, calcium magnesium acetate (CMA), acts at about the same rate as NaCl in the temperature range of common activity and shows about the same persistence. It gives rise to about the same decreases in coefficients of braking traction and skidding friction as NaCl. In strong contrast to NaCl, CMA is a corrosion inhibitor, is beneficial to most soils and has no potential for harming drinking supplies. The unpurified CMA derived from solid wastes, primarily cellulose, gives improved traction and reduces production costs. The methodology for CMA production, cost evaluated above, is unsophisticated 19th Century technology. Application of modern technology may further lower production costs. (FHWA)

Dunn, SA Dunn, A Schenk, RU

Bjorksten Research Laboratories, Incorporated. Federal Highway Administration Final Rpt. FHWA-RD-79-109, Mar. 1980. 17 p.

Contract DOT-FH-11-9100

ORDER FROM: NTIS

(907) 465-3900

June 4, 1982

Re: Ice Control Methods
and Materials

Honorable Bill Ray
Alaska State Senate
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

In reply to your April 5 inquiry, attached is a copy of my reply to Mr. R. A. Bundy regarding ice control methods and materials used in the Juneau area.

For your information, I have also attached copies of some recent articles regarding an alternative (Calcium Magnesium Acetate (CMA) for salt. Our own DOT&PF Research Section advises that their efforts are being directed to studying methods of producing CMA from industrial grade acetic acid and Alaska limestone so that an economically feasible process can be developed to produce CMA in Alaska. The Cantwell area is reported to have a large quantity of the raw materials for CMA. The University of Alaska is working on our study and a summary report of the work should be available in about three months.

Sincerely,

Robert W. Ward
Commissioner

Attachments
bcc: Patrick P. Ryan
John Bates
Larry Sweet

RWW:PPP:csb

Road deicing chemical called superior to salt

Iowa Department of Transportation researchers have developed a deicing material that is less corrosive than salt, effective at a lower temperature and is not harmful to the environment. If it proves out in tests this winter, the agency expects to patent the compound and convince a manufacturer in the state to produce it in large quantities.

The material, consisting of sand coated with calcium magnesium acetate, was developed last month by DOT's chief chemist, Wallace Rippie. [redacted] according to Charles Huisman, a DOT highway engineer who is heading the research. "But we are doing it now with a beaker and a mixer in a laboratory," he says. Huisman [redacted] Huisman says that its use could double the life of bridge decks. In addition, it does not harm plants or pollute water, he says, and in fact is beneficial to soil. Also, indications are [redacted]

One drawback is that it can cause concrete to spall slightly, says Huisman. "But we don't think it would be so detrimental as to preclude its use." □

From: Engineering News Record Jan 28 1982

40 315057

ALTERNATE HIGHWAY DEICING CHEMICALS. EXECUTIVE SUMMARY

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Dunn, SA Dunn, A Schenk, RU
Bjorksten Research Laboratories, Incorporated, Federal Highway Administration Final Rpt. FHWA-RD-79-109, Mar. 1980, 17 p.

Contract DOT-FH-11-9100

ORDER FROM. NTIS

FAIRBANKS, ALASKA, FRIDAY, OCTOBER 22, 1982 35¢ Per Copy 28 Pages

Snow great for skiing but it's war for these crews

By SCOTT YATES
Staff Writer

With nearly 400 miles of road to plow in the Fairbanks area, the State Department of Transportation and the city's Public Works Garage shuddered under the load of snow dumped here Monday and Tuesday.

In addition to the DOT's 12 pieces of snow removal equipment, four private graders were hired for anywhere from $50 to $80 an hour to help punch open the roads. The city, which hasn't hired outside help since the wiler of 1970-71, was on the verge of employing private help itself when the snow stopped.

This week's heavy, wet snow presented special difficulties in a city accustomed to dry, light flakes that blow away in the backwash of passing vehicles.

"The wet snow we had the other day is the absolute worst," said John Horn, regional director of the DOT's Maintenance and Operations. He said it's heavier to push and it does not cast as well. When it does move, it's more likely to damage objects such as mailboxes along the road.

Speed is of the essence after a wet snowfall. Unless it is plowed early, Horn said, traffic can beat the snow down into an almost impenetrable snowpack.

Which roads get attention first are decided by DOT highway superintendents. Mostly, Horn said, it has to do with which roads have the most traffic.

Airport Way heads the priority list for the DOT, partly because it's a major city thoroughfare and partly because it's right outside the department's door. Other roads within that first category include the Richardson Highway to Eielson, the Steese to Fox and the Parks Highway halfway to Nenana.

College Road, Cushman Street, Illinois, University Avenue, Geist Road, Farmers Loop, the Davis Road area and Chena Hot Springs Road are included within the second priority listing.

Horn is quick to point out that Birch Hill Road, where he has a house, is among the 54 roads with the lowest priorities. "I can tell you I receive no special treatment," he said.

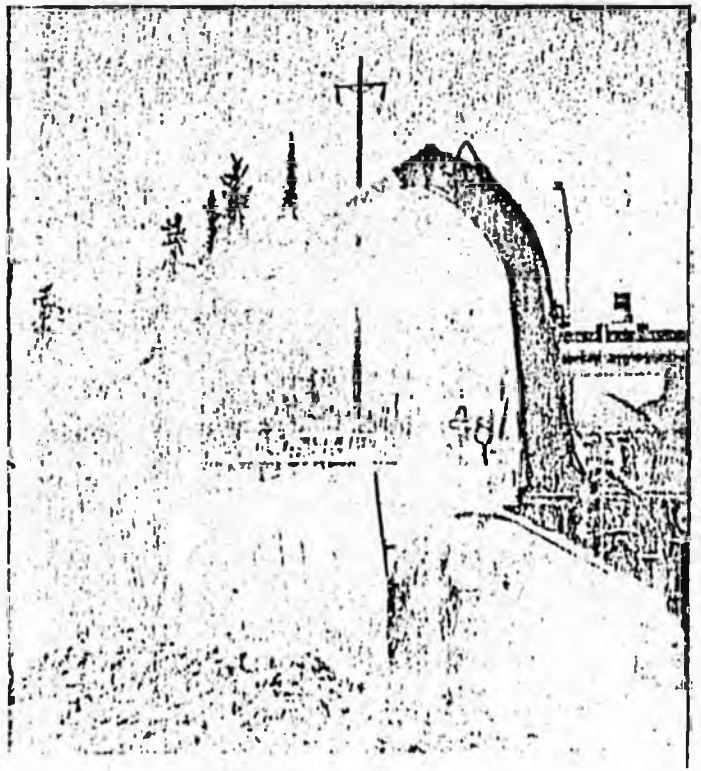
Bud Weber, assistant superintendent of the Public Works Garage, said after a snowfall, the first city roads to be plowed are the one-way streets downtown: Barnette, Lacey, Noble and Gaffney.

Upon completion, the graders are split into two teams, one on each side of the river. South Cushman, Cowles, Lathrop, 23rd and 17th avenues are among the secondary priorities for the city. The hospital entrance, the fire department stations and streets around local schools are all areas which are cleared early.

Some areas like Slaterville, Arctic Park or Island Homes are normally not plowed at all, Weber said. Plowing on the such narrow streets narrows them even more, Weber explained. "It's a question of putting up with a big windrow or fighting the snow on the street." Given the amount of snow that fell in the last storm, Weber decided on the latter.

Although the DOT has more miles to plow than the city (250 miles to 132 miles), Weber said the state agency has the advantage be-

(See SNOW, page 2)



FALL CLEANUP—A snowblower followed by a road scraper works on Trainor Gate Road Thursday afternoon, still cleaning up the snow dumped on the Fairbanks area earlier this week. Snowfall was as much as a foot in outlying hills. City and state road crews worked frantically to first open the roads, then to clear the snow. *(Staff photo by Joe Correia)*

SNOW . . .

(Continued from page 1)

cause of it has a night crew on duty. Weber is alerted to heavy snows by the police or other city employees who call him at home.

Monday morning he was awakened at 3 a.m. and went into the office to call out more crews.

Once the roads are punched open, "the first lick," Horn said, the real work begins. That includes smoothing off the snowpack and winging back the windrows.

Providing traction for vehicles on hills and at intersections usually begins after the snow has been plowed.

The state uses both salt and sand on the roads. Horn explained that salt is only effective at plus 23 degrees, so it is not used the majority of the winter.

He acknowleged the corrosive effects of salt, and said that DOT researchers are working on an alternative to the tender eating salt.

The city is also experimenting with non toxic chemicals which act as an anti freeze on the roadway. Those are only experiments, however, and Weber said the city mostly relies on spreading different sizes of gravel.

A checklist of icy spots are compiled each day for dispatching the city's two sanding trucks.

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Lynn Harnisch
Staff Engineer
Planning and Programming
Interior Region

DATE: October 14, 1982

FILE NO:

TELEPHONE NO: 479-4231

FROM: Robert R. Venusti
Director
Planning and Programming
Interior Region

SUBJECT: Dalton Highway Evaluation

The current version of the region's FY-84 through FY-89 Transportation Improvement Program contains a fairly substantial annual allocation of State funds for improvements to the Dalton Highway. To maintain as much flexibility as possible in where and how the funds can be expended, the scope of work for each allocation in the TIP is for rehabilitation and resurfacing, with specific project termini to be identified as the funds become available.

Due to the continued high level of community and legislative interest in the Dalton Highway, and in keeping with our goal of incorporating the planning of capital improvements for the highway into our ongoing regional planning process, we should begin to evaluate a number of different options for programming something besides annual "maintenance" type projects for the highway. Hopefully the results of this effort will be an eventual shifting away from the tendency to treat the Dalton Highway as a politically unique entity, and an increased capability on our part to identify the need for and program specific catagories of projects (i.e. reconstruction, rehabilitation, surfacing, etc.) along the length of the facility.

I suggest the following as a starting point for options to be considered:

a) Rehabilitate the existing road to its original design standards - gravel surface.

b) Upgrade the road to current AASHTO standards - gravel surface.

c) Either a) or b), with:

   1) Crushed aggregate gravel surface
   2) Paved surface.

d) Either a) or b) with:

   1) Asphalt surface treatment
   2) Calcium chloride surface treatment.

All of the above options (or appropriate combinations thereof) should be compared on the basis of life-cycle costs. They should also be evaluated in the context of recommendations and information coming out of the

Western Arctic Alaska Transportation Study and the Interior Transportation Study, as well as whatever information is available pertinent to the proposed construction of the Northwest Alaska Gas Pipeline project. Updated traffic forecasts for the highway should consider expanded North Slope oil development, mineral and other resource development in or adjacent to the highway corridor, and increased tourist traffic.

Once we have attached cost figures to option a) through d) we should be in a position to make some basic policy decisions regarding investment strategies for capital improvements on the Dalton Highway. For purposes of this analysis we should include the unpaved portion of the Elliott Highway between Wickersham Dome and Livengood.

Please prepare a draft outline for this effort, including a proposed time schedule and budget, for my review by November 15. I would like to have the cost estimates for all options to be evaluated available by mid-February of 1983. The overall evaluations should be completed in time to be incorporated into the FY-85 CIP development (June of 1983). If you have any questions, please contact myself or Larry Soden.

RRV:LLS/bdc

cc: Steve Sisk
John Horn
John Martin
Jon Widdis

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

MAINTENANCE AND OPERATIONS, INTERIOR REGION

2301 PEGER ROAD
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1911

March 25, 1983

Ms. Denise Zachery
c/o Representative Mike Miller
House Democrats Office
Pouch V
Juneau, AK 99811

Dear Ms. Zachery:

Enclosed for your information is a draft copy of the interim report on the second phase of this Department's study into the possible production of Calcium Magnesium Acetate (CMA) for use as a deicing agent on Alaskan roads.

We feel that it is an appropriate time to perform a demonstration project to test both the economics of commercial production of this chemical and its effectiveness in comparison with the salts commonly used to deice roads. The results of the research conducted to date by the Petroleum Engineering Department of the University of Alaska and our own lab tests have been encouraging.

Potential suppliers of both acetic acid and limestone, the two ingredients necessary to make CMA, have contacted the Department to indicate their interest in participating in a CMA demonstration.

A demonstration could be performed by the private sector in cooperation with DOT/PF personnel.

Sincerely,

John D. Horn
Acting Deputy Commissioner
Interior Region

cc: Daniel A. Casey, Commissioner

attachment

A PROCESS DESIGN, BENCH SCALE PILOT PLANT AND WIDE FIELD APPLICATIONS OF CALCIUM ACETATE

AN INTERIM REPORT

by

Michael J. Economides
Russell D. Ostermann
Bertrand Theuveny
Andrew H. Thomas

Department of Petroleum Engineering
University of Alaska
Fairbanks, Alaska 99701

MARCH, 1983

Prepared for:

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DIVISION OF PLANNING AND PROGRAMMING
RESEARCH SECTION
2301 Peger Road
Fairbanks, Alaska 99701

The contents of this report reflect the views of the authors who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the Alaska Department of Transportation and Public Facilities. This report does not constitue a standard, specification or regulation.

INTRODUCTION

This project is a continuation of the previously funded "Preliminary Design and Feasibility Study for a Calcium-Magnesium Acetate Unit" (Reference Project F15631-CMA).

Calcium-Magnesium Acetate (CMA) exhibits excellent de-icing characteristics, yet is non-corrosive, and not harmful to plants. In our previous work, a process concept was developed for the production of CMA from native Alaskan limestone and acetic acid, based on laboratory scale reaction experiments. The next logical step in the development process was the construction and operation of a small scale pilot plant to gather specific process data necessary for a full-scale process design. That is the subject of the current project.

In addition to our design work, we undertook to produce about 500 gallons of CMA solution from a batch process based on our limited laboratory studies. This interim report gives a brief summary of our progress.

The next step in the development process will be the design, construction and operation of a demonstration plant to serve the dual purpose of proving the viability of the process, and to provide enough CMA for field tests. It should be noted that nowhere is CMA manufactured in bulk and, therefore, is unavailable in the amounts necessary for wide-scale testing. A

proposal has been submitted to the State of Alaska through the Fairbanks North Star Borough. Approval is pending.

It has recently been suggested that CMA may be useful as a dust-control agent as well as a de-icing agent, however, this has not presently been verified. We have designed a set of experiments to test the utility of CMA in dust control, but expect that a road test will be required for positive determination. Funds are currently being sought for this research.

BACKGROUND

Road and runway de-icing are serious problems in the northern latitudes. The problem is most pronounced in the coastal regions of Alaska where freeze-thaw cycles occur several times during the winter. Sodium chloride (salt) and calcium chloride have been used for many years as de-icing agents, however, these materials are highly corrosive to automobiles, airplanes and roadway bridge structures.

Recently, several salt-damaged bridge structures were replaced in Fairbanks at a cost of over $600,000. The cost of

salt-related damage to bridges in the Anchorage and Juneau areas where salt is used more frequently are correspondingly higher.

Furthermore, road salts are injurious to most forms of plant life. In the spring, a drive along heavily salted roadways in Anchorage reveals a virtual moonscape with dead or stunted plants. The success of ongoing roadway beautification projects in Anchorage and Fairbanks will be questionable with the continued use of road salts.

In a report entitled "Alternate Highway De-Icing Chemicals" published by the Bjorksten Research Laboratories, a mixture of calcium and magnesium acetate (CMA) was identified as an effective, non-corrosive, de-icing compound. In the solid form, CMA is a white powder resembling powdered sugar. It can be applied as a solid or in a saturated solution. The effective temperature range is about the same as common road salt. In contrast to salts, however, CMA is non-corrosive, not harmful to plant life, and has no potential to harm drinking water supplies.

In previous work at the University of Alaska, funded by the State Department of Transportation (DOT), we have demonstrated that CMA can be produced from limestone, water, and acetic acid. The preliminary report of our reaction studies has been presented in a previous report to the State DOT. This funding is of significance, since limestone is readily available in Alaska. Acetic acid must currently be "imported" from the "lower

48", but could be produced locally from refinery by-products if a market were available.

In simple terms, CMA is the reaction product of the dissolution of limestone in acetic acid and water.

$$CaCO_3 + 2CH_3COOH \rightarrow Ca(CH_2COOH)_2 + H_2O + CO_2$$

The dissolution process is slightly exothermic (gives off heat) and produces considerable amounts of CO_2. The resulting solution remains acedic, and must be neutralized with sodium or calcium hydroxide.

Limestone is composed of calcium and magnesium carbonates in varying amounts. Pure magnesium acetate, which could be produced from pure magnesium carbonate, is superior to calcium acetate. Dolomites contain relatively larger amounts of magnesium carbonte and can approach 50% in composition. Unfortunately, the benefits of a 50-50 mixture over pure calcium acetate are not very significant. Therefore, it is most appropriate to use readily available limestone regardless of the magnesium carbonate content.

PILOT PLANT STUDIES

Unfortunately, we have met with several delays in the construction and operation of our pilot plant unit. The reaction assembly is in place, but the necessary fume vents have not yet been installed. This delay is due to local construction backlogs and was beyond our control. However, it would appear that the fume hoods will be installed shortly and we can begin operation.

BATCH STUDIES

Due to the lack of availability of the pilot plant, we concentrated our efforts on the batch production of CMA for road tests. Numerous difficulties were encountered in the conduction of the reactions; many more than anticipated. However, after much experimentation, we have arrived at an acceptable process scheme. In this manner, the batch studies have fulfilled (at least qualitatively) part of the goal of the pilot plant studies.

BATCH PRODUCTION OF CMA

The procedure we settled on for CMA production is outlined below. It should be emphasized that this is by no means finalized; it is merely a procedure that works.

Our reactor for use in these experiments was a 55 gallon plastic drum equipped with a large agitator. In our initial studies, the agitator was replaced by a small circulating pump. This was found to be totally inadequate. A high degree of agitation is required to keep the carbonate particles suspended in the reacting liquid.

Foaming was another problem of critical severity. Unless the reaction was conducted at a moderately controlled rate, a very stable foam forms, necessitating removal.

MATERIALS:

20% (wt)	acetic acid (pure)
20%	limestone (crushed)
60%	water

PROCEDURE:

1. Mix the water and acid in the drum;
2. Introduce the limestone slowly to avoid foaming;
3. Stir for about 1 day;
4. Let stand (to settle) for several days;
5. Remove the liquid and place in a second drum;
6. Recycle the solid material settled from the drums;
7. Add NaOH solution (about 50-50% NaOH/water);
8. Continue to add NaOH solution until pH = 7 (It may be necessary to add water if a precipitate forms. This merely means that the solution is oversaturated with CMA);
9. CMA is ready to use..

DISCUSSION:

The neutralization reaction is difficult to control since NaAc forms a buffer solution. In practice, it may not be possible to obtain a pH of 7. A typical neutralization is plotted in Figure 1.

As can be seen in Figure 1, it was necessary to add water at points (1) and (2) to redissolve CMA which had precipitated out

of solution. With practice, the correct amount of water could initially be added to avoid this problem.

In general, it is undesirable to allow CMA to precipitate because it tends to form a gel-like solution which is difficult to stir and to redissolve. Selecting the right amount of water to add with the NaOH will depend on the limestone purity. Hence, it is possible to determine only an approximate range for application.

Figure 2 shows a plot of pH versus volume NaOH solution added. In this format, the added water correction does not appear and a more "normal" neutralization curve is obtained.

To further complicate neutralization, the reaction is not instantaneous. Figure 3 shows the response of pH with time following the additon of NaOH. About 5 minutes will elapse between the time of the NaOH addition and the final pH.

The reaction rate for this process can be monitored by measuring the CO_2 evolution. In general, the dissolution of 1 mole of $CaCO_3$ releases 1 mole of CO_2. Figure 4 shows a plot of reaction rate versus time measured in this manner. As is evident, the reaction rate declines rapidly, dropping over 3 orders of magnitude in the first several hours. Figure 5 shows a plot of cumulative CO_2 production versus time. It is evident that long reaction times on the order of several days are

required. This behavior is typical of batch reactions. The reaction time can be shortened by using continuous reaction equipment, which maintains concentrations in the first reaction range.

FIGURE 1

Neutralization of CMA Solution

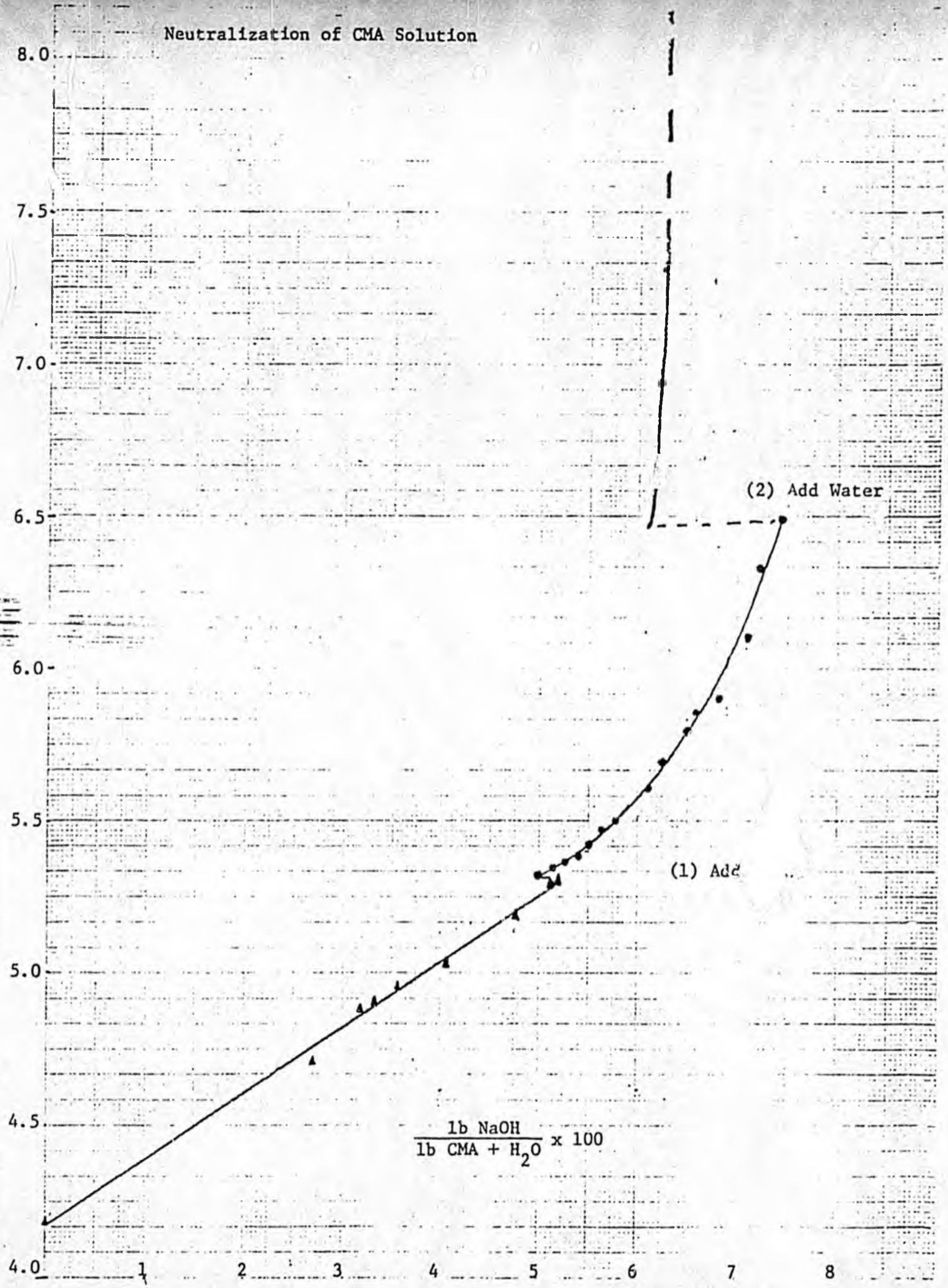


FIGURE 2

Titration of an Unknown Solution of CMA

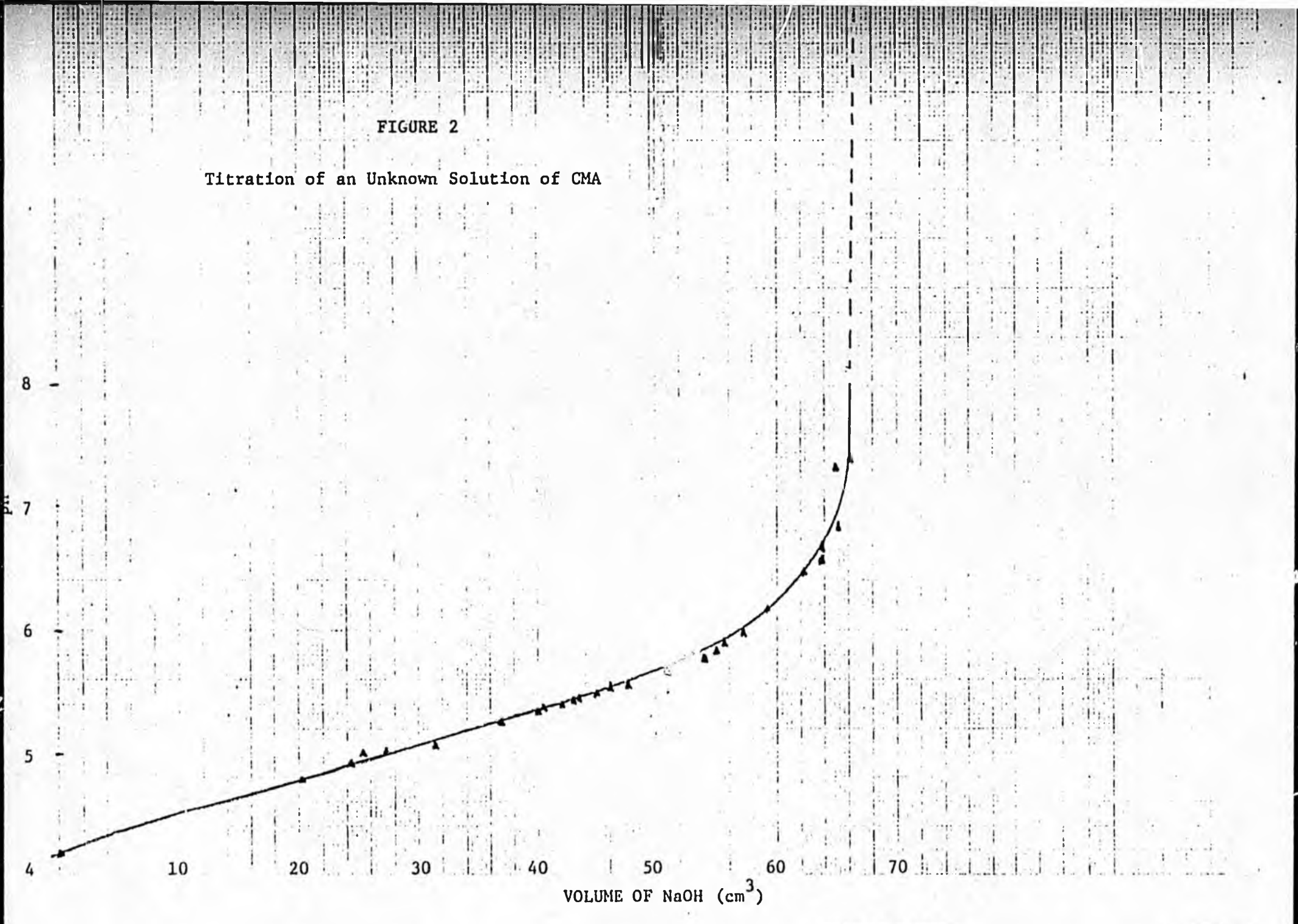


FIGURE 3

Evolution of pH versus time after adding some NaOH to the solution near equivalence point.

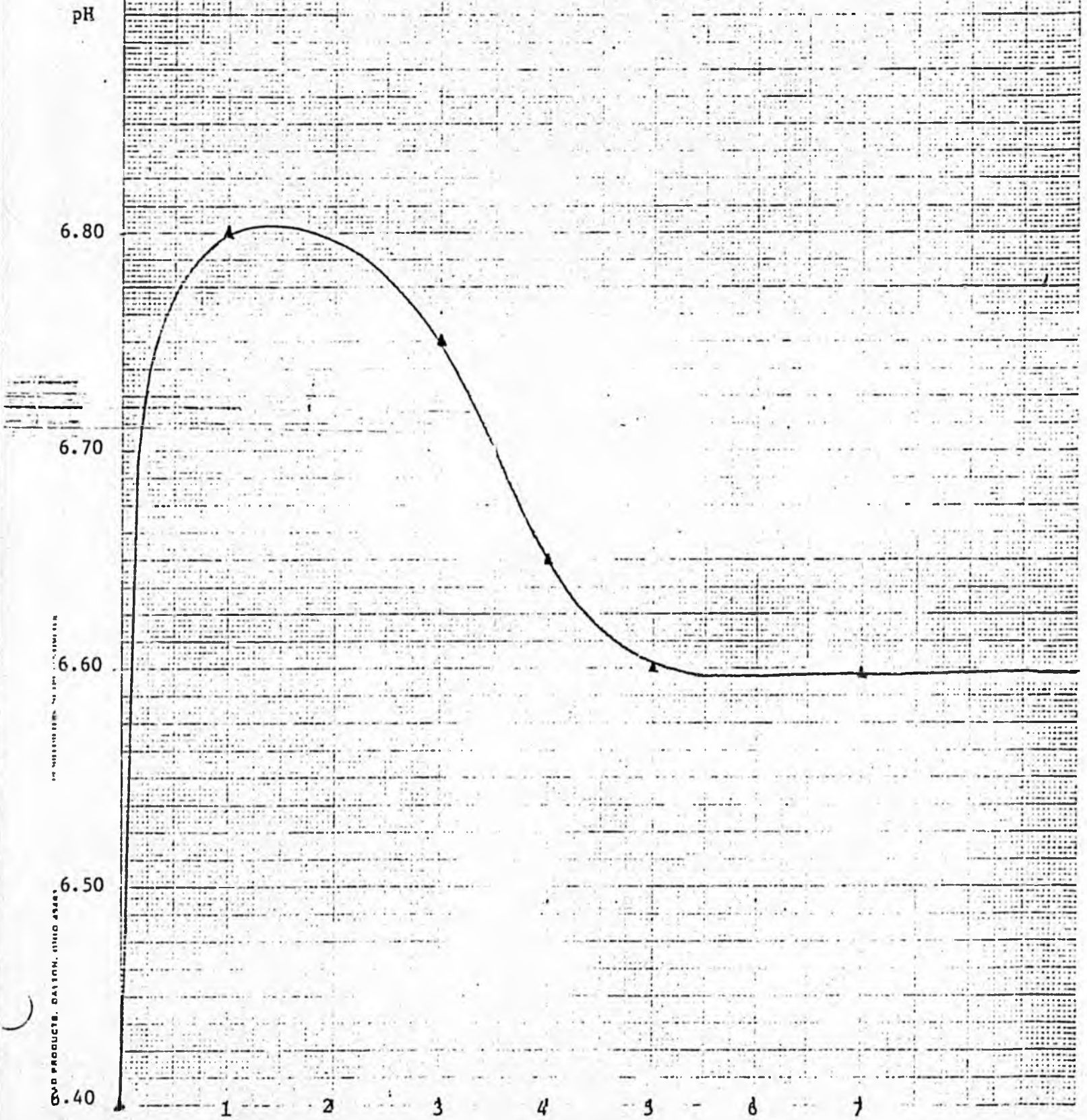
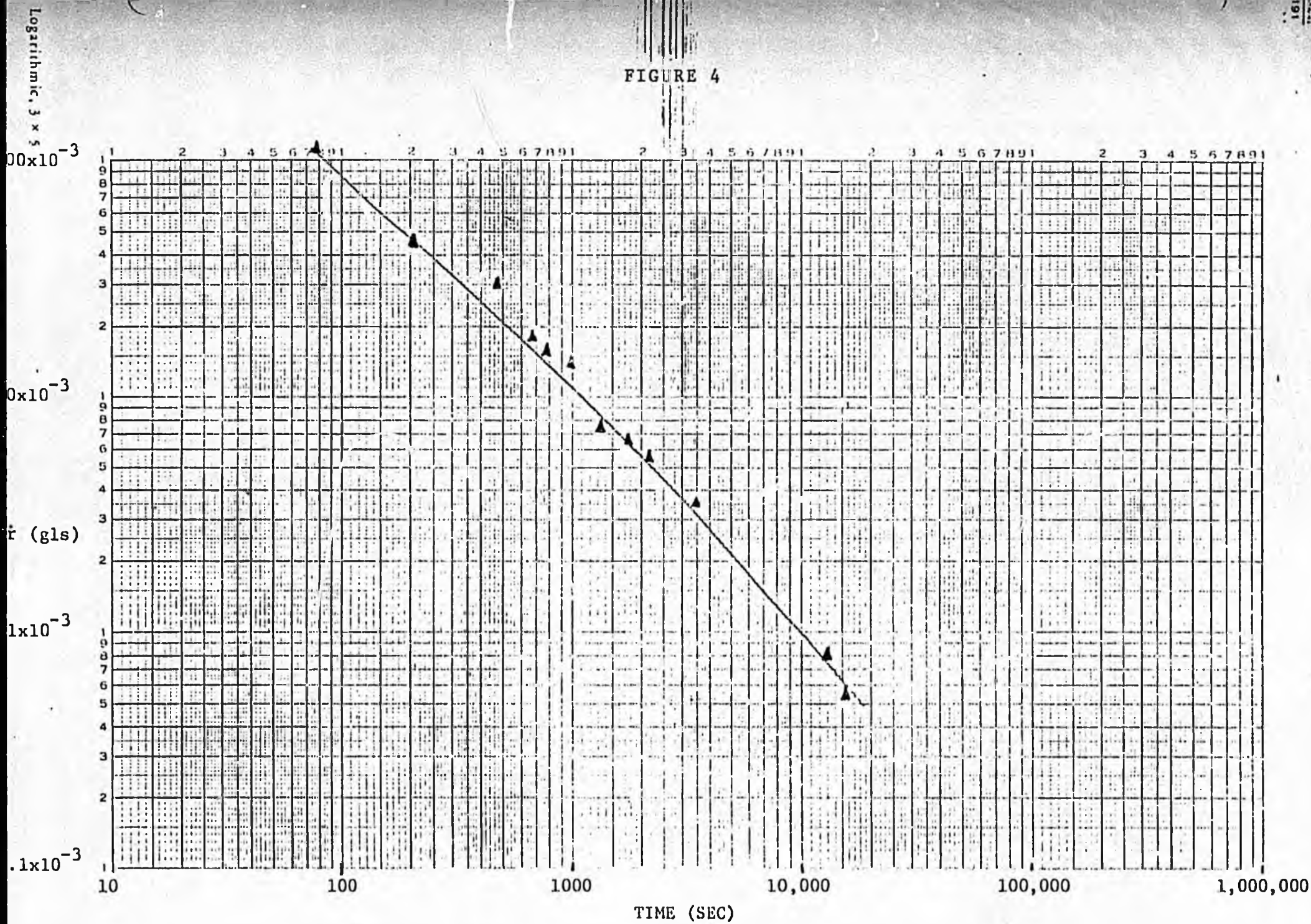


FIGURE 4



Production Rate of CMA (Limestone 14.5%, H_2O 58.6%, HAc 26.9%)

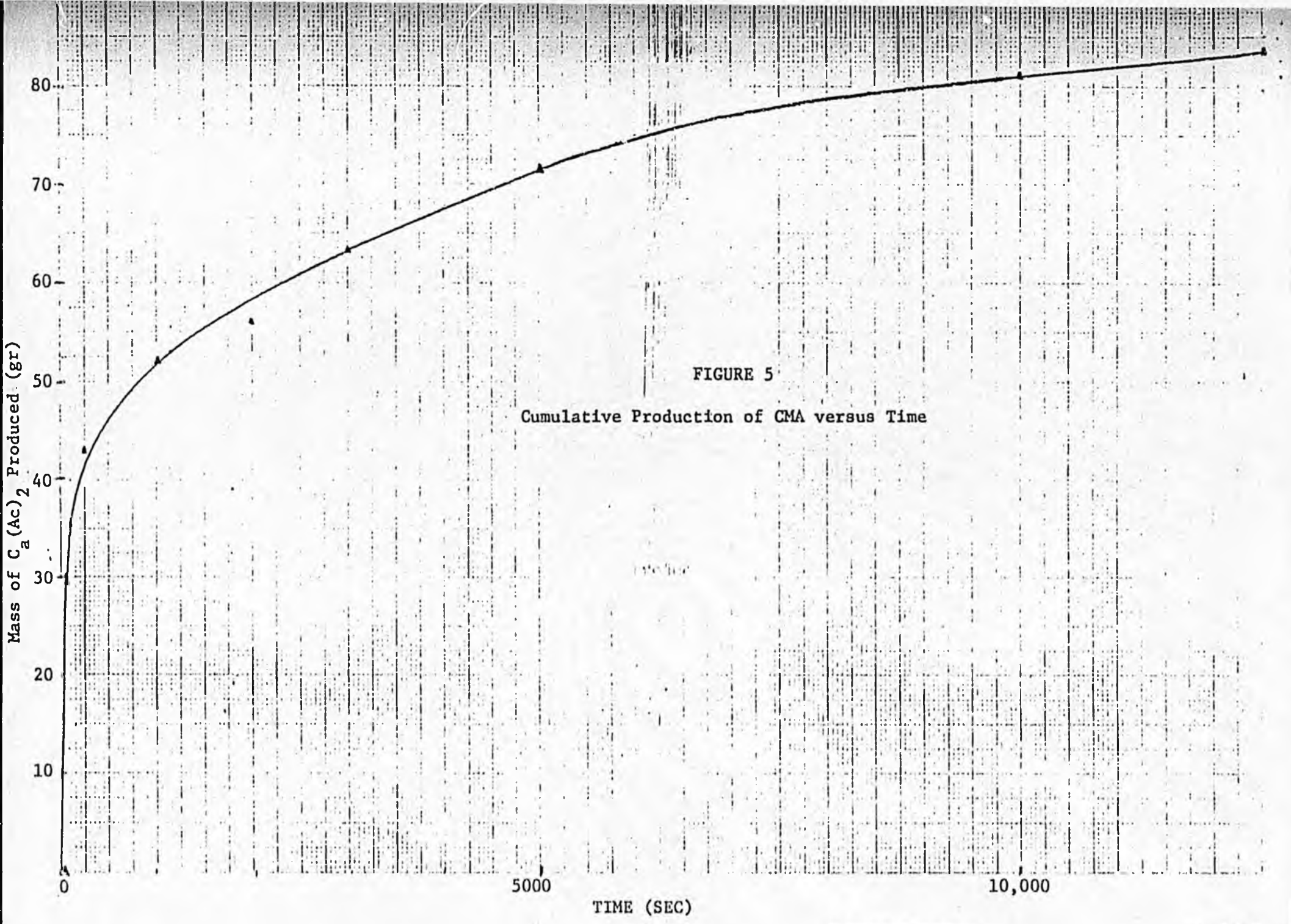


FIGURE 5

Cumulative Production of CMA versus Time

State of Alaska Department of Transportation and Public Facilities

Preliminary Design and Feasibility Study for a Calcium-Magnesium Acetate Unit

FINAL REPORT

by

M. J. Economides
Assistant Professor of Petroleum Engineering

and

R. D. Ostermann
Assistant Professor of Petroleum Engineering

Report No. AK-RD-83-16

PRELIMINARY DESIGN AND FEASIBILITY STUDY FOR A CALCIUM-MAGNESIUM ACETATE UNIT

FINAL REPORT

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and

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July, 1982

Prepared for:

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
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TABLE OF CONTENTS

	PAGE
LIST OF FIGURES & TABLES	iii
ABSTRACT	1
CONCLUSIONS	2
INTRODUCTION	3
REACTION EXPERIMENTS	4
PROCESS DESIGN & ECONOMICS	11
FREEZING AND EUTECTIC EXPERIMENTS	19
REFERENCES	25
APPENDIX 1 Sample Economics Calculation	26

LIST OF FIGURES AND TABLES

		PAGE
Figure 1	Reaction Behavior of Limestone and Acetic Acid: Percent Completion vs. Excess of Acid at Various Residence Times and Water Content	5
Figure 2	Reaction Performance for Limestone and 0% Excess Acetic Acid	7
Figure 3	Reaction Performance for Limestone and 20% Excess Acetic Acid	8
Figure 4	Reaction Performance for Limestone and 50% Excess Acetic Acid	9
Figure 5	Reaction Performance for Limestone and 100% Excess Acetic Acid	10
Figure 6	Block Diagram of Conceptual Process Design	12
Figure 7	Required Selling Price of CMA for Various Acetic Acid Prices	16
Figure 8	The Effect of Plant Size on the CMA Price. ($1.25/gallon acid)	17
Figure 9	Experimental Determination of the Freezing Temperature of NaCl Solutions	20
Figure 10	Eutectic Diagram of CaAc Solutions	21
Figure 11	Eutectic Diagram of MgAc Solutions	22
Figure 12	Eutectic Characteristics of Various Compositions of CMA Solutions	23
Table 1	Major Capital Equipment Costs	14
Table 2	Additional Plant Costs	14

FOREWORD

Fundamental regard for winter time driving safety has resulted in an extensive and continuing application of NaCl and $CaCl_2$ de-icing salts to the road surface. The de-icing benefit of these materials is however, negatively offset by secondary costs due to metal corrosion and pollution effects. Literature sources place the total cost of salt usage at approximately 10-15 times that of the salt product itself. The public's objection to secondary costs such as rusty automobile fenders often provides a pungent criticism of roadway salting practices. In addition, corrosion of bridge reinforcing steel is a problem of great magnitude to the highway engineer.

National research into alternative de-icing compounds has led to recognition of Calcium Magnesium Acetate (CMA) as the most viable substitute for NaCl and $CaCl_2$. CMA provides an ice melting capability similar to chloride salts while raising little or no corrosion potential for most steel or aluminum vehicle components. Furthermore, CMA has been shown to be a safe, non-toxic substance with respect to animal and plant life.

CMA is fairly easily produced by the action of acetic acid on calcium carbonate (limestone) as indicated below:

$$CaCO_3 + 2CH_3COOH \rightarrow Ca(CH_2COOH) + H_2O + CO_2$$

Details of critical reaction parameters and a chemical process design are presented within this report.

The extremely high cost of CMA has prevented its use in all but limited testing situations. CMA is commercially available only in laboratory reagent grade as either the pure calcium or pure magnesium acetate. These products are intended for laboratory usage and are priced at many dollars per pound. This study was initiated to investigate production methods and economics associated with making a low grade of CMA from raw materials readily available to a potential Alaskan producer.

This report evaluates the small scale production (14 - 72 tons per day dry

weight equivalent) of a "highway grade" CMA solution. Findings indicate that CMA becomes economical at production levels of more than 17 tons per day. It was calculated that the cost of CMA would range between $290 and $590 per ton depending on rate of manufacture and the base price of acetic acid. These figures compare very favorably with the current cost of $CaCl_2$ used by the Alaska DOTPF of almost $650 per ton (F.O.B. Fairbanks), especially in view of secondary damage attributable to the chloride salt.

An interesting point is emphasized by the authors regarding potential economic ramifications of Alaskan CMA. It is reasonable to expect that petroleum derived, low grade, low cost acetic acid can be made available within Alaska as a result of oil related industry. Under this circumstance, with acetic acid costs possibly below $1.00 per gallon, larger scale production of CMA could become a significant Alaskan enterprise. It is further conceivable that Alaska could eventually become a major producer and exporter of low grade CMA to a national or international market.

As project manager I would recommend a course of action leading to manufacture and use of CMA as a de-icing agent in Alaska. In view of the promising nature of this report's findings, work is continuing with construction of a small "bench scale" pilot plant, a refining of the process design and field trials of experimentally produced CMA. An important first-trial of CMA will involve treatment of a roadway sand stock pile to prevent freezing.

Robert McHattie, P. E.
Senior Research Engineer
Alaska Department of Transportation
and Public Facilities

ABSTRACT

The adverse environmental effects and corrosion problems associated with the use of chloride salts as de-icing agents have prompted a search for alternative de-icing compounds. Calcium and Magnesium Acetates (CMA) exhibit excellent de-icing characteristics yet are not corrosive or harmful to the environment.

A viable process design for the production of CMA has been developed based on the results of a series of kinetic reaction experiments conducted at the University of Alaska. Acetic acid and native Alaskan limestones were used as the raw materials. An economic evaluation of the process indicates a selling price of less than $600/ton of solid CMA, based on the production of a saturated, aqueous CMA solution in small scale facilities (10,000 - 50,000 gallons/day). At the upper range of production rates studied (50,000 GPD) and for an acetic acid cost of $1.25/gallon, the calculated CMA price was $290/ton of solid. This represents a minimum price and is attractive when compared with the cost of other de-icing compounds.

The results of this cooperative project between the Petroleum Engineering Department at the University of Alaska, Fairbanks and the State D.O.T. are highly encouraging. With the use of native Alaskan limestone and acetic acid, the process economics point toward a high quality, competitively priced product. The environmental advantages of CMA over chloride salts and reduced secondary costs due to lower corrosion rates for vehicles and bridges indicate that CMA may become the premier de-icing agent.

INTRODUCTION

Road and airport runway de-icing are serious problems in the northern latitudes. Sodium and calcium chlorides have been used successfully for many years as de-icing agents. However, adverse environmental effects and corrosion problems associated with chloride salts have prompted a search for alternative, cost-effective, de-icing agents. (1,2,3,4)

A report entitled "Alternate Highway De-icing Chemicals" from the Bjorksten Research Laboratories, Inc. presented a review of the de-icing characteristics of various compounds. Two candidates were selected which proved economical, and more importantly, less corrosive than NaCℓ.

The first, methanol, was found to be "less persistent" due to its low flash point. The second, a mixture of calcium and magnesium acetate (CMA) was found to exhibit superior de-icing characteristics at a competative price. In contrast to NaCℓ, CMA is a corrosion inhibitor, is beneficial to most soils, and has no potential for harming drinking supplies. Hence, CMA does not exhibit many of the "extended costs" associated with the application of NaCℓ.

CMA can be produced by the simple dissolution of naturally occuring carbonates in acetic acid. These carbonates are readily available in the form of native limestones and dolomite. We have discovered that, for economic and technical reasons, the production of calcium acetate (CA) alone is prefered. This subject is dealt with in a later section of this report.

REACTION EXPERIMENTS

Calcium acetate is formed by the dissolution of calcium carbonate in an acetic acid solution. Water and carbon dioxide are byproducts. The stoichiometric equation is given below:

$$\underset{(100g.)}{CaCO_3} + \underset{(120g.)}{2CH_3COOH} \rightarrow \underset{(158g.)}{Ca(CH_2COOH)_2} + \underset{(18g.)}{H_2O} + \underset{(44g.)}{CO_2}$$

The reaction is slightly exothermic (ΔH_r^o = -4.6kcal/gmol.). The solubility limit of CaAc (calcium acetate) is 28% by weight. Hence, if a saturated solution of CaAc is desired, a simple material balance indicates a water requirement of 338 g. H_2O/100g $CaCO_3$.

A series of experiments was undertaken to define the process kinetics and ultimate degree of completion functions of the reaction temperature, reactant concentrations, and extent of particle size reduction for the calcium carbonate. Alaskan limestone delivered from a quarry near Livengood, Alaska, and laboratory acetic acid were used as reactants.

The reaction behavior of limestone and acetic acid is reported in Figure 1. The reactions were conducted in a simple stirred tank reactor. At a given residence time, there was no discernible difference between the various water to limestone ratios, as long as enough water was present to provide an unsaturated solution of calcium acetate at the conclusion of the reaction. This minimum ratio of 4 to 1 on a mass basis proved inhibiting at high acetic acid excess. This result is to be expected since the reaction is based on the dissociation of acetic acid. An insufficient amount of water results in inadequate dissociation of acetic acid.

Since various water to limestone ratios above 5:1 (for brevity not all results are plotted on Figure 1.) did not exhibit any discernible difference in the reaction completion rate, the entire subsequent set of experiments was done at a 5:1 weight ratio of water to limestone.

A significant conclusion can be drawn from the above. The quality of the acetic acid does not have to be highly refined. Industrial grade acetic acid (95% purity) which is significantly less expensive than reagent grade, can be

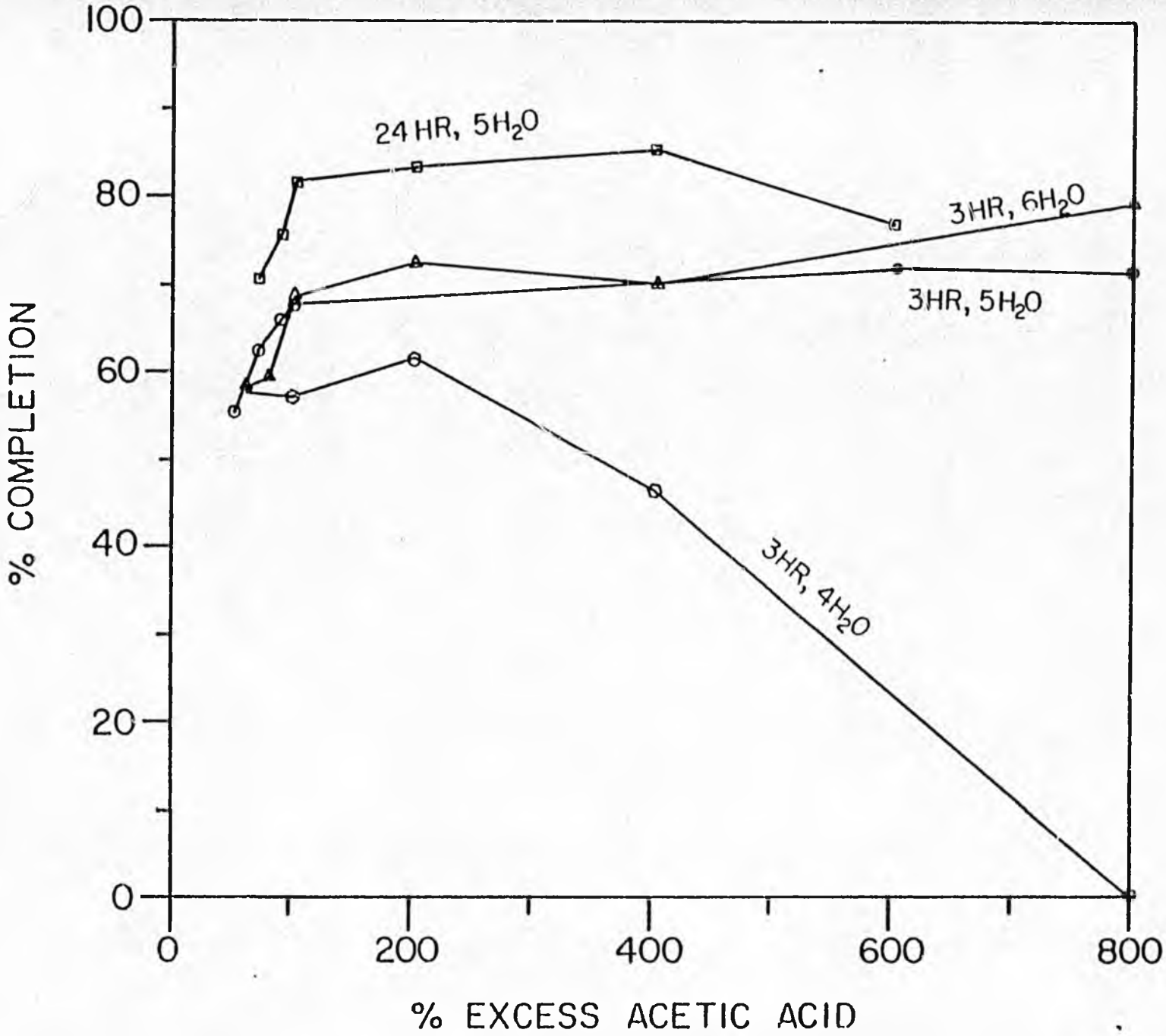


Figure 1. Reaction Behavior of Limestone and Acetic Acid: Percent Completion vs. Excess of Acid at Various Residence Times and Water Content.

used since it will have to be diluted to 50% in any event.

There is another major benefit out of the findings. Liquid phase oxidation (LPO) of waste cellulose (or methanol carbonylation) produce acid at about the optimal 50% concentration. Both methods of production could be implemented in Alaska. Especially attractive is the methanol carbonylation since several industrial concerns are contemplating methanol production in the state. The supply of carbonate for the acetate process seems assured. The state houses large deposits of limestone and dolomite.

Figures 2 through 5 present a comprehensive picture of the reaction results. The series of experiments were intended to gauge the effects of excess acid, reaction temperature and limestone particle sizes on the completion of the reaction. The results are for batch reactions with a three hour residence time.

The amount of excess acetic acid did not appear to affect the reaction completion significantly. Hence, acid consumption can be held at a manageable level.

Neutralization of acetic acid by NaOH can be considered. However, a further economic evaluation may point toward an associated acid recovery unit. An extraction step using an appropriate solvent, followed by a distillation step may be indicated.

The effect of the temperature is significant. An increase in the reaction temperature from room level of 20°C to 60°C results in an increase in the rate of completion of over 20%. A similar effect was observed in using more finely ground limestone. The "first" and "second" crushing that appear in Figures 2 through 5 refer to two consecutive outputs of a commercially available rock crusher. Both of the last two findings will have an effect on the economic optimization of the process. The beneficial effect on the completion rate must be balanced against the operating and energy costs. Finally, the residence time in the reactor appears significant. A 20% difference in the reaction completion was observed if a reaction time of 24 hours was used instead of 3 hours.

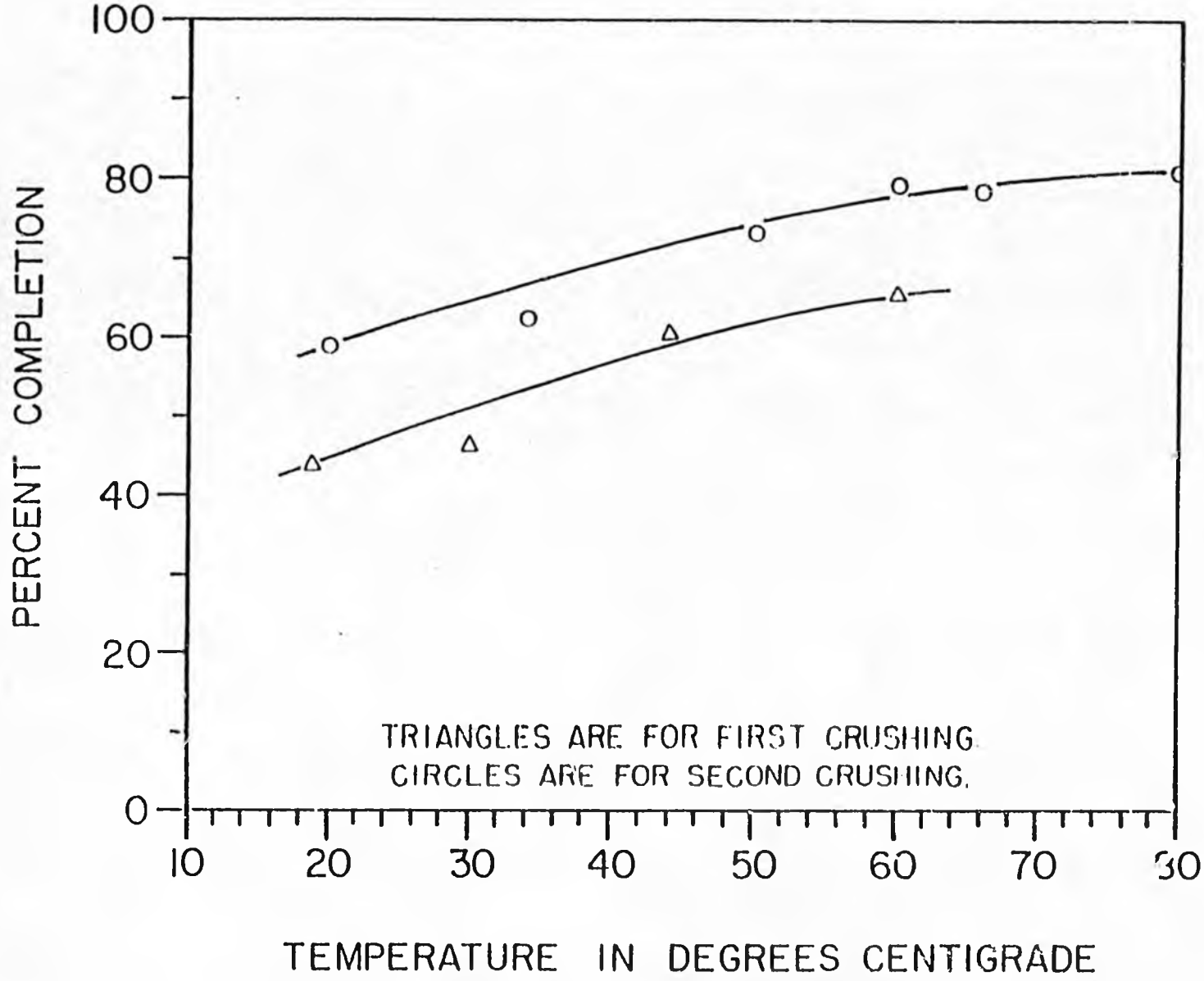


Figure 2. Reaction Performance for Limestone and 0% Excess Acetic Acid

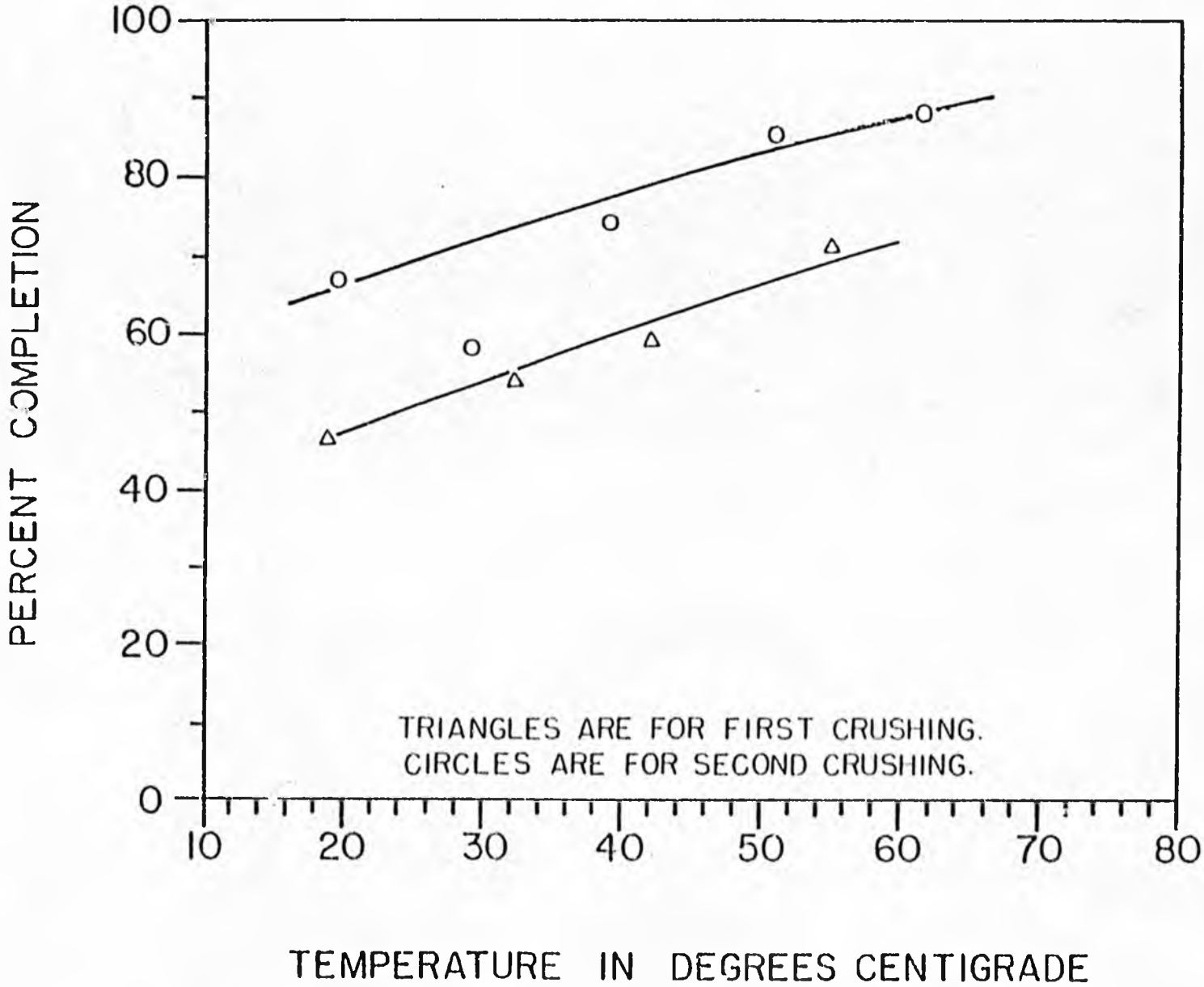


Figure 4. Reaction Performance for Limestone and 50% Excess Acetic Acid.

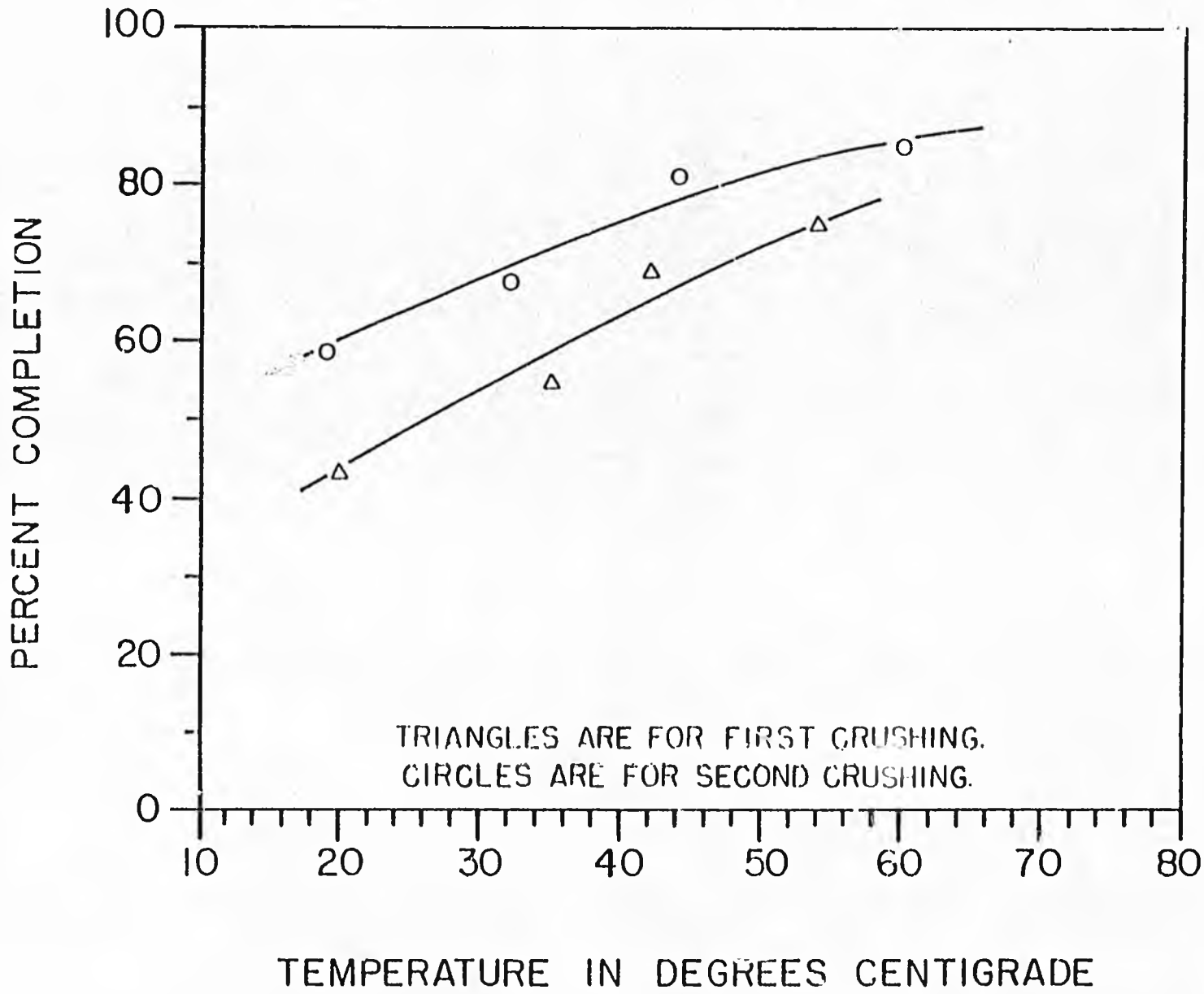


Figure 5. Reaction Performance for Limestone and 100% Excess Acetic Acid.

PROCESS DESIGN AND ECONOMICS

A rigorous economic analysis for a proposed process requires a detailed process design. However, an approximate analysis can be completed on the basis of a preliminary design. This is common practice in the industry.

For a simple reaction process such as that of production of CMA, capital costs do not contribute a very large proportion of the required selling price of the product. Rather, it is the operating cost and more specifically the raw materials costs which are controlling. At moderate capacities any errors or omissions in the plant capital cost estimation do not alter the selling price significantly. Thus, it is possible to obtain a reasonably reliable estimate of selling price with only a process design.

Figure 6 shows a block diagram of the preliminary process design envisioned for the CMA production. Raw limestone is first crushed in two stages to 1/8" to 1" diameter aggregate particles. The crushed limestone is then mixed with acetic acid and water in a continuous stirred tank reactor. The reactor is sized for a three hour mean residence time and is heated to 70°C by an external steam heating jacket. The reaction product, consisting of the mixture of unspent acetic acid and unreacted limestone and extraneous inert material is then passed through a filtration unit. In the filtration unit unreacted solids are removed and sent to a neutralizing settling pond where they are neutralized by addition of sodium hydroxide. The filtrate containing the product acetates is then sent to a neutralizer reactor where excess acetic acid is neutralized by the addition of sodium hydroxide. The resulting acetate solution is then checked for appropriate pH value and sent to liquid product storage tank. In an optional process addition, it would be possible to evaporate the liquid product to produce a solid calcium or magnesium acetate product.

The major process components are described below:

1. Crusher: Particle size was found to be a significant variable in the reaction efficiency. A two-stage crusher will be utilized to reduce the limestone to 1/8" to 1" diameter aggregate particles.

Crusher Price --- $14,000.00

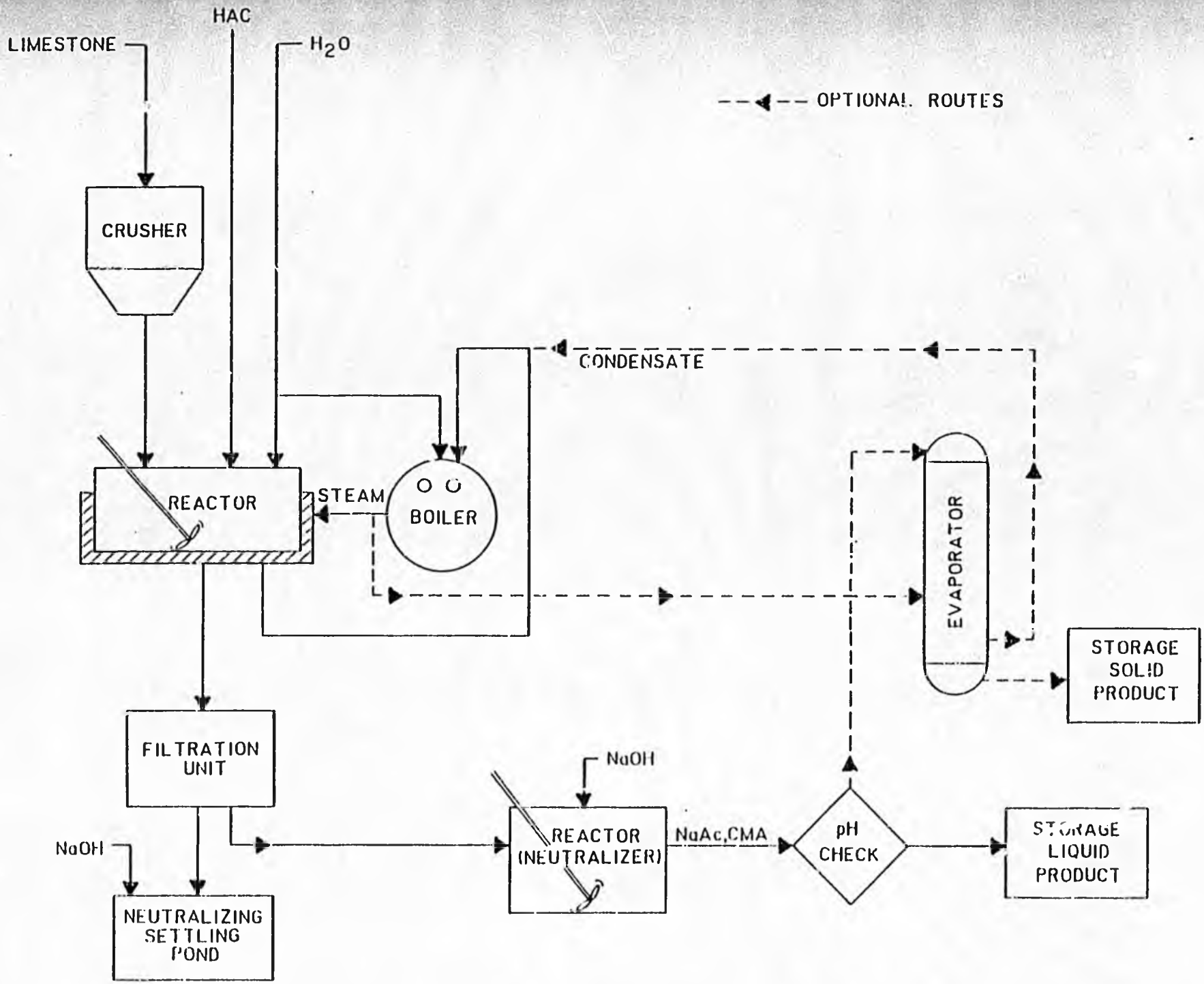


Figure 6. Block Diagram of Conceptual Process Design.

2. Reactors: Two 8,000 gallon reactors are required. The first reactor must be equipped with an external steam heating jacket. Since acetic acid is corrosive to mild carbon steel, the reactors must be constructed of 316 stainless steel.

Reactor Price --- $110,000.00

3. Boiler: A turnkey boiler package capable of producing 4,000 pounds per hour of 250 psig steam will be required for the reactor jacket heating and space heating. The packaged unit will include a boiler, feed water de-aereator, boiler feed pumps, chemical injection pumps, stack and shop assembly.

Boiler Cost --- $24,000.00

4. Vessel: A carbon steel storage tank capable of handling three days production (150,000 gallons) is included.

Vessel Cost --- $70,000.00

5. Filter Press: A 304 stainless steel horizontal-plate filter press is also included.

Filter Press Cost --- $28,000.00

6. Front End Loader: A front end loader with an 18 cu.ft. capacity is required.

Front End Loader Cost --- $27,000.00

A summary of the major capital equipment costs for the plant is listed in Table 1. In addition, a 10% contingency has been added on giving a total major capital cost of $300,000.00 for the CMA plant. It is common practice in capital cost estimating to use multipliers to estimate instrumentation, installation, piping, electrical, and indirect costs for the construction of chemical process plants. (5) Table 2 presents a summary of these additional costs for the CMA plant. This gives a total of $185,000.00 for the additional costs associated with

TABLE 1

MAJOR CAPITAL EQUIPMENT COSTS

CRUSHER	$ 14,000
REACTORS (2)	110,000
PACKAGED BOILER	24,000
STORAGE TANKS	70,000
FILTER PRESS	28,000
FRONT END LOADER	27,000
Subtotal	$273,000
10% Contingency	27,000
TOTAL MAJOR CAPITAL EQUIPMENT	$300,000

TABLE 2

ADDITIONAL PLANT COSTS

INSTRUMENTATION (6% of Major Capital Equipment (MCE))	$ 18,000
INSTALLATION (30% of MCE)	90,000
PIPING (7% of MCE)	21,000
ELECTRICAL (5% of MCE)	15,000
INDIRECT COSTS (15% of MCE)	45,000
Subtotal	$189,000
MCE	300,000
TOTAL CAPITAL INVESTMENT	$489,000
WORKING CAPITAL (10% of Capital Investment)	49,000
TOTAL INVESTMENT	$538,000

the CMA plant. When combined with the capital equipment estimate, this yields a capital cost estimate of $489,000.00. Working capital can be estimated roughly as 10% of the total investment. Inclusion of working capital results in a total plant cost of $538,000.00. This figure represents the total investment which must be recovered through the selling of the CMA product.

On the basis of the preceding design, we have completed an economic analysis of the proposed CMA plant. It should be emphasized that this analysis represents a best case senario, allowing for continuous operation, and minimal storage facilities. The required selling price of the CMA product can be calculated by the following equation:

$$P = \frac{CF - TD + A(1-T)}{G(1-T)}$$

where;

P = price of solution ($/gallon)

G = annual production rate (gallons)

D = annual depreciation (straight line method)

A = annual operating cost

T = tax rate (50%)

CF = cash flow using uniform series present worth value with ROR = 20% (rate of return)

This equation has been used to calculate the required selling price (dollars per gallon of solution) required as a function of the price of acetic acid and the production capacity of the plant. A detailed example of the derivation and use of this equation is presented in Appendix 1. Figure 7 shows the required selling price as a function of acetic acid cost for a 10,000 gallon per day plant and a 50,000 gallon per day plant. It is apparent that there is some economy of scale. However, the final plant size will most likely be dictated by market considerations. Finally, Figure 8 presents the selling price for CMA as a function of production rate alone given a fixed cost for acetic acid ($1.25/gallon). It is apparent that a minimum plant capacity of about 12,000 gallons per day is dictated by the economics. Little additional economy of scale is indicated above the production rate of 30,000 gallons per day. In Figures 7 and 8 the price of CMA has been reported in dollars per ton of solid in solution to allow comparison with current prices of sodium chloride and calcium chloride.

From an analysis of Figures 7 and 8 it is apparent that the cost of acetic

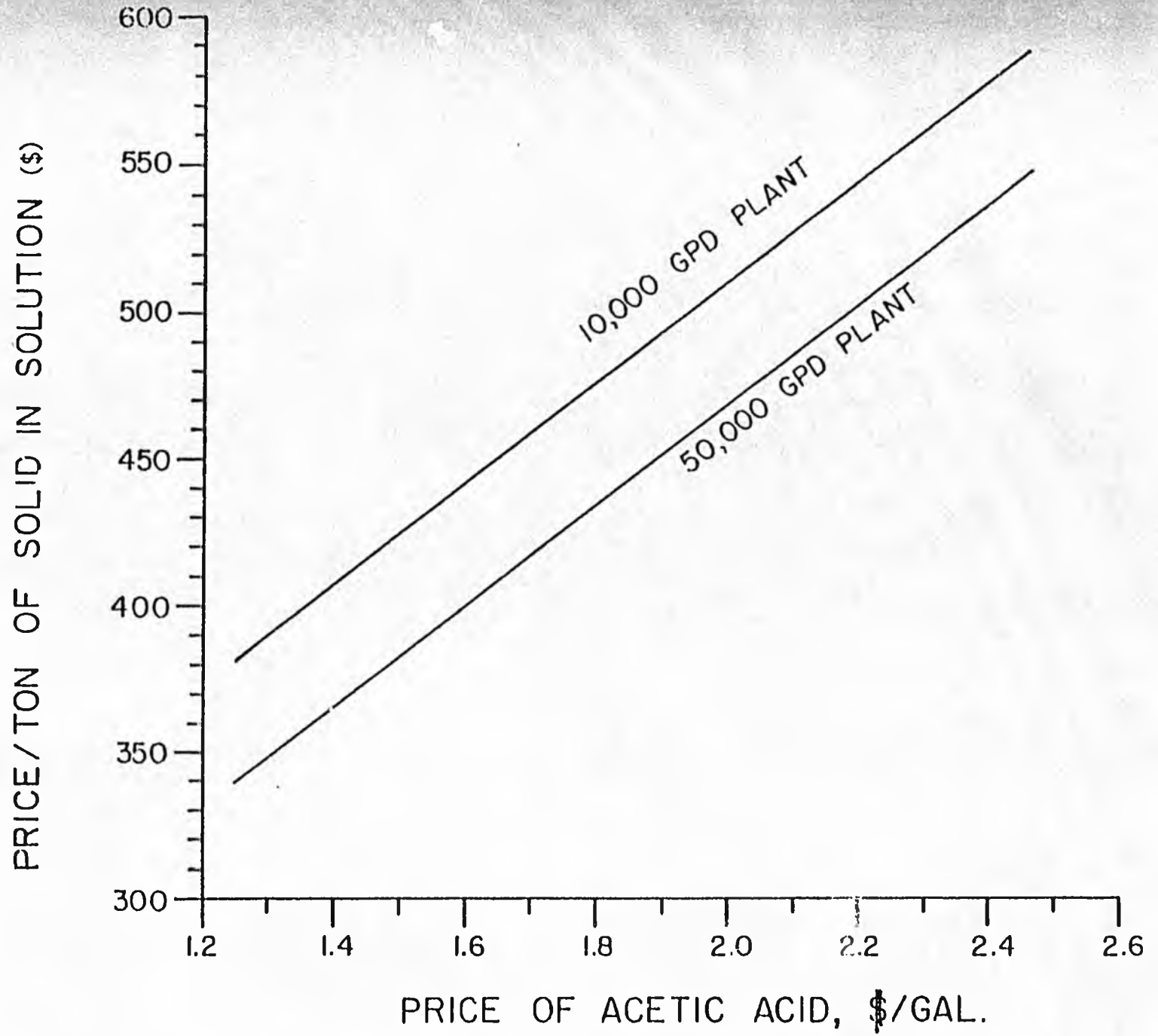


Figure 7. Required Selling Price of CMA for Various Acetic Acid Prices.

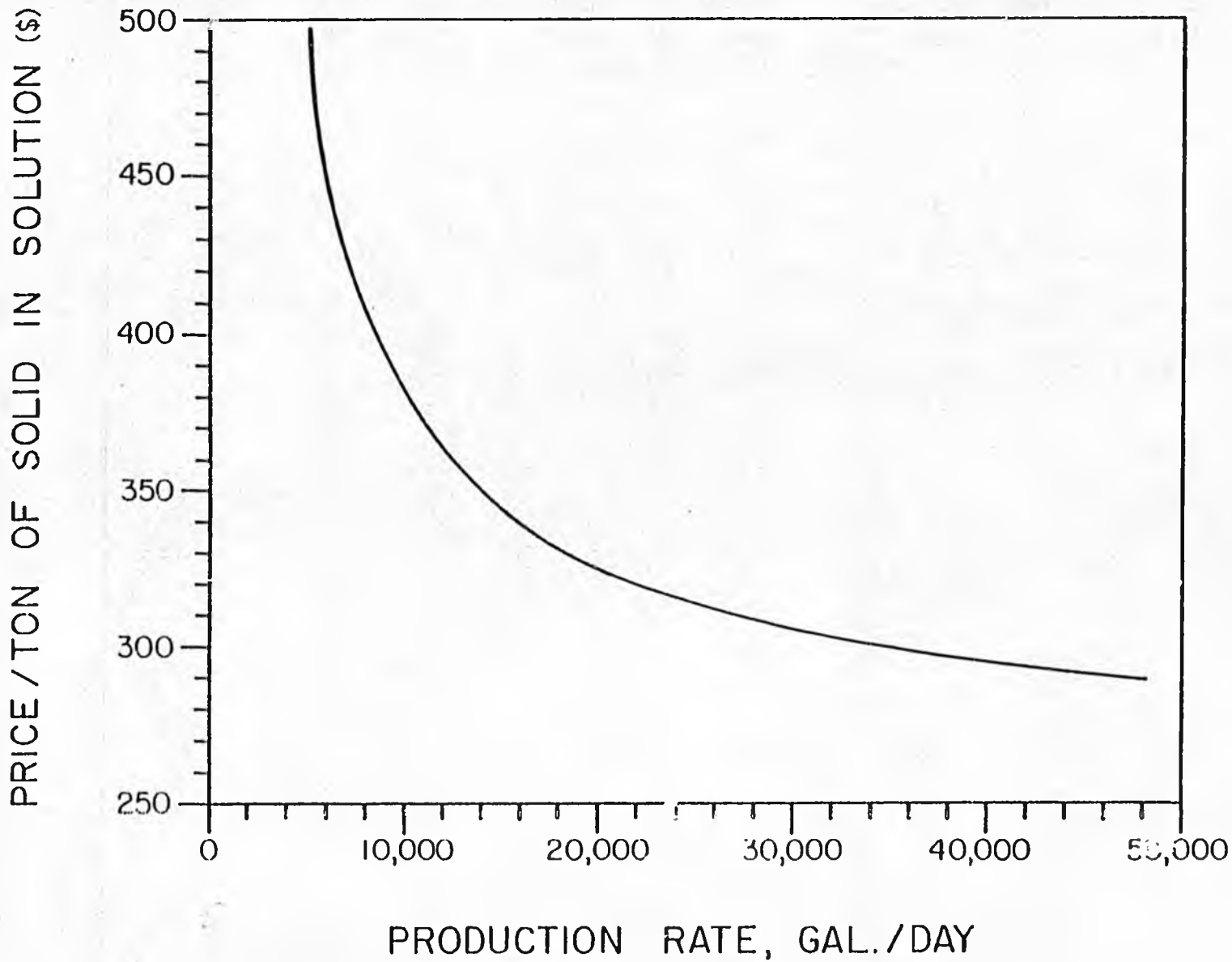


Figure 8. The Effect of Plant Size on the CMA Price. ($ 1.25/ gallon acid)

acid is the single most important factor in determining the selling price of the CMA product. If acetic acid must be shipped to Alaska from Texas, for example, at a cost of over $2.5 per gallon, the price of CMA will be in excess of $500 per ton of solid in solution. However, acetic acid is normally shipped and delivered in purities in excess of 90%. Since in our process acetic acid is diluted with water to roughly 50%, it does not make sense to pay an additional premium for high purity acetic acid. In fact, one of the major costs of producing acetic acid is in the purification stage taking the acid from 50% to purities in excess of 90%. Hence, if a local production facility for acetic acid were located in or near Alaska, it should be possible to purchase dilute acetic acid at a considerable savings, perhaps as low as $1 per gallon.

Even utilizing imported acetic acid, the price of $500 per ton of solid CMA may not be excessive. CMA is not corrosive as is calcium chloride and sodium chloride. Hence, there is an inherent cost advantage in using CMA as opposed to chloride salts. Therefore, while CMA may cost more in the initial stage of application, significant cost savings may be realized in the area of maintenance. In addition, since airports cannot use chloride salts, but rely on more expensive methanol or urea, CMA may have a particular advantage.

FREEZING AND EUTECTIC EXPERIMENTS

There were two objectives in this series of experiments: (1) Determination of eutectic diagrams for various solutions of salts; and (2) evaluation of the de-icing performance of the salts under varying atmospheric conditions.

The eutectic diagrams are the result of measurements gathered in the laboratory. A cold testing chamber was used to evaluate freezing properties over a wide spectrum of ambient temperatures (0°C to -75°C). A comprehensive laboratory study involved the use of different de-icing salts (CaAc, MgAc, NaCl and CMA) at different percentage solutions. The results seen in the accompanying figures represent the average readings gathered over three test runs. The ideal de-icing salt is obviously a concentrated solution (27% by wt.) of MgAc. At the lowest temperature tested (-75°C), the solution merely gelled.

Figure 9 contains the eutectic behavior of sodium chloride solutions. Our data agrees with published data. In the case of the acetates, a 28% solution of CaAc was the upper limit (saturation point) while a slightly lower concentration was the saturation limit for MgAc. Figures 10 and 11 contain the eutectic characteristics of CaAc and MgAc respectively. While CaAc did not prove more effective than NaCl, MgAc was decidedly more effective with a eutectic point depression of 75°C. Hence, a mixture of Calcium-Magnesium Acetate (CMA) with a high concentration of MgAc should be the most effective de-icer. A 25% solution of CMA with 70-80% MgAc would be sufficient for the most severe climatic conditions, as it is shown in Figure 12.

The findings of our freezing experiments, in addition to corroborating the de-icing performance of the acetate compounds, have also pointed out a major conclusion. Since the best dolomite deposits contain less than 50% magnesium carbonate, the limit of the CaAc/MgAc ratio is de facto determined.

A re-examination of the findings shown in Figure 12 lead to the observation that a 50% MgAc contribution in a CMA solution is not any more effective than a "pure" calcium acetate solution. For example, a 20% CMA solution containing 50% MgAc has a freezing point of -29°C (Figure 12) while a similar solution of CaAc has a freezing point of -26°C (Figure 10).

Dolomite with magnesium carbonate concentration of greater than 50% is not found in appreciable quantity in Alaska. Since the use of dolomite containing lower concentrations of magnesium carbonate results in a solution which is no more effective than calcium acetate derived from abundant limestones, and since

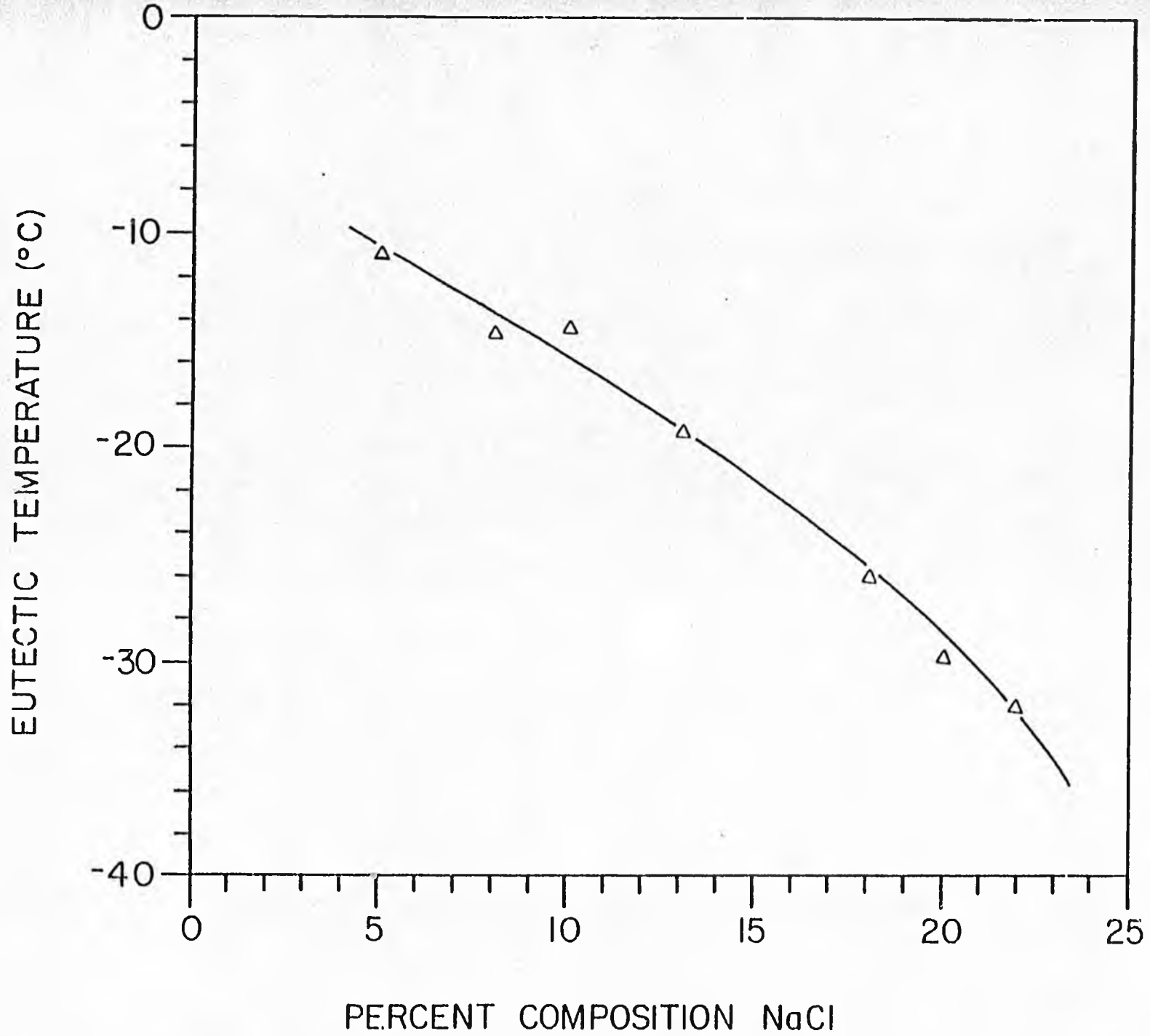


Figure 9. Experimental Determination of the Freezing Temperature of NaCl Solutions.

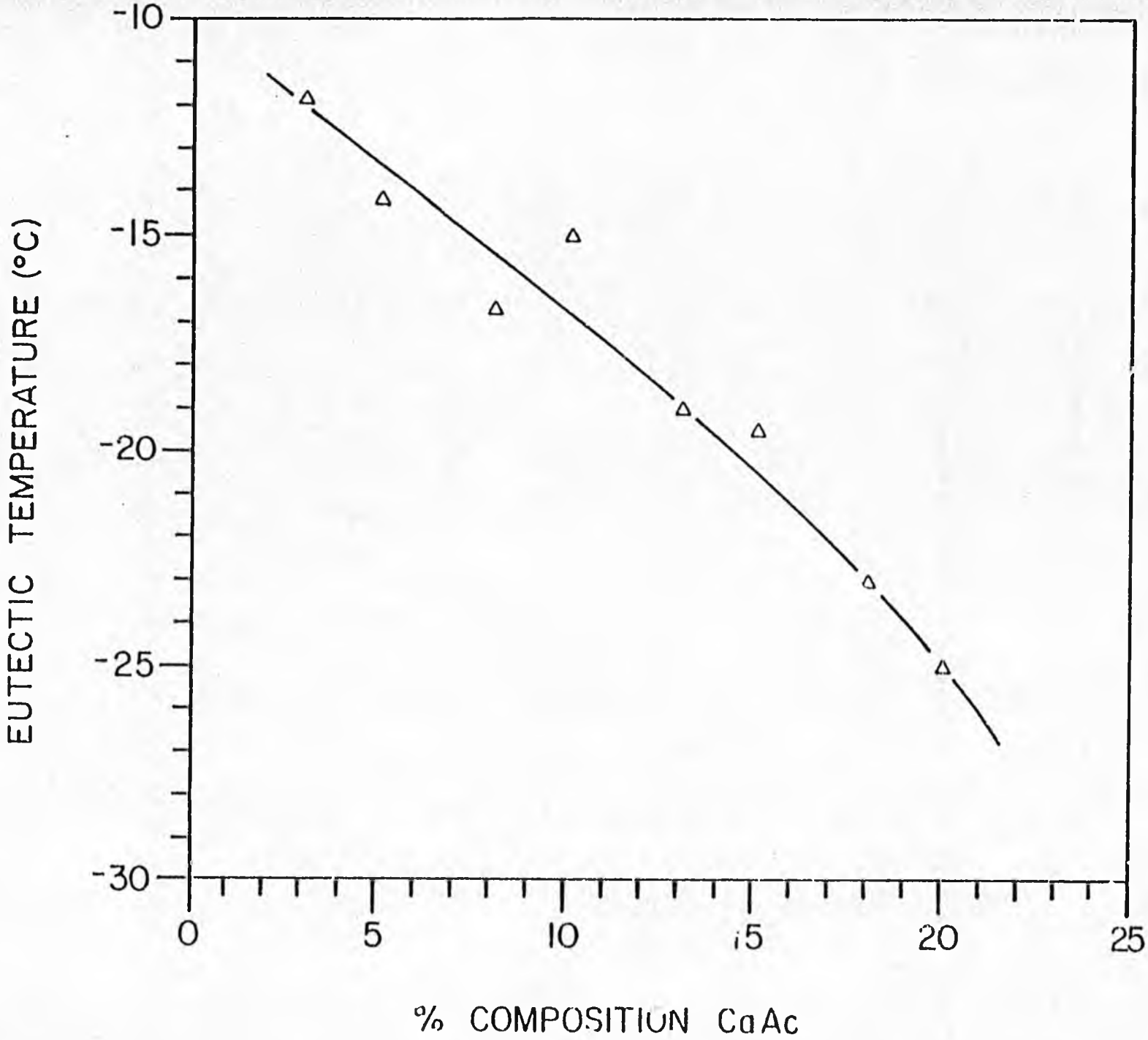
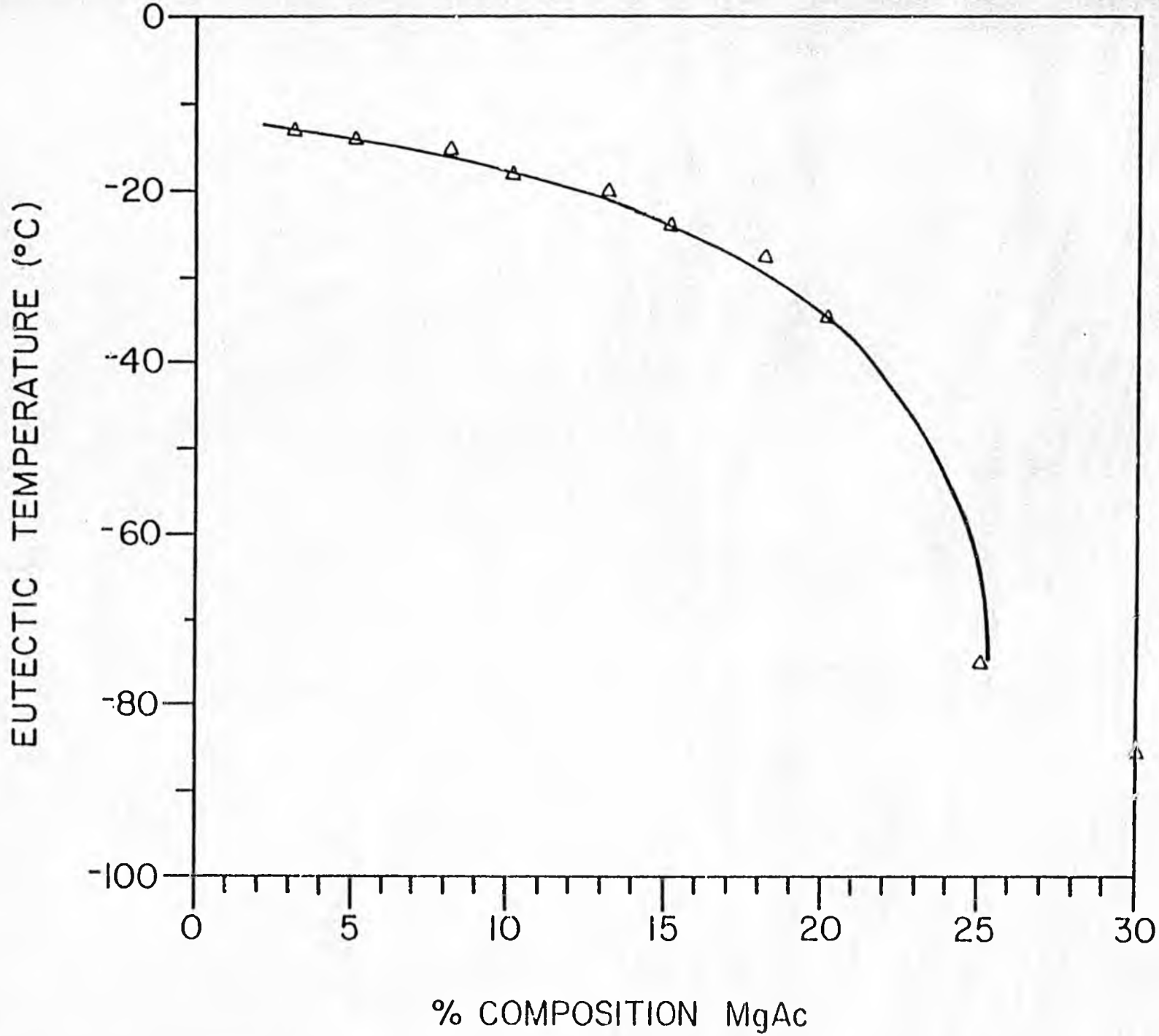
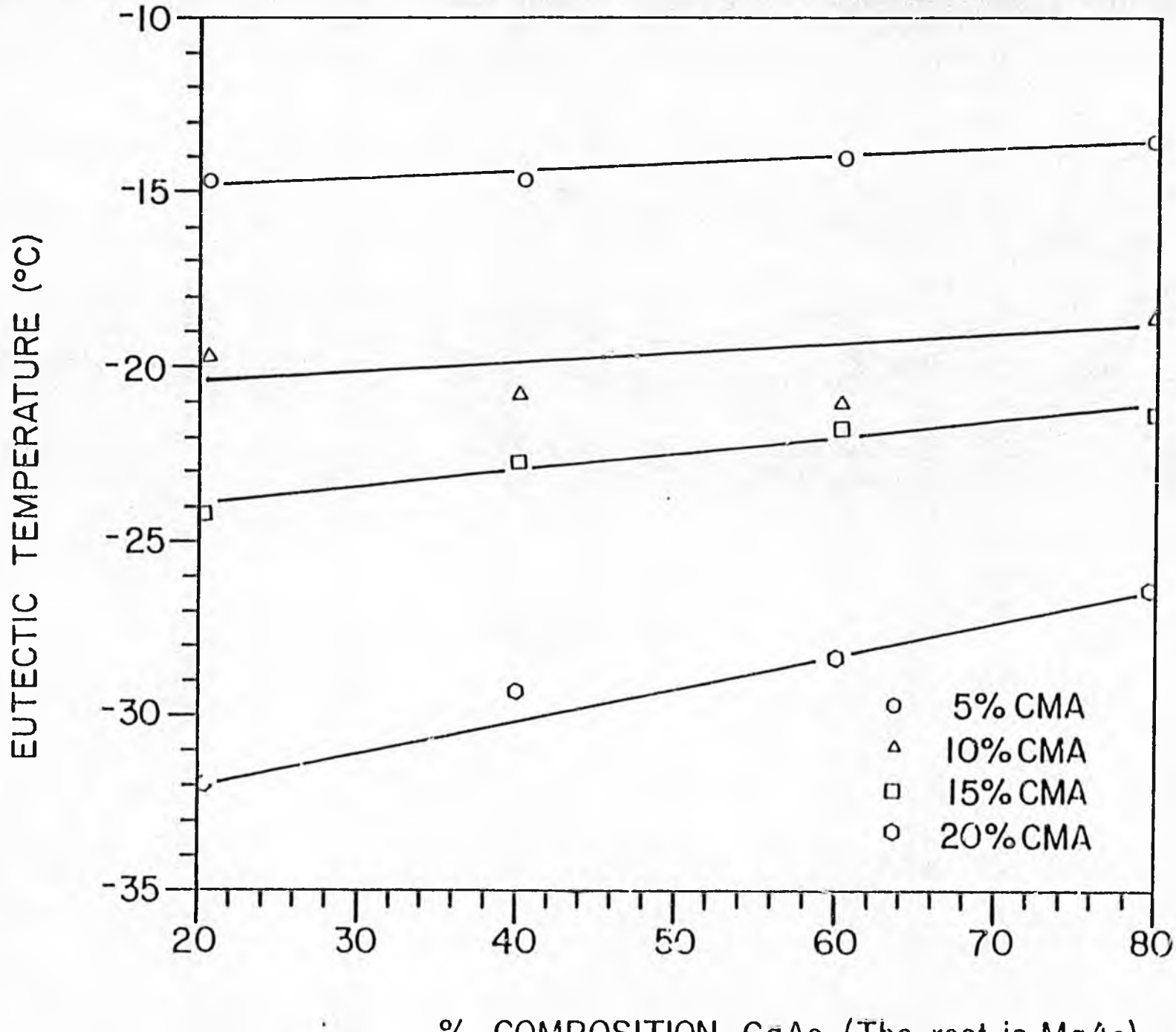


Figure 10. Eutectic [illegible] gram of CaAc Solutions.



(22)

Figure 11. Eutectic Diagram of MgAc Solutions



(23)

Figure 12. Eutectic Characteristics of Various Compositions of CMA Solutions.

dolomite is more expensive than limestone, it can be concluded that calcium acetate would be the most economic route for the process. To avoid confusion, we continue to use the nomenclature CMA throughout this report. However, it should be realized that we refer to a calcium acetate solution containing only small amounts of magnesium acetate.

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APPENDIX 1

SAMPLE ECONOMIC CALCULATION

The working equation is:

$$P = \frac{CF - TD + A\,(1-T)}{G(1-T)} \qquad (1)$$

where:

P = price of solution ($/gallon)

G = annual production rate (gallons)

D = annual depreciation (straight line method)

A = annual operating cost

T = tax rate (50%)

CF = cash flow using uniform series present worth value with ROR = 20% (rate of return)

The variables in equation (1) can be evaluated:

G: 365 days x 50,000 GPD = 18.25×10^6 gallons

D: The depreciation is 1/10 of the capital investment (i.e., $53,800).

A: The operating costs can be divided into the costs of raw materials and the fixed costs such as labor, instrumentation and maintenance.

To calculate the costs of raw materials a stoichiometric balance of the general reaction is indicated:

$$CaCO_3 + 2CH_3COOH \longrightarrow Ca(OOCH_3C)_2 + H_2O + CO_2$$

In order to produce 50,000 gallons of solution per day there is a need for:

48 tons of $CaCO_3$ (at $60/ton)

12,700 gallons of Acetic Acid (at e.g. $2.00/gal.)

53,000 gallons of water (at $2.25/1000 gal)*

Then A = $10,800,000 which includes $10,400,000 for materials and $400,000 for fixed operating costs, instrumentation, labor and maintenance.

T: The tax rate taken at 50%

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* Calculated using density of solution of 87.4 lbm/ft^3, 80% reaction completion, 97.14% pure Alaskan limestone, and a saturated acetate solution (25% calcium acetate, 75% water).

CF: Is the amount of money required to recover a capital investment using a certain rate of return. In this case a 20% ROR would require a uniform series present worth factor of .235.

Hence, CF = \$538,000 x .235 = \$129,000

Using equation (1) the price of solution is \$0.60/gal which can be converted to \$420/ton of solid in a saturated CMA solution (25%).

Derivation of Equation (1)

Equation (1) is essentially a simple rearrangement of the cash flow equation:

$$CF = \text{Net Income} - \text{Tax} \tag{2}$$

Where:

$$\text{Net Income} = PG - A \tag{3}$$

and

$$\text{Tax} = (PG-A\_D)T \tag{4}$$

Combining Terms:

$$CF = (PG-A) - (PG-A-D)T \tag{5}$$

Rearranging

$$P = \frac{CF - TD + A(1-T)}{G(1-T)} \tag{6}$$

Cathodic Protection of Concrete Bridge Decks in Alaska

(Northern Engineer Article)

Matt Reckard

To be published in The Northern Engineer

Spring 03

Reinforced concrete is commonly used for bridge decks. In recent years an alarming increase in delamination and spalling of the concrete cover of these decks has been observed (see figure 1). This deterioration not only makes travel over these bridges rougher, but can eventually lead to structural damage to the bridge. A great deal of effort has been made to understand the causes of this damage and prevent it, since deck repairs or replacement is expensive.

The principal cause of the delamination and spalling of bridge deck concrete is galvanic corrosion of the reinforcing steel, although this was not widely recognized for many years.[1] One means of preventing this damage is to install cathodic protection systems on the bridge, which can stop this corrosion. (Move last sentence of other up to here)

Two of these systems have been recently installed in Alaska. The first was placed on the upper vehicle ramp at the Anchorage International Airport domestic terminal building; it began operating in December 1981. The second was installed on the Wendell Street Bridge in Fairbanks and began operating in October 1982. A third system is planned for the Cushman Street Bridge in Fairbanks; it is scheduled to be installed next summer.

The corrosion of rebar in bridge decks is similar to what occurs in many types of galvanic cells, such as the lead-acid automobile battery shown schematically in Figure 2. In a bridge deck, different parts of the reinforcing steel become anodic or cathodic (see Figure 3) due to differences in residual stresses and impurities in the steel, cracks, moisture content, and aeration of the concrete, and other factors.[2,3]

The concrete cover, which normally would protect steel from corrosion due to its alkalinity, becomes an effective eletrolyte when contaminated by chloride ions from de-icing salts used on the bridge. Corrosion products (principally rust) build up at the anodic areas of the rebars, and because they occupy a greater volume than the original steel, they exert pressure on the concrete, which eventually cracks. Thermal expansion, water freezing in the cracks, and other factors can then extend the cracking, separating the cover layer of concrete from the rest of the deck (delamination). The delaminated concrete can eventually spall off, leaving

the top mat of the reinforcing steel exposed.

This problem has grown worse in recent years due to the increased use of de-icing salts on highways and bridges. One means of preventing this damage would be to avoid the use of salts by substituting other materials such as sand, fly ash, or calcium magnesium acetate (CMA). Another means is to place an impermeable layer between the surface of the bridge deck and the reinforcing steel. In this way chloride penetration to the level of the steel is prevented or at least retarded, and the corrosion will not occur (or will progress much more slowly). Several methods have been used to retard or halt chloride penetration to the level of the rebars, such as the specification of dense, low-slump concrete, greater cover depth of concrete, polymer-modified concrete, or the application of waterproof membranes. Galvanized and epoxy-coated rebar has also been used. Some form of protection is required on all new concrete bridge decks built by the state of Alaska.

None of these methods will stop corrosion on existing chloride-contaminated decks, however. The removal and replacement of all contaminated concrete or the entire deck is possible, but very expensive. Short of this, the only method known that can completely halt ongoing corrosion is cathodic protection.

Cathodic protection has long been used for corrosion protection of buried and submerged structures such as pipelines, docks, and ships, and for the protection of elevated water and fuel tanks. Cathodic protection of bridge decks, however, is relatively new, and designs are still somewhat experimental.

The principle behind cathodic protection is to make all of the steel (or other material) to be protected cathodic with respect to another material placed in the electrolyte to which it is electrically connected. This can be done by connecting the steel to a less noble metal, such as zinc or magnesium. The less noble metal, thus ~~has~~ becomes the anode in a galvanic cell, and it, rather than the steel, corrodes (see Figure 4). This is known as "sacrificial-anode" cathodic protection. The anode material eventually corrodes completely and must be replaced.

Another method is to connect the steel to be protected to another material

placed in the electrolyte and force the steel to become cathodic by using an external power source. This is known as "impressed-current" cathodic protection (see Figure 5). Corrosion of the anode in such a system will be negligible if the correct choice of material is made, thus eliminating the need for anode replacement.

Impresssed-current systems have usually been chosen for use on bridge decks for two principal reasons. The first is that the amount of protection can be easily varied by altering the voltage and current from the power source. In a sacrificial-anode system, the voltage is determined by the relative oxidation potentials of the anode and cathode materials, and the current is determined by the amount and location of the anodic material; once such a system is built, neither can be changed. The second advantage of impressed-current systems is that the anodes do not need replacement. Since the anodes must be placed in the electrolyte (i.e. the bridge deck concrete) replacing them would be difficult and expensive.

Current flow between an anode and a cathode will be greatest where the electrical resistance between them is the least. Thus if an anode is placed very close to any one part of the steel to be protected, nearly all the current will flow to that part of the steel, rather than take longer, less conductive paths to more remote locations on the structure. The more remote parts may then receive insufficient current to protect them from corrosion. Moreover, the areas receiving large currents may be "over protected" which has been observed to weaken the bond between rebar and concrete. This may be due to an increase of sodium and potassium ions near the cathode (rebar) or because of the release of hydrogen there.[2,4] By moving the anode farther away from the structure, the distances between the anode and different parts of the structure will become more nearly equal and, if the electrolyte is homogeneous, so will the electrical resistance and current density.

On buried structures where the soil is the electrolyte, anodes can easily be placed at a location relatively far from the structure. It may be possible, for example, to completely protect a buried cylindrical tank by installing three anodes, 120^{θ} away from each other, around the tank and perhaps half the tank's diameter away from it. On a bridge deck, however, the concrete is the electrolyte, and the distance between the anodes and the cathodes (rebars) can never be more than a few inches.

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One means of achieving even current densities over bridge decks is to place anodes in a highly conductive layer of coke breeze and asphalt placed over the entire deck. Care must be taken to ensure that the

conductive layer does not contact any bridge steel, short-circuiting the system. A wearing course of conventional paving material is needed since the coke breeze mixture is relatively weak.[2] Relatively even protection can be given to the top layers of rebar this way, although there is little protection of lower rebar. Chloride concentrations decrease with depth, however, so the lower rebar rarely if ever requires protection.

A disadvantage of this system is that the two overlay layers (typically 5" thick) greatly increase the dead load on the bridge. Another method of anode placement has been developed which requires less overlay thickness. In this method, a series of parallel grooves are cut in the bridge deck, and anodic wires are grouted into them. The anodes thenmselves are thus widely distributed over the deck, and the conductive layer is eliminated, although a wearing course is still required. The cathodic protection systems recently installed in Alaska have been of this type.

Repairs to these bridges were needed before the systems were installed; this work is shown in Figure 1, which illustrates the sericusness of the problem. Pitting found on corroded rebar is shown in Figure 6. All unsound concrete was removed, the remaining concrete was chipped away from any partially exposed rebar, and the concrete and exposed rebar were cleaned. The decks were then patched with latex-modified concrete.

After the deck repair, the cathodic protection systems could be installed. Anode wires for the systems are made of platinum coated niobium with copper cores. These were grouted in grooves cut in the deck with a mixture of coke breeze and polyvinyl ester resin. Figure 7 shows the Wendell Street Bridge after this was completed and before the final wearing course of concrete was placed.

Electric power to energize the system comes from a control box where AC line power is first transformed to the desired voltage and then rectified to DC. The positive terminal is connected to the anode wires via header cables imbedded in the deck; the negative terminal is connected to the reinforcing steel itself.

The amount of polarization (voltage) impressed on the reinforcing steel must be kept within a certain range. A minimum negative voltage of about 850 mV, compared to a copper-copper sulfate half cell, is desired to ensure protection of the steel; a maximum of (negative) 1100 mV is desired to avoid "overprotection".[4] Reference cells were imbedded in the decks in order to monitor the steel polarization; in the Wendell Street system these are made of molybdenum/molybdenum oxide while at the Anchorage Airport they are zinc. Automatic voltage control is provided by a microprocessor in the control box, which monitors the voltage readings on the reference cells and adjusts the current flow as needed. The amount of power required by the systems is quite small; the latter (Wendell Street Bridge) system is expected to stabilize at about 60 watts.[5]

These systems should stop corrosion of the reinforcing steel in these bridge decks, avoiding the need for further expensive deck repairs. Corrosion probes have been installed in the decks to enable detection of any further corrosion, should it occur. The performance of these systems is being monitored by the vendor, Norton Corrosion Ltd., Inc. of Woodinville, Washington. The data gathered should result in a better understanding of both the physical and economic effectiveness of these systems, and may lead to improved designs in the future. The Federal Highway Administration has estimated that the use of these systems may be able to save billions of dollars nationwide.[6]

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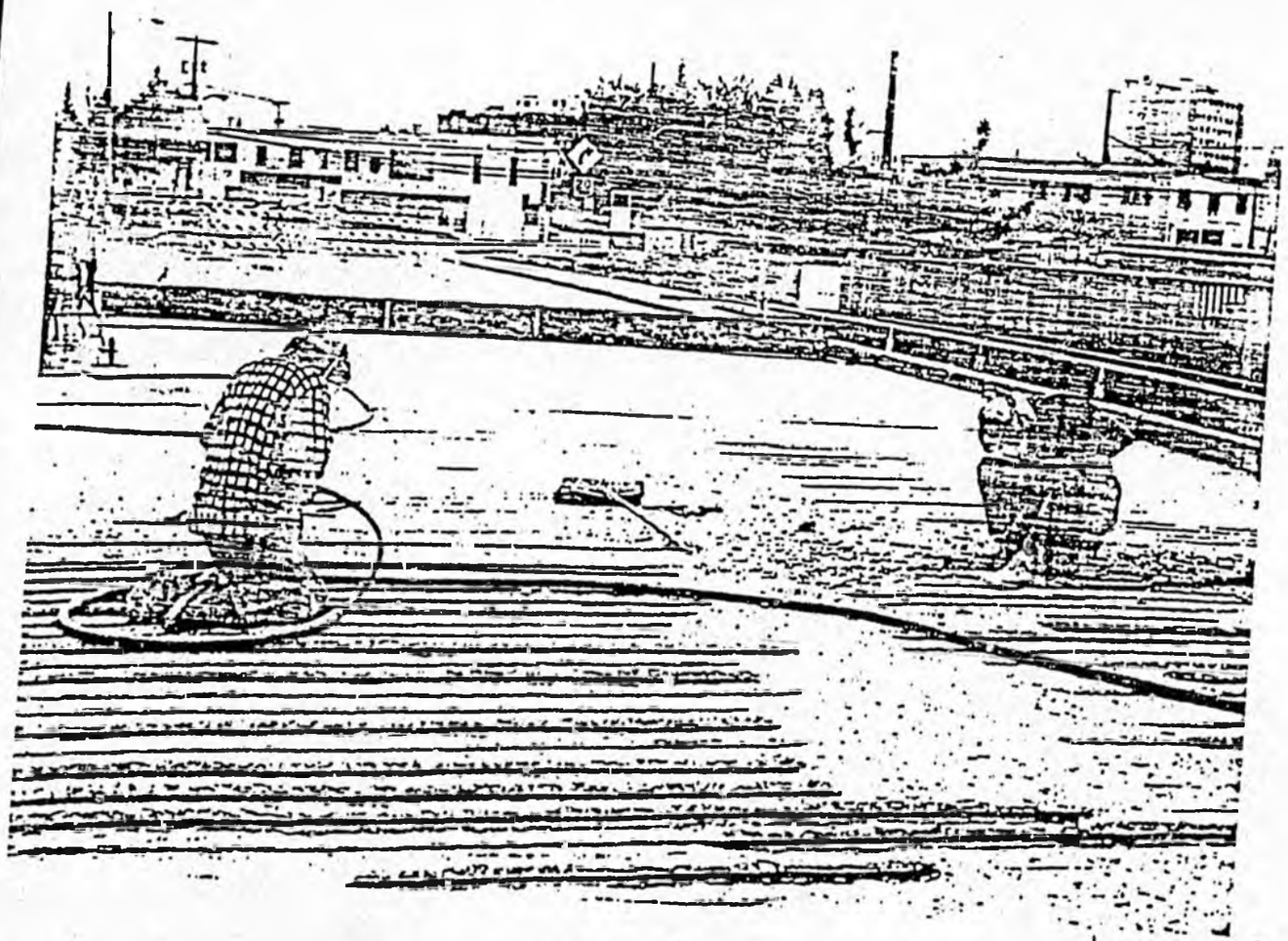


photo Steve Powers

FIGURE 1

Removing delaminated concrete, Wendell St. Bridge, Fairbanks

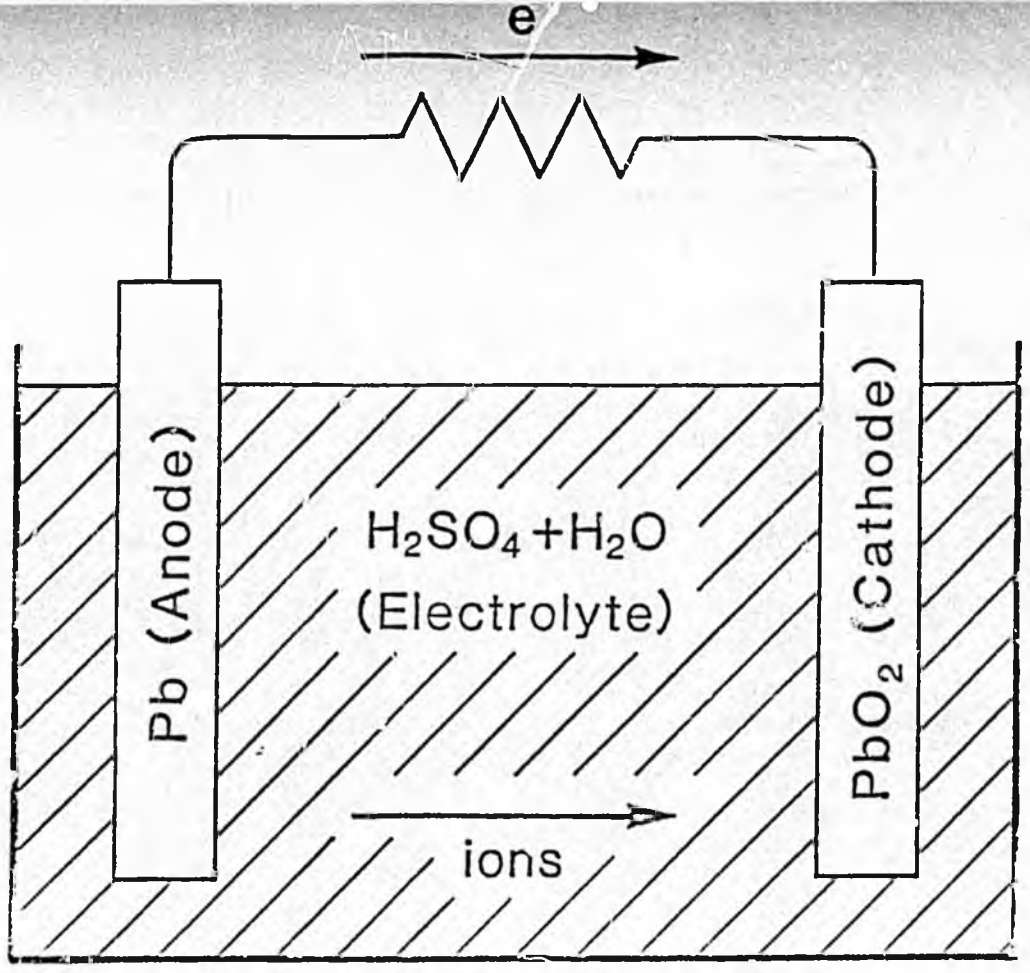


Figure 2: Lead-Acid Corrosion Cell

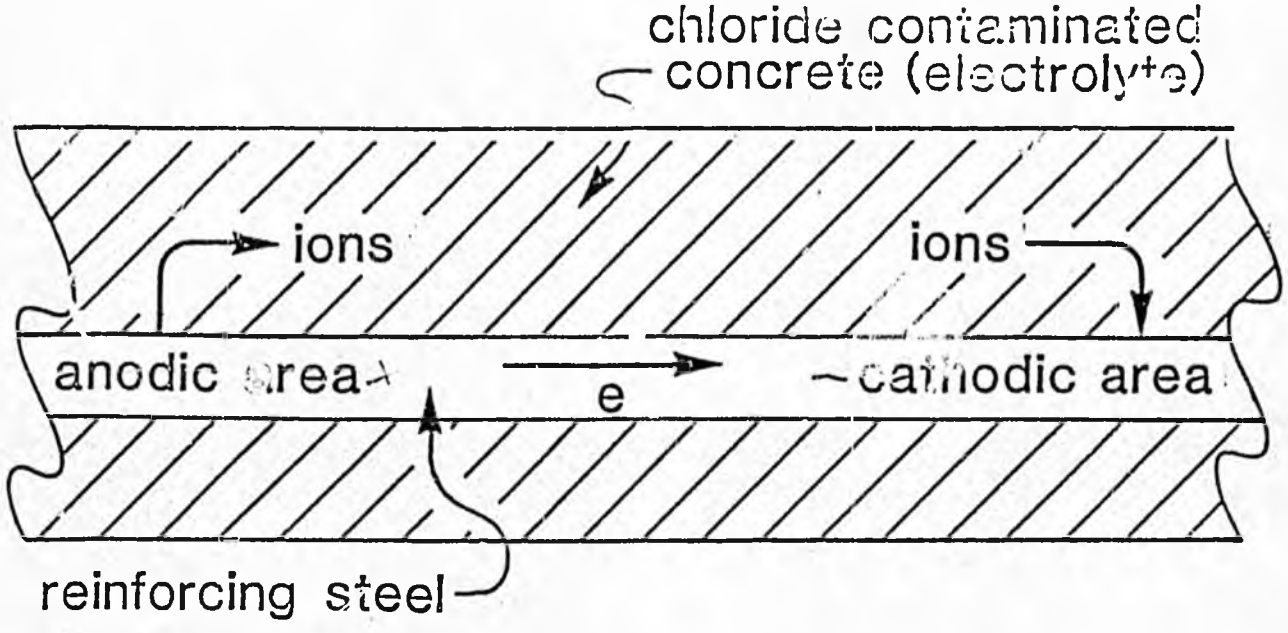


Figure 3: Bridge Deck Corrosion Cell

The use of cathodic protection grew rapidly with the development, in the mid-1930's, of a new source of direct current, known as the copper oxide rectifier. These earliest cathodic-protection applications were very successful; and it was apparent that the cathodic-protection method of corrosion control gave the following advantages:

1. When properly applied, corrosion is completely stopped.
2. The effectiveness of cathodic protection in arresting corrosion can be measured by a simple, nondestructive electrical measurement.
3. The cost of applying cathodic protection is a fraction of the replacement cost of the threatened structure, and cathodic protection is clearly the least expensive means of providing long-term, maintenance-free service life for metal structures in corrosive environments.

Shortly after the end of World War II, corrosion problems developed with large-diameter, prestressed-reinforced-concrete water pipelines in Europe, Israel, and North Africa (*13, 14, 15, 16*). During the 10-year period between 1945 and 1955, the use of cathodic protection to prevent such corrosion became widespread. Other cathodic-protection applications for steel in concrete include underground portions of concrete water-storage tanks, steel reinforcement and liner plate of concrete nuclear-reactor containment vessels, and concrete-coated piling; however, the use of cathodic protection in these applications has not reached major proportions.

How Cathodic Protection is Applied

The cathodic protection of metal is applied by causing a flow of current from any source to the metal (*5*). Two methods are generally used to transmit the protective current (*17, 18, 19*). In one, the threatened structure is made the cathode of an electrolytic corrosion cell with a more active metal as an anode. In the second, the threatened structure is made to react as a cathode by using an external power source.

Electrolytic-Cell Method (Sacrificial-Anode Systems)

To obtain cathodic protection by the electrolytic-cell method, a metal electrode that is anodic to the metal of the structure is connected to the structure by a metallic conductor and is placed in the electrolyte with the structure, as shown in Figure A-2. In this arrangement, the structure and the anode operate as a bimetallic corrosion cell. The anode electrode is sacrificed; thus, the name "sacrificial-anode system." In effect, the corrosion is transferred from the structure to the anode, which is expendable and may be easily replaced. The driving potential for the current is the natural potential difference between the metal of the structure and the anode. Some typical potential relationships are shown in the limited tabulation of the practical galvanic series of metals given as follows (*19*):

Metal	*Typical Potential, volts* [a]
Magnesium alloy (6% Al, 3% Zn, and 0.15% Mn)	−1.60
Zinc	−1.1
Aluminum alloy (5% Zn)	−1.05
Mild steel (rusted)	−0.2 to −0.5
Mild steel in concrete	−0.2
Copper	−0.2

[a] Typical potential normally observed in neutral soils and water, measured to the copper sulfate reference.

From this listing, it is obvious that the magnesium offers cathodic protection to any of the other metals listed whereas copper does not. In practice, alloys of magnesium, aluminum, and zinc are used as sacrificial anodes, although only magnesium and zinc are generally used for the cathodic protection of steel reinforcement in concrete.

External-Power Approach (Impressed-Current Systems)

The external-power approach to cathodic protection is shown in Figure A-3. This system operates in the same

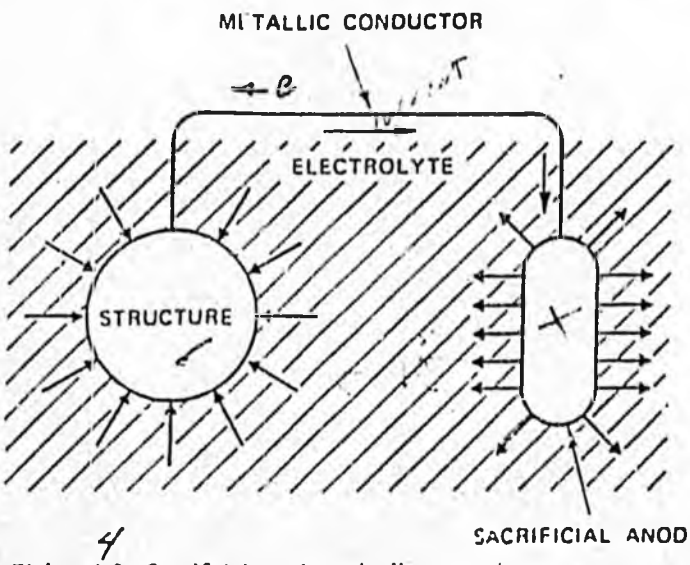


Figure A-2. Sacrificial-anode cathodic protection.

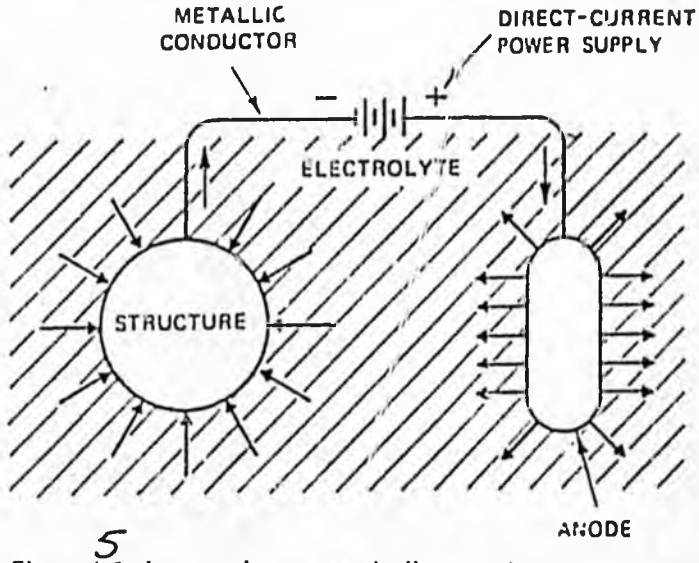


Figure A-3. Impressed-current cathodic protection.

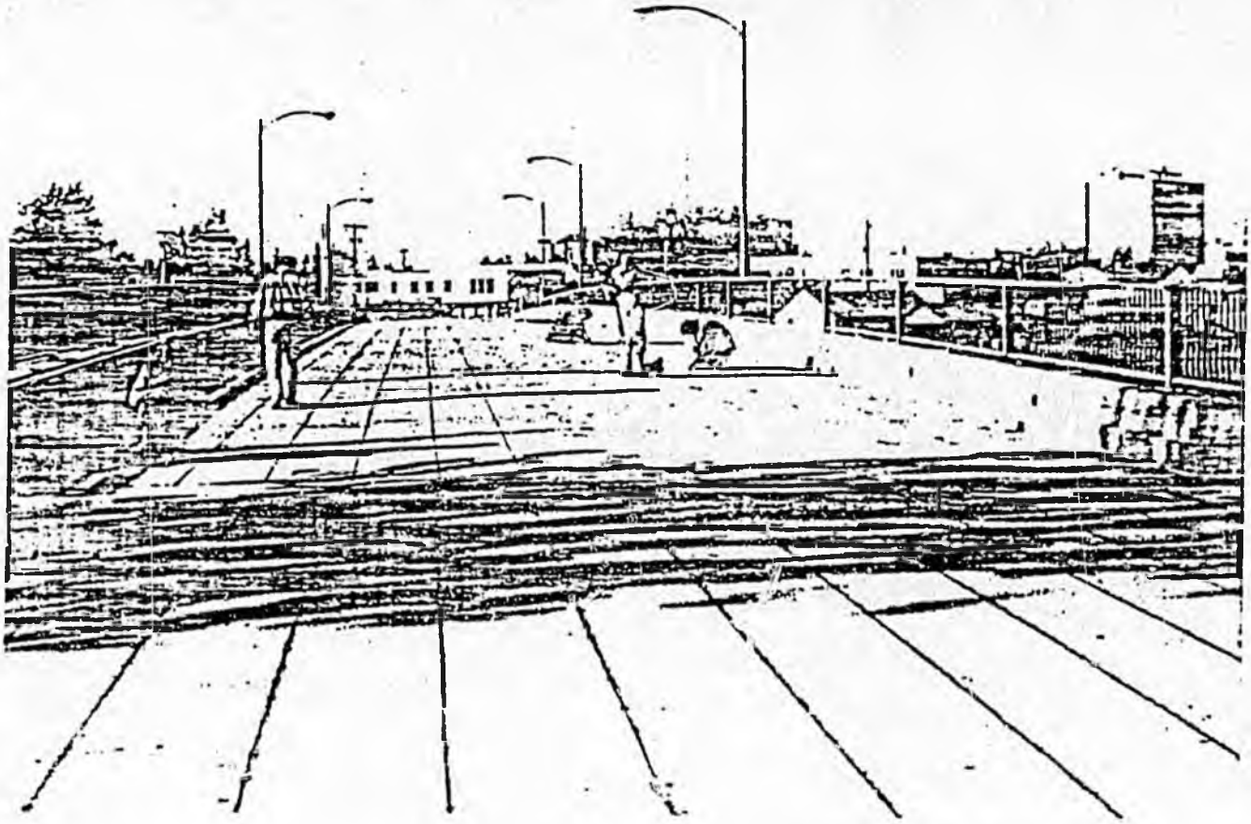
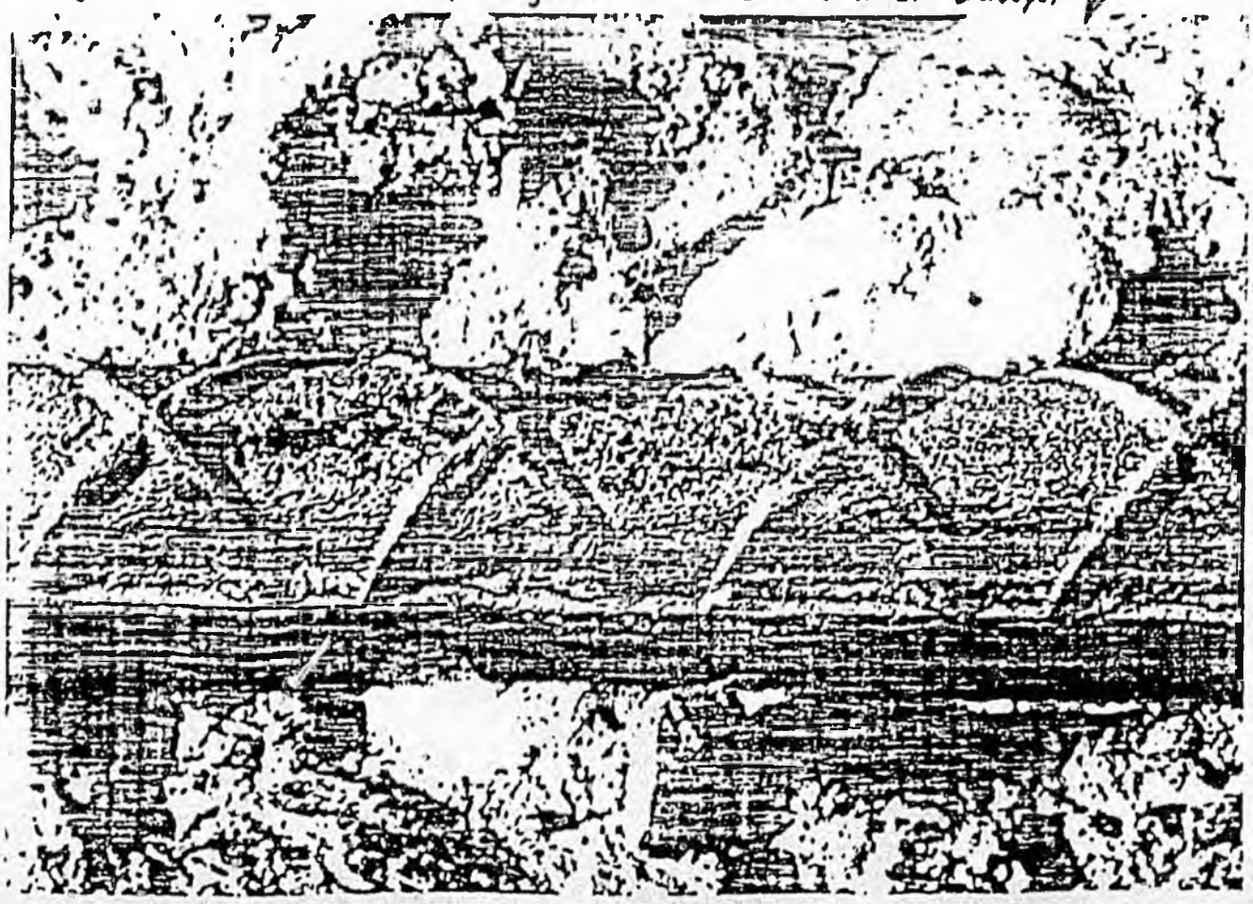


Figure 7: Anodes grouted into deck (Wendell St. Bridge) →

Figure 6: Corrosion pitting on rebar (Wendell St. Bridge) ↓



MAINE

By W. Dunphy
Maine

1/13/83

I. INTRODUCTION

We first learned about the CMA project at the TRB meeting in January 1980. We heard the presentation of the work by Dr Dunn, Dr. Stanley and Dr. Scheck. Due to budgetary restraints we only started actively pursuing the idea at the beginning of 1982 when our proposal for a CMA research project was approved.

It has been known that there are <u>three</u> processes to produce CMA.

(1) Quick lime reacting with acetic acid.

(2) Hydrated lime (Calcium Hydroxide and Magnesium Hydroxide) reacting with acetic acid.

(3) Limestone $CaCO_3$+$MgCO_3$ (Calcium Carbonate and Magnesium Carbonate) reacting with acetic acid.

Theoretically all three will do, but in reality (1) is better than (2) which is better than (3).

Since the beginning of our project, our emphasis has been:

(1) Use local resources and waste products.

(2) Use a method that requires a small amount of energy.

(3) Use the method that is most cost effective.

In our search for sources of resources and waste products, we found that Lime Products Corp. in Union, Maine had an interest in this project. They produce high magnesium limestone. They don't have the capability of producing either quick

lime or hydrated lime from limestone, since that production requires high temperatures. The limestone, coarse and fine are shown in Slides 1 and 2.

We also located some waste acetic acid from W. H. Shurtleff Co. The acetic acid had to be diluted before it can react with limestone. From the lab experiment we knew that the reaction will not be complete. That is, some limestone will be left over. But the leftover limestone can be used as abrasive agent, therefore we decided to use a coarse grade limestone.

Acetic acid is used at a 10% solution - another source is vinegar, and Maine is rich with apple orchards which could provide the juice to make vinegar.

II. SMALL SCALE TRIAL BATCH

June 24, 1982 mixed 10 lbs. of coarse dolomitic limestone with 10 gal. of 10% acetic acid in a small concrete mixer for 10 minutes.

This was repeated five times, the residue and liquid poured into a container for evaporation.

July 16, 1982 obtained 40 lb. of stone - CMA mixture. Slides 3 to 5

The final product is shown on Slide 6.

When this mixture is dissolved in water, the solids filtered out, the filtrate dried, a white powder as shown in Slide 7 remains.

III. LARGE SCALE TRIAL BATCHES

Slides 8 to 12

On July 30, 1982 the contractor mixed 100 gal. HAC (diluted due to false meter indication to 2%) with 4000 lbs. coarse limestone in a concrete mixer. The liquid and limestone residue were placed in a basin (40' x 10').

By the end of October, 1982, this "coarse" batch only contained few "puddles" of liquid pH = 6.5. The liquid was transferred to a drum, the "wet" solid was transferred to other drums (five-55 gal. drums) and stored. These will be dried and analyzed in the near future. The total weight of wet material is 3320 lbs.

Slides 13 to 17

On August 11, 1982, another mixture was made. It consisted of 200 gal. HAC (diluted to 10%, 2000 gal.) and 8000 lbs. fine limestone mixed in a concrete mixer, placed in a drying basin (20' x 10').

By the end of October, 1982, the solution began to congeal (Slide 18).

Slides 19 to 21

On November 30, 1982 the solution in the "fine" batch was transferred into four-55 gal. drums. At the same time quick lime was added and the mixture was stirred. The pH of the mixtures were between 11.5 and 12. The drums were then

transported to the Materials & Research Division in Bangor.

Slides 22 and 23

The pH of the above mixtures was further adjusted to 9 - 10 by the addition of acetic acid. The wet material was then dried in the oven to yield powdered CMA which contained a certain amount of unreacted limestone and some quick lime. The powdered material had a total weight of 1180 pounds.

During December the relative slipperiness of saturated solutions of CMA, Sodium Chloride, Calcium Chloride and Urea, and also with water were composed on both asphalt and concrete surfaces. This testing was conducted using a Bristish Portable Pendulm Tester in accordance with ASTM E-303. When tested on Bituminous Pavement, Sodium Chloride, CMA and Urea all gave comparable values, being about 90% of the frictional resistance shown by plain water on the pavement surface. On concrete however, the CMA frictional value was only 76% of the value for plain water, compared with the sodium chloride value of 87%, calcium chloride value of 66% and the Urea value of 93%.

Slide 24

On December 29, 500 lb. of the material was mixed with 3 $yd.^3$ of sand.

On January 6, 1983, we had a snowy day. We spread 45 lbs. of salt on one part of the driveway (50 ft. long) in the parking lot, and 45 lbs. of CMA mixture on another side (50 ft.),

with a 30 ft. stretch at the middle, without any deicing agent. Photographs were taken, but not developed yet.

The impression we had so far is:

1) Without tracking, CMA started to deice slower than NaCl. But after about an hour, it worked fairly well.

2) CMA is more persistent. Evidence: Next day when another layer of snow fell on the pavement, we could see that CMA is still effective.

3) Bad feature of CMA - Tracking into the building. When it dried, white residue appeared. This probably was due to extra lime in the mixture.

Future Plan

1) Corrosion test on various metals.

2) Ponding test on concrete slabs with rebars inside.

3) More field test.

By Michael J. Economides, Russell D. Ostermann and Bertrand Theuveny

The Production of Calcium Acetates As Alternative

INTRODUCTION

Road and airport runway de-icing are serious problems in the north. Sodium and calcium chlorides have been used successfully for many years as de-icing agents. Adverse environmental effects and corrosion problems associated with chloride salts have prompted a search for alternative, cost-effective, de-icing agents.[1-4]

A report entitled "Alternate Highway De-Icing Chemicals" from the Bjorksten Research Laboratories, Inc. (1981), reviewed the de-icing characteristics of various compounds. Two candidates were selected which proved economical, and more important, less corrosive than NaCl.

The first, methanol, was found to be "less persistent" due to its low flash point. The second, a mixture of calcium and magnesium acetate (CMA) was found to exhibit superior de-icing characteristics at a competitive price. In contrast to NaCl, CMA is a corrosion inhibitor, is beneficial to most soils, and has no potential for harming drinking supplies. Hence, CMA does not exhibit many of the "extended costs" associated with the application of NaCl.

CMA can be produced by the simple dissolution of naturally occurring carbonates in acetic acid. These carbonates are readily available in the form of native limestones and dolomite. We have discovered that, for economic and technical reasons, the production of calcium acetate (CA) alone is preferred. This subject is dealt with later in this article.

REACTION KINETICS RESULTS

Calcium acetate is formed by the dissolution of calcium carbonate in an acetic acid solution. Water and carbon dioxide are byproducts. The stoichiometric equation is:

$$\underset{(100\ g)}{CaCO_3} + \underset{(120\ g)}{2CH_3COOH} \rightarrow \underset{(158\ g)}{Ca(CH_3COO)_2} + \underset{(18\ g)}{H_2O} + \underset{(44\ g)}{CO_2}$$

The reaction is slightly exothermic (ΔH_r = -4.6 kcal/gmol). The solubility limit of CaAc (calcium acetate) is 28% by weight. Hence, if a saturated solution of CaAc is desired, a simple material balance indicates a water requirement of 338 g H_2O/100 g $CaCO_3$.

A series of experiments was undertaken to define the process kinetics and ultimate degree of completion as functions of the reaction temperature, reactant concentrations, and particle size for calcium carbonate. Alaskan limestone, delivered from a quarry near Livengood, Alaska, and acetic acid were used as reactants.

The reaction behavior of limestone and acetic acid is reported in Figure 1. Reactions were conducted in a simple stirred tank

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ınd Magnesium De-Icing Agents

reactor. For a given residence time, as long as enough water was present to provide an unsaturated solution of calcium acetate at the conclusion of the reaction, the water to limestone ratio did not influence the reaction results. However, this minimum ratio of 4 to 1 on a mass basis proved inhibiting at high acetic acid excess. This result is to be expected since the reaction is based on the dissociation of acetic acid. An insufficient amount of water results in inadequate dissociation of acetic acid.

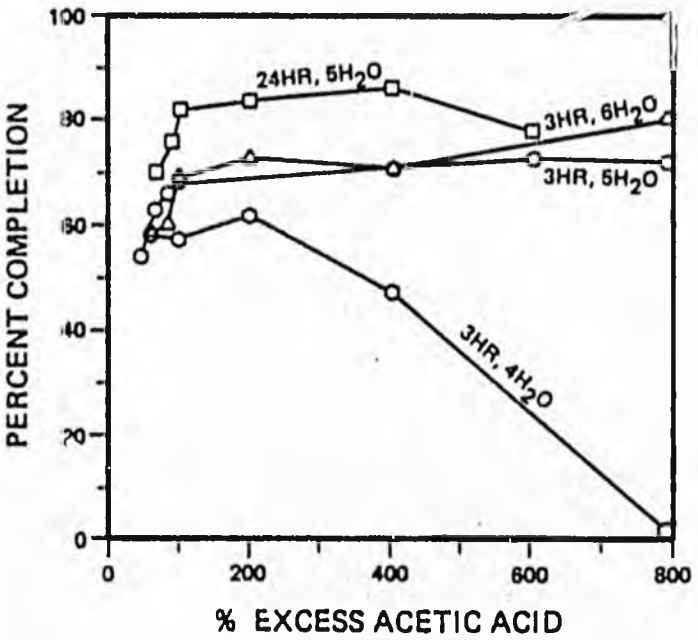

Figure 1. Reaction behavior of limestone and acetic acid: Percent completion vs. excess of acid at various residence times and with varying water content.

Since various water to limestone ratios above 5:1 did not exhibit any discernible difference in the reaction completion rate, the entire subsequent set of experiments was done at a 5:1 weight ratio of water to limestone (for brevity, not all results are plotted on Figure 1).

A significant conclusion can be drawn from the above: The acetic acid does not have to be highly refined. Industrial grade acetic acid (95% purity), which is substantially less expensive than reagent grade, can be used since it will have to be diluted to 50% in any event.

The use of 50% acetic acid may allow an additional cost savings. Liquid phase oxidation (LPO) and methanol carbonylation are common methods of acetic acid production which could be implemented in Alaska. Both of these processes produce acid at approximately a 50% concentration. One of the major factors in the cost of high-purity acetic acid is the cost of purification. Since the CMA process could make use of 50% acetic acid, the purification process and its cost could be eliminated.

Methanol carbonylation is especially attractive since several industrial concerns are contemplating methanol production in the state. The supply of carbonate for the acetate process seems assured; the state houses large deposits of limestone and dolomite.

Figures 2 through 5 present a comprehensive picture of the reaction results. The experiments were designed to gauge the effects of excess acid, reaction temperature and limestone particle sizes on the degree of completion of the reaction. The results are for batch reactions with a three hour residence time.

The amount of excess acetic acid did not augment the reaction completion significantly. Hence, acid consumption can be held at a manageable level.

Neutralization of acetic acid by NaOH can be considered. However, a further economic evaluation may point toward an

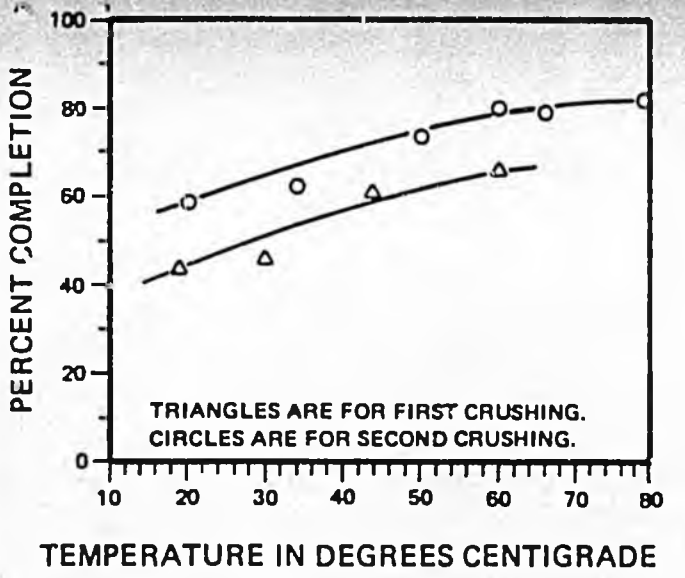

Figure 2. Reaction performance for limestone and no excess acetic acid.

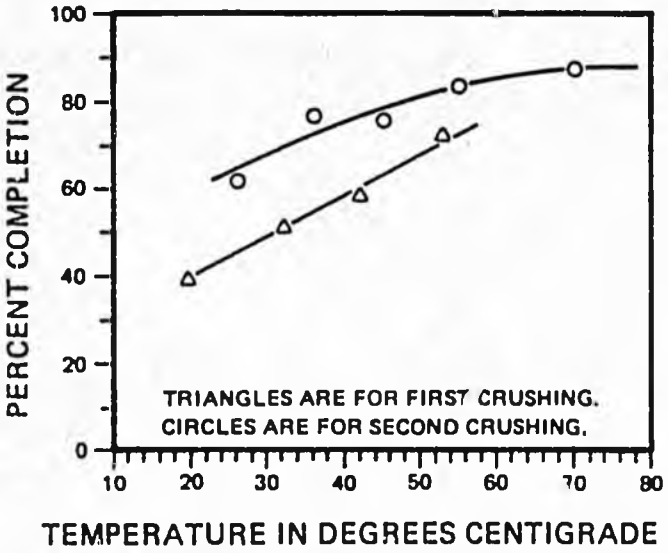

Figure 3. Reaction performance for limestone and 20% excess acetic acid.

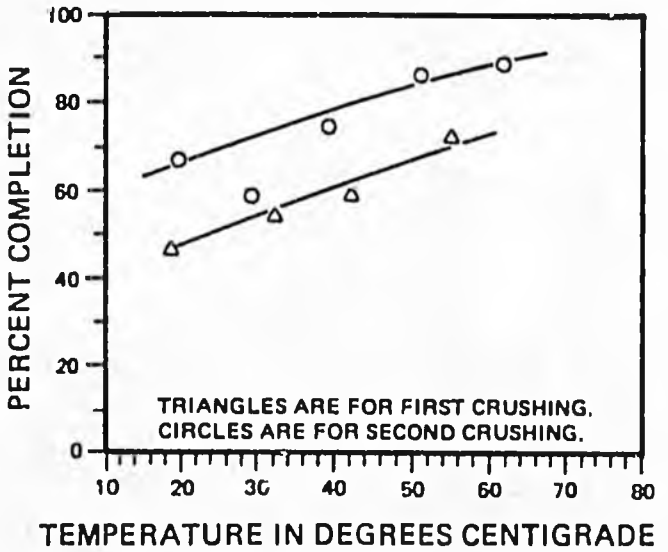

Figure 4. Reaction performance for limestone and 50% excess acetic acid.

associated acid recovery unit. An extraction step using an appropriate solvent, followed by a distillation step, would suffice.

The effect of temperature is significant. An increase in reaction temperature from 20°C to 60°C results in an increase in the completion of over 20%. A similar effect was observed with the use of more finely ground limestone. (The "first" and "second" crushing that appear in Figures 2 through 5 refer to two consecutive outputs of a commercially available rock crusher.) Both of the last two findings will have an effect on the economic optimization of the plant design. The beneficial effect on the completion must be balanced against operating and energy costs. Finally, the residence time in the reactor is significant. A 20% increase in the reaction completion was observed when a reaction time of 24 hours was used instead of three hours.

PROCESS DESIGN AND ECONOMICS

For a simple reaction process such as that producing CMA, capital costs do not contribute a large proportion of the required selling price of the product. Rather, it is the operating cost and, more specifically, the raw materials costs which are controlling. At moderate capacities any errors or omissions in the plant capital cost estimation do not alter the selling price significantly. Thus, it is possible to obtain a reasonably reliable estimate of selling price based on only a process design.

Figure 6 shows a block diagram of the preliminary process design envisioned for CMA production. Raw limestone is first crushed in two stages to particles of 1/8" to 1" diameter. The crushed limestone is then mixed with acetic acid and water in a continuously stirred tank reactor. The reactor is sized for a three-hour mean residence time and is heated to 70°C by an external steam-heating jacket. The reaction product, consisting of a mixture of unspent acetic acid, unreacted limestone and inert materials, is then passed through a filtration unit. In the

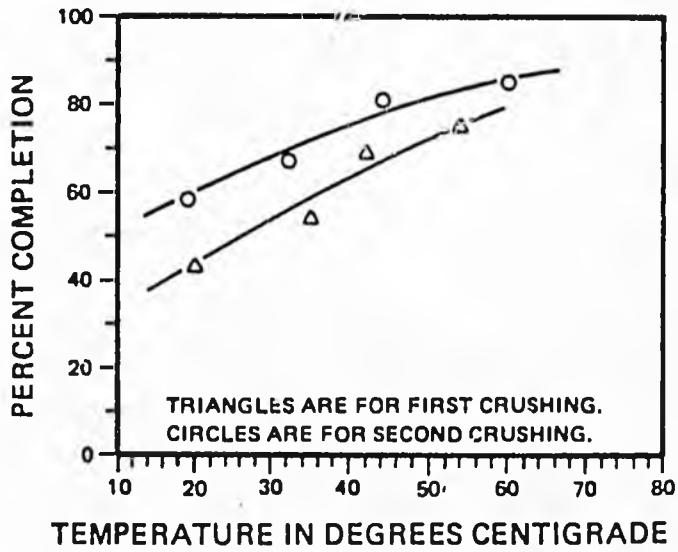

Figure 5. Reaction performance for limestone and 100% excess acetic acid.

filtration unit unreacted solids are removed and sent to a settling pond where they are neutralized by adding sodium hydroxide. The filtrate containing the product acetates is then sent to a neutralizer reactor where excess acetic acid is neutralized by the addition of sodium hydroxide. The resulting acetate solution is checked for appropriate pH value and sent to a liquid product storage tank. With an optional process addition, it would be possible to evaporate the liquid product to produce a solid calcium or magnesium acetate product.

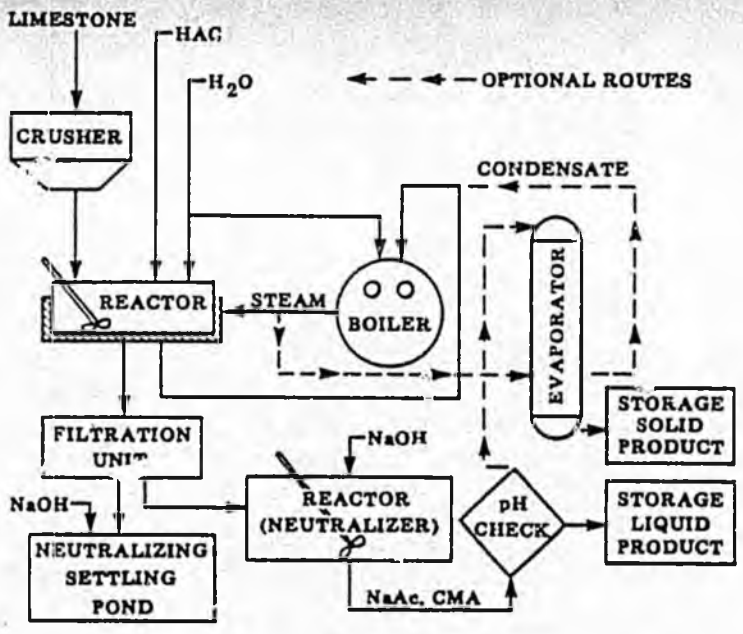

Figure 6. Block diagram of conceptual process design.

On the basis of this design, we have completed an economic analysis of the proposed CMA plant. It should be emphasized that this analysis represents a best-case scenario, with continuous plant operation and minimal storage facilities.

Figure 7 shows the required selling price as a function of acetic acid cost for a 10,000 gallon per day (GPD) plant and a 50,000 GPD plant. It is apparent that there is some economy of scale, but the final plant size will most likely be dictated by market considerations. Finally, Figure 8 presents the selling price for CMA as a function of production rate alone with a fixed cost for acetic acid (S1.25/ gallon). It is obvious that a minimum plant capacity of about 12,000 GPD is dictated by the economics. Little additional economy of scale is indicated above the production rate of 30,000 GPD. In these two figures, the price of CMA has been reported in dollars per ton of solid in solution to allow comparison with current prices of sodium chloride and calcium chloride.

Figures 7 and 8 indicate that the cost of acetic acid is the single most important factor in the selling price of CMA. If acetic acid must be shipped to Alaska from Texas, for example, at a cost of over S2.50 per gallon, the price of CMA will be more than S500 per ton of solid in solution. However, acetic acid is normally shipped and delivered in purities in excess of 90%. Since in our process acetic acid is diluted with water to roughly 50%, it does not make sense to pay an additional premium for high-purity acetic acid. In fact, one of the major costs of producing acetic acid is the purification stage taking the acid from 50% to purities of more than 90%. Hence, if a production facility for acetic acid were located in or near Alaska, it should be possible to purchase dilute acetic acid at a considerable savings, perhaps at a cost as low as S1 per gallon.

Even if imported acetic acid is used, the price of S500 per ton of solid CMA may not be excessive. CMA is not corrosive as are calcium and sodium chlorides, so there is an inherent cost advantage in using CMA as opposed to chloride salts. Therefore, while CMA may cost more in the initial stage of application, it may save a great deal in maintenance costs. In

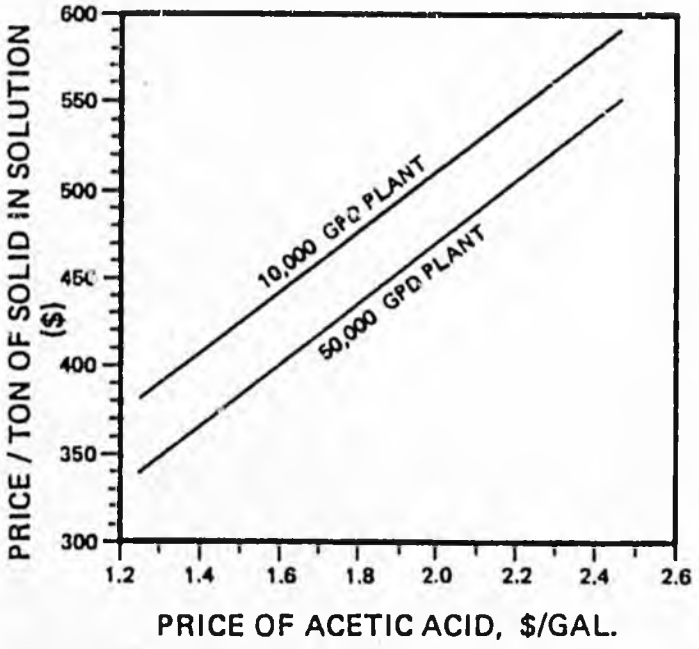

Figure 7. Required selling price of CMA for various acetic acid prices.

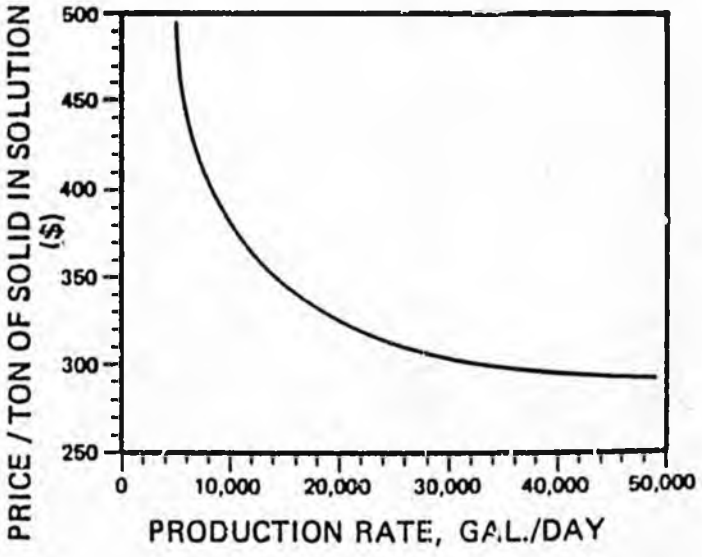

Figure 8. The effect of plant size on the CMA price (S1.25/ gallon acid).

addition, since airports cannot use chloride salts for runway de-icing, but must now rely on more expensive methanol or urea, CMA may have a particular cost advantage.

FREEZING AND EUTECTIC EXPERIMENTS

There are two objectives in this series of experiments: (1) determination of eutectic relationships for various solutions of salts; and (2) evaluation of the de-icing performance of the salts under varying atmospheric conditions.

The eutectic diagrams are the result of measurements gathered in the laboratory. A cold testing chamber was used to evaluate freezing properties over a wide range of ambient temperatures (0°C to -75°C). A comprehensive laboratory study involved the use of different de-icing salts (CaAc, MgAc, NaCl and CMA) at several concentrations. The results seen in the accompanying figures represent the average readings gathered over three test runs. The best de-icing agent is a concentrated solution (27% by weight) of MgAc. At the lowest temperature tested (-75°C), the solution gelled but did not freeze.

Figure 9 shows the eutectic behavior of sodium chloride solutions. The saturation point for NaCl is 26% by weight. Figures 10 and 11 show the eutectic characteristics of CaAc and MgAc respectively. The upper limit (saturation point) for CaAc was 28%, while that for MgAc was somewhat lower. While CaAc did not prove more effective than NaCl, MgAc was decidedly more effective, with a eutectic point depression of 75°C. Hence, a mixture of calcium-magnesium acetate (CMA) with a high concentration of MgAc should be the most effective de-icer. A 25% solution of CMA with 70–80% MgAc would be sufficient for the most severe climatic conditions, as is shown in Figure 12.

The findings of our freezing experiments, in addition to corroborating the de-icing performance of the acetate compounds, have also pointed out a major conclusion. Since the best dolomite deposits in the state contain less than 50% magnesium carbonate, the limit of the CaAc/MgAc ratio is *de facto* determined.

A re-examination of the findings shown in Figure 12 lead to the observation that a 50% MgAc/50% CaAc CMA solution is not any more effective than a pure calcium acetate solution. For example, a 20% CMA solution containing 50% MgAc has a freezing point of -29°C (Fig. 12) while a pure solution of CaAc has a freezing point of -26°C (Fig. 10).

Since the use of dolomite containing lower concentrations of magnesium carbonate results in a solution which is no more effective than calcium acetate derived from abundant limestones, and since dolomite is more expensive than limestone, it can be concluded that calcium acetate would be the most economic product for the process. To avoid confusion, we continue to use the nomenclature CMA throughout this article. However, it should be realized that we refer to a calcium acetate solution containing only small amounts of magnesium acetate.

A FUNDAMENTAL STUDY OF FREEZING POINT DEPRESSION IN AQUEOUS $Ca(O_2CCH_3)_2$ AND $Mg(O_2CCH_3)_2$ SOLUTION

The Debye-Hückel theory provides a satisfactory interpretation of freezing point depression in dilute aqueous solution. Brown and Prue[5], Christoffersen and Prue[6] and Prue *et al.*[7] have demonstrated the applicability of the Debye-Hückel theory in dilute solutions of sodium, potassium, magnesium and calcium ions with a variety of anions. While the thermodynamic properties of dilute aqueous solutions are well established, there is little in the literature for concentrated solutions. The above studies dealt with molarities of less than 0.1, far below the saturations contemplated in this work.

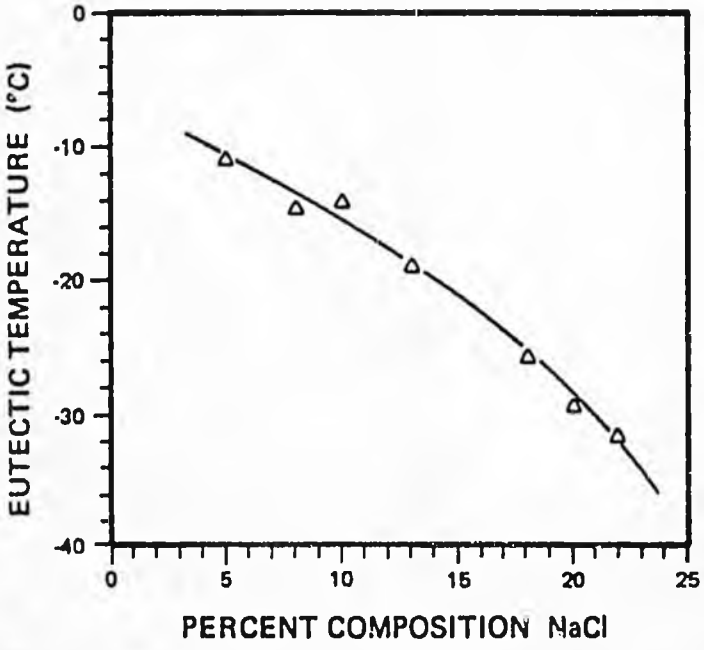

Figure 9. The freezing temperature of NaCl solutions as determined by experiment.

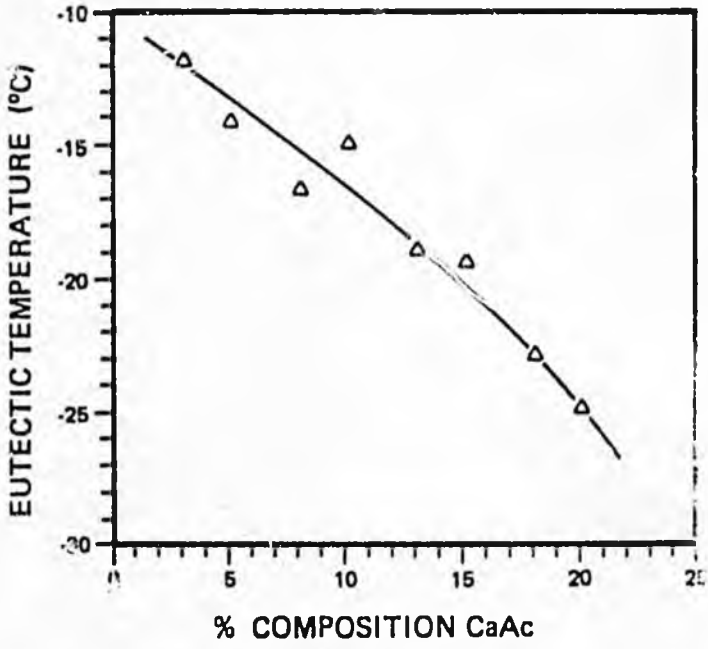

Figure 10. Eutectic diagram of CaAc solutions.

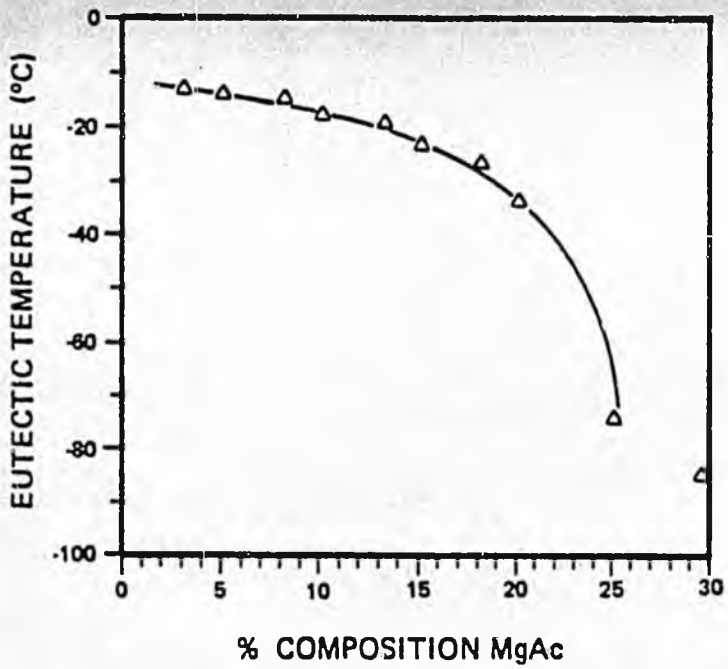

Figure 11. Eutectic diagram of MgAc solutions.

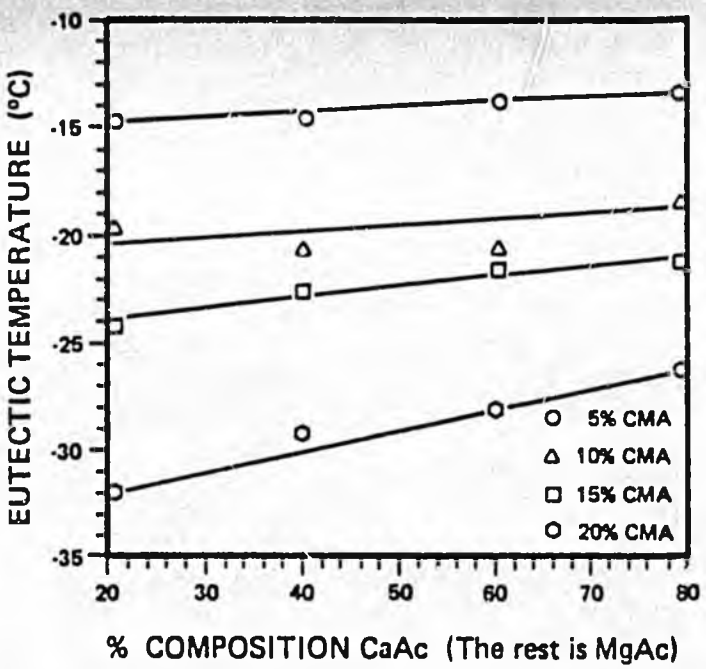

Figure 12. Eutectic characteristics of various compositions of CMA solutions.

At sufficiently high dilutions, the interactions between ions in solution are purely coulombic, and the osmotic and activity coefficients are determined by the charge type alone. At higher molalities, specific effects become marked and eventually become dominant. Various explanations of these phenomena have been offered in the context of activity coefficients.[8,9]

The freezing point depression ΔT_f can be obtained from the relationship:

$$\Delta T_f (1+b\Delta T_f) = \Sigma m\lambda\phi \qquad (1)$$

first introduced by Guggenheim and Prue,[10] where, for aqueous solutions, $b=4.8\times10^{-4}\ ^{\circ}K^{-1}$ and λ is the *cryoscopic* constant, equal to 1.860 °K/mole-kg. Σm is equal to 2m for symmetrical electrolytes (such as NaCl, $CuSO_4$ and NaO_2CCH_3) and 3m for asymmetrical electrolytes, such as $CaCl_2$, $Ca(O_2CCH_3)_2$ and $Mg(O_2CCH_3)_2$. The molality, m, is defined as the number of moles per 1000 g of solvent.

The *osmotic* coefficient, ϕ, is given by the equation:

$$\phi = 1 - \frac{1}{3}A|z_+z_-|I^{1/2}\sigma(I^{1/2}) \qquad (2)$$

where A is the Debye-Hückel constant (1.124 $kg^{1/2}mole^{-1/2}$), z_+ and z_- are the charge numbers of the ions, I is the ionic strength, and σ is a function describing the ionic interaction within a solution. Values of the function σ can be obtained from:

$$\sigma(y) = \frac{3}{y^3}\left(1+y-\frac{1}{1+y}-2\ln(1+y)\right) \qquad (3)$$

The ionic strength I is related to the ionic activity coefficient by:

$$-\log f_i = \frac{\alpha z_i^2\sqrt{I}}{1+\beta\gamma\sqrt{I}} \qquad (4)$$

where f_i is the activity coefficient, α and β are parameters varying with temperature and the dielectric constant, and γ is the ion-size parameter, or effective ionic radius.

The ionic strength can be estimated from the summation of the product molarity times ionic charge squared for all ionic species present in the solution, i.e.:

$$I = 0.5\,(c_1z_1^2 + c_2z_2^2 + \ldots + c_iz_i^2) \qquad (5)$$

We have taken this relationship one step further. Since c is the molarity, defined as number of moles per 1000 cc of solution, a simple relationship between molality and molarity can be written:

$$m_i\rho_{solution} = c_i \qquad (6)$$

Further, for a single electrolyte, we can write:

$$m_1z_1 = m_2z_2 \qquad (7)$$

as a necessary condition of neutrality, or

$$m_2 = \frac{m_1z_1}{z_2} \qquad (8)$$

Introduction of equations (6) and (8) in (5) for a single electrolyte yields:

$$I = m_1\rho_{solution}\left(\frac{z_1^2}{2} + \frac{z_1z_2}{2}\right) \qquad (9)$$

We label the expression within the parentheses the *Ionic Strength Indicator* (ISI) which is a characteristic parameter of single-electrolyte aqueous solutions. For two monovalent ions,

the value is equal to 1, for a monovalent/bivalent combination it is 3, and for two bivalent ions the ISI is equal to 4.

Example Calculation

Calculate the freezing point depression of a 28% (by weight) aqueous solution of NaCl.

The molality, m, can be obtained by dividing the weight of sodium chloride in 1000 g of solvent by the MW of NaCl.

$$m = \left(\frac{280 \times 1000}{720}\right) / 58.5 = 6.6$$

The ionic strength, I, can be calculated using $\rho = 1.323$ g/cc (the measured density of 28% NaCl solution) and ISI = 1.

$$I = 6.6 \times 1.323 \times 1 = 8.73 \text{ and } I^{1/2} = 2.95$$

Then, $\sigma(I^{1/2}) = .179$

The osmotic coefficient may then be evaluated:

$$\phi = 1 - \frac{1}{3} \times 1.124 \times (1 \times 1) \times 2.95 \times .179 = .802$$

and finally (ignoring $b\Delta T_f$)

$$\Delta T_f = 2 \times 6.6 \times 1.860 \times .802 = 21^{\circ}K \text{ or } ^{\circ}C$$

The predicted freezing point depression for a 28% NaCl solution is 21°C below the freezing point of water.

The Debye-Huckel theory has been applied to CMA solutions. Table 1 presents the predicted results. The theoretical freezing points lag behind the experimental by approximately 10°C. Apparently, certain special activity coefficients are in effect here. However, the slight differences observed among the experimental results of the freezing points of the three compounds were observed in the fundamental prediction as well, i.e., the order of de-icing effectiveness was MgAc, NaCl and CaAc. A combination of the Debye-Huckel theory and our experimental results can be extended to other similar salts in like concentration ranges to provide a good prediction of their de-icing characteristics.

CONCLUSIONS

This work resulted in a number of original findings. A reaction scheme involving acetic acid and native limestone has resulted in a good yield of calcium acetate. While dolomites were equally effective, the calcium-magnesium acetate mixture that was produced did not exhibit a better de-icing performance than that of calcium acetate. Hence, in view of the scope of this work, only the reaction of limestone ($CaCO_3$) with acetic acid can be considered as a viable means to produce an acetate de-icing agent.

A process design and economic evaluation was presented. The price of CMA varied from $590/ton for a 10,000 gallon per day plant at $2.50 per gallon of acetic acid, to $290/ton for a 50,000 gallon per day plant at $1.25 per gallon of acetic acid. These prices are within the ranges of prices for present de-icing compounds. The immense secondary costs associated with the use of chloride salts make the acetates even more attractive.

TABLE 1
Predicted Freezing Point Depression Using the Debye-Huckel Theory

NaCl		CaAc		MgAc	
% w	ΔT_f(°C)	% w	ΔT_f(°C)	% w	ΔT_f(°C)
0	0	0	0	0	0
5	2.9	5	2.8	5	3.1
10	6.1	10	5.8	10	6.4
15	9.7	15	9.2	15	10.2
20	13.8	20	13.2	20	14.7
25	18.5	25	17.8	25	19.9

Finally, the de-icing and eutectic characteristics of the acetates have been experimentally determined and fundamentally justified using the Debye-Hückel theory.

ACKNOWLEDGMENT

This work was done under a research grant from the Alaska Department of Transportation and Public Facilities Division of Planning and Programming, Research Section.

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applied science & technology in the north

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THE GEOPHYSICAL INSTITUTE
UNIVERSITY OF ALASKA

VOLUME 14, NUMBER 3
FALL 1982



HIGH-SPEED GRAVEL ROADS

by Matthew Reckard



The Dalton Highway: not quite a high-speed gravel road — yet.

Alaskans seeking to improve the quality of their rural roads might do well to consider surfacing them with gravel instead of asphalt — especially in areas with extensive permafrost or muskeg. This ironic and seemingly backward idea results from the great difficulties which are encountered in trying to build and maintain a stable road embankment over poor foundation material. Without such stability, asphalt surfaces quickly become distorted, cracked and full of potholes. In severe cases, road crews may not be able to keep roads in a condition for safe high-speed travel, even with a great expenditure of time and money.

Gravel surfaces, of course, suffer from embankment instability too, but the resulting problems are sometimes less severe and are nearly always easier and cheaper to repair. Differential thaw settlement, for example, slowly but continuously creates humps and dips in roads. On a gravel surface, these distortions can be smoothed out as a part of the regular grading plan, sometimes with little or no extra effort. On a paved road there is no alternative but to put up with the humps and dips for as long as can be tolerated, then tear up the entire pavement, recondition the roadbed, and repave.

Technically feasible designs are possible which would provide stable roads over virtually any terrain. Permafrost areas, for example, could be spanned with continuous bridges supported on refrigerated pilings, similar to the above-ground sections of the Alyeska pipeline. Such a design might be practical for spanning small pockets of bad ground, but the cost would be astronomical if it were used for any significant

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Matthew Reckard *is a research engineer with the Alaska Department of Transportation and Public Facilities, Research Section. A version of this paper was presented at the 33rd AAAS Alaska Science Conference in September 1982.*

distance. Over long stretches of unstable ground, then, gravel-surfaced roads are likely to be the most cost-effective means of providing high-speed travel.

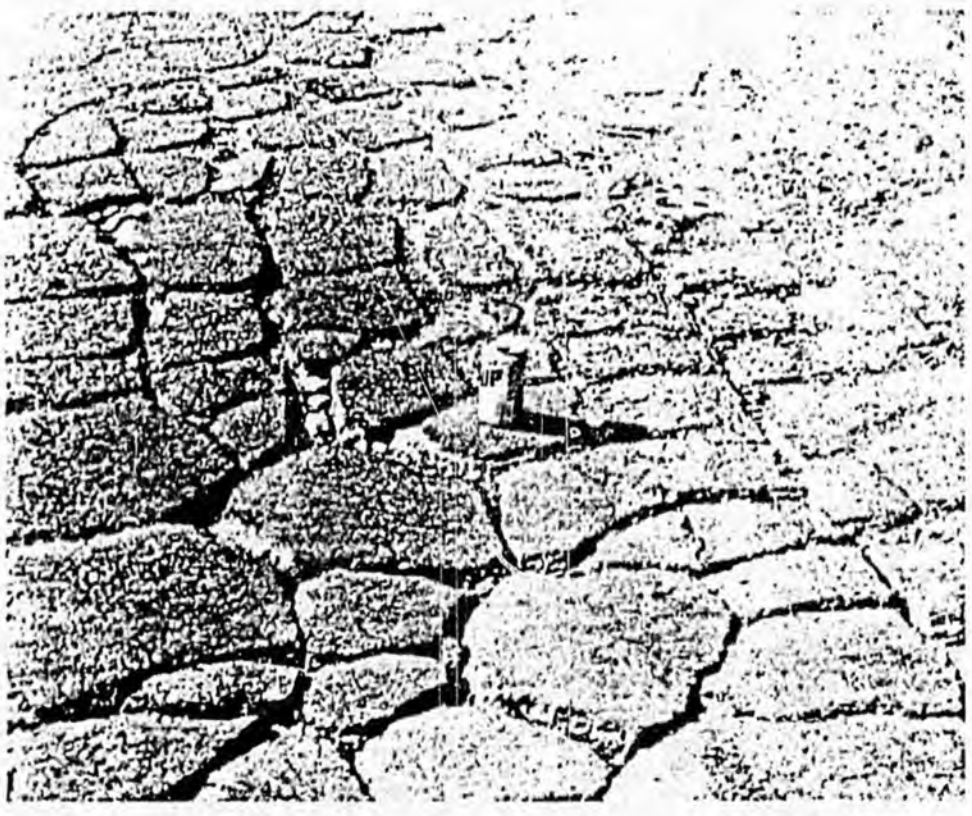
Experience has shown that gravel-surfaced roads can provide adequate performance under difficult conditions. Surface roughness measurements made on the Alaska Highway in 1980 by the Research Section of the Department of Transportation and Public Facilities showed a smoother surface on the Canadian (gravel) side of the border than on the Alaska (paved) side. These measurements were made with a Mays Ride Meter over 39 miles of paved road and 62 miles of gravel-surfaced road. Average axle movements were 13% less on the gravel portion then on the paved sections. Perhaps more significantly, the incidence of large (>1") axle movements – which indicates severe dips or potholes – was several times as great on the paved sections.

REQUIREMENTS

Many gravel roads are in poor shape, of course, and to make them safe for high-speed travel is not an inexpensive task. The basic needs for location and dimensions of the road – including alignment, width of surface, and grades – are virtually identical to those for paved roads. Many older roads are narrow, winding and steep, and upgrading these would be expensive no matter what type of surfacing they have.

Gravel-surfaced roads require a greater "crown" (transverse slope) than paved roads to ensure good drainage of water from the surface. This not only reduces muddiness and rutting during rainy weather, but also reduces formation of potholes and "washboarding." A 4% crown is usually recommended for gravel surfaces whereas 2% is typical of paved roads.[1,2] This requirement has little or no effect on costs, but is sometimes overlooked in building and maintaining gravel roads. A good gravel road also needs a surface layer of hard, crushed gravel with sufficient fine material to act as a binder.[3] Such material compacts well and "sets up" into a hard, smooth surface. Many gravel roads have been surfaced with uncrushed material (which is cheaper) and have few silt- and clay-sized particles or "fines" (which is intended to limit frost heaving). The result is loose gravel on the surface, much more dust and poorer overall surface quality.

Pavement may be no panacea. Asphalt road surfaces in the north, like the cracked one shown here, often break up quickly. (All illustrations courtesy DOTPF.)



A major cost in maintaining high quality gravel roads is periodic surface treatment with a dust palliative. This is a wide group of materials which provide a weak cementing action to the gravel, thus promoting a hard, smooth surface with fewer potholes, less washboarding and reduced dust problems. Although this treatment is expensive, it may pay for itself by reducing the need for grading and the loss of surface gravel. The reduction in dust is almost mandatory if high-speed travel is to be made safely. Examples of dust palliatives include waste oil, calcium chloride, emulsified asphalt and lignins. They have been used rarely outside of urban areas in Alaska, although calcium chloride has been used widely in the Yukon (including the Alaska Highway). Calcium magnesium acetate (CMA) might also be an effective dust palliative, since like calcium chloride it is hygroscopic, but it has not been used for this purpose.

CONSTRUCTION COSTS

The most obvious difference between the costs of building gravel and paved roads is the cost of the asphalt pavement. On recent Alaskan rural highway projects, this amounts to roughly $75,000 per mile of two-lane road, including incidentals such as paint striping and mobilization. In some cases, however, other factors could result in even greater cost differences between gravel and paved roads.

One of these is the limitation on the amount of fines allowed near the surface of the embankment. Current Alaska design policy[4] places restrictions on fines as deep as 3½ feet below a paved surface in order to reduce frost heaving of the roadway. Thaw weakening of heaved embankments causes severe and permanent damage to asphalt pavements, justifying this policy for paved roads.[5] Damage to gravel-surfaced roads from thaw weakening, however, is limited to greater muddiness and rutting at breakup – a temporary and relatively inexpensive problem. Greater amounts of fines might therefore be tolerated in gravel-surfaced roads.

"Clean" gravel (free of fines) is often expensive since good sources are rare in many areas. Restrictions of fines content, then, often leads to greater material processing, longer haul distances, and difficulties in securing necessary permits (many

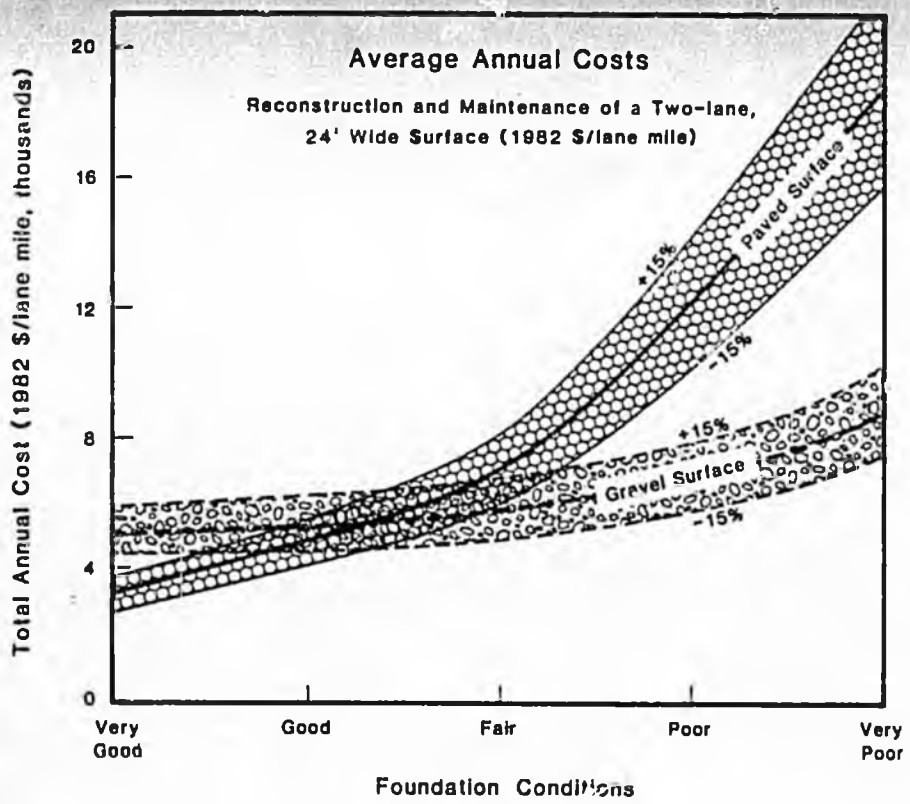


Figure 1. Estimated costs per year for well-maintained roadways.

"clean" gravels are river bottom deposits and mining them can cause environmental damage). Gravel suitable for unpaved roads may be much cheaper than that for paved roads (as much as $100,000 per mile of two-lane road, based on some recent contract unit prices).

Similar savings might result where roadways are cut through "dirty" material or even soft, degradable bedrock. For a paved road, excavations must be made to a level well below the final surface to remove these materials. This excavated material must then be replaced with clean gravel hauled from elsewhere. Much of this might be avoided if the road were unpaved, since the original material could be left in place.

Unusually thick road embankments are sometimes built in permafrost areas in order to insulate the original ground and protect it from thawing and settling. In some cases, manufactured insulation board has been placed beneath roadways. In such areas, gravel roads may be much cheaper to build than paved roadways since there is less need for these measures. This is because gravel surfaces stay cooler in summer than paved ones[6] (probably due to a combination of greater albedo and the cooling effect of greater evaporation of moisture from gravel surfaces). Since the surface stays cooler, less insulation is required to prevent thawing the underlying permafrost. The magnitude of the reduction depends upon the local climatic conditions (particularly the thawing index), but calculations utilizing the Modified Berggren Equation suggest that it is approximately equivalent to two feet of gravel in Interior Alaska and one foot on the North Slope. In Interior Alaska, this alone might result in saving $250,000 per mile for two-lane roadway.

MAINTENANCE COSTS

Maintenance of a high-quality road is not inexpensive even in the best of circumstances. Grading and treatment with dust palliatives must be performed regularly, and the cost of the latter is relatively high. In addition, the surfacing layer of gravel must be renewed every few years as grading and traffic wear it away. These expenses are higher where the foundation soils or the road embankment itself are of poor quality, but they are significant even if a road is built on bedrock.

In contrast, maintenance costs for paved roads are highly variable. If an embankment of material unsusceptible to frost is built on bedrock, it is likely that an asphalt pavement will have a long life with little need for patching or pothole filling. On poor roadbeds, the situation is drastically different. There have been numerous instances on highway construction projects over permafrost where pavement repairs have been necessary even before the entire project was completed.

Figure 1 illustrates the estimated cost of maintaining a paved road and a gravel-surfaced road in a condition adequate for high-speed (55 mph) travel as a function of the roadbed quality. The estimate assumes maintenance over the alignment for an indefinite period, and the cost of periodic repaving, regraveling and reconditioning are included in the averages. The "foundation quality" is meant to be a combination of both embankment and foundation soil conditions. Costs were estimated based on recent contract prices for various activities, on historical state maintenance costs and work levels, on current prices for asphalt, dust palliatives and other materials, and on interviews with state maintenance, design and construction personnel. Exact predictions of these costs cannot be expected, as is indicated by the range of costs shown in the graph. The estimate indicates that a paved surface is cheaper to maintain than a gravel one if the road foundation is very good and both types of surfaces are kept in good condition. As foundation quality deteriorates, however, this advantage disappears, and where foundation quality is very poor, gravel surfaces appear to be much cheaper.

Many sections of Alaska's highways, paved and unpaved, have not always been kept in a "high-speed" condition, and dust palliatives have rarely been used in rural areas. The cost estimates in Figure 1 therefore necessarily rely to some extent on theoretical instead of empirical data. The accuracy of the estimate – and in particular the exact crossover point between paved and unpaved surface costs – may thus be questioned. That such a crossover exists, however, seems clear.

It also seems clear that high quality gravel surfaces should be given serious consideration when plans for road improvements are formulated. Such surfaces might yield both better performance and lower costs in some areas, and the resulting experience would help to clarify the trade-offs between paved and unpaved roads.

A case in point which is of considerable current interest is the Dalton Highway. Much of this road passes over permafrost which provides a poor foundation. An asphalt pavement may deteriorate rapidly here, and many improvements are possible short of paving the road. Maintenance of a proper crown would by itself improve the road. The only good surfacing gravel ever placed on the road has been put there in the last year and a half; most of the road still has none. Virtually no dust palliatives have ever been used on the Dalton Highway; these could improve the surface further, reduce the need for grading, and reduce the loss of surfacing gravel as well as help to control dust problems.

A program to do all of the above would cost a considerable amount of money, but not nearly as much as a project to pave the road. It might also be more successful than an asphalt pavement on the long stretches of unstable ground the Dalton Highway crosses. On more stable parts of the road, on the other hand, paving may well be the most cost-effective means of improvement.

CONCLUSIONS

High-speed gravel roads merit serious consideration on Alaska's rural highways, particularly where poor foundation conditions – such as permafrost and muskeg – are encountered and in areas where clean gravels unsusceptible to frost are scarce. Asphalt pavements are likely to perform poorly in such areas and to have high construction and maintenance costs. Neither highway users, nor state highway personnel, nor taxpayers will be happy if, a few years after an expensive paving project, a road is as bad as or worse than it was before. Even some parts of Alaska's highways which are now paved might be improved by taking the "backward" step of giving them a high-quality gravel surface – and money could be saved in the process.

This article is adapted from the author's report "Costs and Performance of High Speed Gravel Roads." Requests for the full report should be sent to Barbara Trego, Publications Specialist, Department of Transportation and Public Facilities, Division of Planning and Programming, Research Section, 2301 Peger Road, Fairbanks, Alaska 99707.

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PUBLICATIONS

Note: Building in the North, the collection of classic Eb Rice articles, is being reissued with some minor revisions and updating by the School of Engineering here at the University of Alaska-Fairbanks. In keeping with Eb's wishes, profits – if any – from sales of his book will go toward furthering the cause of northern engineering education.

Important sidelight to the foregoing note: *The Northern Engineer* has very few copies left of the earlier printing of Building in the North. If you need the book, place your order with the *Office of the Dean, School of Engineering, University of Alaska, Fairbanks, AK 99701.* The new copies will be available sometime after the first of the year; price is not yet known, but given inflation over the intervening years, it is sure to be more than the previous $4.

• • • •

NOTED

Undergraduates studying civil engineering, geology or geological engineering are eligible to apply for a $1000 annual scholarship established at the University of Alaska by R&M Consultants. The scholarship is a memorial to the late Ralph Migliaccio, founder of R&M and the firm's president until his death.

Preference will be given to applicants demonstrating high scholastic ability, and financial need may be considered. The University of Alaska Foundation will administer the scholarship fund; scholarships will have a spring semester application deadline and will be awarded for the following fall semester. Forms and further information are available from *Dixie Brown, Executive Director, University Foundation, 113 Bunnell Building, University of Alaska, Fairbanks, AK 99701.*

• • • •

The Alaska Academy of Engineering and Sciences is up and going. A newly released flyer states the academy is open to any individual with a professional interest in Alaska engineering and science. No discipline, group or geographic region within the state will dominate; potential members from academia, industry, government and the private sector are encouraged to join.

The overall purpose of the academy is given as "the advancement of engineering and scientific knowledge, practice, and public service through the encouragement of: (a) scientific research and discovery, (b) technological innovation, (c) discussion of engineering and scientific problems and issues, and (d) publication and discussion of technological and scientific information and knowledge."

Ambitious plans already exist for the group to fulfill its aims. The academy plans to hold a conference each spring; to

HCR

44

HOUSE TRANSPORTATION COMMITTEE
DAILY AGENDA

1) CALL MEETING TO ORDER

2) Tuesday, April 24, 1984
Note Time

3) Note members present and excused

4) Recognize VIP's

PROCESSION OF MEETING

5) Discuss proposed legislation:

HCR 44 by Rep. Szymanski requesting reduce speed zone on the Seward Highway.

6) Announce time of adjournment

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HCR 44
Title: "...requesting a speed zone on (the) Seward Highway."
Sponsor: Representative Szymanski
Requestor: House Transportation
Date of Request: 2-9-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan F.C.A. mcl Phone: 269-5691
Division: Alaska State Troopers Date: 01/31/84

Approved by Commissioner: Robert J. Sundberg Date: 2/14/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FEB 15 1984

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HCR 44

Support

January 31, 1984

HCR 44 - "An act relating to requesting a speed zone on (the) Seward Highway."

Our initial indications reveal that the lowering of the speed limit on this portion of the Seward Highway would not be in the overall best interest of the public. However, since the resolution requests that Department of Transportation "investigate the possibility" of lowering the speed limit in this area, we concur that this would be a worthwhile effort.

Robert J. Sundberg
Commissioner

Alaska State Legislature

House of Representatives

Representative Mike Szymanski

Official Business

SR-A-Box 1304B
Anchorage, Alaska 99502
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811

February 10, 1983

TO: Representative Bette Cato

FROM: Representative Mike Szymanski

SUBJECT: HCR 44

I am enclosing some back-up information on HCR 44. I would very much appreciate it if this bill could be scheduled for hearing as soon as possible and would also like to request that a teleconference be set up during the hearing.

Thank you.

Alaska State Legislature

House of Representatives

Representative Mike Szymanski

Official Business

SR-A-Box 1304B
Anchorage, Alaska 99502
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811

October 10, 1983

Mr. Dave Haugen
Deputy Commissioner
Central Region
Department of Transportation
and Public Facilities
State of Alaska
Pouch 6900
Anchorage, Alaska 99502

Dear Dave:

Just a short note to bring you up-to-date on the Bird/Indian public meeting the other night which covered a request they have made to establish a speed zone in their area.

Mr. Don Morefield of your staff did an outstanding job of presenting the technical aspects of the speed study but, unfortunately, it was very difficult for the people to understand why a zone is not warranted with the high rates of speed existing in this area.

While I understand from a technical perspective the highway is well designed to accommodate the 55+ mile per hour traffic, it does not appear to accommodate the evergrowing residential area in the Bird Creek community.

Enclosed is a copy of the draft speed zone resolution I anticipate introducing during the next legislative session, but before it is actually introduced, I would like to suggest possibly another meeting be scheduled with one of your Design/Construction representatives, Highway Safety Planning Agency and/or Municipality of Anchorage Public Safety official to discuss the establishment of the speed zone and any alternatives that may be possible.

It is my understanding from Mr. Morefield's presentation that the highway can more than accommodate the high speed traffic that is running on it now and that past statistics related to accidents and fatalities cannot be used toward the current speed zone request. I am a little concerned with the fact that we will have to have additional fatalities/automobile accidents before the safety conditions warrant a speed zone or other alternatives to be recognized by the department. This is unacceptable to me and I will not wait for more deaths to occur before pursuing the matter further.

Also enclosed for your information and consideration is a letter from Renee Wilson of Bird Creek which clearly sets forth the community concern.

Your suggestions and thoughts and a meeting with the community would be greatly appreciated.

Sincerely,

Mike Szymanski
Representative

xc: Turnagain Arm Community Council
Senator Paul Fischer
Senator Don Gilman
Assemblyman Dana Brockway
Assemblyman Don Smith

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 24, 1983

Mr. Pat Durkin
President
Boretide-Indian Community
Council
SRA Box 8705
Anchorage, Alaska 99540

Dear Pat and Council Members:

I would like to take this opportunity to formally thank all of you for having taken the time to meet with me on January 5. I was very pleased with both the turnout and the seriousness of the conversation. The meeting was informative and better prepared me to represent your interests here at the capitol.

Now that I've had a few weeks to nose around, I thought I would fill you in on what I found out on some of the projects we discussed. Before I left Anchorage, my staff and I attended a series of meetings with State and Municipal officials. Here is the word on the status of various projects:

1. Bike Path: I have been assured by Municipal and State officials that the bike path planning is on schedule and that the path will be completed this coming summer. I was also told that $250,000 was sufficient for the project. Please note enclosure from Department of Transportation which shows a breakdown on expenditures to date.

2. School Bus Stop Signs: I asked Dick Armstrong of DOT about the procedure for erecting signs and he informed me that the signs would be posted as soon as construction in the area is completed. He said that this is normal DOT procedure.

3. Bird House/No Passing Zone: Dick and his staff were not really aware that this was a problem, but agreed to study it. He said that if there was a history of accidents in the area, as you mentioned, he saw no problem with changing that section to no passing. One of his staff suggested that perhaps it had been designated for passing because of the relative lack of acceptable passing zones on the Turnagain Arm part of the highway.

They will most likely wait until construction is complete to make a decision. I'll pester them.

4. Speeding Problem Through Indian: DOT is aware of the problems and plans to monitor conditions once the highway is finished. Although federal regulations dictate 55 mph for interstate highways, Dick said that there can be exceptions and this may be one. It is a volatile issue with many groups opposing a rezoning. The final determination will be made after traffic and density studies are complete. Be assured that I'm with you and will fight for reduced speed.

5. Boat Ramp: DOT suggested that not only is a boat ramp probably not desirable, but that there are some technical problems as well. They suggested that while the ramp would benefit experienced Inlet boaters, it would also encourage foolhardy Cheechakos and would no doubt prove a burden to emergency rescue operations in the area. There are also some DOT restrictions on constructing off-ramps, etc., which preclude the construction of a ramp at that site.

6. Reflectors at Driveway Entrances: DOT does not erect reflectors as a rule. They could, but it would set an expensive precedent and would cost the State about ten times what a private individual can do it for. However, DOT has no restriction against individuals erecting reflectors themselves.

7. Ball Parks: Chip Dennerlein, Director of Public Services, and his executive staff met with me for over four hours. We discussed several South Anchorage issues, including your park. He said that there is no problem with constructing a simple playing field area which could be maintained locally. The Municipality of Anchorage is not averse to the use of the old dump site and are looking into the possibility of converting it. $250,000 is available in the 1984 CIP for an Indian Ballpark.

8. People Mover Service/Commuter Trains: The extension of bus service to the Turnagain Arm is already being studied. Apparently, ridership is the determining factor and, as yet, there are not sufficient numbers to warrant the cost. Express buses (twice a day) and/or contract bussing has also been considered. While the possibility of extending service to the Arm has been studied, in Chip's words, "it is probably still a few years away." The same is true for commuter train service.

I realize that the above is brief and does not represent everything we talked about on the 5th. I am still investigating some of the other projects we discussed (e.g.: airstrip, campsite) and will keep you informed of any progress. If any of you wish to discuss these

projects in more detail, or anything else, please don't hesitate in contacting me or my staff (Mark Higgins and Joan Metcalf) in Juneau at 465-4978. You can also write to me care of Pouch V, Juneau 99811.

Please don't be strangers, and count on hearing from me soon.

Kindest regards,

Mike Szymanski

Mike Szymanski
Representative

Enclosure

P.S. I would like to set up a teleconf. for the next council meeting. With advance notice, you can check the phone equipment out of the Leg-Affairs office in Anchorage.

Alaska State Legislature

House of Representatives

Representative Mike Szymanski

Official Business

SR-A-Box 1304B
Anchorage, Alaska 99502
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1984

TO: Rhonda

FROM: Jane

Additional back-up for HCR 44 (to accompany "contributing factors report").

Thanks.

Number of accidents involving excess speed as the contributing factor on mile 100 - 103.5 of the Seward Highway (through Bird/ Indian)

DATE		NUMBER OF ACCIDENTS	DEGREE OF INJURY
1977		4	4 minor injuries
1978		3	3 minor injuries
1979		3	3 minor injuries 3 major injuries
1980		3	2 minor injuries
1981		4	4 minor injuries
1982		1	1 fatal injury
1983	(until Sept.)	3	4 minor injuries

Alaska State Legislature

House of Representatives

Representative Mike Szymanski

Official Business

SR-A-Box 1304B
Anchorage, Alaska 99502
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811

March 20, 1984

TO: Representative Bette Cato
Chair, House Transportation Committee

FROM: Representative Mike Szymanski

SUBJECT: Scheduling of HCR 44, legislation requesting a speed zone on the Seward Highway.

I would like to request that HCR 44, legislation requesting a speed zone on the portion of the Seward Highway that passes through the community of Bird/Indian, be heard before the Transportation Committee.

Attached is back-up information which includes a petition from the residents of this community in support of the resolution and accident statistics for this portion of the highway over a seven year period.

Your attention to this request would be appreciated.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HCR 44
Title: "...requesting a speed zone on (the) Seward Highway."
Sponsor: Representative Szymanski
Requestor: House Transportation
Date of Request: 2-9-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan F.C.A. mcl Phone: 269-5691
Division: Alaska State Troopers Date: 01/31/84

Approved by Commissioner: Robert J. Sundberg Date: 2/14/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HCR 44

Support

January 31, 1984

HCR 44 - "An act relating to requesting a speed zone on (the) Seward Highway."

Our initial indications reveal that the lowering of the speed limit on this portion of the Seward Highway would not be in the overall best interest of the public. However, since the resolution requests that Department of Transportation "investigate the possibility" of lowering the speed limit in this area, we concur that this would be a worthwhile effort.

Robert J. Sundberg
Commissioner

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
CONTRIBUTING FACTOR REPORT

ROUTE	MIPT	DATE	NUMBER	FATAL	MAJ INJ	MIN INJ	STREET	CROSS STREET	CONTRIBUTING FACTORS
130000	100.03	790828	7908270			4	NEW SEWARD HWY	MI 99.5	62 50 - -
130000	100.36	830201	8302069				MI 100 SEWARD HWY		15 74 01
130000	100.36	830212	8302821			2	MI 100 SEWARD HWY		(21) 04
130000	100.48	770628	7709433				SEWARD HWY MP 100		X X
130000	100.48	780614	7806834				SEWARD HWY	MILE 100	15 - - -
130000	100.48	790705	7905939			1	SEWARD HWY	MI 100	46 -
130000	100.48	800626	8006655		1		SEWARD HWY	MI 100	04 -
130000	100.48	800726	8007531			1	MI 100 SEWARD HWY		01 - 22 -
130000	100.53	780113	7800686			1	MI 100 SEWARD HWY		(21) 74
130000	100.68	810111	8100439		1		MILE 100.2	SEWARD HWY	(21) 74
130000	100.86	821220	8219007				MI 100.5 SEWARD HWY	N/B	(21)
130000	100.92	820404	8205054				MI 100.9 SEWARD HWY		05 09 01
130000	101.01	780317	7803640				MI 100.5 SEWARD HWY		09 - 01 -
130000	101.03	770813	7711748		3	1	SEWARD HWY	THE BIRD HOUSE	22 06 06 -
130000	101.05	800728	8007753				SEWARD HWY	BIRD HOUSE P/L	X X X X
130000	101.05	801207	8015772				MI 100.8 SEWARD	BIRD HOUSE P/L	(21) - 01 - 01 -
130000	101.05	810419	8104059				NEW SEWARD HWY	BIRD HOUSE BAR	15 -
130000	101.13	770729	7711010				SEWARD HWY	BIRD HOUSE	15 - - -
130000	101.22	770603	7708166			2	SEWARD HWY	SCOTTISH INN	01 - 01 - 01 -
130000	101.22	770603	[illegible]82				SEWARD HWY	SCOTTISH INN	01 -
130000	101.25	810325	8103421				MI 101.8 SEWARD HWY	BIRD CREEK BRIDGE	09 - 01 -
130000	101.28	801102	8012825				SEWARD HWY	MI 106.8	27 (21) - -
130000	101.28	801127	8012949				SEWARD HWY		X X X X
130000	101.28	801127	8015753				SEWARD HWY	MP 100	2 - 22 -
130000	101.30	770701	7709612				SEWARD HWY		X X X X
130000	101.30	770827	7712400			1	SEWARD HWY	BIRD CREEK CAMP GRND	04 (21) 01 -
130000	101.30	780725	7808683				SEWARD HIGHWAY	BIRD CK CAMPGROUN R	15 - 20 -
130000	101.41	770122	7701178				SEWARD HWY	101 MI	X X
130000	101.41	770521	7707567			1	NEW SEWARD HWY	MILE 101	02 -
130000	101.41	780619	7807038				101 MI POST SEWARD H		61 -
130000	101.41	781203	7815950				NEW SEWARD	MI 101	74 - - -
130000	101.41	790217	7901141				MI 101 SEWARD HWY		(21) - 01 - 01 -
130000	101.41	791110	7911742				MI 101 SEWARD	DRIVEWAY	22 -
130000	101.41	810620	8106701			1	MI 101 SEWARD	DUMP RD	22 - 01 -
130000	101.41	820106	8200192				SEWARD HWY	MILE 101	
130000	101.41	820531	8207385			2	SEWARD HWY	AT MI 101 SB	15 20
130000	101.41	820820	8211969			2	SEWARD HWY SB	MILE 101	15 -
130000	101.41	821222	8219780			1	SEWARD	AT MP 101	64 07
130000	101.41	830718	8309959				MI 101 SEWARD		(21)
130000	101.41	830807	8311788				MP 101	SEWARD HWY	02
130000	101.41	830822	8313099			2	SEWARD HWY	2000' S BIRD CRK BRI	(21) 01 01
130000	101.41	830904	8313539				SEWARD HWY	AT MI 101	11 01 01
130000	101.59	830818	8312955				MI 101	BIRD CK CAMPGD	01 -
130000	101.60	821215	8220511	1			SEWARD HWY APPROX	MI 101.7	20 15 02
130000	101.71	810516	8105262			3	SEWARD HWY MI 101.5	BIRD CRK BRIDGE	04 (21)
130000	101.81	810614	8106350			1	MI 101.7 SEWARD	BIRD CREEK BRIDGE	15 (21) 01 -
130000	101.81	820524	8207082				MI 101.7 SEWARD HWY	BIRDCRK BRIDGE	10 (
130000	101.83	780822	7810336			2	SEWARD	BIRD CREEK BRIDGE	04 (
130000	101.83	810729	8107509				SEWARD HWY	BIRD CREEK BRIDGE	11
130000	101.85	801102	8012822			2	MI 101.6 SEWARD HWY	BIRD CRK BRIDGE	(21) -
130000	101.85	811206	8115335				SEWARD HWY	BIRD CRK BRIDGE	7[illegible]
130000	101.85	820820	8211473				SEWARD HWY	NEAR BIRD CREEK	7[illegible] 01
130000	101.87	820819	8211451				SEWARD HWY	BIRD CK BRIDGE	11 J 78

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
CONTRIBUTING FACTOR REPORT

ROUTE	MIPT	DATE	NUMBER	FATAL	MAJ INJ	MIN INJ	STREET	CROSS STREET	CONTRIBUTING FACTOR
130000	101.88	770625	7709290				SEWARD HWY	BIRD CREEK	15 - 01 -
130000	101.88	771203	7717456			1	SEWARD HWY	BIRD CK CAMP	01 -
130000	101.88	790930	7912207	1		1	SEWARD HWY	MI 102	03 43 01 -
130000	101.88	810121	8100766				SEWARD HWY	MI 101	74 - 22 -
130000	101.88	810718	8107318				SEWARD HWY	MI 101.5	04 05 01 -
130000	101.88	810816	8108418				SEWARD HWY	BIRD CREEK	06 - - -
130000	101.90	820407	8205136				SEWARD HWY	17 MI S ANCH	
130000	101.91	770127	7701468				SEWARD WAY	BIRD CREEK BRIDGE	- -
130000	101.91	770405	7705575			3	SEWARD HWY	ANCHORAGE	04 (21)
130000	101.91	770819	7712050			1	SEWARD HWY	MI 101.5	10 04
130000	101.91	780123	7801194				MILE 101.5 SEWARD		64 -
130000	101.91	790122	7918788			2	SEWARD HWY MI 101.5	BIRD CREEK BRIDGE	04 74
130000	101.91	790611	7906410				SEWARD HWY	BIRD CREEK BRIDGE	42 - - -
130000	101.91	790804	7907218				BIRD CRK BRIDGE	SEWARD NEW HW	06 - 06 -
130000	101.91	800816	8003895				SEWARD HWY	MI 101.5	- -
130000	101.93	810521	81054				MILE 101.8 SEWARD	BIRD CREEK BRIDGE	15 07 01 -
130000	101.93	810612	8106024		1		MI 101.5 SEWARD HWY	BIRDCRK BRIDGE	X - 01 -
130000	101.95	771202	7717403		1		SEWARD HWY	BIRD CREEK BRIDGE	06 -
130000	101.95	780525	7805594				MI 101 SEWARD	BIRD CREEK BRIDGE	15 - 15 -
130000	101.99	800823	8010568				SEWARD HWY	BIRD CREEK	(21) - 62 -
130000	102.01	790101	7917804		3	3	SEWARD HWY	MI 101.6	04 (21) - -
130000	102.01	811111	8113501				SEWARD HWY	BIRD CRK BRIDGE	06 04
130000	102.01	830508	8305917			1	SEWARD HWY	AT MI 101.6	10
130000	102.21	790111	7919228				SEWARD HWY	BIRD CREEK	X X
130000	102.25	801102	8013310			2	SEWARD HWY	BIRD CREEK	74 47 74 47
130000	102.34	811206	8115361				SEWARD HWY	MCHUGH CREEK	X X X X
130000	102.35	790305	7901891				MI 102 SEWARD		(21) 74
130000	102.35	790414	7903855				MI 102 SEWARD		10 21 01 -
130000	102.35	791130	7912945				NEW SEWARD	MI 102	61 74
130000	102.35	800619	8008219				SEWARD HWY	SEWARD	01 -
130000	102.35	810605	8105883				MI 102 SEWARD HWY		61 -
130000	102.35	830422	8305539				SEWARD HWY	MI 102	-
130000	102.47	770113	7700721				SEWARD HY	MILE POST 102	(21) -
130000	102.75	780523	7805552			1	SEWARD HWY AT	MI 102.4	61 -
130000	102.75	790908	7909211			1	SEWARD	MI 102.4	16 - 63 -
130000	102.86	791103	7911610			3	MI 102.5	SEWARD HWY	04 09 01 -
130000	102.88	780224	7802868		1		MILE 102.5 SEWARD HY		01 63 01 -
130000	102.88	800916	8013690				SEWARD HWY	MI 102 1/2	01 01 48 -
130000	103.15	790512	7904600				MI 102.8 SEWARD		22 -
130000	103.17	790803	7907113				SEWARD HWY		X X X X
130000	103.22	800203	8002755				MI 102.9 SEWARD HWY	DIMOND JIMS BAR	09 - 01 -
130000	103.22	810721	8107285				SEWARD HWY	INDIAN CK BRIDGE	06 09 01 -
130000	103.22	810929	8111535				NEW SEWARD HWY	DIAMOND JIMS CLUB	11 -
130000	103.29	790119	7918626				SEWARD HWY	INDIAN CREEK BRIDGE	X X
130000	103.31	770217	7702760				SEWARD HWY	103	- - 15 -
130000	103.31	771230	7719097				SEWARD HWY	MI 103	07 (21) 07 21
130000	103.31	780205	7801838		1		SEWARD HWY	MI 103	22 30 22 80
130000	103.31	780615	7906867				SEWARD HWY	MP 103	X X X X
130000	103.31	780722	7809603				SEWARD HWY	MILE 103	06 07 20 06
130000	103.31	781227	7817523				MI 103 SEWARD	INDIAN CREEK	(21) - 01 - 21 -
130000	103.31	790804	7907214				MI 103 SEWARD HWY		X X X X
130000	103.35	790528	7905198				SEWARD HWY	INDIAN CREEK BR	22 - - - 11 -
130000	103.41	820501	8206174				MI 103 SEWARD HWY	AT ENT TO BORE TIDE	22 15 01

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
CONTRIBUTING FACTOR REPORT

ROUTE	MIPT	DATE	NUMBER	FATAL	MAJ INJ	MIN INJ	STREET	CROSS STREET	CONTRIBUTING FACTOR
130000	103.61	790710	7906005		1	1		SEWARD NEW HW	22 -
130000	103.64	820630	8208794				SEWARD HWY	12.3 MI S WEIGH STAT	
130000	103.68	810626	8106425				SEWARD HWY 178 MI		X X X X
130000	103.81	790413	7903704			1	MI 103.5 SEWARD		07 21
130000	103.81	791221	7913786				MI 103.8 SEWARD	INDIAN HOUSE	09 - 01 -
130000	103.81	800306	8003130				MI 103.5 SEWARD HWY		06 -
130000	103.81	800530	8005890				MI 103.9 SEWARD HWY	INDIAN HOUSE BAR	09 - 01 -
130000	103.81	820101	8200009				SEWARD HWY	INDIAN HOUSE	06 09 01
130000	103.81	830823	8313125			2	SEWARD HWY	MI 103.5	
130000	103.96	780802	7809904				SEWARD HWY	DEARMON	X X
* 130000	TOTALS:		116 ACCIDENTS		3 FATALITIES		12 MAJOR INJURIES	53 MINOR INJURIES	

MORE
INFORMATION FOR FIELD CONFAC :

THIS IS A CODED ITEM WHICH INDICATES THE CONTRIBUTING FACTORS ASCRIBED TO THIS VEHICLE IN THIS ACCIDENT. THIS COMES FROM FORM 12-203 BOXES 22(ITEM #450) & 23(ITEM #460) IF THIS IS THE LEFT VEHICLE RECORDED ON THE FORM OR BOXES 24(ITEM#470) AND 25(ITEM #480) IF THE RIGHT VEHICLE RECORDED ON THE FORM.

VALID CODES AND MEANINGS:

-	NOT APPLICABLE
X	UNKNOWN
01	NONE
02	ALCOHOL TEST GIVEN
03	ALCOHOL-NO TEST GIVEN
04	ALCOHOL SUSPECTED,NOT PROVEN
05	BACKING UNSAFELY
06	DRIVER INATTENTION
07	DRIVER INEXPERIENCE
08	DRUGS (ILLEGAL)

MORE

09	FAILURE TO YIELD
10	FELL ASLEEP
11	FOLLOWING TOO CLOSELY
12	ILLNESS
13	LOST CONCIOUSNESS
14	PASSENGER DISTRACTION
15	PASSING OR LANE USAGE IMPROPER
16	PEDESTRIAN ERROR/CONFUSION
17	PHYSICAL DISABILITY
18	PRESCRIPTION MEDICATION
19	TRAFFIC CONTROL DEVICE DISREGARDED
20	TURNING IMPROPERLY
21	UNSAFE SPEED
22	OTHER HUMAN FACTOR
41	ACCELERATION DEFECTIVE
42	BRAKES DEFECTIVE
43	HEADLIGHTS DEFECTIVE
44	OTHER LIGHTING DEFECTS
45	OVERSIZED VEHICLE
46	STEERING FAILURE
47	TIRE FAILURE/INADEQUATE
48	TOW HITCH DEFECTIVE
49	WINDSHIELD INADEQUATE

MORE

50	OTHER VEHICULAR FACTOR
61	ANIMAL'S ACTION
62	GLARE
63	VIEW OBSTRUCTED/LIMITED
64	OTHER ENVIRONMENTAL FACTOR
71	LANE MARKING IMPROPER/INADEQUATE
72	CONSTRUCTION DEBRIS
73	PAVEMENT DETERIORATED
74	PAVEMENT SLIPPERY
75	SHOULDERS
76	SIGNS MISSING/INOPERATIVE
77	TRAFFIC SIGNAL INOPERATIVE
78	CONSTRUCTION AREA
80	OTHER ROADWAY FACTOR

WE, THE UNDERSIGNED, RESIDENTS OF INDIAN AND OF BIRD CREEK, ALASKA - ON TURNAGAIN ARM- RESPECTFULLY REQUEST YOUR SUPPORT IN OUR APPEAL TO THE STATE'S DEPARTMENT OF TRANSPORTATION TO CREATE A SPEED ZONE ON THAT STRETCH OF THE SEWARD HIGHWAY THAT PASSES THROUGH OUR TWO COMMUNITIES. WE FEEL THAT THE ABOVE IS A PARTICULARLY DANGEROUS (AND WELL-TRAVELED) PIECE OF HIGHWAY, ONE THAT BY ITS VERY STRAIGHTNESS AND OPENESS ENCOURAGES MOTORISTS TO DRIVE AT HIGH SPEED THROUGH OUR RURAL, RESIDENTIAL COMMUNITIES.

(PLEASE PRINT)

NAME MAILING ADDRESS

Vincent D. O'Connell Box 8700 Indian
Vivian Newman Box 8700 Indian
Kenneth Wilkings Box 8700 Indian
CLARENCE R. JOHNSON BOX 8745 INDIAN
[illegible] Box 8575 INDIAN
Barbara A. Bonikson Box 8575 Indian
Mary Lou Redmond Box 8700 Indian
William N. Johnston Jr. Box 8500 Bird creek, AK
Harold M. Deane Box 8500 Bird Creek AK
Deborah D. Hagan Box 8606 BIRD Creek AK.
Kay Russell Box 8540 Bird Creek AK.
Michael Redmond Box 8700 Indian creek AK.
Lynn Harrison BOX 8540 Bird Creek
Hydee J. Hagan Box 8606 Bird creek AK.
John Burr Box 8501 BirD Creek Alaska
Steven L. Matter Box 8501 Bird Creek AK.
Mike Durkis BOX 8642 BIRD CREEK AK.
Harry K. Johnson SR Box 8515 BIRD Creek AK
Larry Bushnell P.O. Box 583 Girdwood AK 99587
Nancy Emby Emby % Birdhouse Bar Bird Creek
Jack S. Porter SR 8606 Bird Creek AK
James Coyle Coyle SR BOX 8642 BIRD CREEK AK

We, the undersigned, residents of Indian and of Bird Creek, Alaska - on Turnagain Arm - respectfully request your support in our appeal to the State's Department of Transportation to create a speed zone on that stretch of the Seward Highway that passes through our two communities. We feel that the above is a particularly dangerous (and well- traveled) piece of highway, one that by its very straightness and openess encourages motorists to drive at high speed through our rural, residential communities.

(PLEASE PRINT)

NAME	MAILING ADDRESS
Lee Miller	Box 8755 Indian ak. 99540
CHAD McGREW	4th & Feather ak 99540
Cody Myles	SRA 8800 Indian AK 99540
[illegible]	SR Box 8745 Indian Ak 99540
John Grimmett	Box 8801 Indiana AK. 9954
Nancy Nix	Box 8565 Indian AK. 995
[illegible]	Bird Creek, Al.

Lethie Collins SRBOX 8800 Indian 653-76
Jim Veroniek Box 8820 Indian 653-7640
LOREN Stout Rt 5 Box 8800 INDIAN 653 780
Rodney G. Vest BX 8735 - Rural Rt Indian AK 995
Grace Gordon Box 832 Soldotna, Ak.
Arthur Gordon Soldotna ak. 283-84
Rebecca Sue Hunter % INDIAN ak - 653-731
~~[illegible]~~
Mary Flynn SRBox 8800 Indian 653-790
Warren D. Braddock SRBox 8855 Indian AK 653 750
William Curtice PO Box 8531 Indian AK 563-382
Gloria A Young Anch., AK 562-543
David Young Anch AK " "
Timothy K. Bundy SRA 8654 Indian AK
Dennis Rose SRA 8800 Indian AK 6537313
Rick Wendt SR Box 8800 Indian AK
Brian D. Benson SRA 8654 Indian AK
J. C. Johnston (J.C. Johnston) SRA 8800 INDIAN, ALASKA 653-731
Dee Olsen Box 8790 Indian. AK. 653-7647
Robert Marshall Box 8765 Indian AK 653-7234
H. G. Antonsen Box 8555 Indian AK 653-7732
Jill M. Hartness SRA Box 8800 Indian AK. 653-76
Tim McDonald SR Box 8810 Indian AK 653-7212
William J. Khamis 3d Indian AK. 653-7211
[illegible] Box 8790 INDIAN ALASKA 653-764
[illegible] Box 8800 INDIAN, ALASKA 653-7313
Richard W. Kotwal Box 8585 Indian ALASKA 653-7203
James David SRA 8800 Indian ALASKA 653-7313
Linda Kessler SRA Box 8855 Indian ak 653-7502
Jack [illegible] SRA Box 8855 Indian AK. 653-7502
Jim Wieber SRA Box 8855 Indian AK 653-7502
BETTY A. YOUNG SRA BOX 8725 INDIAN 653-7732
YOLANDA CASTRO SRA BOX 8863 INDIAN - 653-7

Steve R. Dwight Box 8515 Bird Creek 99540

NANCY E. MCDONALD ST. RT. BOX 8810 INDIAN. AK. 99540

CECILIA R. BRAUND SRA 8654 INDIAN AK 99540

Karlee Wilson Box 8515 BIRD Creek 99540

Chas Daniels Box 470 Girdwood 99587

Frank E Whitney Box 431 Girdwood 99587

HUGH CRUIKSHNK JR. % THE BIRD HOUSE BIRD CREEK 995

SB

165

Offered: 4/18/83

Original sponsor: V.Fischer

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 (Rules) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to racing events on public highways."

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

* Section 1. AS 05.90.001 is amended to read:

Sec. 05.90.001. RACING EVENTS. (a) To the extent that it is consistent with federal law and regulations, a [SNOW VEHICLES, AUTOMOBILES, AND MOTORCYCLES MAY BE OPERATED ON STATE HIGHWAYS FOR] special racing event [EVENTS] of limited duration that is [WHICH ARE] conducted according to (b) of this section may be held on a state highway.

(b) The Department of Public Safety may grant permission for a [ATHLETIC COMMISSION MAY ISSUE, AND FOR CAUSE CANCEL, A PERMIT TO CONDUCT A SNOW VEHICLE, AUTOMOBILE OR MOTORCYCLE] racing event as provided in this section under terms and conditions and at times and places the department [COMMISSION] may determine. [IF THE COMMISSION REFUSES TO GRANT A PERMIT TO AN APPLICANT, OR CANCELS A PERMIT, THE APPLICANT OR HOLDER OF THE CANCELLED PERMIT MAY, UPON APPLICATION, HAVE A HEARING UNDER THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT (AS. 44.62). NO PERMIT MAY BE ISSUED BY THE COMMISSION FOR THE USE OF A STATE HIGHWAY WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF HIGHWAYS AND THE COMMISSIONER OF PUBLIC SAFETY.]

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: SS SB 165
Title: Racing on Public Highways
Sponsor: Fischer
Requestor:

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	*-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*Fiscal impact to the Department is not quantifiable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Harry Keller
Phone: 789-0841 Ext. 2
Division: Standards & Technical Services Division
Date: 4/12/83

Approved by Commissioner: Tom Seggar
Date: 4/26/83
Department: DOT & PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/8

SS SB 165
Racing Events on Public Highways
Department Analysis

Presently AS 05.90.001 permits issuance by the Alaska Athletic Commission of permits to hold snow vehicle, automobile, and motorcycle racing events on State highways. Such a permit may be issued only with the concurrence of the Commissioners of Public Safety and Transportation and Public Facilities.

SS SB 165 proposes to amend AS 05.90.001 so as to allow issuance of such a permit for any racing event. While there is some evidence in SB 165 that the intent is to provide for bicycle racing, the language of SS SB 165 would allow for human foot races, animal races, "go-cart" races, and any other type of speed contest which could be staged upon a public right-of-way. The major impact of this proposal, if it were enacted, would be to increase the number of racing events allowable on the public ways. This increase in racing events would also increase the number of incidents wherein the traveling public would have less than full use of the public highway for normal transportation functions.

AS 19.05.030 sets forth the duties of the Department in terms of planning, programming, design, construction, maintenance and operation. The Alaska Supreme Court has further defined those duties as follows:

> "The duty to maintain a highway safe for travel includes ...a duty of warning the travelling public of any other condition which endangers travel...caused by...the act of third persons." (Racers)

17 AAC 20.020 permits the Department to close or restrict any highway for the protection of the public and requires traffic guidance and/or suitable detours be provided "...as soon as possible to minimize traffic delay."

The interaction of these requirements to provide a safe efficient public way for normal transportation operations is reasonable in light of the large public investment in highways and the need to maintain safe, efficient, transportation for the economic well being of the State.

Enactment of SS SB 165 would minimally increase the operations costs of the Department by increasing the number of times temporary warning and directional devices would be needed to safely and efficiently direct traffic through or around a section of highway where races were being held. The larger cost to the State is not readily quantifiable. These costs are those related to increased user cost associated with detours and

potential tort claims against the State in the event of damage or injury caused by restricting use of the section of highway.

As indicated previously, SS SB 165 increases the exposure by permitting more racing contests on State highways than are now permitted. The existing statutes already inhibit public use of the public ways for motor vehicle racing and further restriction of general public use of public ways does not appear to be in the best interest of the State. There are not too many organizations which are financially able to sponsor snow vehicle, automobile and/or motorcycle races so the demand for use of State highways for such racing is minimal. However, a number of organizations are capable of sponsoring human foot races, bicycle races, "go-cart" races, etc., which could lead to substantially increasing pressure to use State highways for racing participants and observers to the detriment of the traveling public.

We therefore recommend against enactment of SS SB 165. Further, considering the increasing demand being placed upon our transportation facilities we suggest that repeal of AS 05.90.001 may be appropriate.

Page 1, following line 14:

Delete all material and insert

"Sec. 2. AS 05.90.901(b) is repealed and reenacted to read:

(b) the Department of Public Safety may issue, and for cause cancel, permission to conduct a special racing event as provided in this section under terms and conditions and at times and places the department may determine. If an applicant's permission is refused or cancelled, the applicant may, upon application to the Department of Public Safety, have a hearing under the provisions of the Administrative Procedure Act (AS 44.62).

Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

May 5, 1983

To: Representative Bette Cato, Chair
House Transportation Committee

From: Senator Vic Fischer

Re: SS SB 165

SS SB 165 is currently before the House Transportation Committee. Following is a brief history of the evolution of SB 165 along with other considerations addressed by this legislation.

* Current regulations (13 AAC 02.400 (h) forbid bicycle racing events on state highways unless they are permitted under AS 05.90.001.

* Apparently by oversite, AS 05.90.001, gives authority to issue permits for special racing events along state highways only to snow machines, automobiles, and motorcycles.

* SB 165 amended AS 05.90.001 to include bicycles.

* Prior to the first committee hearing on SB 165 it became apparent that simply including bicycles under AS 05.90.001 failed to address the inevitability that permits would be sought for racing events involving vehicles other than those authorized (foot races, bathtub races, roller skating races, etc.).

* SS SB 165 was introduced amending AS 05.90.001 so that permits can be issued for any special racing event of limited duration along state highways within limits set by provisions for public safety and compliance with federal laws.

* SS SB 165 was amended in the Rules committee and on the floor of the Senate to require the Department of Public Safety rather than the Athletic Commission to issue permits for special racing events. The Senate felt the troopers were a more appropriate agency to grant and administer permits. A requirement that permits only be issued with the concurrence of the Commissioner of DOTPF and provisions for hearings under the Administrative Procedures Act for persons denied permits were also deleted by floor amendment.

* The Senate clearly concurred that permits for special racing events along state highways should be made more available to the general public and that the process for obtaining those permits should be made easier.

Under current law, no state agency has clear authority to grant permission to conduct racing events along state highways except ones involving motorcycles, automobiles, and snowmachines.

In the absence of that authority, general statutes governing the use of highways apply. These statutes (AS 28.35.140) and regulations (13AAC 02.175(d)&(e)) specifically forbid pedestrians and others from obstructing traffic or being on or along a state highway. Without SB 165, footracers, cross-country skiers, dog-mushers, etc. cannot legally conduct racing events on or along state highways.

Particularly in Alaska, where transportation corridors are at a premium, the need for the public to occasionally use state highways for racing events is apparent. SB 165 is a vehicle for streamling the process of obtaining permits in a manner consistent with public safety.

/gb

Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

May 3, 1983

Dan Casey, Commissioner
Department of Transportation
and Public Facilities
Pouch Z
Juneau, AK 99811

Dear Commissioner ~~Casey~~:

On April 26, 1983, I received a fiscal note and department position paper on SB 165--a bill relating to racing events along state highways. There are several things about the way the fiscal note was prepared, its timeliness, and the arguments offered to support the department's recommendation against the bill that I want to bring to your attention because they demonstrate why legislators sometimes become exasperated with agency actions and interactions. Specifically they are:

** The fiscal note (and presumably the position paper) was prepared on 4/12/83. It was not approved until 4/26/83 and not delivered until 4/27/83. During those two weeks SB 165 was on the Senate floor twice and referred back to the Rules Committee for five days. There was ample time to address the issues raised in the position paper, but the failure to submit it on a timely basis prevented the Senate from doing so. In fact, I received the fiscal note nearly a week <u>after</u> SB 165 passed the full Senate.

** SB 165 has a zero fiscal note. I have been unable to find out who originally requested a fiscal note from your Department on this bill. As best as I can determine, neither the State Affairs Committee, the Senate Transportation Committee, nor the Senate Rules Committee's records indicate that they requested it.

Personally, I question why a division would offer a late, and apparently unsolicited position paper on a bill which, as their own research indicated, would have minimal or no impact on their division.

** I truly resent what I refer to as the "Ferraris ok/no bicycle" argument used to justify the department's opposition to this bill. To support current law because it restricts the use of state highways for racing events to the "not too many organizations which are financially able to sponsor snow vehicle, automobile and/or

motorcycle races so the demand for use of state highways for such racing is minimal" is in my opinion a lazy, shallow, and callous argument.

I bring these points to your attention mainly in the hope that you can assure more timely and sensible responses by people in your department.

Best personal regards,

Senator Vic Fischer

bcc: Ginger Baim

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: SS SB 165
Title: Racing on Public Highways
Sponsor: Fischer
Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	*-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

*Fiscal impact to the Department is not quantifiable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Harry Keller
Phone: 789-0841 Ext.
Division: Standards & Technical Services Division
Date: 4/12/83

Approved by Commissioner: Dan A. Seggar
Date: 4/26/83
Department: DOT&PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/8

SS SB 165
Racing Events on Public Highways
Department Analysis

Presently AS 05.90.001 permits issuance by the Alaska Athletic Commission of permits to hold snow vehicle, automobile, and motorcycle racing events on State highways. Such a permit may be issued only with the concurrence of the Commissioners of Public Safety and Transportation and Public Facilities.

SS SB 165 proposes to amend AS 05.90.001 so as to allow issuance of such a permit for any racing event. While there is some evidence in SB 165 that the intent is to provide for bicycle racing, the language of SS SB 165 would allow for human foot races, animal races, "go-cart" races, and any other type of speed contest which could be staged upon a public right-of-way. The major impact of this proposal, if it were enacted, would be to increase the number of racing events allowable on the public ways. This increase in racing events would also increase the number of incidents wherein the traveling public would have less than full use of the public highway for normal transportation functions.

AS 19.05.030 sets forth the duties of the Department in terms of planning, programming, design, construction, maintenance and operation. The Alaska Supreme Court has further defined those duties as follows:

> "The duty to maintain a highway safe for travel includes ...a duty of warning the travelling public of any other condition which endangers travel...caused by...the act of third persons." (Racers)

17 AAC 20.020 permits the Department to close or restrict any highway for the protection of the public and requires traffic guidance and/or suitable detours be provided "...as soon as possible to minimize traffic delay."

The interaction of these requirements to provide a safe efficient public way for normal transportation operations is reasonable in light of the large public investment in highways and the need to maintain safe, efficient, transportation for the economic well being of the State.

Enactment of SS SB 165 would minimally increase the operations costs of the Department by increasing the number of times temporary warning and directional devices would be needed to safely and efficiently direct traffic through or around a section of highway where races were being held. The larger cost to the State is not readily quantifiable. These costs are those related to increased user cost associated with detours and

potential tort claims against the State in the event of damage or injury caused by restricting use of the section of highway.

As indicated previously, SS SB 165 increases the exposure by permitting more racing contests on State highways than are now permitted. The existing statutes already inhibit public use of the public ways for motor vehicle racing and further restriction of general public use of public ways does not appear to be in the best interest of the State. There are not too many organizations which are financially able to sponsor snow vehicle, automobile and/or motorcycle races so the demand for use of State highways for such racing is minimal. However, a number of organizations are capable of sponsoring human foot races, bicycle races, "go-cart" races, etc., which could lead to substantially increasing pressure to use State highways for racing participants and observers to the detriment of the traveling public.

We therefore recommend against enactment of SS SB 165. Further, considering the increasing demand being placed upon our transportation facilities we suggest that repeal of AS 05.90.001 may be appropriate.

SB 165 SENATE JOURNAL - PAGE 339- 4 3/ 8/83

SENATE BILL NO. 165 by Senator Vic Fischer, entitled:

"An Act relating to bicycle racing on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 458- 1 3/22/83

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) by Senator Vic Fischer, entitled:

"An Act relating to racing events on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 495- 2 3/25/83

The Transportation Committee considered (SPONSOR SUBSTITUTE) (FOR SENATE BILL NO. 165) (racing events on public highways) and a majority of the committee recommended do pass. The report was signed by Senator Moss, Chairman and concurred in by Senators Faiks and Kerttula. Senator Gilman signed "no recommendation".

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was referred to the Rules Committee.

SB 165 SENATE JOURNAL - PAGE 592- 1 4/ 6/83

The Rules Committee considered (SPONSOR SUBSTITUTE FOR SENATE) (BILL NO. 165) (racing events on public highways) and a majority of the committee recommended it be placed on the April 6 calendar. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly and Ferguson.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 appears on today's calendar.

SB 165 SENATE JOURNAL - PAGE 339- 4 3/ 8/83

SENATE BILL NO. 165 by Senator Vic Fischer, entitled:

"An Act relating to bicycle racing on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 458- 1 3/22/83

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) by Senator Vic Fischer, entitled:

"An Act relating to racing events on public highways."

was read the first time and referred to the Transportation Committee.

SB 165 SENATE JOURNAL - PAGE 495- 2 3/25/83

The Transportation Committee considered (SPONSOR SUBSTITUTE) (FOR SENATE BILL NO. 165) (racing events on public highways) and a majority of the committee recommended do pass. The report was signed by Senator Moss, Chairman and concurred in by Senators Faiks and Kerttula. Senator Gilman signed "no recommendation".

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was referred to the Rules Committee.

SB 165 SENATE JOURNAL - PAGE 592- 1 4/ 6/83

The Rules Committee considered (SPONSOR SUBSTITUTE FOR SENATE) (BILL NO. 165) (racing events on public highways) and a majority of the committee recommended it be placed on the April 6 calendar. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly and Ferguson.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 appears on today's calendar.

SB 165 SENATE JOURNAL - PAGE 600- 1 4/ 6/83

(SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) was read the second time.

Senator Ray moved and asked unanimous consent that SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was read the third time.

The question being: "Shall SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 (racing events on public highways) pass the Senate?" The roll was taken with the following result:

SS SB 165 3RD

Yeas:	15	Bennett, Elkason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Josephson, Kerttula, Moss, Mulcahy, Ray, Sackett, Sturgulewski, Ziegler
Nays:	5	Gilman, Halford, Kelly, Pettyjohn, Rodey

and so, SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 passed the Senate.

Senator Rodey gave notice of reconsideration on SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165.

SB 165 SENATE JOURNAL - PAGE 625- 1 4/ 7/83

Senator Rodey requested that the reconsideration of (SPONSOR) (SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) be taken up at this time.

SENATE BILLS IN THIRD READING

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 was before the Senate on reconsideration.

Senator Rodey moved and asked unanimous consent that SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165 be held one day. Without objection, it was so ordered.

Senator Vic Fischer moved and asked unanimous consent that (SPONSOR SUBSTITUTE FOR SENATE BILL NO. 165) (racing events on public highways) be returned to the Rules Committee. Without objection, it was so ordered.

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
SENATOR VIC FISCHER, CHAIRMAN
POUCH V, JUNEAU 99811
(907) 465-4954

TO: Senator Pappy Moss, Chair
Senate Transportation Committee

FROM: Senator Vic Fischer

DATE: March 12, 1983

RE: Explanation of SB 165.

Senate Bill 165 amends AS 05.90.001 to include bicycles among vehicles authorized to seek permits for the athletic commission for racing events of limited duration on state highways.

AS 05.90.001 provides authority to grant special permits, consistent with federal law and regulations, for racing events on state highways involving snow vehicles, automobiles and motorcycles. AS 05.90.001 (b) specifically authorizes the athletic commission to grant those permits and sets out application procedures and methods to appeal denial of a permit from the commission.

Recently, bicycle enthusiasts have sought permits to conduct races along state highways for community fundraising events and other public purposes. Because AS 05.90.001 does not mention bicycles, the athletic commission cannot grant permits which they have no authority to consider.

AS 05.90.001 clearly establishes the legislatures intent to provide special authorization for "unconventional" use of state highways involving specified vehicles. It appears bicycles were left out as an oversite, rather than any intention on the part of the legislature to exclude them.

In order to provide authorization for bicycle events this summer, it is necessary to pass SB 165 as soon as possible. Your earliest consideration on this bill would be much appreciated.

cc: Senator Jalmar Kerttula

3-17-1983

Representative Terry Martin
State Capitol Building
Pouch V
Juneau, Alaska 99811

Re: Legislative efforts to develop a permitting procedure for bicycle races.

Dear Mr. Martin:

I am working on behalf of the bicycle racing community to help modify certain Alaska Statutes so that we may be able to develop a permitting procedure for bicycle racing.

Within the past few years an addition has been made to Title 13 of the Alaska Administrative Code which reads as follows:

> " (h) No bicycle race may be conducted upon a roadway, except as provided under AS 05.35. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)
>
> Authority: AS 28.05.011 "

However, Chapter 35 as referred to in the above quotation, through apparent oversight, neglects to mention " bicycles " within Sec. 05.35.010 and Sec. 05.35.020. In the most recent update of the Alaska Statutes AS 05.35 has been renumbered AS 05.90.001. A copy of the relevant part of Title 13 and the current wording of AS 05.90.001 is attached.

I have also included a letter I received from Senator Jay Kerttula, dated 2-28-1983, and a bill which Senator Vic Fisher introduced on our behalf, dated 3-8-1983. In the letter from Senator Kerttula he acknowledges that an oversight was made concerning bicycles when Title 13 was adopted. I had contacted Senator Kerttula in my initial request for legislative help. He forewarded our packet of information to the Senate State Affairs Committee, chaired by Senator Vic Fisher and to the Health, Education, and Social Services Committee, chaired by Senator Joe Josephson for their review. Within a matter of days Senator Vic Fisher had introduced the attached bill.

I have been in touch with aides of both Senators Vic Fischer and Joe Josephson. I have been told that if a similar bill were introduced on the House side, speedier legislative action might result. I am hoping you might be in a position to help us with this legislation. Our racing season gets underway in less than a month. Until the bill passes we have the support of law inforcement officials and the highway department as long as we do all we can to help expedite the legislative process. According to AS 05.90.001 we must obtain permission through a permitting procedure from the athletic commission with the concurrence of the commissioners of highways and public safety. I have contacted the latter two commissioners and their replies are attached. I have written a letter to commission chairman Bob Vogt of the athletic commission, but he will apparently be out of state until later this month. With regard to your efforts in working with Senator Joe Joesepnson to redefine the responsibilities of the athletic commission, we would certainly be in favor of any legislation which would help streamline our permitting process for bicycle racing.

Please contact me if you have any questions. I look foreward to hearing from you.

Sincerely,

Bjarne Holm
P.O. Box 4-2442
Anchorage, Alaska
99509

(b) No person may violate the provisions of secs. 385–420 of this chapter. The parent or guardian of a child may not authorize or knowingly permit a child to violate a provision of this chapter.

(c) When signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle may disobey the direction of the sign unless first pulling to the extreme right or shoulder of the road, dismounting and making the turn as a pedestrian. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 02.390. TRAFFIC LAWS AND REGULATIONS APPLY TO PERSON RIDING BICYCLE. Repealed 6/28/79.

13 AAC 02.395. RIDING ON BICYCLES AND CERTAIN NONMOTORIZED CONVEYANCES. (a) Repealed 6/28/79.

(b) No person operating a bicycle upon a highway may carry a person other than the operator, unless the bicycle is equipped with a seat for the passenger, except that an adult rider may carry a child securely attached to his person in a backpack or sling.

(c) No person operating a bicycle or other nonmotorized conveyance may attach, hold on by hand or otherwise secure the bicycle or conveyance or himself to another vehicle so as to be towed or pulled.

(d) A person operating a bicycle upon a highway shall maintain control of the bicycle and shall at all times keep at least one hand upon the handlebars of the bicycle.

(e) No person may operate a unicycle, coaster, roller skates or a similar device on a roadway.

(f) This section does not apply upon a roadway closed to motorized vehicle traffic. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

13 AAC 02.400. RIDING BICYCLES ON ROADWAYS AND BICYCLE PATHS. (a) A person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, and shall give way to the right as far as practicable to a motor vehicle proceeding in the same direction when the driver of the motor vehicle gives audible signal.

(b) Persons riding bicycles on a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding bicycles two abreast may not impede traffic and, in a laned roadway, shall ride within the farthest right lane.

(c) When a shoulder of the highway is maintained in good condition, an operator of a bicycle shall use the shoulder of the roadway.

(d) A person operating a bicycle on a trail, path, sidewalk, or sidewalk area shall

(1) exercise care to avoid colliding with other persons or vehicles;

(2) give an audible signal before overtaking and passing a pedestrian; and

(3) yield the right-of-way to any pedestrian.

(e) Repealed 6/28/79.

(f) A person riding a bicycle intending to turn left shall, unless he dismounts and crosses as a pedestrian, comply with the provisions of sec. 200 of this chapter. The operator of a bicycle must give a signal by hand and arm continuously during the last 100 feet traveled unless the hand is needed in the control or operation of the bicycle. When stopped to await an opportunity to turn, a hand and arm signal must be given continuously by the operator.

(g) No person may ride a bicycle upon a sidewalk in a business district or where prohibited by an official traffic-control device.

(h) No bicycle race may be conducted upon a roadway, except as provided under AS 05.35. (In effect before 7/28/59; am 12/15/61, Reg. 3; am 8/10/66, Reg. 22; am 12/31/69, Reg. 31; am 6/28/79, Reg. 70)

Authority: AS 28.05.011

Sec. 05.30.100. Reporting of accidents. The operator of a snow vehicle involved in an accident resulting in injury to, or death of a person, or property damage other than to his snow vehicle the estimated amount of which is $100 or more, shall immediately, by the quickest means of communication, give notice of the accident to the nearest state trooper or city police officer. (§ 1 ch 182 SLA 1968)

Collateral references. — Accidents involving negligence in operation of snowmobile, skimobile, or similar vehicle. 42 ALR3d 1422.

Liability for injury or death allegedly caused by defect in snowmobile or other recreational-purpose vehicle. 81 ALR3d 394.

Sec. 05.30.110. Penalty. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $100 for each offense. (§ 1 ch 182 SLA 1968)

Revisor's notes. — The word "adopted" was substituted for "promulgated" by the revisor of statutes pursuant to AS 01.05.031(b).

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 05.30.120. Definition. In this chapter "snow vehicle" means a vehicle propelled by mechanical power, supported in part by skis, belts, cleats, or low pressure tires, and primarily designed to travel over ice or snow. (§ 1 ch 182 SLA 1968)

Revisor's notes. — A former paragraph defining "cowling" was transferred and redesignated as AS 05.30.040(b) by the revisor of statutes pursuant to AS 01.05.031(b).

Chapter 90. Miscellaneous Provisions.

Section
01. Racing events

Sec. 05.90.001. Racing events. (a) To the extent that it is consistent with federal law and regulations, snow vehicles, automobiles and motorcycles may be operated on state highways for special racing event of limited duration which are conducted according to (b) of this section.

(b) The athletic commission may issue, and for cause cancel, a permit to conduct a snow vehicle, automobile or motorcycle racing events as provided in this section under terms and conditions and at times and places the commission may determine. If the commission refuses to grant a permit to an applicant, or cancels a permit, the applicant or holder of the cancelled permit may, upon application, have a hearing under the provisions of the Administrative Procedure Act (AS 44.62). No permit may be issued by the commission for the use of

a state highway without the concurrence of the commissioner of highways and the commissioner of public safety. (§ 2 ch 192 SLA 1970; AS 05.35.010, 05.35.020)

Revisor's notes. — This section derives from AS 05.35.010 and AS 05.35.020 and was renumbered by the revisor of statutes under AS 01.05.031.

In renumbering the provisions comprising this section, the revisor designated the provisions of former AS 05.35.010 as subsection (a) and the provisions of former AS 05.35.020 as subsection (b), substituted "(b) of this section" for "a prearranged schedule under permit as provided for in AS 05.35.020" in subsection (a), and substituted "this section" for a reference to former AS 05.35.010 — 05.35.020 in the first sentence of subsection (b).

Collateral references. — 4 Am. Jur. 2d Amusements and Exhibitions §§ 28, 29-34, 46, 78.

61A C.J.S. Motor Vehicles §§ 571-587.

Zoning regulation forbidding "racing" or a "race track." 83 ALR2d 877.

Liability of participant in unauthorized highway race for injury to third person directly caused by other racer. 13 ALR3d 431.

Liability of public authority for injury arising out of automobile race conducted on street or highway. 80 ALR3d 1192.

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 28, 1983

Mr. Bjarne Holm
The Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK. 99509

Dear Mr. Holm:

Thank you for your recent letter. It does appear that there has been an oversight made concerning bicycles when Title 13 of the Alaska Administrative Code was adopted. I have forwarded your letter and attached materials to the Senate State Affairs Committee, Chaired by Sen. Vic Fischer; and the Health, Education, and Social Services Committee, chaired by Sen. Joe Josephson for their review and possible action. You may also wish to contact them directly on this matter.

Thank you for contacting me. I hope this matter is corrected to your satisfaction, and your race is a success.

Sincerely,

Senator Jay Kerttula
Senate President

JK/ja/jdk

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

February 8, 1983

Mr. Bjarne Holm
Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK 99509

Dear Mr. Holm:

In response to your letter of January 11, 1983 as stipulated in Alaska Statutes Supplement Section 05.35.010, the Athletic Commission has the authority for initial issuance of permits for racing events. If the event occurs on the State highway, the concurrence of the Commissioner, Department of Public Safety must be obtained.

Since the permitting authority rests with the Athletic Commission, the basic requirements should be established by them. However, any vehicle, i.e. bicycle, operated on a State highway must conform to all general and any specific traffic regulations pertaining to that vehicle. Any Department of Transportation and Public Facilities restrictions or requirements would be in keeping with these Alaska Statutes or Administrative Code governing such activities. If these procedures are followed, there should be no problem in obtaining Department concurrence.

Thank you for the opportunity to comment on this matter of mutual concern.

Sincerely,

Daniel A. Casey
Commissioner

ILH

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

January 21, 1983

Mr. Bjarne Holm
Arctic Bicycle Club
P.O. Box 4-2442
Anchorage, AK 99509

Dear Mr. Holm:

It sounds as if you and your organization are in the midst of planning for an exciting year. Your first priority should be to ensure that the amendment to the wording of AS 05.90.001, to include bicycles, is accomplished. This will allow you to proceed legally for the proper authorization for the event.

Any future correspondence with reference to the request for authorization to conduct these events should be directed to the following address:

Alaska State Troopers
P.O. Box 6188 Annex
Anchorage, AK 99502
Attn: Director's Office

Your correspondence should include the scheduled date, time, proposed route, insurance coverage, and any other pertinent data. The Director's office will provide the originator of the correspondence with a form listing all the requirements and will be responsible for forwarding the required documents to this office for authorization.

To provide an idea of what this involves, a copy of this particular type of document is attached for your review. This involves snow machine racing so yours would be somewhat different.

As you can see from the enclosed document, approval must be obtained from the Commissioners of Athletics, Transportation and Public Facilities, and Public Safety. I can expedite the application once it is received by my office. However, I would recommend that you allow at least thirty (30) days from the date of application until the final authorization.

2LH

I do hope that I have been able to assist you in this matter, and if you have any further questions, I will be happy to discuss them with you.

Sincerely,

Robert J. Sundberg
Commissioner

cc: Col. Michael Kolivosky, Director
Alaska State Troopers

Attachment: a/s

The (agency's name) _____ will sponsor this race, and as sponsors will have liability insurance coverage in effect at the time of the event for all participants in the amount of $_____.

This event, to be known as _____(name of race or contest) is scheduled to occur between _____, Alaska and _____, Alaska (route map attached) on the date of _____, 198____.

The sponsors will provide road guards, flagmen, signs, and barricades for any and all road crossings along the route of snowmachine travel.

All snowmachines will be properly registered in compliance with State statutes AS 05.30.020 through AS 05.30.080.

The crossings of all roads and bridges shall be at a maximum speed of 15 miles per hour.

All crossings will be so located as to provide adequate sight distance for motorists using the roadway.

At road crossings, all caution and safety signs intended to regulate traffic flow and insure maximum safety shall provide the follwoing information (BE PREPARED TO STOP, CW20-8, 36" by 36", located 1000 feet from each side of crossing point). Two flagmen with orange vests and stop-go paddles are provided, one for each direction of travel.

Sign stating flagman ahead, 500 feet, size CW20-7, 36" by 36", shall be located 500 feet each side of crossing point. These signs and placement shall conform to the Alaska Traffic Manual. If, at any time, either the Department of Transportation and Public Facilities or the Department of Public Safety feel that the race is endangering the traveling public, the race will be suspended.

No night (hours of darkness) crossings will be authorized.

No parking within 500 feet of any snowmachine crossing point.

The motor mushers will file a bond with the State for any necessary cleanup as a result of this race.

Other Special Requirements:

By signing below the applicant agrees to perform all the conditions of this permit and shall indemnify and save harmless the State, it's officers and employees from all liability, judgement, cost, expenses and claims growing out of damages or alleged damages, of any nature whatsoever to any person or property arising out of performance or nonperformance of the permit.

_____ _____
Authorized Representative Director of Alaska State Troopers

_____ _____
Authorized Representative Date

APPROVAL

_____ _____
Commissioner, Dept. of Transportation/Public Facilities Date

_____ _____
Commissioner, Department of Public Safety Date

_____ _____
Commissioner of Athletics Date

SB

184

561-4221

April 5, 1983

The concept that the transportation industry should be regulated by specific regulatory agencies dates back to the late 1880's in the United States. In Alaska the transportation industry has been regulated since statehood under AS 42.10--Alaska Motor Freight Carrier Act and AS 02.05--Alaska Air Commerce Act of 1960. Initially, regulation was under the Public Service Commission which was split in 1966 into the Alaska Transportation Commission and the Alaska Public Utilities Commission.

Generally, the reason for the regulation of transportation is that it falls within those certain occupations or services which because of their vital and essential interest to the public require a minimal guarantee that certain standards be met. The minimal standards are set through either licensing or registration covering such professions as medicine, law, teaching, barbering and services such as banking institutions, insurance companies, hospitals, taxi cabs, real estate agencies, and transportation. While there is a variety of reasons for the regulation of the individual profession or service, the central reason is that the consumer/public deserves a guarantee that the service received will not be harmful either physically or monetarily. There is a further link in that all such services will be performed efficiently and in most cases at non-discriminatory rates.

Under Alaskan law, the key areas of regulation of transportation are:

1. Entry of new competition (includes expansion of existing authority);
2. Rates for services;
3. Performance of service;
4. Safety of operation (primarily for trucking); and
5. Proof of adequate insurance.

The Commission administers its regulatory authority through various means, a majority of which are required by the statutes. The statutes provide that as a quasi-judicial agency the Commission has powers of subpoena and other processes necessary to conduct hearings, investigations and proceedings necessary to reach a final determination. The statute provides that all parties are assured of fair treatment legal due process and that rules of evidence will apply as well as providing for the appeal of any final administrative order to the Superior Court.

Specifically, the theory behind regulation of transportation is that a level of control is necessary to assure the availability of adequate, dependable and available transportation services for the movement of necessary supplies, materials, and people while at the same time providing the consumer with stable service at rates that foster sound economic conditions among the carriers. Further, the consumer is to be provided reasonable rates without undue discrimination or preference while protecting the carrier from unfair or destructive competitive practices.

Without regulation the possibility exists that destructive competition will occur due to the unlimited entry of carriers many of whom may not have adequate knowledge to use the correct equipment or routing for the task to be performed, to establish a system to prevent loss of cargo through misplacement or theft, or to employ competent employees.

If regulation did not exist, there would be no market protection for existing carriers. To many people this is the most offensive aspect of transportation regulation. However, the concept is based on the rationale that transportation companies should be granted a share of the market place that allows a reasonable return on the required investment. The carrier must have a wide range of equipment, personnel, and facilities that will not be fully utilized, but are necessary to meet the public demands for service. Therefore, as long as the authorized carriers maintain adequate equipment, facilities, and personnel to meet the public demands, then new entries should be limited since all that new entries will do is take existing businesses away from existing carriers thus denying them revenue necessary to provide full service.

It should be understood that a high degree of competition exists between the regulated carriers since rates are generally the same or very close for each type of commodity or trip. The carriers compete for customers by demonstrating service, reliability and efficiency in meeting the public demand. If a carrier does not perform for a shipper, there is someone else who will, or there is another mode of transportation. In the situation where a new entrant can prove that none of the existing carriers are performing or that shipping needs are not being met, then new entry is allowed.

In all cases it is the consumer that pays the shipping cost. There seems to be an overriding thought that regulation of transportation places the public in the position of subsidizing an archaic system. What regulation really does is to guarantee the public that a transportation system will exist to move people and commodities throughout an area at reasonable prices and with assurance of competent handling. The current movement toward deregulation is clearly showing a trend toward carriers, both air and motor, concentrating their efforts in high market areas for large shippers and ignoring equal service for small demand areas and small shippers.

Another function of regulation relates to the requirement to file rates for approval and for a carrier to abide by the posted rates. This function reduces the possibility of

either a shipper or a carrier controlling the price and assures that all shippers are treated equally. In the situation where a shipper dictates the price of transportation since it controls a large enough segment that a carrier allows the shipper to dictate its own price, other shippers not having a controlling segment will have to pay higher rates since the carrier is not receiving adequate compensation for the controlled moves. Thus, one shipper gets a lower rate and everyone else makes up for the difference.

Based on its statutory authority the Commission also has the authority to require all common and contract carriers to provide proof of adequate insurance necessary to protect the public. If a carrier does not have insurance on file, it cannot legally operate. The Commission also has authority to conduct safety inspections of all commercial motor vehicles over 4,000 pounds to assure vehicle and load safety. While the commercial vehicle safety program has previously been funded primarily through other agencies responsible for the operation of the weigh stations, as of March 12, 1983, the ATC again became the sole administrative agency responsible for commercial vehicle safety.

The Commission consists of 30 employees, including three Commissioners, two Hearings Examiners and a staff of 25 employees. Attached is a Staffing Chart. In the operating budget for FY 1984 the staff will be reduced by two positions, the Transportation Field Agent II located in Soldotna and the Accounting Technician I in Anchorage, in accordance with the 5% reduction mandated by the administration.

The functional responsibilities of the various employee classifications are:

Commissioners and Hearing Officers are responsible for the adjudicating proceedings. As quasi-judicial officials they are separate from the daily operations of the staff. The Commissioners set general policy guidelines that are implemented by the Executive Director.

Executive Director is responsible for the daily supervision of the staff and the implementation of Commission policy.

Tariff Staff is responsible for reviewing all applications filed with the ATC, review all rate filings, and assist the public by answering questions concerning the statutes and regulations. The staff will assist any applicant in completing any of the necessary forms or in the preparation of a tariff. The tariff staff may intervene at application or revocation hearings as well as opening investigations on rate matters.

Enforcement Staff is responsible for the actual field investigations necessary to prove a violation of the statutes or regulation. The field agents are responsible for initiating most accusations or complaints filed before the Commission for violations and assist the Assistant Attorney General who presents the case at hearings. The field agents also conduct the safety inspections and answer many inquiries from both carriers and non carriers concerning alleged illegal operations.

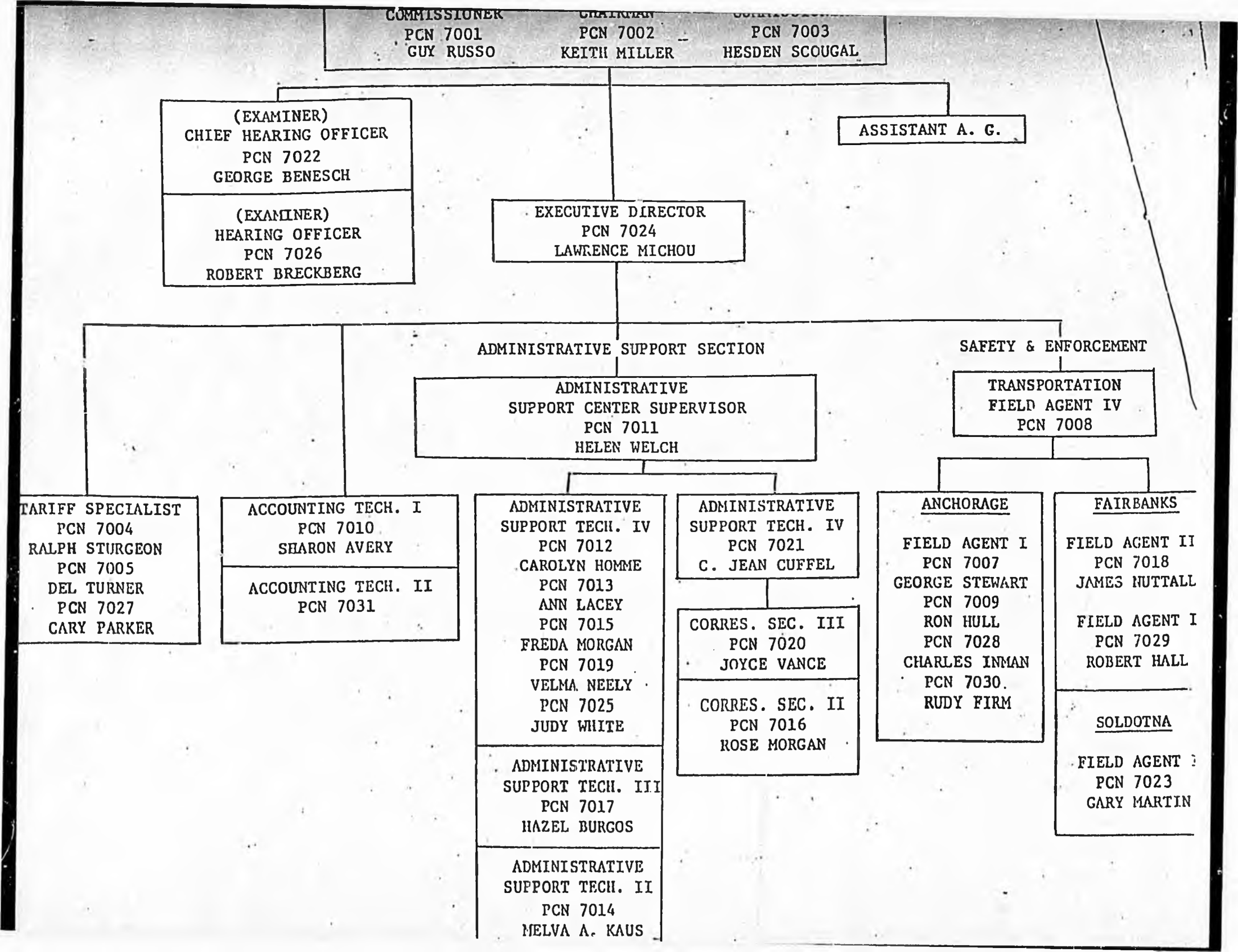
Administrative Support Staff handle the daily work flow and assist the other sections by providing clerical support. Unlike most clerical positions these employees are assigned specific tasks and are responsible for all of the work necessary to complete the processing of the document or bringing it to the attention of either the Tariff Specialist or the Field Agent if a violation is suspected.

ALASKA TRANSPORTATION COMMISSION

ACTIVITIES FOR CALENDAR YEAR 1982

DOCKETS FILED	AIR	MOTOR
Applications for Authority	33	105
Transfers	26	27
Extensions	35	19
Petitions	100	45
Complaints	3	2
Investigations	0	6
Revocations	11	10
Accusations	46	199
	254	413

TOTAL WRITTEN ORDERS ISSUED	803
ENFORCEMENT ACTIVITIES:	
Formal Complaints Acted on	284
Citations (Non-dismissable)	35
Accusations	245
Civil Penalties Collected	$43,275
HEARING SECTION:	
Number of oral Hearings, by docket	132
Number of Hearings by show cause procedure or written submission, by docket	26
REVENUE: FISCAL YEAR 1982	
Applications, Aircraft Registration, Civil Penalties and Sale of Documents Revenue	$155,063
Motor Carrier Weight Fees Collected by ATC	
Motor Carrier Weight Fees (Collected by Division of Motor Vehicles for ATC)	617,054


COMMISSIONER
PCN 7001
GUY RUSSO
CHAIRMAN
PCN 7002
KEITH MILLER
PCN 7003
HESDEN SCOUGAL
(EXAMINER)
CHIEF HEARING OFFICER
PCN 7022
GEORGE BENESCH
(EXAMINER)
HEARING OFFICER
PCN 7026
ROBERT BRECKBERG
ASSISTANT A. G.
EXECUTIVE DIRECTOR
PCN 7024
LAWRENCE MICHOU
ADMINISTRATIVE SUPPORT SECTION
SAFETY & ENFORCEMENT
ADMINISTRATIVE
SUPPORT CENTER SUPERVISOR
PCN 7011
HELEN WELCH
TRANSPORTATION
FIELD AGENT IV
PCN 7008
TARIFF SPECIALIST
PCN 7004
RALPH STURGEON
PCN 7005
DEL TURNER
PCN 7027
CARY PARKER
ACCOUNTING TECH. I
PCN 7010
SHARON AVERY
ACCOUNTING TECH. II
PCN 7031
ADMINISTRATIVE
SUPPORT TECH. IV
PCN 7012
CAROLYN HOMME
PCN 7013
ANN LACEY
PCN 7015
FREDA MORGAN
PCN 7019
VELMA NEELY
PCN 7025
JUDY WHITE
ADMINISTRATIVE
SUPPORT TECH. III
PCN 7017
HAZEL BURGOS
ADMINISTRATIVE
SUPPORT TECH. II
PCN 7014
MELVA A. KAUS
ADMINISTRATIVE
SUPPORT TECH. IV
PCN 7021
C. JEAN CUFFEL
CORRES. SEC. III
PCN 7020
JOYCE VANCE
CORRES. SEC. II
PCN 7016
ROSE MORGAN
ANCHORAGE
FIELD AGENT I
PCN 7007
GEORGE STEWART
PCN 7009
RON HULL
PCN 7028
CHARLES INMAN
PCN 7030.
RUDY FIRM
FAIRBANKS
FIELD AGENT II
PCN 7018
JAMES NUTTALL
FIELD AGENT I
PCN 7029
ROBERT HALL
SOLDOTNA
FIELD AGENT
PCN 7023
GARY MARTIN

STATE OF ALASKA

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

ALASKA TRANSPORTATION COMMISSION

BILL SHEFFIELD, GOVERNOR

SUITE 778, FRONTIER BUILDING
3601 C STREET
ANCHORAGE, ALASKA 99503

PHONE: 561-4221

March 14, 1983

Senator Richard Eliason, Chairman
Labor and Commerce Committee
Senate
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Your staff has requested that the Alaska Transportation Commission respond to comments made in the Analysis of Public Need section of the April 1, 1982 Performance Review prepared by the Division of Legislative Audit.

The following statement appears in the introductory paragraph:

> "This analysis is not intended to be comprehensive in nature."

Then follows comments relating to nine specific statements. The comments are obviously slanted against the ATC and no effort is made to avoid unsupported generalities. There is no effort made to support the conclusion other than references back to the Recommendations.

Our specific comments for each of the nine areas are as follows:

I. The extent to which the board, commission, or programs has operated in the public interest.

The ATC believes that its operations are in the public interest. Efforts have been made to reduce the processing time of applications while still guaranteeing that all parties receive due process. While this effort may have not been obvious during the time frame covered by the audit, calendar year 1980-81, it was obvious in calendar year 1982 when processing time for non-protested applications averaged less than 90 days. This reduction has been made in spite of the fact that requested additional staff that was recommended in the 1978 audit were never approved in the operating budget.

There is no indication of how the public interest is to be better served by the recommended merger of the ATC and the APUC. It would appear that the public and the regulated industries would be better served by an adequately funded ATC rather than further diluting the economic regulation of transportation by combining it with the regulation of utilities.

The enforcement effort is being improved with a concentration of manpower in three general areas--authorized carrier compliance, elimination of unauthorized operations, and commercial vehicle safety. Again, this effort does not always generate obvious results since seven agents must supervise about 445 authorized motor carriers, 270 authorized air carriers, probably 1500 legitimate private carriers and probably, at any one time, about 50 active unauthorized carriers.

II. The extent to which the operation of the board, commission, or agency program has been inspired or enhanced by existing statutes, procedures and practices which it has adopted, and any other matters including budgetary resource and personnel matter.

The ATC concurs that it was necessary to promulgate revised regulations to assist in a more efficient processing of applications and enforcement action through the hearing stage. However, the length of time in promulgating the regulations did not impede the program as the existing regulations were adequate. It was simply an effort to clarify the procedures for the sake of all concerned. Since the revisions of the procedures covered some 28 pages of the Administrative Code, its is not surprising that it took several years for them to get through drafting into final print. Further, other proposed changes in the regulations have been tabled as the comments received at public hearings indicate they had the potential of causing more problems than improving the situations. It is our opinion that the ATC should have received a more positive comment for not implementing regulations that might have caused an economic hardship on the regulated industries without adequate staff justification.

Again we note that no comment was made concerning the attempts the ATC made to get additional staff as was recommended in the 1978 audit. Further, the fact the Commission recieved a budget reduction in fiscal year 1980 of $103,200 from its maintenance level is not mentioned. It is difficult to maintain a level of service and to improve service without adequate funding and positions.

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

The Commission has recommended several items for legislative action and has testified on several others. It is difficult for a regulatory commission to recommend legislative changes as such changes have a tendency to either increase or decrease the level of regulation. The Commission is in a better position to advise the Executive and Legislative Branches of the State on the impact of proposed legislation on the industries and the Commission's ability to carry on its mandate.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

As stated in the audit report, the Commission conducts its business through the hearing process that is designed to guarantee all participants fair treatment and due process of law. Further, the Commission publishes its journal twice a month which is sent to local newspapers, libraries, radio and television stations. The journal contains notices as well as procedural matters that are designed to inform the public of the Commission's business.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

As stated in the audit report, the journal is designed to inform the public of the Commission actions. To further insure that all local participants that wish to take part in a proceeding, the Commission travels to the locality most convenient to the applicant or the respondent. While general public comment is not solicited at Commission proceedings, as such proceedings are quasi-judicial in nature and all parties must be assured of the right of cross-examination, time is allowed for public comment if requested by any party.

VI. The efficiency with which public inquiries or complaints regarding the acitivities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

The response in the audit appears not to relate to the statement. The statement concerns inquiries or complaints of the Commission activities not how enforcement is doing in answering complaints about violation of the statutes or regulations. While we have agreed that the enforcement effort can be improved, this effort has no bearing on our willingness and performance in answering inquiries from the public. We answer as promptly as possible and seek to generally satisfy the public that the ATC is functioning within the law.

The statements concerning the Ombudsman's office are totally misleading. The Commission makes every effort to answer all correspondence from that office within the time frames indicated. Our records indicate that with very few exceptions the Ombudsman has not found the Commission in error. It appears to us that the 33 complaints should have been analyzed so a clear picture of the exact number of resolved and unresolved complaints could be established.

II. The extent to which a board or commission which regulate entry into an occupation or profession has presented qualified applicants to some of the public.

The Commission agrees that more analytical work might be performed on applications. However, this does not mean that the applicant is unqualified. It must be remembered that the regulated transportation industry is highly competitive that the as well as being at the mercy of changing economic condition. Therefore, the analytical evaluation of the application and projected services do not guarantee success, but only that the applicant meets entry standards.

VIII. The extent to which state personnel practices including affirmative active requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

The Commission has made every effort to function within the state personnel systems, labor agreement and affirmative action program. To the best of our knowledge there have not been any problems in this area for several years.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board, or commission to better serve the interest of the public and to comply with the factors enumerated in this subsection.

The comments in the audit referring the reader to the "Findings and Recommendations" does not answer this statement. The recommended merger of the two Commissions even with the suggestion of a management study does not evaluate the need for statutory, regulatory or budgeting changes necessary for the ATC to conduct its business.

The ATC has requested new positions that would have assisted in the elimination of some of the problems enumerated in the audit and in fact recommended in the 1978 audit. Everyone realizes that any agency can only perform the tasks for which it is funded and must determine the priority of service based on the funds received. The ATC would like to expand its activities in the area of enconomic review of active carriers as well as determination of market needs for additional service, but neither the funds nor the positions have been approved.

In the area of enforcement, the ATC could obviously increase the number of illegal activities that are brought before the Commission for adjudication. But the increase requires more manpower as again priorities must be set between the three areas of enforcement--surveys and enforcement of authorized carriers, prevention of unauthorized carrier, and vehicle safety. As stated in our response to the audit, the Commission recognizes the need to streamline the processing of accusations and citations, but only so much can be done to improve without additional manpower. The enforcement of economic regulation is not a simple matter and requires many manhours of work to gather the evidence to prove a violation has occurred and to prove who committed the violation. It is easy to accuse, but it can be difficult to prove that the accused should have a civil penalty levied against him.

There is no doubt that the major question that should be before the Legislature is that of deregulation. There needs to be a decision as to what direction should be taken in the future as to the amount of economic regulation is needed or desired by both the public and the industry. While very few

states are completely deregulating, several have started looking at lessening regulation that is shown to be of little real value or unreasonably blocks entry or competition. The Commission and the Staff would be happy to assist the Legislature if it is determined that review of AS 42.10 and AS 02.05 is needed. There will always be a need to protect the public by requiring carriers to register, show a degree of fitness, provide proof of insurance, and to operate safe vehicles. However, the need to prove public convenience and necessity for entry, filing and justifying tariffs, and all the required filing of reports may not be as necessary as it was once thought to be.

If you need any additional information, please let me know and we wish to thank you for this opportunity to express our views.

Very truly yours,

Keith H. Miller

Keith H. Miller
Chairman

KHM/LWM/rm

cc: Richard Lyon, Commissioner
Department of Commerce &
Economic Development
Pouch D
Juneau, AK 99811

Emil Notti, Legislative Assistant
to the Governor
Pouch A
Juneau, AK 99811

561-4216

April 11, 1983

David Dye
Administrative Assistant
Senate State Affairs Committee
Pouch V
Juneau, AK 99811

Dear Mr. Dye:

During your discussion with our Executive Director of the Alaska Transportation Commission's role in commercial vehicle safety inspection, you requested that we provide you with a written summary of our proposed program.

The ATC has authority under both AS 42.07 and AS 42.10 to conduct safety inspections of all commercial vehicles in Alaska weighing over 4,000 pounds. The only vehicles that are exempt from inspection are buses and government vehicles. Under its statutory authority, the ATC has published administrative Code 3 AAC 62 which is in fact a safety manual. A copy is enclosed for your information.

The ATC's transportation field agents have conducted random safety inspections for years, but with the enforcement of the safety regulations at the weigh stations by first the Alaska State Police and then the Division of Measurement Standards, the ATC has not attempted to develop a comprehensive safety program. The weigh station program was part of a federally funded program that expired on March 11, 1983. With the completion of the federal program, the responsibility for the safety program has returned to the ATC, but without any funding to administer the program.

A commercial vehicle safety program normally covers three areas--the driver, the power unit and trailing equipment, and the load. The objective of such a program is to protect the public, the driver, and the cargo. Our program would continue the emphasis in all three areas as all three are important in a successful program. Actual safety inspection can and should be conducted in three locations--the terminal, at selected roadside points, and random roadside stops (usually based on obvious violations).

While there are many requirements that a commercial operator must meet for its equipment to pass with 100%, the Commercial Vehicle Safety Alliance has identified 11 as the critical points. A copy of that standard is also attached along with a handout used by the Alliance. Generally, the ATC expects to follow the CVSA standards in its inspection program.

Our proposal includes provisions for both voluntary and involuntary terminal or job site inspection, road site inspection, and random inspection. We expect to use the assistance of the Alaska State Police, local police and the weigh station personnel, in addition to our own staff. We would hope to incorporate a reporting system that would allow the central processing of all inspections in order to develop a good data base to develop statistical analysis necessary to identify problem carriers and/or vehicles.

The actual inspections can result in various classes of recommendations or citations, generally depending on the problem. The first category would be a "fix-it" which simply means something needs to be repaired, is not hazardous to the public, the driver, or cargo. If it is a violation that can be repaired on the s[illegible] a compliance report would not even be written. More se[illegible]s violations would also fall into the "fix-it" category, bu[illegible]he repairs would require verification of repair and possibly could result in a civil penalty. The third category would be more serious violations that require either repair or correction and a formal citation that requires a hearing, as staff would expect to prove a violation that would result in the levying of a civil penalty. The fourth category are deadlines--a vehicle will not be moved under its own power until corrected and a civil penalty would definitely be expected. A fifth category of violations would be primarily lodged against companies that have allowed the operation of vehicles that are found unsafe or who operate vehicles that have not been repaired as indicated.

The ability to cite both the operator and the carrier is a definite advantage of a safety program conducted by an agency with quasi judicial authority rather than a police agency. An agency such as the ATC can require both the driver and the carrier to answer for the violation while a police agency normally can only cite the operator. By making the carrier

assume its responsibilities for its vehicle, we can hopefully develop an awareness among carriers that its vehicles must remain in good repair, that loads be properly secured and protected and that only qualified drivers be employed. While the program should not be viewed as a revenue source, the ability to levy civil penalties of up to $1,000 is defnitely an incentive for a carrier to get into compliance.

The attached budget projection if funded would augment the ATC's staff to a level that would allow it to continue its enforcement functions in the area of economic regulation as well as to initiate a vehicle safety program. We would expect to use all the transportation agents in conducting the safety program as well as to assist in the economic regulation of transportation. With the additional staff, we would expect to log at least 4,000 actual vehicle inspections the first year as a minimum and with possibly as many as 6,000 as a maximum. The number of inspections will vary greatly depending on the completness of the inspection and the number of deficiencies found on the vehicles. Stated simply, the greater the number of violations, the more staff time necessary to conduct the inspection and the follow-up compliance inspection. We would expect that much of the quantify work and data collection can be done by existing staff. The more assistance that we receive from other agencies, the greater the number of vehicles that can be inspected.

The funds necessary to conduct the program would be as follows:

100 Account			
2 Transportation Field Agents - Range 16 - Anch.			
2 X 12 mo X 2463/mo			$59,112
2 Transportation Field Agents - Range 16 - Fairbanks			
2 X 12 mo X 2838/mo			68,112
1 Paralegal Assistant II, Range 16, Anch.			
1 X 12 mo X 2463/mo			29,556
1 Admin. Support Technician, Range 12, Fairbanks			
1 X 12 mo X 2218/mo			26,616
			$183,396
Benefits 183, 396 X .0613		11,243	
Variable Benefits 183, 396 X .1550		28,426	
Health Benefits 6 X 12 X 240 mo		17,280	56,949
		Total	100

240.3

200 Account:
To provide for per diem and air fares for inspection and hearings

100 days X 90 per day		13,500	
Estimated Air Fares		10,000	
	Total	200	23.5

300 Account:
Contractual Services
Equipment Rental - WCF

3 cars (class 108D)			
Rental .39/mi X 850m X 3 veh X 12 mo		11,934	
PAED Fees 173/mo X 12 mo X 3		6,228	
	Total Vehicles		18.2
Increased Data Processing for Statistical Support			15.0
Central Printing Charges - Booklets & Forms			5.0
	Total	300	38.2

400 Account
Commodities

Office Supplies and Protective Clothing			3.0
	Total	400	3.0

500 Equipment 1 Time Cost

3 Sedans (class 106D) with radios			
	3 X 10.0		30.0
6 Desks	6 X 427		2.6
6 Chairs	6 X 247		1.5
12 Side Chairs	12 X 98		1.2
1 Calculator			.2
1 Wang Terminal			3.4
	Total	500	40.1
	Total Budget		345.1

The second year of operation should be about 305.0 since all equipment costs are a one time expense.

Revenue is a bit difficult to project, but it would be expected that at least $25,000 in added revenue could be expected. If the voluntary aspect of both inspections and compliance is dropped, then revenue could be as much as $75,000 as all violation would result in a civil penalty.

The ATC will continue to perform some safety inspections as it is part of the economic regulation of transportation even if no additional funds are provided. However, without additional funds there is no way that a program can be developed and implemented and we will simply continue to catch violators as we find them without really determining patterns or concentrating on problem areas.

If you need any additional informa , please let us know.

Very truly yours,

Keith H. Miller

Keith H. Miller
Chairman

KHM/jv

Enclosure

cc: Richard A. Lyon, Commissioner
Department of Commerce &
Economic Development

Emil Notti
Legislative Assistant
Office of the Governor

SENATE
LETTER OF INTENT
FOR
CSSB 134

During the scheduled hearings in which the Alaska Transportation Commission (A.T.C.) was discussed and reviewed, many problem areas were identified. The Performance Review of the Alaska Transportation Commission conducted by the Division of Legislative Audit, April 1, 1982, concluded that the functions of A.T.C. could be better performed if A.T.C. were to merge with the Alaska Public Utilities Commission.

However, several questions were raised which remain unanswered:

1) Is State involvement in the Essential Air Service Program required?

2) Does the State want to deregulate surface and air transportation within Alaska?

3) What method does the State wish to employ to assure the public that air and motor carriers have sufficient insurance coverage to protect the public's interest?

4) What is the role of the Alaska Transportation Commission in regard to a commercial vehicle safety program?

5) Would a citizen's board be an appropriate mechanism to perform the oversight functions which are currently the responsiblity of the Commissioners of the Alaska Transportation Commission.

6) Do the Alaska Transportation Commission's policies regarding light aircraft ensure that innovative competition which could be beneficial to the public is not eliminated?

With the passage of this legislation, it is the intent of the Senate Labor and Commerce Committee that the Office of Management and Budget conduct a thorough performance review of the functions of A.T.C. The review will include, but will not be limited to, the scope of areas previously outlined.

The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Adopted in the Senate, April 27, 1983.

SUPPLEMENTAL
SENATE LETTER OF INTENT
TO CSSB 184 (L&C)

In the interim it is the intent of the Senate that the Alaska Transportation Commission fulfill its statutory responsibility with concentration on protection of the public.

Adopted in the Senate, April 27, 1983.

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/6 , 1983

I. REQUEST

Bill/Resolution No.: SB 184
Title: Extending termination of ATC
Sponsor: Labor & Commerce Committee
Requestor:

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Developmer
Program Category Affected: Consumer Protecti
BRU, Program of Subprogram(s) Affected:
Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Catherine Wallen
Phone: 465-2504
Division: Administrative Services
Date: 4/1/83

Approved by Commissioner: Richard A. Lyon
Date: 4/1/83
Department: Commerce & Economic Development

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

SB 184 FISCAL NOTE ANALYSIS

The submitted FY '84 budget request for ATC follows:

Operating Expenditures	FY '83	FY '84
Personal Services	1,356.6	1,293.1
Travel	57.7	61.2
Contractual	182.5	192.2
Commodities	16.2	16.9
Equipment	1.2	-0-
	1,614.2	1,563.4
Capital Expenditures	Ø	Ø
Revenue	145.2	155.2

If the legislation fails to pass and ATC sunsets, there will continue to be a financial impact to the State for the administration of the State's share in the Essential Air Services Program and for verification of insurance registration. The reduced responsibilities would be reflected in the FY '85 budget request. In this case, the budget would be as follows:

Operating Expenditures	FY'83	FY '84	FY '85	FY '86	FY '87
Personal Services	1,356.6	1,293.1	69.6	73.8	78.2
Travel	57.7	61.2	Ø	Ø	Ø
Contractual	182.5	192.2	16.5	17.5	18.5
Commodities	16.2	16.9	2.0	2.1	2.2
Equipment	1.2	Ø	Ø	Ø	Ø
Total Operating	1,614.2	1,563.4	88.1	93.4	98.9
Capital Expenditures	Ø	Ø	Ø	Ø	Ø
Revenue	145.2	155.2	Ø	Ø	Ø
Positions (Full-Time)	30	28	2	2	2

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

A PERFORMANCE REVIEW OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT ALASKA TRANSPORTATION COMMISSION

April 1, 1982

Audit Control Number

08-092-0069-R

Commissioner, Department of Commerce and Economic Development	Charles R. Webber
Deputy Commissioner, Department of Commerce and Economic Development	Edward Eboch

Members of the Alaska Transportation Commission

Chairman	Keith Miller
Commissioner	Walter Kubley
Commissioner	H.D. Scougal

SB

315

Dr Faiks
will join
you for Breakfast
at 7:00 AM
Barnard

L

Fiscal Note – a little over $3 million ($3,025.3) to get program started.

- Money cannot be used for new construction, must be used for old, existing subdivisions and municipalities must have a 5-year planning program and standards set for roads before the State will give the money

Intent of bill:

To set up a program that would work statewide to help people if they help themselves. If people put up 50% of money, there would then be a pool of money the municipality would get based on mileage & they then could apply to the State.

Offered: 3/16/84
Referred: Rules

Original sponsor: Faiks

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 315 (Finance) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to road maintenance service areas; and providing for an effective date."

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

* Section 1. AS 19.30 is amended by adding new sections to read:

ARTICLE 4. ROAD MAINTENANCE SERVICE AREAS.

Sec. 19.30.260. PURPOSE. The purpose of AS 19.30.260 - 19.30.320 is to facilitate funding for the upgrading, reconstruction, rehabilitation, or paving of existing subdivision roads within a road maintenance service area established under AS 29.63 or under a home rule charter. used to read "or unified municipality" but that's redundant as a unified mun. operates under home rule charter.

Sec. 19.30.270. ALLOCATION OF MONEY. (a) During each fiscal year each municipality shall receive money from the department that has been appropriated or otherwise designated for expenditure for road improvements within the municipality, based on the total road mileage in each road maintenance service area in the municipality. The amounts that are available shall be distributed pro rata among eligible municipalities.

(b) Money allocated to a municipality under this section shall be disbursed by the municipality for road maintenance service areas based on a first come, first served priority of road maintenance service area applications, subject to a 50 percent match by each road maintenance service area.

(c) Money allocated under this section shall be available for expenditure in the road maintenance service area for which the funds

are authorized for a period of five years after the end of the fiscal year for which the funds are authorized. Money allocated for a road maintenance service area that is unexpended and unobligated at the end of the five-year period shall be used for other road maintenance service areas in the same municipality in accordance with AS 19.30.260 - 19.30.320. If there are no other road maintenance service areas in the municipality for which the money can be used, the municipality shall remit the unexpended and unobligated money to the department and it shall lapse into the general fund.

(d) Fifty percent of the cost of construction in a road maintenance service area may be paid by road improvement district assessments.

Sec. 19.30.280. ELIGIBILITY. (a) After establishing a road maintenance service area under AS 29.63, or under a home rule charter, a municipality may apply to the department for a grant as money is available for road improvements, subject to regulations adopted by the department to carry out the provisions of AS 19.30.260 - 19.30.320. [The department shall require a municipality to submit a five-year plan for the upgrading, reconstructing, rehabilitating, or paving of maintenance service area roads for approval before October 1 of each fiscal year.] Required 5-yr. plan from municipality

(b) A municipality shall establish design standards for construction in a road maintenance service area. An application for a grant for improving an existing road under this section which is constructed after the effective date of this bill may not be granted by the department until the existing road meets the minimum design standards of the municipality. } Finance added this language

Sec. 19.30.290. ADMINISTRATION. (a) A contract entered into by a municipality for road construction within a road maintenance service

area for which funds allocated to the municipality under AS 19.30.-260 - 19.30.320 are used shall be awarded only on the basis of the lowest responsible bid by a bidder meeting established criteria of responsibility.

(b) Construction under AS 19.30.260 - 19.30.320 shall be administered by the municipality in which the road maintenance service area is located.

Sec. 19.30.300. MAINTENANCE. The road maintenance service area shall be responsible for maintaining roads constructed under AS 19.-30.260 - 19.30.320. The road maintenance service area may contract with a municipality for maintenance of the roads.

Sec. 19.30.310. REPORT. No later than October 1 of each year, a municipality that has received money under AS 19.30.270 shall submit a report to the department showing the use of the money by the municipality during the preceding 12 months. No later than December 1 of each year, the department shall prepare and submit to the governor a report showing the use of the money allocated under AS 19.30.270 during the preceding 12 months.

Sec. 19.30.320. DEFINITIONS. In AS 19.30.260 - 19.30.320

(1) "construction" or "road improvement" has the meaning given in AS 19.45.001 and includes utility and drainage costs but excludes financial costs, right-of-way costs, and new road construction;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "municipality" means a municipality that has road construction or maintenance powers;

(4) "subdivision" has the meaning given in AS 40.15.190(2).

* Sec. 2. This Act takes effect July 1, 1984. → added in Finance

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 315 (Fin)
Title: Act relating to road maintenance service areas
Sponsor: Faiks
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		22.0				
200 TRAVEL		2.5				
300 CONTRACTUAL		.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.3				
CAPITAL		3,000.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		3,025.3				
FEDERAL FUNDS						
OTHER						
TOTAL		3,025.3				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [signature] Phone: 465-3753
Division: Don Bennett, Co-chairman Senate Finance Committee Date: March 15, 1984
Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Dept. of Transportation & Public Facilities

Position Paper

BILL NO: CS SB 315

APPROVED: Dick Snyder

TITLE: "An Act Relating to Road Maintenance Service Areas; and Providing for an Effective Date."

DATE: April 2, 1984

The intent of this proposed legislation is to provide funds to municipalities for improvement of existing subdivision roads within newly created road service maintenance areas. Funds appropriated for this purpose would be made available subject to a 50% match by the road maintenance service areas desiring to improve their roads.

The Department supports this bill. It will provide a mechanism to upgrade a class of roads which are not eligible for such work under existing Department authority. Home owners in subdivisions that have already been built without adequate provisions for road construction and drainage will have the opportunity to upgrade them without having to bear the entire financial burden. Access to and from connecting roads on the State or local systems will be improved and this is a benefit to the general traveling public. The required five year plan for road maintenance service area roads should provide for logical orderly improvements.

In order to keep authorizations and reporting requirements under this bill on a calendar year basis or preferably a fiscal year basis, the Department would like to see the deadline dates in Section 19.30.310 revised accordingly.

MEMORANDUM

TO: Jan

FROM: Sandy

DATE: March 30, 1984

RE: MOA and DOT/PF Proposed Changes to SB 315

DOT/PF

1. Funds should be distribute on a needs basis rather than a first come, firs serve basis.

2. Page 1, line 27 should add "applicant" at the end. The current wording of each implies all road maintenance service areas are subject to a 50% match regardless of the location of the improvement.

3. Section 19.30.310 requires a report by December 1 of each year showing how the money was used during the preceding 12 months. This will be confusing for the municipalities that are not on the same fiscal year as the state.

Municipality of Anchorage

1. Funds should not be distributed on a first come, first serve basis, but rather on the highest priority needs.

2. Muni should have authority to reprogram money before the end of the 5 year period.

3. Grants should cover the full cost of the project with 50% being repaid through an assessment. Some areas have no way to front end the entire cost of the project.

4. Five year plan is difficult to do since the muni has no idea where the requests will come from if the funds are to be distributed on a first come first serve basis.

5. The bill requires the service area to maintain the road, but what happens when the service area sunsets after 3 years and the homeowners don't vote to continue it?

6. Construction costs should include ROW costs and new road construction. Some roads may require realignment thereby requiring row acquisition costs.

3/16/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 315 (Fin)
Title: Act relating to road maintenance service areas
Sponsor: Faiks
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		22.0				
200 TRAVEL		2.5				
300 CONTRACTUAL		.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.3				
CAPITAL		3,000.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		3,025.3				
FEDERAL FUNDS						
OTHER						
TOTAL		3,025.3				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [signature] Phone: 465-3753
Division: Don Bennett, Co-chairman Senate Finance Committee Date: March 15, 1984
Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/6/84

REQUEST
Bill/Resolution No.: CS SB 315
Title: "An Act relating to road maintenance service areas."
Sponsor: Faiks
Requestor:
Date of Request: 1/19/84

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES	-0-	22.0	9.4	9.4	9.4	9.4
200 TRAVEL	-0-	2.5				
300 CONTRACTUAL	-0-	.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	25.3	9.4	9.4	9.4	9.4
CAPITAL		15,000.0	15,000.0	15,000.0	15,000.0	15,000.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,025.3	15,009.4	15,009.4	15,009.4	15,009.4
FEDERAL FUNDS						
OTHER						
TOTAL		15,025.3	15,009.4	15,009.4	15,009.4	15,009.4

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in the bill.

ANALYSIS: Attach a separate page for analysis

Prepared By: John J. Simpson [signature] Phone: 789-6261
Division: Standards & Technical Services Division Date: 2/2/84

Approved by Commissioner: Dan Malick by [signature] Date: 2/7/84
Agency: Acting Deputy Commissioner DOT&PF

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

ANALYSIS - CS SB 315

I. This bill proposes to provide grant funds to municipalities for road improvements of existing subdivision roads that are within newly created road maintenance service areas. The State would provide half the funding and the road maintenance service area would provide the other half on a matching basis.

Under this bill it is assumed that the Department of Transportation and Public Facilities (DOT&PF) would be required to do the following things:

a) Administer grants to municipalities applying for the road maintenance service area funds;

b) Review annual submittal of a five-year plan for road improvements to these service area roads and analyze them for logic, completeness and conformance to established boundaries;

c) Establish regulations to carry out the grant process;

d) Review and approve design standards for service area roads;

e) Prepare an annual report to the Governor showing how the funding for the preceding twelve months was used.

We assumed that the task of developing regulations for the grant process is a one-time effort and would occur in FY 85 only. All other tasks were assumed to be an annual cost. All costs are general fund costs.

OPERATING COSTS

A. One-time cost of developing and implementing program guidelines, criteria and regulations:

1.	Personal Services - 486 hours @ 26 dollars/hr. (Range 19)	= 12,636
2.	Travel and Per Diem -	= 2,500
3.	Attorney General's office time on regulations (10 hours @ $80/hr.)	= 800
	Subtotal	15,936

B. Annual Costs

1. Review design standards:

Assume 20 sets of design standards @ $26/hr., 3 hrs. each = 1,560

2. Review of grant application costs

Assume 20 applications, 8 hours each @ $26/hr. = 4,160

3. Review of five-year programs:

Assume 20 programs, 5 hours each @ $26/hr. = 2,600

C. Prepare annual report:

1. 40 hours @ $26/hr. = 1,040

Subtotal $9,360

First year costs, $15,420
Continuing costs, 9,360/yr.

CAPITAL COSTS

A. Costs to upgrade, reconstruct, rehabilitate or pave existing eligible subdivision roads.

Estimated existing eligible mileage is 1500 miles. Estimate construction costs per mile, subdivision-type road, range from $75,000 to $300,000 depending on scope of work. For estimating purposes, we used $100,000 per mile.

1500 x $100,000 = $150,000,000 x 50% match = $75,000,000

Assuming 5 years for completion of initially eligible roads, capital costs per year would be 15 mill/yr.

COMMENTS ON CS SB 315

Page 1, line 14

It appears that the definition of "municipality" would preclude both the North Star Borough and the Kenai Borough from being eligible since they do not have road powers. This should be clarified.

Page 1, line 15

There is a discussion on allocation of funds. It is not clear who will be distributing the funds.

Page 1, line 19

It is suggested that the phrase "subject to a 50% match by each road service maintenance area" be deleted. If the phrase were added to section (b), line 22 it would clarify the intent.

Page _ line 18

We believe the municipality and not DOT&PF should be responsible for approving design standards. There could be legal ramifications with DOT&PF approving standards established by the municipality if problems occur.

Page 3, line 4

It is recommended that the reference to the "department" be deleted. Even though the language is permissive, we are not in a position to perform maintenance on geographically scattered off-system subdivision roads. The department is currently attempting to get out of local road maintenance and construction as a matter of policy. We also believe it would be cumersome and time-consuming to implement the process to receive revenue directly in the Regional maintenance budgets for services performed.

A rough estimate of the road miles eligible for funding under this bill was made. Depending on the interpretation of "municipality", the total mileage eligible under the bill as of right now could exceed 1900 miles. If a maintenance cost of $6,000 per mile is used, the total cost to the department could be several million dollars.

MEMORANDUM

TO: All Members
Senate Finance Committee

FROM: Senator Jan Faiks

RE: CSSB 315

DATE: February 10, 1984

At the Finance Committee meeting on February 7th on SB 315 several issues were raised. This memo is in response to those questions.

1. What is the average assessment of homes in the Hillside area?

Answer The average assessment of homes in South Anchorage, as well as areawide is $130,000.

2. What is the mil rate within the ARDSA (Anchorage Roads and Drainage Service Area)?

Answer In 1983 the mil rate was .6 in all of the ARDSA. In 1984 the mil rate is estimated to be 1.24.

3. What is the ratio of property taxes generated on homes versus taxes on businesses.

Answer Approximately 60% of property taxes come from residential dwellings and 40% from property taxes on businesses.

4. Some neighborhoods will not be able to afford even 50% of the cost of the improvements.

Answer The 50% match may be raised by an assessment on the entire service area or a mil rate levied on the houses on a particular street. The money may be accumulated over a five year period, so there would be an opportunity for a road maintenance service area to raise the money over an extended period of time.

5. What protections are in the bill to prevent new developers from applying for funding through this program?

Answer The purpose clause states that this funding is for existing subdivision roads. Also, the definition of

"construction" or "road improvement" says the funding is not for new construction.

6. How many miles of service roads are there in the various Senate districts.

Answer I have attached the pertinent pages from the FY 1983 State Revenue Sharing Entitlements for Municipalities. This will tell you how many miles of road in each borough or city received the $2500 per mile maintenance money. Please keep in mind that these figures are from FY 83 and the mileage has increased substantially in the past year.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

FY 1[illegible] MUNICIPAL REVENUE SHARING ENTITLEMENTS ([illegible])
TOTAL ENTITLEMENT = [illegible],721,000

AUGUST 17, 19[illegible]

KEY	COMMUNITY	PUBLIC ROAD MILES	ISO ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT. CONST. AI
BOROUGHS AND SERVICE AREAS						
0010	ANCHORAGE A.W.	[illegible]	[illegible]	[illegible]	[illegible]	$2,037,24[illegible]
0020	CITY S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0030	PAGLE RIVER	[illegible]	[illegible]	$0	$0	$[illegible]
0040	CHUGIAK	[illegible]	[illegible]	$0	$0	$[illegible]
0050	GIRDWOOD	10.[illegible]	[illegible]	$0	$0	$[illegible]
0070	GLEN ALPS	10.[illegible]	[illegible]	$0	$0	$[illegible]
0080	FIRE S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0090	ROADS & DRAINAGE	[illegible]	[illegible]	$0	$0	$[illegible]
0095	LIMITED ROAD S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0100	POLICE S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0110	PARKS & REC	[illegible]	[illegible]	$0	$0	$[illegible]
0120	P & R/CHUGIAK	[illegible]	[illegible]	$0	$0	$[illegible]
0130	SOLID WASTE S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0140	CHUGIAK/SOLID WASTE	[illegible]	[illegible]	$0	$0	$[illegible]
0150	BUILDING SAFETY	[illegible]	[illegible]	$0	$0	$[illegible]
0160	CITY SA ROADS & DRAINAGE	[illegible]	[illegible]	$0	$0	$[illegible]
0170	SERVICE AREA [illegible]	[illegible]	[illegible]	$0	$0	$[illegible]
0175	UPPER [illegible]	14.[illegible]	[illegible]	$0	$0	$[illegible]
0180	PORT OF ANCH.	[illegible]	[illegible]	$0	$0	$[illegible]
0185	ROADS (outside [illegible])	[illegible].17	[illegible]	$0	$0	$[illegible]
0190	AIRPORT [illegible]	[illegible]	[illegible]	$0	$0	$[illegible]
0195	PUBLIC TRANSIT	[illegible]	[illegible]	$0	$0	$[illegible]
0200	PARKING S.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0210	BRISTOL BAY BOROUGH	7.[illegible]	[illegible]	$0	$0	
0230	FAIRBANKS BOROUGH	1[illegible]	[illegible]	$0	$0	$[illegible]
0240	[illegible] F.A.	[illegible]	[illegible]	$0	$0	
0250	NORTH STAR F.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0260	UNIVERSITY F.A.	[illegible]	[illegible]	$0	$0	$[illegible]
0270	HAINES BOROUGH	[illegible]	[illegible]	$0	$0	

590.91 x 2,500 = 1,477,275

590.91

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2)
TOTAL ENTITLEMENT = $35,721,000

AUGUST 17, 1983

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
0280	FIRE DISTRICT	0.00	0.00	$0	$0	$
0290	JUNEAU BOROUGH A.R.	0.00	0.00	$199,336	$145,113	$39,
1						
0300	S.A. 1	14.23	0.00	$0	$0	$
0310	S.A. 2	5.03	0.00	$0	$0	$
0320	S.A. 3	40.17	0.00	$0	$0	$
0330	S.A. 4	0.00	0.00	$0	$0	$
0340	S.A. 5	0.00	0.00	$0	$0	$
0350	S.A. 6	0.00	0.00	$0	$0	$
0360	S.A. 7	0.00	0.00	$0	$0	$
0370	S.A. 8	0.00	0.00	$0	$0	$
0380	KENAI PENINSULA BOROUGH	633.95 453.10	0.00	$0	$0	
0						
0385	CENTRAL PENINSULA HOSPITAL	0.00	0.00	$214,565	$0	$541,17
0390	NIKISKI F.P.	0.00	0.00	$0	$0	$
0395	SOUTH PENINSULA HOSPITAL	0.00	0.00	$214,565	$0	$
0400	NORTH KENAI REC.	0.00	0.00	$0	$0	$
0410	BEAR CREEK F.P.	0.00	0.00	$0	$0	$
0420	KETCHIKAN BOROUGH	0.00	0.00	$0	$0	
0						
0430	SHORELINE C.A.	0.00	0.00	$0	$0	$0
0440	KODIAK ISLAND BOROUGH	0.00	0.00	$214,565	$193,670	
0						
0450	FIRE DISTRICT I	0.00	0.00	$0	$0	$0
0455	SERVICE DISTRICT	0.00	0.00	$0	$0	$0
0460	ROAD DISTRICT	15.00	0.00	$0	$0	$0
0470	MAT-SU BOROUGH	0.00	0.00	$0	$0	
0						
0480	WASILLA F.P.	0.00	0.00	$0	$0	$0
0490	BUTTE F.P.	0.00	0.00	$0	$0	$0
0500	GREATER PALMER F.P.	0.00	0.00	$0	$0	$0

FY 1[illegible] MUNICIPAL REVENUE SHARING ENTITLEMENTS ([illegible]) AUGUST 17, 1983
TOTAL ENTITLEMENT = $35,731,[illegible]

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
0510	SUTTON F.P.	[illegible]	0.00	$0	$0	$
0520	NON AREA-WIDE	[illegible]	0.00	$0	$0	$
0525	TALKEETNA FLOOD F.P.	[illegible]	0.00	$0	$0	$
0530	TALKEETNA F.P.	[illegible]	0.00	$0	$0	$
0540	GARDEN TERRACE	[illegible]	0.00	$0	$0	$
0541	MIDWAY	[illegible]	0.00	$0	$0	$
0550	LAKES F.P.	[illegible]	0.00	$0	$0	$
0560	NORTH SLOPE BOROUGH	[illegible]	13.[illegible]	$0	$71,075	
0570	SITKA BOROUGH	[illegible]	0.00	$206,813	$51,944	$
	FIRST CLASS CITIES					
1000	BARTON	[illegible]	0.00	$0	$0	$
1010	CORDOVA	[illegible]	0.00	$230,973	$22,173	$
1020	CRAIG	[illegible]	0.00	$0	$19,136	$
1030	DILLINGHAM	11.4[illegible]	0.00	$0	$0	$
1040	FAIRBANKS	[illegible]	0.00	$230,973	$157,062	$1,421,42
1050	GALENA	[illegible]	0.00	$0	$[illegible]	$
1060	HAINES	11.04	0.00	$0	$0	$
1070	HOMER	12.[illegible]	0.00	$0	$13,732	$
1080	HOONAH	[illegible]	0.00	$0	$0	$
1090	HYDABURG	3.17	0.00	$0	$0	$
1100	KAKE	[illegible]	0.00	$0	$0	$
1110	KENAI	47.[illegible]	0.00	$0	$13,772	$
1120	KETCHIKAN	1[illegible].07	0.00	$199,338	$52,625	$[illegible],291
1140	KING COVE	3.1[illegible]	0.00	$0	$[illegible]	$
1150	KLAWOCK	1.[illegible]	0.00	$0	$0	$
1160	KODIAK	14.[illegible]	0.00	$0	$0	$
1170	NENANA	13.[illegible]	0.00	$0	$0	$
1180	NOME	1[illegible].[illegible]	0.13	$277,638	$44,422	$
1190	NORTH POLE	1[illegible].72	0.00	$0	$0	$
1200	PALMER	1[illegible].[illegible]	0.00	$206,813	$0	$
1210	PELICAN	1.1[illegible]	0.00	$0	$[illegible]	$
1220	PETERSBURG	[illegible]	0.00	$206,813	$19,854	$
1230	SAND POINT	[illegible]	0.00	$0	$8,253	$
1240	SAINT MARY'S	7.[illegible]	0.00	$0	$[illegible]	$
[illegible]	[illegible]					

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) AUGUST 17, 1983
TOTAL ENTITLEMENT = $55,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
1260	SEWARD	21.55	0.00	$214,561	$123,591	$
1270	SKAGWAY	9.50	0.00	$0	$6,665	$
1280	SOLDOTNA	24.73	0.00	$0	$0	$
1285	TANANA	31.69	0.00	$0	$0	$
1290	UNALAKLEET	7.42	0.00	$0	$3,253	$
1300	VALDEZ	17.60	0.00	$239,624	$7,667	$
1330	WRANGELL	7.57	0.00	$206,313	$13,236	$
1360	YAKUTAT	3.31	0.00	$0	$6,566	

0

SECOND CLASS CITIES

5000	AKHIOK	4.00	0.00	$0	$0	$
5010	AKIACHAK	2.69	9.00	$0	$6,563	$
5020	AKIAK	1.30	0.00	$0	$6,563	$
5030	AKOLMIUT	0.00	44.75	$0	$6,563	$
5040	AKUTAN	0.00	0.00	$0	$0	$
5050	ALAKANUK	4.00	5.00	$0	$6,563	$
5060	ALEKNAGIK	7.00	1.50	$0	$6,253	$
5070	ALLAKAKET	4.00	0.00	$0	$0	$
5080	AMOLEP	5.22	0.00	$0	$6,894	$
5090	ANAKTUVUK PASS	0.00	0.00	$0	$0	$
5100	ANDERSON	5.98	0.00	$0	$0	$
5110	ANGOON	5.18	0.00	$0	$6,615	$
5120	ANIAK	7.35	24.00	$0	$17,768	$
5130	ANVIK	0.00	0.00	$0	$6,894	$
5140	ATMAUTLUAK	0.00	0.00	$0	$6,563	$
5150	BETHEL	12.23	43.00	$0	$119,690	$
5160	BREVIG MISSION	0.00	0.00	$0	$6,894	$
5170	BUCKLAND	0.00	0.00	$0	$0	$
5180	CHEFORNAK	0.00	0.00	$0	$6,563	$
5190	CHEVAK	1.05	0.00	$0	$6,563	$
5200	CHUATHBALUK	4.00	6.00	$0	$5,884	$
5210	CLARK'S POINT	0.00	0.00	$0	$0	$
5215	COLD BAY	0.00	0.00	$0	$0	$

FY 1987 MUNICIPAL REVENUE SHARING ENTITLEMENTS (MS) AUGUST 17, 1987
TOTAL ENTITLEMENT = $[illegible],721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
5230	DELTA JUNCTION	[illegible]	0.00	$0	$7,391	[illegible]
5240	DIOMEDE	[illegible]	0.00	$0	$0	[illegible]
5250	EAGLE	[illegible]	0.00	$0	$0	[illegible]
5260	EEK	[illegible]	0.00	$0	$[illegible],563	[illegible]
5270	EKWOK	[illegible]	0.00	$0	$[illegible],253	[illegible]
5280	ELIM	1.[illegible]	0.00	$0	$[illegible],[illegible]	[illegible]
5290	EMMONAK	[illegible]	7.00	$0	$[illegible],563	[illegible]
5300	FORT YUKON	[illegible]	0.00	$0	$[illegible],894	[illegible]
5310	FORTUNA LEDGE	[illegible]	1.00	$0	$[illegible],567	[illegible]
5320	GAMBELL	[illegible]	0.00	$0	$0	[illegible]
5330	GOLOVIN	2.10	10.00	$0	$[illegible],894	[illegible]
5340	GOODNEWS BAY	0.75	0.00	$0	$[illegible],563	[illegible]
5350	GRAYLING	[illegible]	0.00	$0	$[illegible],894	[illegible]
5360	HOLY CROSS	[illegible]	0.00	$0	$[illegible],894	[illegible]
5370	HOOPER BAY	[illegible]	0.00	$0	$0	[illegible]
5380	HOUSTON	11.[illegible]	0.00	$0	$0	[illegible]
5390	HUGHES	[illegible]	0.00	$0	$0	[illegible]
5400	HUSLIA	[illegible]	0.00	$0	$0	[illegible]
5410	KACHEMAK	[illegible]	0.00	$0	$[illegible]	[illegible]
5420	KAKTOVIK	[illegible]	0.00	$0	$0	[illegible]
5430	KALTAG	[illegible]	0.00	$0	$[illegible],894	[illegible]
5440	KASAAN	[illegible]	0.00	$0	$[illegible],[illegible]	[illegible]
5460	KIANA	2.72	0.00	$0	$[illegible],[illegible]	$0
5470	KIVALINA	0.00	0.00	$0	$0	$0
5480	KOBUK	0.00	0.00	$0	$[illegible],894	$0
5490	KOTLIK	0.00	0.00	$0	$[illegible],567	$0
5500	KOTZEBUE	16.[illegible]	3.50	$0	$0	$0
5510	KOYUK	1.[illegible]	0.00	$0	$[illegible],894	$0
5520	KOYUKUK	[illegible]	0.00	$0	$0	$0
5530	KUPREANOF	0.00	0.00	$0	$0	$0
5540	KWETHLUK	[illegible]	0.00	$0	$[illegible],563	$0
5550	LARSEN BAY	[illegible]	0.00	$0	$0	$0
5555	LOWER KALSKAG	1.07	40.00	$0	$[illegible],894	$0
5560	MANOKOTAK	[illegible]	0.00	$0	$0	$0
5570	MCGRATH	11.67	0.00	$0	$[illegible],894	$0
5580	MEKORYUK	[illegible]	0.00	$0	$[illegible],563	$0

FY 1987 MUNICIPAL REVENUE SHARING ENTITLEMENTS (MS)
TOTAL ENTITLEMENT = $85,721,000

AUGUST 17, 1983

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
5590	MOUNTAIN VILLAGE	21.[illegible]	0.00	$0	$8,563	$
5600	NAPAKIAK	[illegible]	0.00	$0	$0	$
5610	NAPASKIAK	[illegible]	0.00	$0	$8,563	$
5620	NEWHALEN	[illegible]	0.00	$0	$8,253	$
5630	NEW STUYAHOK	0.00	0.00	$0	$0	$
5640	NEWTOK	0.00	0.00	$0	$8,563	$
5650	NIGHTMUTE	0.00	0.00	$0	$8,563	$
5660	NIKOLAI	[illegible]	0.00	$0	$0	$
5670	NONDALTON	1.[illegible]	0.00	$0	$8,253	$
5680	NOORVIK	[illegible]	0.00	$0	$8,894	$
5690	NULATO	[illegible]	0.00	$0	$8,894	$
5700	NUIQSUT	[illegible]	0.00	$0	$0	$
5710	OLD HARBOR	4.45	0.00	$0	$0	$
5720	OUZINKIE	3.1[illegible]	0.00	$0	$0	$
5730	PILOT STATION	0.00	0.00	$0	$0	$
5740	PLATINUM	0.00	0.00	$0	$0	$
5750	POINT HOPE	0.00	0.00	$0	$0	$
5760	PORT ALEXANDER	0.00	0.[illegible]	$0	$0	$
5770	PORT HEIDEN	7[illegible]	[illegible]	$0	$8,253	$
5780	PORT LIONS	3.[illegible]	0.[illegible]	$0	$0	$
5790	QUINHAGAK	1.00	0.00	$0	$8,563	$0
5800	RUBY	0.00	0.00	$0	$0	$0
5810	RUSSIAN MISSION	0.00	0.00	$0	$0	$0
5820	SAINT MICHAEL	0.00	0.00	$0	$8,894	$0
5830	SAINT PAUL	77.50	0.00	$0	$0	$0
5840	SAVOONGA	0.00	0.00	$0	$0	$0
5850	SAXMAN	0.00	0.00	$0	$0	$0
5860	SCAMMON BAY	1.25	0.00	$0	$8,563	$0
5870	SELAWIK	0.00	0.00	$0	$0	$0
5880	SHAGELUK	5.64	0.00	$0	$0	$0
5890	SHAKTOOLIK	3.50	12.00	$0	$8,894	$0
5900	SHELDON POINT	0.00	0.00	$0	$0	$0
5910	SHISHMAREF	1.9[illegible]	0.00	$0	$0	$0
5920	SHUNGNAK	1.50	0.00	$0	$8,894	$0
5930	STEBBINS	0.00	0.00	$0	$8,894	$0
5950	TELLER	2.[illegible]	0.00	$0	$8,894	$0

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (A3)
TOTAL ENTITLEMENT = $55,721,000

AUGUST 17, 1983

KEY	COMMUNITY	PUBLIC ROAD MILES	ICC ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
5990	TENAKEE SPRINGS	[illegible]	0.00	$0	$6,613	[illegible]
5990	TOGIAK	[illegible]	0.00	$0	$8,253	[illegible]
6000	TOKSOOK BAY	[illegible]	0.00	$0	$8,563	[illegible]
6010	TULUKSAK	[illegible]	[illegible]	$0	$8,563	[illegible]
6015	TUNUNAK	0.00	0.00	$0	$8,563	[illegible]
6020	UNALAKLEET	[illegible]	0.00	$0	$6,804	[illegible]
6030	UPPER KALSKAG	1.[illegible]	16.50	$0	$0	[illegible]
6040	WAINWRIGHT	[illegible]	0.00	$0	$0	[illegible]
6050	WALES	[illegible]	0.00	$0	$8,253	[illegible]
6060	WASILLA	[illegible]	0.00	$0	$13,276	[illegible]
6070	WHITE MOUNTAIN	2.[illegible]	0.00	$0	$8,253	[illegible]
6080	WHITTIER	[illegible]	0.00	$0	$0	[illegible]
6090	EXT FIRE AREAS	[illegible]	0.00	$0	$0	[illegible]
6100	NATIVE VILLAGE COUT	[illegible]	0.00	$0	$0	[illegible]
	TOTAL			$3,262,753	$2,495,589	$4,043,[illegible]

FY 83 amount → 2,905.58 x 2,500 x 1.15 (COLA) = $8,353,543

FY 84 projection → FY 84 - project Statewide public road mileage of between 3,200 to 3,300 miles

Call if you have question. [signature]

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

STATE
of ALASKA

MEMORANDUM

TO: Sandy Stone
Senator Jan Faiks' Office

DATE: January 11, 1984

FILE NO:

TELEPHONE NO:

FROM: Doug Griffin, Local Gov't Specialist
Department of Community and
Regional Affairs
Division of Municipal and Regional Assistance

SUBJECT: Road Service Areas

Here is the information you requested on behalf of Senator Faiks regarding the number of road service areas within the State. This information assumes that the data provided to this Department by the municipalities is accurate.

Road Service Areas within Boroughs

Municipality of Anchorage	16
Bristol Bay Borough	1
Fairbanks North Star Borough	25
City and Borough of Juneau	8
Kenai Peninsula Borough	6
Ketchikan Gateway Borough	1
Kodiak Island Borough	2
Mat-Su Borough	9
North Slope Borough	0
City and Borough of Sitka	1
TOTAL	69
Road service Areas within Cities in the unorganized Borough	24
Road Service Areas Statewide	93

- Road Service Areas Statewide -

Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE

JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

MEMORANDUM

DATE: March 30, 1984

TO: Representative Bette Cato
Chair, House Transportation Committee

FROM: Senator Jan Faiks

RE: Senate Bill 315 (FIN)am S

Thank you for your prompt scheduling of Senate Bill 315 before the House Transportation Committee.

One of the reasons I decided to run for the state legislature two years ago was the horrendous condition of so many subdivision roads in South Anchorage. I found it hard to believe that nothing could be done about improving them other than a direct state appropriation to certain privileged roads. When I arrived in Juneau I discovered that the problem was not unique to Anchorage.

Last session I introduced SB 315 which would set up a statewide program to facilitate funding for existing subdivision roads. Under this bill the state will provide 50% of the costs of the improvements if the homeowners are willing to set up a road maintenance service area and assess themselves for the other 50% of the costs. Roads constructed under this program must be maintained by the service area and must meet minimum design standards established by the municipality.

Funding appropriated to this program will be distributed around the state on a pro rata basis among the eligible municipalities based on the total road mileage in each road maintenance service area. Money allocated to a municipality will be distributed on a first come, first serve basis within the municipality.

Since I feel this is one of my reasons for being in the Legislature, it is one of my top priorities. I have worked with the various Senate committees and it passed the Senate 17-1-1-1.

Please let me know if you have any questions or need any clarification.

Thank you.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 315 (Fin)
Title: Act relating to road maintenance service areas
Sponsor: Faiks
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		22.0				
200 TRAVEL		2.5				
300 CONTRACTUAL		.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.3				
CAPITAL		3,000.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		3,025.3				
FEDERAL FUNDS						
OTHER						
TOTAL		3,025.3				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: _____ Phone: 465-3753
Division: Don Bennett, Co-chairman Senate Finance Committee Date: March 15, 1984
Approved by Commissioner: _____ Date: _____
Agency: _____

Discribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

Revision Date: 2/6/84

REQUEST
Bill/Resolution No.: CS SB 315
Title: "An Act relating to road maintenance service areas."
Sponsor: Faiks
Requestor:
Date of Request: 1/19/84

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES	-0-	22.0	9.4	9.4	9.4	9.4
200 TRAVEL	-0-	2.5				
300 CONTRACTUAL	-0-	.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	25.3	9.4	9.4	9.4	9.4
CAPITAL		15,000.0	15,000.0	15,000.0	15,000.0	15,000.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,025.3	15,009.4	15,009.4	15,009.4	15,009.4
FEDERAL FUNDS						
OTHER						
TOTAL		15,025.3	15,009.4	15,009.4	15,009.4	15,009.4

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in the bill.

ANALYSIS: Attach a separate page for analysis

Prepared By: John J. Simpson Phone: 789-6261
Division: Standards & Technical Services Division Date: 2/2/84

Approved by Commissioner: Dan Mallie by JJS Date: 2/7/84
Agency: Acting Deputy Commissioner DOT&PF

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS - CS SB 315

I. This bill proposes to provide grant funds to municipalities for road improvements of existing subdivision roads that are within newly created road maintenance service areas. The State would provide half the funding and the road maintenance service area would provide the other half on a matching basis.

Under this bill it is assumed that the Department of Transportation and Public Facilities (DOT&PF) would be required to do the following things:

a) Administer grants to municipalities applying for the road maintenance service area funds;

b) Review annual submittal of a five-year plan for road improvements to these service area roads and analyze them for logic, completeness and conformance to established boundaries;

c) Establish regulations to carry out the grant process;

d) Review and approve design standards for service area roads;

e) Prepare an annual report to the Governor showing how the funding for the preceding twelve months was used.

We assumed that the task of developing regulations for the grant process is a one-time effort and would occur in FY 85 only. All other tasks were assumed to be an annual cost. All costs are general fund costs.

OPERATING COSTS

A. One-time cost of developing and implementing program guidelines, criteria and regulations:

1.	Personal Services - 486 hours @ 26 dollars/hr. (Range 19)	= 12,636
2.	Travel and Per Diem -	= 2,500
3.	Attorney General's office time on regulations (10 hours @ $80/hr.)	= 800
	Subtotal	15,936

B. Annual Costs

1. Review design standards:

   Assume 20 sets of design standards @ $26/hr., 3 hrs. each = 1,560

2. Review of grant application costs

   Assume 20 applications, 8 hours each @ $26/hr. = 4,160

3. Review of five-year programs:

   Assume 20 programs, 5 hours each @ $26/hr. = 2,600

C. Prepare annual report:

1. 40 hours @ $26/hr. = 1,040

Subtotal $9,360

First year costs, $15,420
Continuing costs, 9,360/yr.

CAPITAL COSTS

A. Costs to upgrade, reconstruct, rehabilitate or pave existing eligible subdivision roads.

Estimated existing eligible mileage is 1500 miles. Estimate construction costs per mile, subdivision-type road, range from $75,000 to $300,000 depending on scope of work. For estimating purposes, we used $100,000 per mile.

1500 x $100,000 = $150,000,000 x 50% match = $75,000,000

Assuming 5 years for completion of initially eligible roads, capital costs per year would be 15 mill/yr.

COMMENTS ON CS SB 315

Page 1, line 14

It appears that the definition of "municipality" would preclude both the North Star Borough and the Kenai Borough from being eligible since they do not have road powers. This should be clarified.

Page 1, line 15

There is a discussion on allocation of funds. It is not clear who will be distributing the funds.

Page 1, line 19

It is suggested that the phrase "subject to a 50% match by each road service maintenance area" be deleted. If the phrase were added to section (b), line 22 it would clarify the intent.

Page 2, line 18

We believe the municipality and not DOT&PF should be responsible for approving design standards. There could be legal ramifications with DOT&PF approving standards established by the municipality if problems occur.

Page 3, line 4

It is recommended that the reference to the "department" be deleted. Even though the language is permissive, we are not in a position to perform maintenance on geographically scattered off-system subdivision roads. The department is currently attempting to get out of local road maintenance and construction as a matter of policy. We also believe it would be cumersome and time-consuming to implement the process to receive revenue directly in the Regional maintenance budgets for services performed.

A rough estimate of the road miles eligible for funding under this bill was made. Depending on the interpretation of "municipality", the total mileage eligible under the bill as of right now could exceed 1900 miles. If a maintenance cost of $6,000 per mile is used, the total cost to the department could be several million dollars.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/3/84

REQUEST
Bill/Resolution No.: CS SB 315
Title: An Act relating to road maintenance service areas
Sponsor: Faiks
Requestor:
Date of Request: 1/19/84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		22.0	9.4	9.4	9.4	9.4
200 TRAVEL		2.5				
300 CONTRACTUAL		.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.3	9.4	9.4	9.4	9.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		25.3	9.4	9.4	9.4	9.4
FEDERAL FUNDS						
OTHER						
TOTAL		25.3	9.4	9.4	9.4	9.4

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in the bill.

ANALYSIS: Attach a separate page for analysis

Prepared By: John Simpson Phone: 789-6261
Division: Standards & Technical Services Div. Date: 2/2/84

Approved by Commissioner: Date: 2/3/84
Agency: DOT&PF

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS - CS SB 315

I. This bill proposes to provide grant funds to municipalities for road improvements of existing subdivision roads that are within newly created road maintenance service areas. The State would provide half the funding and the road maintenance service area would provide the other half on a matching basis.

Under this bill it is assumed that the Department of Transportation and Public Facilities (DOT&PF) would be required to do the following things:

a) Administer grants to municipalities applying for the road maintenance service area funds;

b) Review annual submittal of a five-year plan for road improvements to these service area roads and analyze them for logic, completeness and conformance to established boundaries;

c) Establish regulations to carry out the grant process;

d) Review and approve design standards for service area roads;

e) Prepare an annual report to the Governor showing how the funding for the preceding twelve months was used.

We assumed that the task of developing regulations for the grant process is a one-time effort and would occur in FY 85 only. All other tasks were assumed to be an annual cost. All costs are general fund costs.

A. One-time cost of developing and implementing program guidelines, criteria and regulations:

1. Personal Services:
   486 hours @ $26/hr. (range 19) =$12,636

2. Travel and Per Diem: = 2,500

3. Attorney General's office time on regulations
   (10 hours @ $80/hr.) = 800

   Subtotal $15,936

B. Annual Costs:

1. Review design standards:
   Assume 20 sets of design standards
   @ $26/hr., 3 hrs. each =$ 1,560

2. Review of grant application costs
   Assume 20 applicants, 8 hours each @ $26/hr. = 4,160

3. Review of five-year programs:
   Assume 20 programs, 8 hours each @ $26/hr. = 2,600

C. Prepare annual report:

1. 40 hours # $26/hr. =$ 1,040

Subtotal =$ 9,360

First year costs, $15,420
Continuing costs, 9,360/yr.

COMMENTS ON CS SB 315

Page 1, line 14

It appears that the definition of "municipality" would preclude both the North Star Borough and the Kenai Borough from being eligible since they do not have road powers. This should be clarified.

Page 1, line 15

There is a discussion of allocation of funds. It is not clear who will be distributing the funds.

Page 1, line 19

It is suggested that the phrase "subject to a 50% match by each road service maintenance area" be deleted. If the phrase were added to section (b), line 22 it would clarify the intent.

Page 2, line 18

We believe the municipality and not DOT&PF should be responsible for approving design standards. There could be legal ramifications with DOT&PF approving standards established by the municipality if problems occur.

Page 3, line 4

It is recommended that the reference to the "department" be deleted. Even though the language is permissive, we are not in a position to perform maintenance on geographically scattered off-system subdivision roads. The department is currently attempting to get out of local road maintenance and construction as a matter of policy. We also believe it would be cumbersome and time-consuming to implement the process to receive revenue directly in the Regional maintenance budgets for services performed.

A rought estimate of the road miles eligible for funding under this bill was made. Depending on the interpretation of "municipality", the total mileage eligible under the bill as of right now could exceed 1900 miles. If a maintenance cost of $6,000 per mile is used, the total cost to the department could be several million dollars.

STATE
of ALASKA

MEMORANDUM

TO: Sandy Stone
Senator Jan Faiks' Office

DATE: January 11, 1984

FILE NO:

TELEPHONE NO:

FROM: Doug Griffin, Local Gov't Specialist
Department of Community and
Regional Affairs
Division of Municipal and Regional Assistance

SUBJECT: Road Service Areas

Here is the information you requested on behalf of Senator Faiks regarding the number of road service areas within the State. This information assumes that the data provided to this Department by the municipalities is accurate.

Road Service Areas within Boroughs

Municipality of Anchorage	16
Bristol Bay Borough	1
Fairbanks North Star Borough	25
City and Borough of Juneau	8
Kenai Peninsula Borough	6
Ketchikan Gateway Borough	1
Kodiak Island Borough	2
Mat-Su Borough	9
North Slope Borough	0
City and Borough of Sitka	1
TOTAL	69
Road service Areas within Cities in the unorganized Borough	24
Road Service Areas Statewide	93

184 total S.A.
in boro

— Road Service Areas Statewide —

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (FS) AUGUST 17, 1983

TOTAL ENTITLEMENT = $59,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITA CONST. AID
	BOROUGHS AND SERVICE AREAS					
0010	ANCHORAGE A.W.	400.00	0.00	$199,535	$[illegible]	$2,037,24[illegible]
0020	CITY S.A.	0.00	0.00	$0	$0	$0
0030	EAGLE RIVER	45.21	0.00	$0	$0	$0
0040	CHUGIAK	0.00	0.00	$0	$0	$0
0060	GIRDWOOD	10.54	0.00	$0	$0	$0
0070	GLEN ALPS	10.59	0.00	$0	$0	$0
0080	FIRE S.A.	0.00	0.00	$0	$0	$0
0090	ROADS & DRAINAGE	0.00	0.00	$0	$0	$0
0095	LIMITED ROAD S.A.	0.00	0.00	$0	$0	$0
0100	POLICE S.A.	0.00	0.00	$0	$0	$0
0110	PARKS & REC	0.00	0.00	$0	$0	$0
0120	P & R/CHUGIAK	0.00	0.00	$0	$0	$0
0130	SOLID WASTE S.A.	0.00	0.00	$0	$0	$0
0140	CHUGIAK/SOLID WASTE	0.00	0.00	$0	$0	$0
0150	BUILDING SAFETY	0.00	0.00	$0	$0	$0
0160	CITY SA ROADS & DRAINAGE	0.00	0.00	$0	$0	$0
0170	SERVICE AREA 55	0.00	0.00	$0	$0	$0
0175	UPPER O'MALLEY	14.70	0.00	$0	$0	$0
0180	PORT OF ANCH.	0.00	0.00	$0	$0	$0
0185	ROADS (catch rill)	39.17	0.00	$0	$0	$0
0190	AIRPORT S. A.	0.00	0.00	$0	$0	$0
0195	PUBLIC TRANSIT	0.00	0.00	$0	$0	$0
0200	PARKING S.A.	0.00	0.00	$0	$0	$0
		590.91				
0210	BRISTOL BAY BOROUGH	7.30	0.00	$0	$0	
0230	FAIRBANKS BOROUGH	125.37	0.00	$0	$0	$0
0240	ESTER F.P.	0.00	0.00	$0	$0	
0250	NORTH STAR F.P.	0.00	0.00	$0	$0	$0
0260	UNIVERSITY F.P.	0.00	0.00	$0	$0	$0
0270	HAINES BOROUGH	0.00	0.00	$0	$0	

590.91 x 2,500 = 1,477,275

FY 19[illegible] MUNICIPAL REVENUE SHARING ENTITLEMENTS (MD) AUGUST 17, 198[illegible]

TOTAL ENTITLEMENT = $59,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT. CONST. AI
0260	FIRE DISTRICT	0.00	0.00	$0	$0	$0
0290	JUNEAU BOROUGH S.A.	0.00	0.00	$199,336	$145,113	$39,6
1						
0300	S.A. 1	14.23	0.00	$0	$0	$0
0310	S.A. 2	5.03	0.00	$0	$0	$0
0320	S.A. 3	40.17	0.00	$0	$0	$0
0330	S.A. 4	0.00	0.00	$0	$0	$0
0340	S.A. 5	0.00	0.00	$0	$0	$0
0350	S.A. 6	0.00	0.00	$0	$0	$0
0360	S.A. 7	0.00	0.00	$0	$0	$0
0370	S.A. 8	0.00	0.00	$0	$0	$0
0380	KENAI PENINSULA BOROUGH	$33.95 $53.10	0.00	$0	$0	
0						
0385	CENTRAL PENINSULA HOSPITAL	0.00	0.00	$214,566	$0	$541,171
0390	NIKISKI F.P.	0.00	0.00	$0	$0	$0
0395	SOUTH PENINSULA HOSPITAL	0.00	0.00	$214,566	$0	$0
0400	NORTH KENAI REC.	0.00	0.00	$0	$0	$0
0410	BEAR CREEK F.P.	0.00	0.00	$0	$0	$0
0420	KETCHIKAN BOROUGH	0.00	0.00	$0	$0	
0						
0430	SHORELINE S.A.	0.00	0.00	$0	$0	$0
0440	KODIAK ISLAND BOROUGH	0.00	0.00	$214,566	$193,670	
0						
0450	FIRE DISTRICT 1	0.00	0.00	$0	$0	$0
0455	SERVICE DISTRICT	0.00	0.00	$0	$0	$0
0460	ROAD DISTRICT	15.00	0.00	$0	$0	$0
0470	MAT-SU BOROUGH	0.00	0.00	$0	$0	
0						
0480	WASILLA F.P.	0.00	0.00	$0	$0	$0
0490	BUTTE F.P.	0.00	0.00	$0	$0	$0
0500	GREATER PALMER F.P.	0.00	0.00	$0	$0	$0

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (ML) AUGUST 17, 1983

TOTAL ENTITLEMENT = $55,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT. CONST. AT
0510	SUTTON F.P.	0.00	0.00	$0	$0	$
0520	NON AREA-WIDE	0.00	0.00	$0	$0	$
0525	TALKEETNA FLOOD S.A.	0.00	0.00	$0	$0	$
0530	TALKEETNA F.P.	0.00	0.00	$0	$0	$
0540	GARDEN TERRACE	0.00	0.00	$0	$0	$
0541	MIDWAY	565.23	0.00	$0	$0	$
0550	LAKES F.P.	0.00	0.00	$0	$0	$
0560	NORTH SLOPE BOROUGH	[illegible]	15.00	$0	$71,075	
0570	SITKA BOROUGH	16.36	0.00	$206,813	$52,944	$
	FIRST CLASS CITIES					
1000	BARROW	0.00	0.00	$0	$0	$
1010	CORDOVA	8.55	0.00	$230,973	$22,173	$
1020	CRAIG	4.91	0.00	$0	$19,136	$
1030	DILLINGHAM	11.40	0.00	$0	$0	$
1040	FAIRBANKS	57.20	0.00	$230,973	$157,062	$1,421,42
1050	GALENA	6.38	0.00	$0	$2,284	$0
1060	HAINES	11.04	0.00	$0	$0	$0
1070	HOMER	12.05	0.00	$0	$13,732	$0
1080	HOONAH	0.00	0.00	$0	$0	$0
1090	HYDABURG	3.17	0.00	$0	$0	$0
1100	KAKE	6.50	0.00	$0	$0	$0
1110	KENAI	47.06	0.00	$0	$13,732	$0
1120	KETCHIKAN	19.07	0.00	$199,338	$52,625	$8,291
1140	KING COVE	3.10	0.00	$0	$8,253	$0
1150	KLAWOCK	1.69	0.00	$0	$0	$0
1160	KODIAK	14.68	0.00	$0	$0	$0
1170	NENANA	13.26	0.00	$0	$0	$0
1180	NOME	16.33	0.13	$277,638	$44,422	$0
1190	NORTH POLE	10.72	0.00	$0	$0	$0
1200	PALMER	19.95	0.00	$206,813	$0	$0
1210	PELICAN	1.10	0.00	$0	$6,866	$0
1220	PETERSBURG	9.48	0.00	$206,813	$19,854	$0
1230	SAND POINT	9.56	0.00	$0	$8,253	$0
1240	SAINT MARY'S	7.98	0.00	$0	$8,563	$0
1250	SE DEVIA	[illegible]	[illegible]	[illegible]		

FY 19[illegible] MUNICIPAL REVENUE SHARING ENTITLEMENTS (P2) AUGUST 17, 1983

TOTAL ENTITLEMENT = $65,721,010

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT. CONST. AI
1260	BERING	21.55	0.00	$214,566	$123,591	$
1270	SKAGWAY	2.50	0.00	$0	$6,566	$
1280	SOLDOTNA	34.78	0.00	$0	$0	$
1285	TANANA	21.69	0.00	$0	$0	$
1290	UNALAKLA	7.42	0.00	$0	$3,253	$
1300	VALDEZ	19.60	0.00	$239,634	$7,667	$
1330	WRANGELL	7.53	0.00	$206,313	$13,236	$
1360	YAKUTAT	3.31	0.00	$0	$6,566	

SECOND CLASS CITIES

5000	AKHIOK	4.00	0.00	$0	$0	$
5010	AKIACHAK	3.00	9.00	$0	$8,343	$
5030	AKIAK	1.00	0.00	$0	$3,563	$
5070	AKOLMIUT	0.00	4.75	$0	$8,563	$
5040	AKUTAN	0.00	0.00	$0	$0	$
5050	ALAKANUK	4.00	8.00	$0	$8,563	$
5060	ALEKNAGIK	7.00	1.50	$0	$8,253	$
5075	ALLAKAKET	4.00	0.00	$0	$0	$
5090	AMBLER	5.00	0.00	$0	$8,894	$
5095	ANAKTUVUK PASS	0.00	0.00	$0	$0	$
5100	ANDERSON	5.00	0.00	$0	$0	$
5110	ANGOON	5.10	0.00	$0	$8,518	$
5120	ANIAK	7.35	24.00	$0	$17,768	$
5130	ANVIK	0.00	0.00	$0	$8,894	$
5140	ATMAUTLUAK	0.00	0.00	$0	$3,563	$
5150	BETHEL	12.00	40.00	$0	$119,890	$
5160	BREVIG MISSION	0.00	0.00	$0	$7,894	$
5170	BUCKLAND	0.00	0.00	$0	$0	$
5180	CHEFORNAK	0.00	0.00	$0	$3,563	$
5190	CHEVAK	1.00	0.00	$0	$8,563	$
5200	CHUATHBALUK	4.00	6.00	$0	$5,894	$
5210	CLARK'S POINT	0.00	0.00	$0	$0	$
5215	COLD BAY	0.00	0.00	$0	$0	$

FY 1987 MUNICIPAL REVENUE SHARING ENTITLEMENTS (PL)

AUGUST 17, 1987

TOTAL ENTITLEMENT = 165,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. AI
5230	DELTA JUNCTION	12.68	0.00	$0	$7,391	
5240	DIOMEDE	0.00	0.00	$0	$0	
5250	EAGLE	0.00	0.00	$0	$0	
5260	EEK	0.00	0.00	$0	$5,563	
5270	EKAKO	0.00	0.00	$0	$5,253	
5280	ELIM	1.00	0.00	$0	$5,225	
5290	EMMONAK	0.41	0.00	$0	$5,563	
5300	FORT YUKON	14.00	0.00	$0	$5,594	
5310	FORTUNA LEDGE	0.00	1.00	$0	$5,563	
5320	GAMBELL	0.00	0.00	$0	$0	
5330	GOLOVIN	0.10	10.00	$0	$5,284	
5340	GOODNEWS BAY	0.75	0.00	$0	$5,563	
5350	GRAYLING	0.50	0.00	$0	$5,594	
5360	HOLY CROSS	0.00	0.00	$0	$5,284	
5370	HOOPER BAY	0.00	0.00	$0	$0	
5380	HOUSTON	11.00	0.00	$0	$0	
5390	HUGHES	0.00	0.00	$0	$0	
5400	HUSLIA	2.00	0.00	$0	$5,594	
5410	KACHEMAK	0.00	0.00	$0	$0	
5420	KAKTOVIK	0.00	0.00	$0	$0	
5430	KALTAG	0.00	0.00	$0	$5,284	
5440	KASIGLUK	0.00	0.00	$0	$5,594	
5450	KIANA	0.72	0.00	$0	$5,594	
5470	KIVALINA	0.00	0.00	$0	$0	
5480	KOBUK	0.00	0.00	$0	$5,284	
5490	KOTLIK	0.00	0.00	$0	$5,563	
5500	KOTZEBUE	10.97	0.00	$0	$0	
5510	KOYUK	1.72	0.00	$0	$5,594	
5520	KOYUKUK	0.00	0.00	$0	$0	
5530	KUPREANOF	0.00	0.00	$0	$0	
5540	KWETHLUK	0.00	0.00	$0	$5,563	
5550	LARSEN BAY	0.00	0.00	$0	$0	
5555	LOWER KALSKAG	1.07	0.00	$0	$5,594	
5560	MANOKOTAK	0.00	0.00	$0	$0	
5570	MCGRATH	11.67	0.00	$0	$5,594	
5580	MEKORYUK	0.00	0.00	$0	$5,563	

FY 1987 MUNICIPAL REVENUE SHARING ENTITLEMENTS (*2) AUGUST 17, 1986

TOTAL ENTITLEMENT = $50,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITA CONST. AI
5590	MOUNTAIN VILLAGE	21.00	0.00	$0	$8,563	$0
5600	NAPAKIAK	0.00	0.00	$0	$0	$0
5610	NAPASKIAK	0.00	0.00	$0	$8,563	$0
5630	NEWHALEN	0.00	0.00	$0	$8,253	$0
5635	NEW STUYAHOK	0.00	0.00	$0	$0	$0
5640	NEWTOK	0.00	0.00	$0	$8,563	$0
5650	NIGHTMUTE	0.00	0.00	$0	$8,563	$0
5660	NIKOLAI	0.00	0.00	$0	$0	$0
5670	NONDALTON	1.50	0.00	$0	$8,253	$0
5680	NOORVIK	0.00	0.00	$0	$8,894	$0
5690	NULATO	4.50	0.00	$0	$8,894	$0
5700	NUIQSUT	0.00	0.00	$0	$0	$0
5710	OLD HARBOR	4.45	0.00	$0	$0	$0
5720	OUZINKIE	5.10	0.00	$0	$0	$0
5730	PILOT STATION	2.00	0.00	$0	$0	$0
5740	PLATINUM	0.00	0.00	$0	$0	$0
5750	POINT HOPE	0.00	0.00	$0	$0	$0
5760	PORT ALEXANDER	0.00	0.00	$0	$0	$0
5770	PORT HEIDEN	20.00	0.00	$0	$8,253	$0
5780	PORT LIONS	5.00	0.00	$0	$0	$0
5790	QUINHAGAK	1.00	0.00	$0	$8,563	$0
5800	RUBY	0.00	0.00	$0	$0	$0
5810	RUSSIAN MISSION	0.00	0.00	$0	$0	$0
5820	SAINT MICHAEL	0.00	0.00	$0	$8,894	$0
5830	SAINT PAUL	77.50	0.00	$0	$0	$0
5840	SAVOONGA	0.00	0.00	$0	$0	$0
5850	SAXMAN	3.00	0.00	$0	$0	$0
5860	SCAMMON BAY	1.35	0.00	$0	$8,563	$0
5870	SELAWIK	0.00	0.00	$0	$0	$0
5880	SHAGELUK	5.54	0.00	$0	$0	$0
5890	SHAKTOOLIK	3.50	12.00	$0	$8,894	$0
5900	SHELDON POINT	0.00	0.00	$0	$0	$0
5910	SHISHMAREF	1.90	0.00	$0	$0	$0
5920	SHUNGNAK	1.50	0.00	$0	$8,894	$0
5930	STEBBINS	0.00	0.00	$0	$8,894	$0
5950	TELLER	2.00	0.00	$0	$8,894	$0

FY 1983 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) AUGUST 17, 1983

TOTAL ENTITLEMENT = $55,721,000

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITA CONST. AI
5980	TENAKEE SPRINGS	2.00	0.00	$0	$6,613	$0
5990	TOGIAK	5.00	0.00	$0	$8,253	$0
6000	TOKSOOK BAY	0.00	0.00	$0	$8,563	$0
6010	TULUKSAK	12.00	-3.00	$0	$8,563	$0
6015	TUNUNAK	0.00	0.00	$0	$8,563	$0
6020	UNALAKLEET	9.32	0.00	$0	$6,584	$0
6030	UPPER KALSKAG	1.50	16.50	$0	$0	$0
6040	WAINWRIGHT	0.00	0.00	$0	$0	$0
6050	WALES	0.00	0.00	$0	$8,253	$0
6060	WASILLA	46.39	0.00	$0	$13,276	$0
6070	WHITE MOUNTAIN	2.75	0.00	$0	$8,253	$0
6080	WHITTIER	6.00	0.00	$0	$0	$0
6090	EXT FIRE AREAS	0.00	0.00	$0	$0	$0
6100	NATIVE VILLAGE SOUT	0.00	0.00	$0	$0	$0
	TOTAL			$3,262,750	$2,495,589	$4,043,037

FY 83 amount → 2,905.58 x 2,500 x 1.15 (COLA) = $8,353,543

FY 84 projection → FY 84 - project Statewide public road mileage of between 3,200 to 3,300 miles

Call if you have question. [signature]

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

June 20, 1983

REPORT NO. 22

INTRODUCTION OF BILLS (Senate)

Road Improvement Districts

SENATE BILL NO. 315, by Senator Faiks. Provides for state grants to municipalities to "facilitate funding for the upgrading, reconstructing, rehabilitating, and paving of subdivision roads within a road improvement district established under AS 29.63 or under a charter of a home rule or unified municipality."

Each year a municipality would receive funds based on total road mileage in each road improvement district in that municipality, subject to a 50 percent match by each road improvement district. After establishing a road improvement district, a municipality could apply to the state for a grant as funds are available. The state could require a municipality to submit a yearly five-year plan for the upgrading, reconstructing, rehabilitating, and paving of improvement district roads. A municipality that receives funding would be required to make a yearly report showing the use of the money. Does not provide for an effective date (becomes law 90 days after the Governor's signature).

Introduced June 15 and referred to Transportation and Finance.

Interest Rates

SENATE BILL NO. 316, by the Labor & Commerce Committee. Amends laws governing maximum allowable interest rates in Alaska as follows:

--Amends AS 06.40.120(c) relating to the interest charged on premium financing agreements to allow a maximum of "two percent a month on that part of the balance of premiums due as does not exceed $10,000 and at a rate agreed by contract on the balance of premiums due exceeding $10,000." Currently the maximum rate is "the nominal rate of 15 percent plus an additional charge of $10 per premium finance agreement which need not be refunded upon cancellation or prepayment."

--Amends AS 09.55.440(a) relating to judgment interest to provide that a judgment include interest "at the rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the date of the judgment." Currently judgment interest is six percent a year.

--Amends AS 45.10.120(b) to increase maximum allowable interest charged on retail installment contracts. For balances of $10,000 or less rate would be 1-3/4%. For balances over $10,000, the interest rate would be agreed upon by contract (currently five-sixths of one percent on balances of $1,000 or less, and two-thirds of one percent on balances over $1,000).

--Amends AS 45.10.120(c) to increase maximum allowable interest

SB 311 (cont'd)

The State Affairs CS deletes: "Best known as the father of Alaska Statehood, Ernest Gruening fought to protect and wisely use Alaska's natural resources, while winning national acclaim as an ardent fighter for the rights of the individual and for efforts toward strengthening world peace." Remainder identical and would establish February 6 of each year as Ernest Gruening Day.

History: Introduced June 9, 1983 by Senator Vic Fischer and referred to State Affairs.

Road Improvement Districts

SENATE BILL NO. 315, (see page 941, 1983 report). Reported back to the Senate on January 18 by Transportation with the committee recommending it be replaced with a Transportation CS and a majority recommending do pass. Concurring: Moss (Chairman), Faiks and Gilman. To Finance.

The following is a summary of the bill, noting Transportation CS changes:

The original bill sought to facilitate funding for road maintenance of existing subdivision roads within a "road improvement district" established under AS 29.63 or under a local government charter. The Transportation CS changes wording to "road maintenance service area" throughout the bill to conform to terms used in AS 29.63.

Provides that each fiscal year eligible municipalities will receive state road improvement funds based on total road mileage in each "road maintenance service area" in the municipality, subject to a 50% match by each service area. CS adds: "The amounts which are available shall be distributed pro rata among eligible municipalities."

Changes provision which would have required municipalities to disburse funds based on a needs assessment. Transportation CS provides that money shall be disbursed on a first come, first service priority of applications.

Funds would be available for expenditure in a particular service area for a period of five years. After that, the money could be spent in other road maintenance service areas in the municipality, unless there are no other service areas, in which case the money would be returned to the state.

A municipality may apply to the state for road maintenance funds after it has established a road maintenance service area under AS 29.63, or under charter of home rule or unified municipality. The state may require the municipality to submit a five-year plan for the upgrading, reconstructing, rehabilitation, or paving of maintenance service area roads.

The municipality would be responsible for establishing design standards for construction in a road maintenance service area, and would administer construction of all projects. Requires that contracts entered into by a municipality for road projects funded

SB 315 (cont'd)

under this program be awarded only on the basis of the lowest responsible bid.

Maintenance of roads constructed under the program would be the responsibility of the road maintenance service area (responsibility of the municipality under the original version). A service area could contract with the state or with a local government for maintenance.

Municipalities receiving money must make an annual report to the state, by October 1, showing the use of the money during the preceding 12 months. The Dept. of Transportation and Public Facilities must, in turn, report to the Governor by December 1.

Definition of "construction or road improvement" includes utility and drainage costs but excludes financial costs, right-of-way costs, and new road construction.

History: Original bill was introduced June 15, 1983 by Senator Faiks and referred to Transportation and Finance.

Pacific Time Zone (changing statutory references)

SENATE BILL NO. 341, (see page 11). Reported back to the Senate on January 18 by State Affairs with the committee recommending it do pass. Concurring: Vic Fischer (Chairman), Ray, Rodey, Strugulewski and Kelly. To Judiciary.

Appropriation (supplemental) (operation of Legislature)

SENATE BILL NO. 348, (see page 16). Reported back to the Senate on January 19 by Finance with a majority of the committee recommending it be replaced with a CS and that it do pass. Concurring: Bennett (Co-Chmn.), Sackett, Vic Fischer, Ferguson, Faiks and Mulcahy. To Rules.

The Finance CS increases appropriation from $250,000 to $667,500, and lists the allocations as follows:

--Television coverage of Senate proceedings - $250,000
--Modular furniture for the pressroom - 42,500
--Senate Resources Committee for a lobbying effort to influence U.S. Senate action amending the Export Administration Act to all export of a limited amount of Alaska crude oil - 300,000
--operating expenses of the Senate Oil & Gas Committee - 75,000

Regulation of Religious Schools

SENATE BILL NO. 354, (see page 18). The five-day hearing notice rule was waived on January 16 so the bill could be heard in Judiciary. January 17 a Health, Education & Social Services referral was added. Reported back from Judiciary on January 19 with the committee recommending it be replaced with a CS and as follows: Ray (Chairman) and Ziegler signed "no recommendation"; Pettyjohn and Eliason signed "do pass." To Health, Education & Social Services.

SB 301 (cont'd)

designed to "enhance the furbearer population, increase the productivity of furbearer habitats, initiate useful furbearer research programs, and educate trappers consistent with the goal to provide for an optimum population of furbearers." The department could adopt regulations to administer the program. Legislative intent is that the appropriations made to the fund equal at least 50% of the fees collected for resident trapping licenses. The bill increases the resident trapping license fee (in AS 16.05.340(a)(3)(B)) from $3 to $10. Provides that money appropriated to the Furbearer Management Fund is for capitalization of a loan fund and does not lapse. Effective July 1, 1983.

The Resources CS makes the following changes:

--Updates the effective date from July 1, 1983 to January 1, 1985.

--Instead of creating a separate "Furbearer Management Fund" in the Dept. of Fish and Game, the Resources CS amends AS 16.05.130 (relating to uses of money received from the sale of sport fishing, hunting, and trapping licenses or permit fees) by adding: "Money accruing to the state from the sale of resident trapping licenses may only be used for furbearer management." Further directs the Department of Fish & Game to maintain a Furbearer Management Account within the Fish and Game Fund to separate accounting of receipt and expenditure of money from the sale of resident trapping licenses. Stipulates that "furbearer management shall be designed to enhance the furbearer population, increase the productivity of furbearer habitats, initiate useful furbearer research, and educate trappers consistent with the goal to provide for an optimum population of furbearers."

--Increases fee for resident hunting and trapping licenses from $15 to $22 (amends AS 16.05.340(a)(3)). Increases resident trapping license fee (AS 16.05.340(a)(4)) from $3 to $10. Increases resident hunting, trapping, and sportfishing license fee (AS 16.05.340(a)(6)) from $25 to $32.

Road Improvement Districts

SENATE BILL NO. 315, (see page 73). Reported back to the Senate on March 16 by Finance with the committee recommending it be replaced with a Finance CS and as follows: Bennett (Co-Chairman) and Faiks signed "do pass." Mulcahy and Josephson signed "no recommendation." To Rules.

The Finance CS makes the following changes to the Transportation CS:

--Makes effective date of July 1, 1984.

--Makes basic language clean-up, rearranging paragraphs and changing wording where necessary to improve clarity.

--Changes "under a charter of a home rule or unified municipality" to "under a home rule charter" throughout. Redundant--a unified municipality operates under a home rule charter.

--Municipalities would be required to submit a five-year plan for

SB 315 (cont'd)

the upgrading, reconstructing, rehabilitating, or paving of maintenance service area roads for approval before October 1 of each fiscal year. Under previous version, the five-year plan was not mandatory, but could be required by the Department of Transportation & Public Facilities.

--Rewrites (b) under section on eligibility to read: "A municipality shall [, SUBJECT TO APPROVAL OF THE DEPARTMENT,] establish design standards for construction in a road maintenance service area. An application for a grant for improving an existing road under this section may not be granted by the department until the existing road meets the minimum design standards of the municipality." (Bracketed material deleted from Transportation CS, underlined material added.)

Agric. Loan Act (amending)

SENATE BILL NO. 342, (see pages 11;244). Reported back to the Senate on March 13 by Finance with the committee recommending it be replaced with a Finance CS and the majority signing do pass. Concurring: Bennett (Co-Chairman), Sackett and Mulcahy. Ferguson and Vic Fischer signed "no recommendation." To Rules.

The Finance CS changes provision in Sec. 3 relating to extending the term of short term loans (see p. 245). Under Finance CS the term could only be extended for up to three years. Remainder identical to the Resources version.

Appropriation (supplemental) (Legislators' salaries)

SENATE BILL NO. 365, (see page 70). Reported back to the Senate on March 15 by Finance with the committee recommending do pass. Concurring: Bennett (Co-Chairman), Sackett, Vic Fischer, Mulcahy, Faiks and Josephson. To Rules.

Land Disposal & Management

SENATE BILL NO. 375, (see page 115). Reported back to the Senate on March 13 by Resources with the committee recommending it be replaced with a Resources CS and the majority signing "do pass." Concurring: Fahrenkamp (Chairman), Vic Fischer, Eliason and Ziegler. Mulcahy signed "no recommendation." To Finance.

The Resources CS includes several new sections. New sections 3, 17, 34, 40, 47, 65, 66, 72-75, and 77 amend various state land laws to reflect passage in 1983 of SB 41, which awarded the University of Alaska ownership and management of certain state lands. References to "university" land are deleted or appropriately amended, and provisions are added to AS 38.04 and 38.05 specifically stating that those laws do not apply to land owned by the Board of Regents of the University of Alaska.

Also contains provisions of SB 344/HB 455 relating to title defects in state lands. Those provisions would be effective immediately (rather than July 1, 1984, as is rest of bill) and are contained in Secs. 18, 34 and 41.

Further amends AS 38.05.050 to eliminate requirement that land disposals be held in a community "in which regular sessions of a

March 27, 1984

SB 78 cont'd

CS FOR SENATE BILL NO. 78 (HESS) am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

SB 446

SENATE BILL NO. 446 (personal safety curriculum in public schools) was read the second time.

Senator Parks moved and asked unanimous consent for the adoption of the Rules Committee Substitute offered on page 2472. Without objection, CS FOR SENATE BILL NO. 446 (RLS) was adopted.

CS FOR SENATE BILL NO. 446 (RLS) was read the second time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 446 (RLS) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 446 (RLS) was read the third time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 446 (RLS) be moved to the bottom of the calendar. Without objection, it was so ordered.

SENATE BILLS IN SECOND READING

SB 315

CS FOR SENATE BILL NO. 315 (FIN) (road maintenance service areas; eff) which was held from March 26 was before the Senate in second reading.

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E BILL NO. 78 (HESS)
reements; eff) pass
he following result:

arenkamp,
ul, Fischer Vic,
ephson, Kelly,
yjohn, Ray,

ett, Ziegler

n passed the Senate.

sent that the roll
ered the roll call
jection, it was so

SB 315 cont'd

Senator Faiks offered the following Amendment No. 1:

> Page 2, line 24: After "section" insert "which was constructed after the effective date of this bill" .

Senator Faiks moved and asked unanimous consent for the adoption of Amendment No. 1. Senator Gilman objected for the purpose of a technical amendment to change "was" to "is". Senator Gilman withdrew his objection. There being no further objection, Amendment No. 1 with the technical amendment was adopted.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 315 (FIN) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 315 (FIN) am was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 315 (FIN) am 'road maintenance service areas; efd' pass the Senate?" The roll was taken with the following result:

CSSB 315 FIN AM 3RD

Yeas:	17	Bennett, Elisson, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Moss, Mulcahy, Pettyjohn, Sturgulewski, Ziegler
Nays:	1	Ray
Excused:	1	Rodey
Absent:	1	Sackett

and so, CS FOR SENATE BILL NO. 315 (FIN) am passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

March 27, 1984

SB 315 cont'd

CS FOR SENATE BILL NO.
the President and Secre
consideration.

SB 500

CS FOR SENATE BILL NO.
recovery of materials a
held from March 26 was

Senator Vic Fischer of

> Page 4, line 3: D
> insert January 1,

Senator Vic Fischer mo
the adoption of Amendme
No. 1 was adopted.

Senator Ray moved and
SENATE BILL NO. 500 (SA
to third reading and pl
tion, it was so ordered.

CS FOR SENATE BILL NO.

The question being: "Sh
(reduction of litter and
from litter; efd) pass
the following result:

CSSB 500 SA AM 3RD

Yeas:	18	Ben Fai Fis Jos Mul Stu
Nays:	0	
Excused:	1	Rod
Absent:	1	Sac

and so, CS FOR SENATE BI

mendment No. 1:

Insert
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man objected for the
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[illegible]
[illegible]
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am passed the Senate.

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nsidered the roll call
objection, it was so

SB 315 cont'd

CS FOR SENATE BILL NO. 315 (FIN) am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

SB 500

CS FOR SENATE BILL NO. 500 (SA) (reduction of litter and the recovery of materials and energy from litter; efd) which was held from March 26 was before the Senate in second reading.

Senator Vic Fischer offered the following Amendment No. 1:

> Page 4, line 3: Delete July 1, 1984 and insert January 1, 1985

Senator Vic Fischer moved and asked unanimous consent for the adoption of Amendment No. 1. Without objection, Amendment No. 1 was adopted.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 5[illegible] (SA) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 500 (SA) am was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 500 (SA) am (reduction of litter and the recovery of materials and energy from litter; efd) pass the Senate?" The roll was taken with the following result:

CSSB 500 SA AM 3RD

Yeas:	18	Bennett, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Moss, Mulcahy, Pettyjohn, Ray, Sturgulewski, Ziegler
Nays:	0	
Excused:	1	Rodey
Absent:	1	Sackett

and so, CS FOR SENATE BILL NO. 500 (SA) am passed the Senate.

3/16/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 315 (Fin)
Title: Act relating to road maintenance service areas
Sponsor: Faiks
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Trans. & Public Facilities
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		22.0				
200 TRAVEL		2.5				
300 CONTRACTUAL		.8				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		25.3				
CAPITAL		3,000.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		3,025.3				
FEDERAL FUNDS						
OTHER						
TOTAL		3,025.3				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [signature] Phone: 465-3753
Division: Don Bennett, Co-chairman Senate Finance Committee Date: March 15, 1984
Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

SB

370

Offered: 2/8/84
Referred: Finance

Original sponsor: Rules/Governor

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 370 (Transportation) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing the acquisition of the Alaska Railroad; authorizing the governor to negotiate the transfer terms; and providing for an effective date."

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

* Section 1. ACCEPTANCE OF CERTIFICATION REQUIREMENTS OF ALASKA RAILROAD TRANSFER ACT OF 1982. The state accepts, for itself and any entity that might subsequently be created to operate the Alaska Railroad, the certification requirements under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of January 14, 1983). Accordingly, the state agrees to

(1) acquire the Alaska Railroad and accept all rail property of the Alaska Railroad under 45 U.S.C. 1203(a) ~~as described in the report of July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);~~

(2) operate the Alaska Railroad as a rail carrier in intrastate and interstate commerce;

(3) assume all rights, liabilities, and obligations of the Alaska Railroad existing on the date of transfer to the state, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by 45 U.S.C. 1201 - 1214;

(4) protect the employment interests of the employees of the Alaska Railroad during the two-year period commencing on the date of transfer, as required by 45 U.S.C. 1203(d)(3)(A) and 45 U.S.C. 1206;

(5) protect the employment interests of the officers of the

Alaska Railroad as required by 45 U.S.C. 1203(d)(3)(E);

(6) allow representatives of the United States Secretary of Transportation adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of federal ownership; and

(7) compensate the United States at the value determined by the United States Railway Association under 45 U.S.C. 1204(d).

* Sec. 2. (a) The governor may enter into transfer agreements, compensation agreements, and any other related agreements with the United States Secretary of Transportation in order to secure certification by the secretary that the state has met the requirements of 45 U.S.C. 1203 and in order to secure the transfer of the Alaska Railroad to the state of the rail properties of the Alaska Railroad as described in the report of July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a).

(b) Transfer of the Alaska Railroad shall not occur until after the effective date of an Act establishing or otherwise providing for an entity to operate the state-owned railroad.

* Sec. 3. DEFINITIONS. In this Act, unless the context clearly indicates otherwise,

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the U.S. Department of Transportation as a rail carrier in Alaska under authority of 43 U.S.C. 975 - 975(g) (Alaska Railroad Act) and 49 U.S.C. 1655(i) (Department of Transportation Act) or, as the context requires, the railroad operated by that agency;

(2) "certification requirements" means the conditions under 45 U.S.C. 1203 that the United States Secretary of Transportation must certify as having been satisfied by the state before transfer of the Alaska Railroad to the State of Alaska may occur under 45 U.S.C. 1203(a);

(3) "compensate" means payment in full or by credit agreement with cash or pledged funds;

(4) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer to the state: general manager; assistant general manager; assistant to the general manager; chief of administration; and chief counsel.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will authorize the state to acquire the Alaska Railroad. The bill is required so that the certification process mandated by the Alaska Railroad Transfer Act (ARTA; P.L. 97-468) can be effected. Once this certification process is completed, acquisition of the railroad can occur as soon as practicable.

The bill essentially says that the state agrees to meet the transfer conditions set out in the Transfer Act. A more detailed analysis of the bill follows:

Section 1 says that the state agrees to the transfer conditions set out in the Alaska Railroad Transfer Act. Specifically, these points of agreement are as follows:

1) The state agrees to acquire all the rail property of the railroad.

2) The state agrees to operate the railroad as a rail carrier in intrastate and interstate commerce.

3) The state agrees to assume all rights, liabilities, and obligations of the railroad that exist on the date of transfer.

4) The state agrees to protect the employment interests of the railroad employees as required by sec. 604(d)(3)(A)(i) -- (vii) and sec. 607 of ARTA.

5) The state agrees to protect the employment interests of the officers of the railroad as required by sec. 604(d)(3)(E) of ARTA.

6) The state agrees to allow the Secretary of Transportation access to employees and records of the Alaska Railroad.

7) The state agrees to compensat the United States at the appraisal value that was determined by the United States Railway Association.

Section 2 authorizes the governor to enter into the various transfer agreements that relate to the points listed above and that will be required in order to secure certification of compliance with the Transfer Act and thus to secure the transfer of the railroad.

Section 3 defines certain terms used in the bill.

Section 4 provides for an immediate effective date.

I urge your favorable action on this bill as soon as possible so that the transfer of the ownership of the Alaska Railroad to the state can become a reality.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

SENATE LETTER OF INTENT

CSSB 370(Trsp) am

It is the intent of the Legislature that the Department of Transportation and Public Facilities shall hold a public hearing in each of the communities affected along the proposed right-of-way corridor established under 16 U.S.C. 410hh (4)(b)-(e) known as the Western (Kobuk River) unit of the Gates of the Arctic National Park, before proceding with any proposed railroad into the Ambler Mining District.

Adopted by the Senate 3/15/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/19/84

REQUEST
Bill/Resolution No.:
Title: Alaska Railroad Acquisition Act
Sponsor:
Requestor: Rules, by request of Governor
Date of Request: 1/18/84

FISCAL DETAIL
Agency Affected: N/A
Program Category Affected: N/A
BRU, Program or Subprogram(s) Affected: N/A

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING *						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	22,271.0	-0-	-0-	-0-	-0-
REVENUE *	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	22,271.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	22,271.0	-0-	-0-	-0-	-0-

POSITIONS: *

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: GENERAL FUND

*This fiscal note only covers the actual purchase price. Specific estimates for these other needs will be presented in subsequent fiscal notes relating to proposed operating entity legislation.

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coordinator Phone: 465-3900
Division: Alaska Railroad Transfer Team Date: 1/19/84

Approved by Commissioner: H. Glenzer, Jr. Date: 1/19/84
Agency: Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

SB

389

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/16/84

REQUEST
Bill/Resolution No.: CSSB 389 (Finance)
Title: Kenai River Bridge - Section 1

Sponsor: Gilman, P Fischer
Requestor: Senate Trans. Committee
Date of Request: 2/16/84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: D&C

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS			20.0	20.0	20.0	20.0
TOTAL OPERATING						
CAPITAL		5,672.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		5,672.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by bill sponsor.

ANALYSIS: Attach a separate page for any Analysis

Prepared By: William R. Snell
Division: Planning
Phone: 266-1462
Date: 4/16/84

Approved by Commissioner: R.J. Knapp
Agency: DOT&PF
Date: 4/18/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

ANALYSIS CSSB 389 - SECTION 1

1. Would increase the maintenance and operations budget for the Department.

2. Fiscal impact on new programs or activities: Unknown

3. Cost estimate prepared by Design and Construction based on data provided from project design; Departmental M&O standard costs based on $5,500 per lane mile (12 ft. widths -- approximately 2 miles)

4. This project would fund:

   a. Construction of a bridge over the Kenai River.

   b. Construct a road from bridge to Funny River Road (South) and from the bridge to Scout Lake Road (North).

   Cost estimate includes Design Completion (bridge design completion, materials work, and specifications update), ROW, Utilities, and Construction.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 389
Title: Tununak River Bridge, Section 2
Sponsor: Gilman, P. Fischer
Requestor: Update for Committee Sub.
Date of Request: ---

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		750.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		750.0				
FEDERAL FUNDS						
OTHER						
TOTAL		750.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: John Simpson Phone: 789-6261
Division: Standards & Technical Services Date: 4-16-84

Approved by Commissioner: R. J. Knapp Date: 4-18-84
Agency: DOT&PF

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Analysis - CSSB 389 - Section 2

The cost estimate was provided by the DOT&PF Bridge Design Section, and would construct sheet pile abutments to protect the bridge between the village and the airport from storm damage.

DETAILS:

Sheet pile abutment and bank protection		$430,000
Backfile		45,000
Move existing bridge		20,000
Gabion Energy Dissapators		15,000
Mobilization		100,000
		$610,000
Preliminary engineering & construction		140,000
	TOTAL	$750,000

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

P. O. BOX 9
KENAI, ALASKA 99611

REPRESENTATIVE HUGH MALONE

APR 16 1984

April 16, 1984

TO: Representative Bette Cato
Chair - House Transportation Committee

FROM: Representative Hugh Malone

SUBJECT: SB 389

The Kenai River/Funny River Bridge project is one that has been identified by local and state authorities for over 20 years. It has been documented by community need and economic factors in attached pages from the Kenai Regional Transportation Study, published by DOT/Pf and jointly prepared by DOT/Pf, Kenai Peninsula Borough and the Cities of Soldotna, Kenai, Homer, Seward, Seldovia, etc.

Salient features are as follows:

1. Provide access to a large area on the southeast side of the Kenai River. Borough tax records show approximately 200 families with 576 persons in the area. Assess is currently in the 17-mile Funny River Road following the Kenai River from Soldotna.

   A large portion of Funny River Road passes through federal land of the Kenai Wildlife Refuge (formerly the Kenai National Moose Range). The road was constructed many years ago to minimum access standards and poses grave safety problems due to its narrow width and current high traffic levels. Accidents are frequent (see attached Peninsula Clarion article). School buses have a treacherous time in the severe weather conditions during winter and break up. Routing keeps children on the buses far longer than necessary.

2. The Bridge project is far more cost effective and removes much of the need for upgrade and realignment of Funny River Road. The project cost is under $6 million while DOT/Pf's cost estimates of reconstructing for the 17 miles of the road run as high as $1 million per mile.

3. Provides faster and improved ambulance, fire and public safety access to families on the south side of Kenai River by allowing emergency vehicles to use the paved Sterling Highway and cross the Kenai River toward the end of Funny River Road. Residential fires are frequently terminal since heavy fire equipment makes very slow progress over the 17 miles of narrow, icy and potholed road.

4. Provides access for residents of the southern side of Kenai River to:
   - Sterling Elementary School, grades K - 6.
   - Business area of Sterling.
   - Access to paved Sterling Highway for faster, safer travel either toward Anchorage or Soldotna.

5. Provides general public access to under-utilized state park lands on the southeast side of Kenai River, helping to solve access problem to the river and to disperse the immense fishing crowds over a wide variety of sites.

Actions on this Bridge/Road project are as follows:

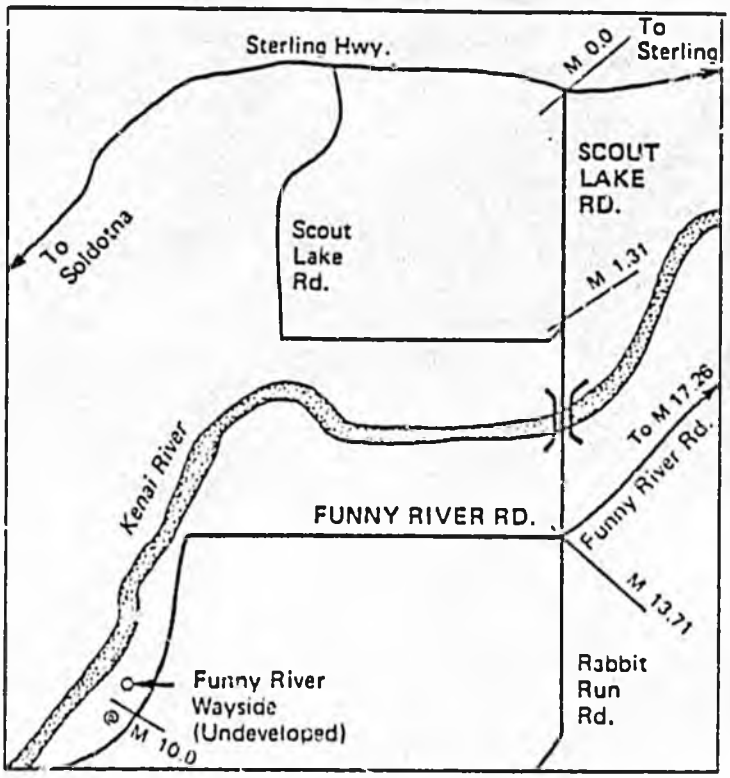
1. 1980 - Appropriation for reconnaissance.
2. 1981 - Appropriation for design.
3. 1982 - Included in bond package which was vetoed by Governor.
4. Included in Sheffield 1983 Administrative Budget (DOT/Pf) which was submitted to legislature.

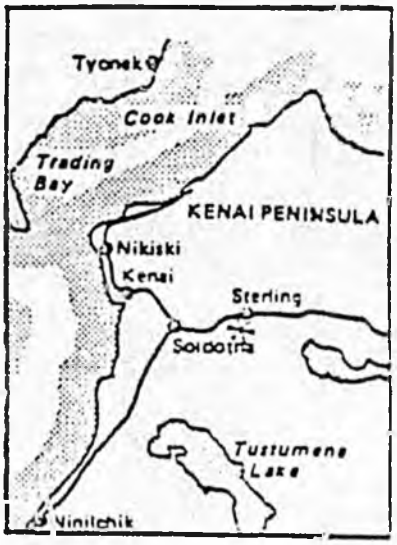
The bridge has identified as #14 on the Kenai Peninsula Transportation Plan. Since the development of that plan, 10 of the 14 projects have been completed, are under contract or adopted as municipal projects, moving this project up to number 4 on the priority list.

Thank you.

Project No. 14

FUNNY RIVER (SR 117300)/BRIDGE/SCOUT LAKE (SR 118700)





Capital Cost:

$ 8.4 million

Funny River: 1980 ADT =225

Scout Lake: 1980 ADT = 200

Existing Condition: Scout Lake Mile 0.0 (E. Jct. Sterling Hwy) to Mile 1.31 (Jct. improved road to river): Gravelled 22' surface, no shoulders. Funny River Mile 10 to Mile 17.26 (End of route): Gravelled 26' surface.

Proposed Physical Improvement: Phase I: Scout Lake (Sterling Hwy to Funny River Rd); Widen to 36', pave. Construct 26'-wide bridge, boat ramp and parking area next to bridge. Phase II: Funny River: Mile 13.71 to Mile 17.26: Widen to 36', pave. Phase III: Funny River: Mile 10 to Mile 13.71: Widen to 36', pave.

Project Alternatives: Improve Funny River Rd., Mile 0.0 (Jct. Sterling Hwy) to Mile 17.26 (End of route) to 28' rural paved standard.

Status: DOT/PF has completed Scout Lake Rd. and bridge design. Funding for project requested in DOT/PF's Central Region, FY 83 CIP.

Next Step Prior to Construction: Final design and permits for Funny River Rd., Mile 10 to Mile 17.26 and parking area.

Factors Affecting Development: Need parking area maintenance agreement with DNR-Div. of Parks

Relation to Other KRTS Projects: None

Cost - 5,672

X-14615

SCOUT LAKE ROAD EXTENSION

STERLING HIGHWAY TO FUNNY RIVER RD.
GRADING, DRAINAGE, PAVING, & BRIDGE



RECE

OCT.

DEPT. OF TRA

LEGEND

CONSTRUCT RESIDENTIAL DRIVEWAY APPROACH RADIUS=25' UNLESS SHOWN OTHERWISE

CONSTRUCT PUBLIC ROAD APPROACH A=90° UNLESS SHOWN OTHERWISE

CONSTRUCT PIPE CONDUIT - (SKEW INDICATED IF OTHER THAN PARALLEL TO ℄ CONSTRUCTION)

REMOVE AND DISPOSE OF CULVERT PIPE

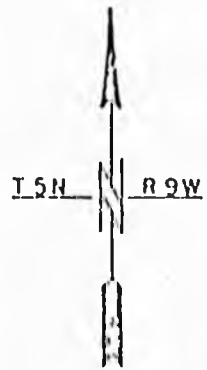
INSTALL GUARDRAIL

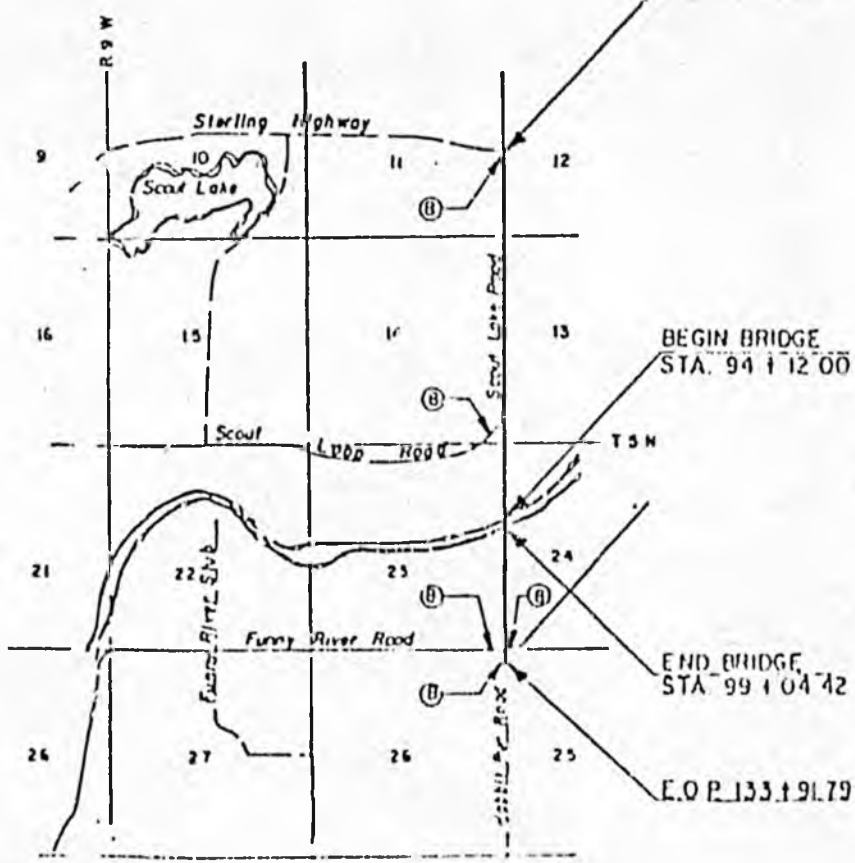
REMOVE STRUCTURE

TRAFFIC SIGN (NUMBER REFERS TO POST NUMBER LISTED IN SIGN SCHEDULE)

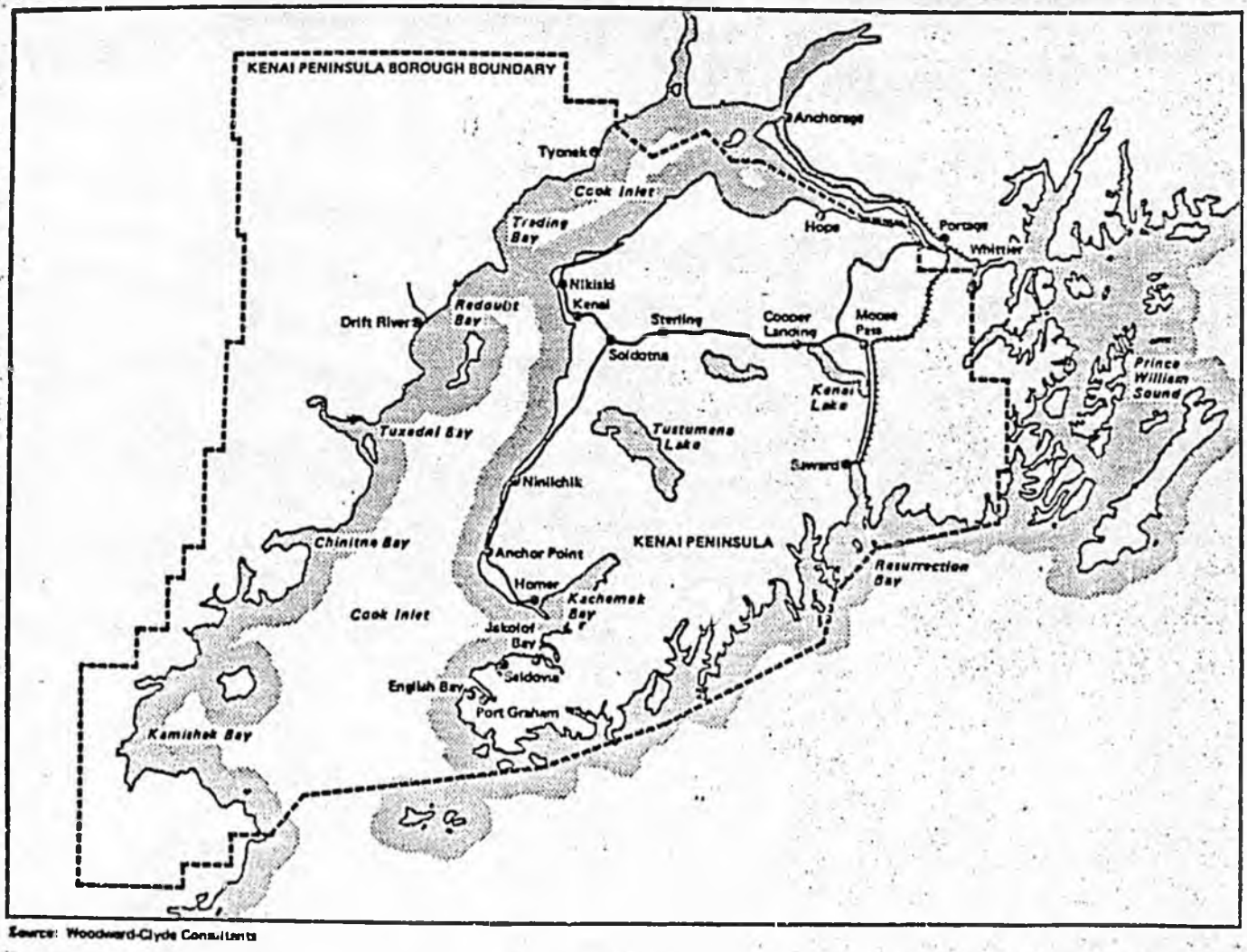
PERMANENT ADVANCE CONSTRUCTION SIGN IN ACCORDANCE WITH STANDARD DRAWINGS C-10 04 AND C-10A

ADJUST SURVEY MONUMENT/CASE TO GRADE





Draft Phase III



Source: Woodward-Clyde Consultants

KENAI REGIONAL TRANSPORTATION STUDY (KRTS) PROJECT

Prepared for

Alaska Department of Transportation and Public Facilities

October 1982

Woodward-Clyde Consultants/Wince-Corthell and Associates

Table III-4
HIGH PRIORITY PROJECTS*

	Ongoing DOT/PF Project	Ongoing KPB or Municipal Projects	Community Desires	Economic Development	Use Deficiency (safety, traffic overload, etc)
Roads					
1. Airport Bypass/Kachemak	x		x		
2. Anchor Point		x	x		
3. Bean Creek		x	x		
4. Bear Creek (Kachemak City)			x		x
5. Big Eddie		x	x		
6. Cannery			x		
7. Ciechanski			x		
8. Clam Gulch				x	x
9. Cohoe Loop			x		
10. Diamond Ridge (Skyline Dr.)/Olson Mt.		x	x		
11. East End - Phases I, II, III, & IV	x	x	x		x
12. East Hill	x		x		x
13. Feuding Lane/Kenai Keys		x	x		
14. Funny River/Bridge/Scout Lake	x		x	x	
15. Halibouty		x	x		
16. Homesite Loop		x	x		
17. Kenai Alternate			x		
18. Kenai Spur			x		
19. Kingsley/Oil Well	x	x	x	x	
20. Lake St./Pioneer Ave.			x		x
21. Lamplight/Bolt		x	x		
22. Lou Morgan/Scout Lake	x		x	x	
23. Lowell Point			x		x
24. Mackeys Lakes		x	x		
25. Meyers/Strawberry		x	x		
26. Nash Rd./Seward Hwy. Intersection			x		
27. Ninilchik/Beach		x	x	x	x
28. North Anchor River		x	x		x
29. North Kenai Highway Phases I, II, & III	x		x	x	
Olson/Tunnel/Main			x		
Resurrection River		x	x	x	
Seldovia Airport Rd.-Main St.			x		x
Seldovia/Jakolof Bay-Seldovia/Anderson			x		
34. Seward Highway	x		x		x
35. Soldotna Frontage					x
36. Sports Lake		x	x		
37. Sterling Highway	x		x		x
38. Tustumena Lake	x			x	
39. West Hill	x		x		x
Air					
40. English Bay Airport	x		x		
41. Homer Airport	x		x		x
42. Kenai Airport		x	x		x
43. Port Graham Airport			x		
44. Seldovia Airport			x		x
45. Seward Airport			x		x
46. Soldotna Airport			x		x
Marine					
47. English Bay Shuttle Ferry Ramp			x		
48. Homer Ferry Terminal and Passenger Bldg.	x		x	x	x
49. Homer Fish Dock	x	x	x		
50. Homer Small Boat Harbor	x	x	x	x	
51. Homer Ocean Dock			x		
52. Kachemak Park Shuttle Ferry Ramp				x	
53. Kasilof Harbor			x	x	
54. Kenai Small Boat Harbor		x	x		
55. Ninilchik Harbor			x	x	x
56. Port Graham Harbor/Ferry Dock	x	x	x	x	
57. Seldovia Ferry Terminal and Passenger Bldg.	x		x	x	x
58. Seward Ferry Terminal			x	x	x
59. Seward Small Boat Harbor			x	x	
60. Shuttle Ferry Vessel	x	x	x	x	
61. Tustumena Replacement	x		x		x
Rail					
62. Fourth of July R.R. Spur			x		

*Projects are listed alphabitically and not order of priority

HIGH PRIORITY PROJECTS

The high priority project list consists of 1) ongoing, 2) current needs and 3) the higher ranked future projects. This list is shown in Table III-4, and detailed descriptions of each of these projects are included at the end of this chapter. In addition, the general location of each High Priority project is shown in Figure III-3.

The higher ranked projects were the subject of both quantitative and qualitative evaluations. While these evaluations provided valuable information on each project, the evaluations were not the sole criterion for placing or keeping a project on the high priority list. In fact, the Technical Advisory and Steering Committees made the final decisions on placements in the high priority group.

High Priority Project Descriptions

The following descriptions are intended to provide the information and data needed for DOT/PF's capital improvement programming (CIP) decisions. Thus, they represent a "resource" from which DOT/PF can select projects for its annual CIP submission to the Governor.

Each of the following projects are numbered to coincide with those shown earlier in Table III-4. Also the project names are those from the DOT/PF Coordinated Data System (CDS) log--when the popular name differs from the CDS designation, it is added to the CDS name and number.

Most of these roads have been recognized and scheduled for improvement by DOT/PF, by the Borough or by the cities. Thus, the traffic capacity/use analyses in the Phase II report served mainly to confirm their overloaded condition. Table II-3 identifies facilities below the minimal level of service for this project.

FUTURE NEEDS

Community Development Goals

During Phase II of the KRTS study, a large list of projects was proposed by the general public and elected and appointed officials during the initial round of public meetings. Many of these facilities are on-going or below minimal level of service facility projects which are included in Tables II-1 and II-2 above. The remaining projects included both regional and local projects on the state-maintained system. See Table II-4 for these community preferred projects which were presented in the Phase II report and repeated here. Note that Table II-4 still includes projects previously included in the On-going (Tables II-1 and II-2) and Facility Projects not meeting a minimal level of service (Table II-3).

Economic Development Requirements

Projects were identified for this category through the Phase II evaluation of regional economic development potentials. The primary criteria for inclusion on this list was a demonstrable potential for development that would warrant DOT/PF's attention at this time. See Table II-5 which was taken from the Phase II report and still includes projects listed in the On-going (Tables II-1 and II-2) and Facility Projects not meeting a minimal level of service (Table II-3).

Peninsula Clarion

THURSDAY, Feb. 16, 1984 Vol. 14, Issue 99 © The Peninsula Clarion/U.S.P.S. 438-410

Former chief Wisecarver dies in crash

Frank Wisecarver, the first fire chief for the city of Kenai, died Wednesday afternoon in a head-on collision on Funny River Road.

The collision also seriously injured a 19-year-old Soldotna man.

Wisecarver, 59, was the chief of the city's volunteer fire department in the mid-1960s and served as the first chief when the department converted to a paid force. He left the department in 1975.

The accident occured at Mile 11 Funny River Road at about 1 p.m.

According to an Alaska State Troopers report, Elmer (Roy) Bird of Soldotna was driving his car toward Soldotna on Funny River Road when his car apparently crossed the center line as it was coming around a curve. It struck Wisecarver's truck head-on.

Wisecarver was pronounced dead on arrival at Central Peninsula General Hospital. An Emergency Services medic said Bird suffered rib cage injuries, broken bones and possible internal injuries. He was taken to the hospital, where he is recovering in intensive care.

Kenai Fire Department Capt. Don Morgan remembered Wisecarver as "probably the best thing to happen to the Kenai Fire Department. He was highly respected by the guys he worked with, and was a personal friend, too."

Dick
Mueller
Realty

100 TRADING BAY RD., SUITE 1
KENAI, AK 99611
907-283-5888

January 19, 1984

Bill Sheffield
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Re: Kenai River Bridge Access Feasibility Design Project No. X-14615

Dear Governor Sheffield:

I'm sure by the enclosed petitions that you've determined that many residents of Alaska including our visitors want the Kenai River Bridge access to Funny River Road.

There are several reasons that necessitate the bridge being built immediately. Please consider the following priorities:

1. Alleviation of the crucial eviromental impact on the Lower Kenai River.
2. Allow feasible access for the emergency services of State Trooper assistance, fire and ambulance service.
3. Ending the necessity of driving a dusty or icy pothole ridden secondary highway system which presently has an average daily road count of 416 cars, established from a November 1981 road count.
4. Provide access for agricultural and further tourism development by cutting the time of travel to and from Anchorage by at least 2 hours.
5. Provide access for the development of the Nilnunga State Historic Park (42.47 acres) and the State Funny River Recreation area (218 acres) which also fronts the Kenai River.

The benefit list is endless in providing bridge access to this recreationa paradise that boasts the Kenai River, Browns Lake, Killey River, Funny River, public horse trail and abundant wildlife. Please give your support

Thank you for taking time out of your day to recognize a need of Alaskans.

Further petitions will be forthcoming.

Sincerely,

Patricia Ann Lazer,
Sales Associate
Specializing in Funny River
and Kenai River areas

cc; Paul Fischer
Don Gilman
Joe Hayes
Hugh Malone

PAL:rm
encl;

SENATOR
DON GILMAN
Juneau Ph.
(907) 465-4935
(907) 465-4529

Alaska State Legislature

HOME ADDRESS
P.O. BOX 630
KENAI, ALASKA 99611
(907) 283-4182

DURING SESSION
POUCH V
JUNEAU, ALASKA 99811

State Senate

February 20, 1984

Memorandum

To: Senator Pappy Moss
Chairman, Senate Transportation
Committee

From: Senator Don Gilman

The Kenai River/Funny River Bridge project is one that has been identified by local and state authorities for over 20 years. It has been documented by community need and economic factors in attached pages from the Kenai River Transportation Study, published by DOT/PF and jointly prepared by DOT/PF, Kenai Peninsula Borough and the Cities of Soldotna, Kenai, Homer, Seward, Seldovia, etc.

Salient features are as follow:

1. Provides access to a large area on the southeast side of the Kenai River. Borough tax records show approximately 200 families with 576 persons in the area. Access is currently on the 17-mile Funny River Road following the Kenai River from Soldotna.

   A large portion of Funny River Road passes through federal land of the Kenai Wildlife Refuge (formerly the Kenai National Moose Range). The road was constructed many years ago to minimum access standards and poses grave safety problems due to its narrow width and current high traffic levels. Accidents are frequent (see attached Peninsula Clarion article). School buses have a treacherous time in the severe weather conditions during winter and break up. Routing keeps children on the buses far longer than necessary.

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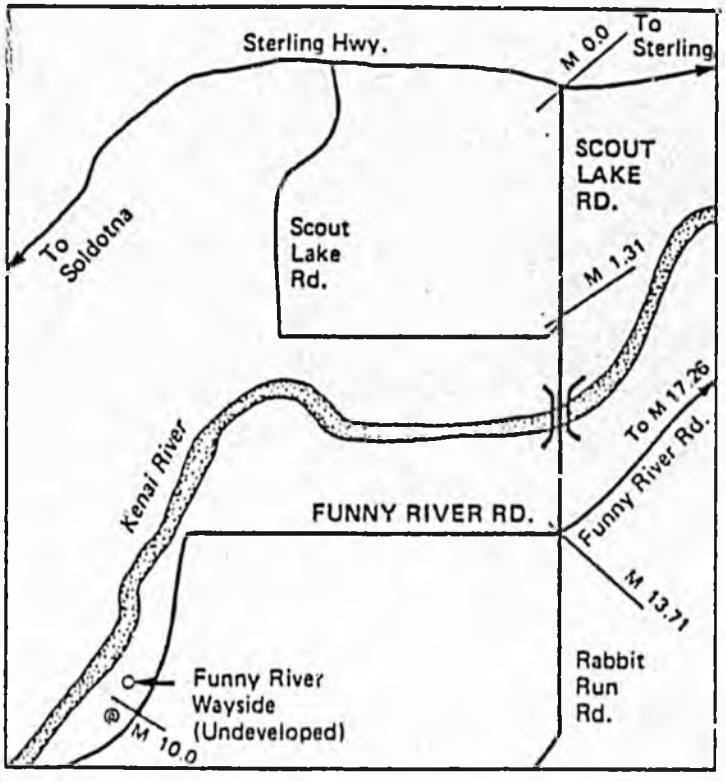
Actions on this Bridge/Road project are as follows:

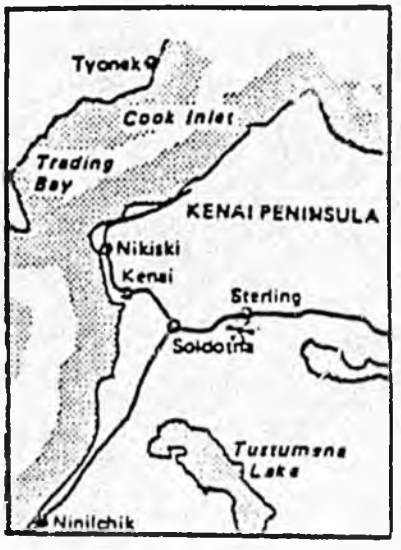
1. 1980 - Appropriation for reconnaissance.
2. 1981 - Appropriation for design.
3. 1982 - Included in bond package which was vetoed by Governor.
4. Included in Sheffield 1983 Administrative Budget (DOT/PF) which was submitted to legislature.

The Bridge was identified as #14 on the Kenai Peninsula Transportation Plan. Since the development of the plan, 10 of the 14 projects have been completed, are under contract or adopted as municipal projects, moving this project up to number 4 on the priority list.

Project No. 14

FUNNY RIVER (SR 117300)/BRIDGE/SCOUT LAKE (SR 118700)





Capital Cost:

$ 8.4 million

Funny River: 1980 ADT =225

Scout Lake: 1980 ADT = 200

Existing Condition: Scout Lake Mile 0.0 (E. Jct. Sterling Hwy) to Mile 1.31 (Jct. improved road to river): Gravelled 22' surface, no shoulders. Funny River Mile 10 to Mile 17.26 (End of route): Gravelled 26' surface.

Proposed Physical Improvement: Phase I: Scout Lake (Sterling Hwy to Funny River Rd); Widen to 36', pave. Construct 26'-wide bridge, boat ramp and parking area next to bridge. Phase II: Funny River: Mile 13.71 to Mile 17.26: Widen to 36', pave. Phase III: Funny River: Mile 10 to Mile 13.71: Widen to 36', pave.

Project Alternatives: Improve Funny River Rd., Mile 0.0 (Jct Sterling Hwy) to Mile 17.26 (End of route) to 28' rural paved standard

Status: DOT/PF has completed Scout Lake Rd. and bridge design. Funding for project requested in DOT/PF's Central Region, FY 83 CIP.

Next Step Prior to Construction: Final design and permits for Funny River Rd., Mile 10 to Mile 17.26 and parking area.

Factors Affecting Development: Need parking area maintenance agreement with DNR-Div. of Parks

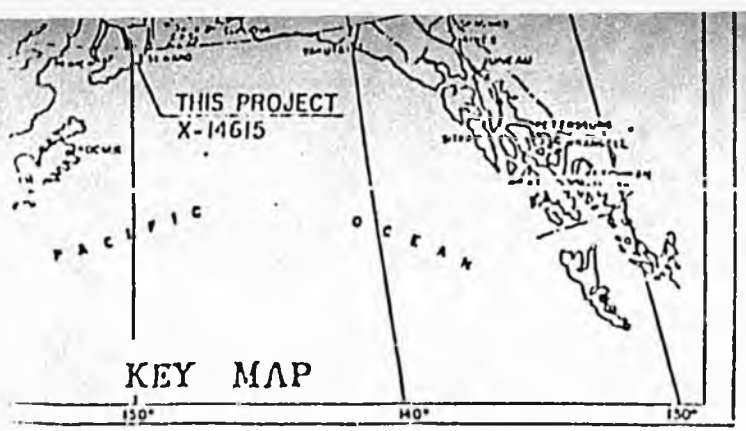
Relation to Other KRTS Projects: None

Cost - 5,672

X-14615

SCOUT LAKE ROAD EXTENSION

STERLING HIGHWAY TO FUNNY RIVER RD.
GRADING, DRAINAGE, PAVING, & BRIDGE



KEY MAP

RECE

OCT 2

DEPT. OF TRA

LEGEND

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CONSTRUCT PUBLIC ROAD APPROACH Δ=90° UNLESS SHOWN OTHERWISE

CONSTRUCT PIPE CONDUIT-(SKEW INDICATED IF OTHER THAN PARALLEL TO ℄ CONSTRUCTION)

REMOVE AND DISPOSE OF CULVERT PIPE

INSTALL GUARDRAIL

REMOVE STRUCTURE

TRAFFIC SIGN (NUMBER REFERS TO POST NUMBER LISTED IN SIGN SCHEDULE)

TEMPORARY ADVANCE CONSTRUCTION SIGN IN ACCORDANCE WITH STANDARD DRAWINGS C-10.04 AND C-10.04

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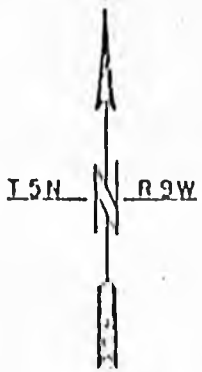
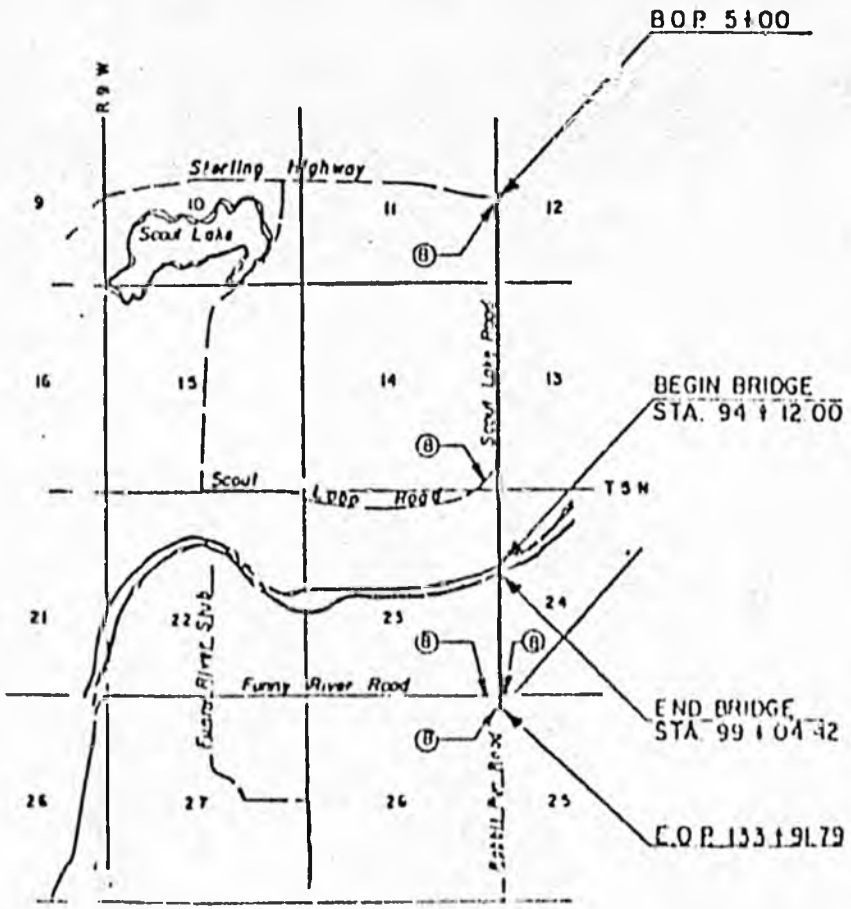
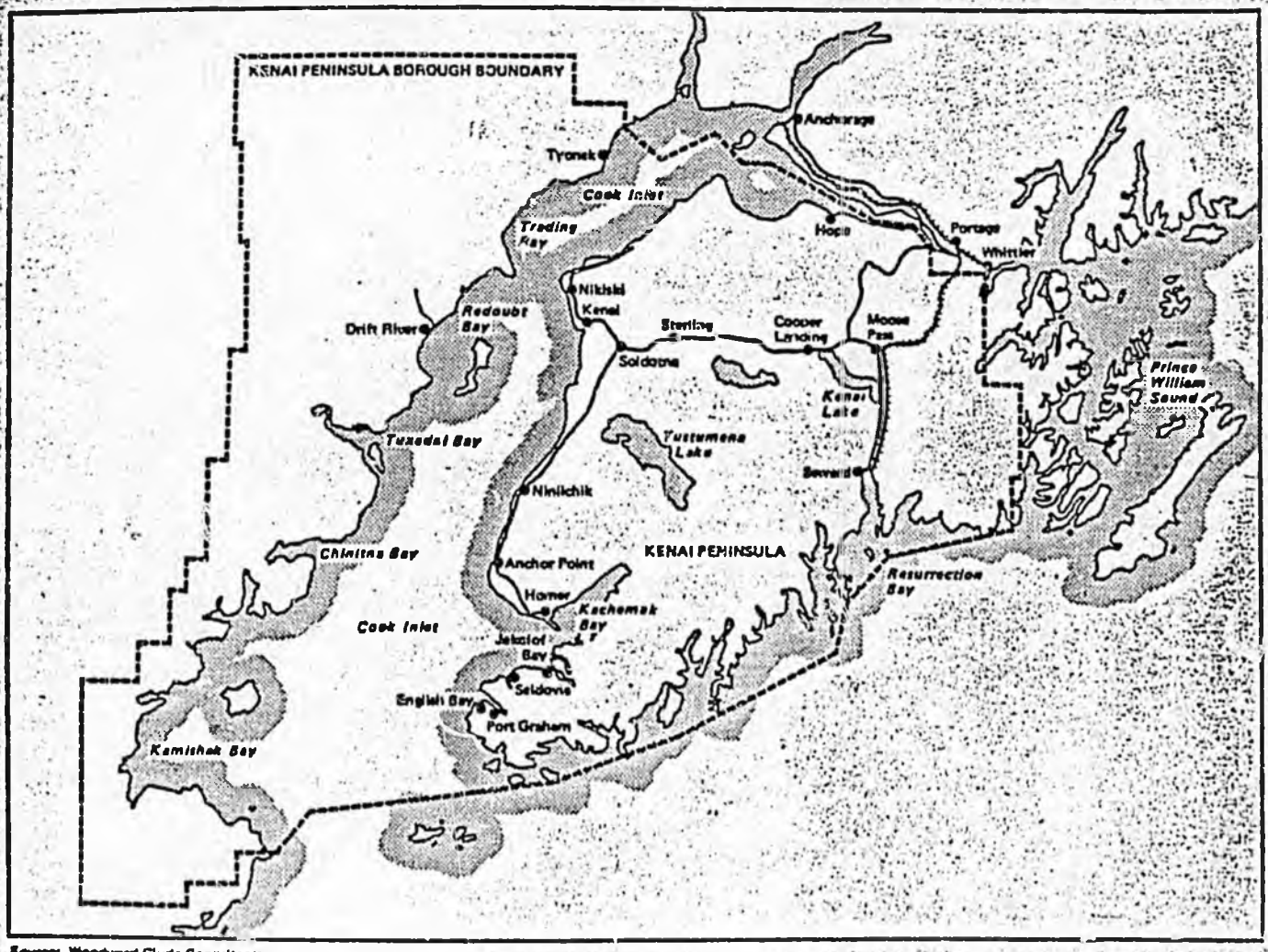




Draft Phase III



Source: Woodward-Clyde Consultants

KENAI REGIONAL TRANSPORTATION STUDY (KRTS) PROJECT

Prepared for

Alaska Department of Transportation and Public Facilities

October 1982

Woodward-Clyde Consultants/Wince-Corthell and Associates

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3. Bear Creek		x	x		
4. Bear Creek (Kachemak City)			x		x
5. Big Eddie		x	x		
6. [illegible]mery			x		
7. Ciechanski			x		
8. Clam Gulch				x	x
9. Cohoe Loop			x		
10. Diamond Ridge (Skyline Dr.)/Olson Mt.		x	x		
11. East End - Phases I, II, III, & IV	x	x	x		x
12. East Hill	x		x		x
13. Feuding Lane/Kenai Keys		x	x		
14. Funny River/Bridge/Scout Lake	x		x	x	
15. Halbouty		x	x		
16. Homesite Loop		x	x		
17. Kenai Alternate			x		
18. Kenai Spur			x		
19. Kingsley/Oil Well	x	x	x	x	
20. Lake St./Pioneer Ave.			x		x
21. Lamplight/Holt		x	x		
22. Lou Morgan/Scout Lak.	x		x	x	
23. Lowell Point			x		x
24. Mackeys Lakes		x	x		
25. Meyers/Strawberry		x	x		
26. Nash Rd./Seward Hwy. Intersection			x		
27. Ninilchik/Beach		x	x	x	x
28. North Anchor River		x	x		x
29. North Kenai Highway Phases I, II, & III	x		x	x	
30. Olson/Tunnel/Main			x		
31. Resurrection River		x	x	x	
32. Seldovia Airport Rd.-Main St.			x		x
33. Seldovia/Jakolof Bay-Seldovia/Anderson			x		
34. Seward Highway	x		x		x
35. Soldotna Frontage					x
36. Sports Lake		x	x		
37. Sterling Highway	x		x		x
38. Tustumena Lake	x			x	
39. West Hill	x		x		x
Air					
40. English Bay Airport	x		x		
41. Homer Airport	x		x		x
42. Kenai Airport		x	x		x
43. Port Graham Airport			x		
44. Seldovia Airport			x		x
45. Seward Airport			x		x
46. Soldotna Airport			x		x
Marine					
47. English Bay Shuttle Ferry Ramp			x		
48. Homer Ferry Terminal and Passenger Bldg.	x		x	x	x
49. Homer Fish Dock	x	x	x		
50. Homer Small Boat Harbor	x	x	x	x	
51. Homer Ocean Dock			x		
52. Kachemak Park Shuttle Ferry Ramp				x	
53. Kasilof Harbor			x	x	
54. Kenai Small Boat Harbor		x	x		
55. Ninilchik Harbor			x	x	x
56. Port Graham Harbor/Ferry Dock	x	x	x	x	
57. Seldovia Ferry Terminal and Passenger Bldg.	x		x	x	x
58. Seward Ferry Terminal			x	x	x
59. Seward Small Boat Harbor			x	x	
60. Shuttle Ferry Vessel	x	x	x	x	
61. Tustumena Replacement	x		x		x
Rail					
62. Fourth of July R.R. Spur			x		

*Projects are listed alphabetically and not order of priority

HIGH PRIORITY PROJECTS

The high priority project list consists of 1) ongoing, 2) current needs and 3) the higher ranked future projects. This list is shown in Table III-4, and detailed descriptions of each of these projects are included at the end of this chapter. In addition, the general location of each High Priority project is shown in Figure III-3.

The higher ranked projects were the subject of both quantitative and qualitative evaluations. While these evaluations provided valuable information on each project, the evaluations were not the sole criterion for placing or keeping a project on the high priority list. In fact, the Technical Advisory and Steering Committees made the final decisions on placements in the high priority group.

High Priority Project Descriptions

The following descriptions are intended to provide the information and data needed for DOT/PF's capital improvement programming (CIP) decisions. Thus, they represent a "resource" from which DOT/PF can select projects for its annual CIP submission to the Governor.

Each of the following projects are numbered to coincide with those shown earlier in Table III-4. Also the project names are those from the DOT/PF Coordinated Data System (CDS) log--when the popular name differs from the CDS designation, it is added to the CDS name and number.

Most of these roads have been recognized and scheduled for improvement by DOT/PF, by the Borough or by the cities. Thus, the traffic capacity/use analyses in the Phase II report served mainly to confirm their overloaded condition. Table II-3 identifies facilities below the minimal level of service for this project.

FUTURE NEEDS

Community Development Goals

During Phase II of the KRTS study, a large list of projects was proposed by the general public and elected and appointed officials during the initial round of public meetings. Many of these facilities are on-going or below minimal level of service facility projects which are included in Tables II-1 and II-2 above. The remaining projects included both regional and local projects on the state-maintained system. See Table II-4 for these community preferred projects which were presented in the Phase II report and repeated here. Note that Table II-4 still includes projects previously included in the On-going (Tables II-1 and II-2) and Facility Projects not meeting a minimal level of service (Table II-3).

Economic Development Requirements

Projects were identified for this category through the Phase II evaluation of regional economic development potentials. The primary criteria for inclusion on this list was a demonstrable potential for development that would warrant DOT/PF's attention at this time. See Table II-5 which was taken from the Phase II report and still includes projects listed in the On-going (Tables II-1 and II-2) and Facility Projects not meeting a minimal level of service (Table II-3).

Peninsula Clarion

THURSDAY, Feb. 16, 1984 Vol. 14, Issue 99 - © The Peninsula Clarion/U.S.P.S. 438-410

Former chief Wisecarver dies in crash

Frank Wisecarver, the first fire chief for the city of Kenai, died Wednesday afternoon in a head-on collision on Funny River Road.

The collision also seriously injured a 19-year-old Soldotna man.

Wisecarver, 59, was the chief of the city's volunteer fire department in the mid-1960s and served as the first chief when the department converted to a paid force. He left the department in 1975.

The accident occured at Mile 11 Funny River Road at about 1 p.m.

According to an Alaska State Troopers report, Elmer (Roy) Bird of Soldotna was driving his car toward Soldotna on Funny River Road when his car apparently crossed the center line as it was coming around a curve. It struck Wisecarver's truck head-on.

Wisecarver was pronounced dead on arrival at Central Peninsula General Hospital. An Emergency Services medic said Bird suffered rib cage injuries, broken bones and possible internal injuries. He was taken to the hospital, where he is recovering in intensive care.

Kenai Fire Department Capt. Don Morgan remembered Wisecarver as "probably the best thing to happen to the Kenai Fire Department. He was highly respected by the guys he worked with, and was a personal friend, too."

Dick
Mueller
Realty

100 TRADING BAY RD., SUITE 1
KENAI, AK 99611
907-283-5888 REALTOR

January 19, 1984

Bill Sheffield
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Re: Kenai River Bridge Access Feasibility Design Project No. X-14615

Dear Governor Sheffield:

I'm sure by the enclosed petitions that you've determined that many residents of Alaska including our visitors want the Kenai River Bridge access to Funny River Road.

There are several reasons that necessitate the bridge being built immediately. Please consider the following priorities:

1. Alleviation of the crucial eviromental impact on the Lower Kenai River.
2. Allow feasible access for the emergency services of State Trooper assistance, fire and ambulance service.
3. Ending the necessity of driving a dusty or icy pothole ridden secondary highway system which presently has an average daily road count of 416 cars, established from a November 1981 road count.
4. Provide access for agricultural and further tourism development by cutting the time of travel to and from Anchorage by at least 2 hours.
5. Provide access for the development of the Nilnunga State Historic Park (42.47 acres) and the State Funny River Recreation area (218 acres) which also fronts the Kenai River.

The benefit list is endless in providing bridge access to this recreationa paradise that boasts the Kenai River, Browns Lake, Killey River, Funny River, public horse trail and abundant wildlife. Please give your support

Thank you for taking time out of your day to recognize a need of Alaskans.

Further petitions will be forthcoming.

Sincerely,

Patricia Ann Lazer,
Sales Associate
Specializing in Funny River
and Kenai River areas

cc; Paul Fischer
Don Gilman
Joe Hayes
Hugh Malone

PAL:rm
encl;

Buy Alaska APR 9 1984

Enterprises

M. A. "DUSTY" RHOADS

3-31-84

Dear Rep. Cato:

Plz, peruse the enclosed Mail-out letter for pert. data about the ~~[illegible]~~ At this time hundreds of people have to drive approx. 1 Hr. round trip for Staples, Medicine, Med. Care & School on a difficult & unsafe Funny R. Road. (Example: E. Wiseman death recently on series of curves banked the wrong way!)

Dot/Maintenance has indicated they can be a lot more efficient w/the bridge. Also, HOA wants the bridge in order to service our area more efficiently.

Div. of Parks favors the bridge in order to bring the public to St. Park Lands on the So/Side of the Kenai R. in order to relieve some of the congestion on the No. Side.

I could go on & on about the positive benefits offered by the bridge, but they should be apparent.

Plz, urge the passing of HB#660!

Sincerely,

M A Rhoads

"THINK ALASKA, . . . SEE ALASKA, . . . Buy Alaska!"

262-6224

Buy Alaska

M. A. "DUSTY" RHOADS

Dear Neighbor, March 7, 1984

The purpose of this letter is to make you aware of and ask your support for Senate Bill #389 & House Bill #660. These are bills sponsered by Sen. Gilman & Rep. Malone for $5.5 million to construct the Funny River Access Bridge near Sterling.

The site and right of ways have all been engineered, the Corps of Engineers Permit obtained and the bridge design is in final stages. If this legislature appropriates the funds the Dept. of Transportation can complete final design and begin Right of Way acquisition this fall and winter in order to 'go to bid' in early 1985 and begin construction that year.

Our Borough Mayor and Assembly are adding this project to the Capital Projects Priority List and pledging to support our representatives in Juneau for this funding.

Now it is up to us that live, work and/or own businesses or property in the Funny River/Sterling area. We must make our phone calls, write letters and send petitions to our Senators, Representatives and Governor expressing support and the need for this funding and project. Mail all notes and letters for the Governor to Pouch A, Juneau 99811, and Pouch V, Juneau 99811 for our Senators and Representatives.

Mayor Thompson has advised that the Legislative Affairs Office, located in the Cordova Bldg., Soldotna, 262-9364, can keep you up to date on the progress of the bill and suggested we make use of the weekly Teleconference, Thursday nights between 7:00-8:00PM, to speak directly with Juneau.

HPEA has indicated that there are approx. 200 meter services in the Funny River area so calculating a conservative 50 percent to be absentee owners from other areas such as Anchorage and using the average family of four as a factor, the Funny River population is approx. 20[illegible] more.

In closing, there are many obvious benefits for the residents of Funny River, the business community of Sterling and absentee property owners in the area. Again, I urge you to take a few moments and write a note to your congressmen. If we all will, the bridge won't be 'just talk', it will become reality.

Sincerely yours,

M.A. "Dusty" Rhoads

"THINK ALASKA, . . . SEE ALASKA, . . . Buy Alaska!"

907-262-9324

Homer Electric Association, Inc.
P.O. BOX 350 * SOLDOTNA, ALASKA 99669 * 262-5831

February 23, 1984

M. A. Rhoads
P.O. Box 4585
Soldotna, AK 99669

Dear Dusty:

Good luck in your efforts to secure funding for a bridge across the Kenai River in the Sterling area. Homer Electric Association very definitely is in support of this effort. There are approximately 198 electric meters in the Funny river area that are served by HEA. The feeder lines for this area cross the Kenai River near Sterling, in the event of an outage it sometimes means a trip out to Funny River to locate and correct the problem then a trip from Funny River through Soldotna to Sterling to actually restore the service. Our routine service work could be routed much more efficiently with the installation of this bridge.

Hope this information will be of some help.

Very truly yours,

Eugene R. Collins

Eugene R. Collins
District Manager

ERC/cw

SCR

5

I. REQUEST

Bill/Resolution No.: SCR 5

Title: Requesting DOT/PF to reconstruct and upgrade the Petersville Road in Manatuska-Susitna Borough.

Sponsor: Kerttula

Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF

Program Category Affected:

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						
CAPITAL	-	750.0	750.0	750.0	34,466.8	27,551.8
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	750.0	750.0	750.0	34,466.8	27,551.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in SCR 5

IV. ANALYSIS: See Attached Analysis.

Prepared by: Reed Gibby — Phone: 266-1652

Division: Planning and Programming — Date: 3/15/83

Approved by Commissioner: — Date: 3/17/83

Department: Transportation & Public Facilities

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requestor (if different from Sponsor)

3/8/83

IV. Analysis

The reconstruction of Petersville Road to a standard 28 foot wide gravel road was separated into two road segments for cost estimation purposes. The two road segments are:

1. MP 7 - 19
2. MP 19 - 36 (end of State maintenance)

The segment of the road for MP 0 - 7 is currently constructed to a 28 foot width.

The estimated costs of this project in FY'83 dollars are as follows:

	MP 7 - 19	MP 19 - 36	Total
Preliminary Engineering	$ 675,000	$ 1,309,000	$ 1,984,000
Right-of-Way	100,000	100,000	200,000
Construction	13,715,000	26,615,000	40,330,000
Total	$14,490,000	$28,024,000	$42,514,000

All costs are assumed to inflate at 10% per year over the development of the project.

The preliminary engineering is assumed to require 42 months and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'84	$250,000	$500,000	$750,000
FY'85	250,000	500,000	750,000
FY'86	250,000	500,000	750,000
FY'87	78,000	96,000	174,000

Right-of-way acquisition was assumed to be completed in FY'87 and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'87	$146.4	$146.4	$292.8

The construction phase was assumed to be completed during FY'87 and FY'88 and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'87	$12,000,000	$22,000,000	$34,000,000
FY'88	8,888,100	18,663,700	27,551,800

SCR 5: Background

Senator Kerttula sponsored SCR 5, requesting an upgrade of the Petersville road, in an effort to encourage the Department of Transporation and Public Facilities to improve the road. Petersville Road is a state maintained road that extends approximately 20 miles west from the Parks Highway near Talkeetna into an area just south of Denali National Park.

The Department of Natural Resources has conducted homesite, subdivision and agricultural land disposals in the area. In order for the owners of the property to have appropriate access to their land, the road should be improved.

At present, the road is in reasonable condition in the first 7 miles. However, it deteriorates rapidly and is in poor condition for the next 12 to 13 miles.

Attached are the minutes of the Senate Transportation Committee meeting of March 17 at which this resolution was considered. The discussions at this meeting appropriately capture the rationale of this resolution.

Also attached is a petition from property owners in the area served by the Petersville Road requesting that it be upgraded.

Attachments

Shulin Lake Trail

PETITION FOR PETERSVILLE ROAD IMPROVEMENTS:

We, the undersigned, would like to request that improvements to the Petersville Rd. from mile 7 ~~and~~ to mile 19 start as soon as possible as we all have interest in the area, and as it stands right now it is in deplorable condition.

NAME	ADDRESS	PHONE
[illegible]	1831 [illegible] Anch 99502	[illegible]
Ike O. Waits	Box 200 Anchorage, Ak. 99510	274-0471
[illegible]	[illegible]	[illegible]
Manuel Garcia	925 E 2nd Ave [illegible]	276-5939
[illegible]	SRA-BOX 3160-C ANCH 99502	349-4065
[illegible]	2104 [illegible] 99503	248-2584
Kurt Smith	9528 Liberty Circle 99502	349-6105
Ken Richardson	SRA Box 4: 3-S Anchorage 99507	
Anne Richardson	" " " " "	
Julie Martin	PO. Box 3169 Palmer AK	376-5032
Glen Martin	" " " " "	
Gerald Craft	724 N. Flower #3 Anch AK	278-9257
[illegible]	130 E 13th Anch AK	272-2345 Ext 115
Yvonne Gassett	P.O. Box 346 Girdwood AK	783-2364
[illegible]	310 Fern St Anchorage	333-0757
Joe Redington Sr.	Box 5160 Knik Rd Wasilla	376-55[illegible]
Richard Cook	446 W 71st Anchorage AK	277-2336
[illegible]	[illegible] Anchorage AK	[illegible]
[illegible]	[illegible] Anchorage AK	[illegible]

FISCAL NOTE Revision Date March 17 , 198

I. REQUEST

Bill/Resolution No.: SCR 5

Title: Requesting DOT/PF to reconstruct and upgrade the Petersville Road in Manatuska-Susitna Borough.

Sponsor: Kerttula

Requestor:

II. FISCAL DETAIL

Agency Affected: DOT&PF

Program Category Affected:

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						
CAPITAL	-	750.0	750.0	750.0	34,466.8	27,551.8
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	750.0	750.0	750.0	34,466.8	27,551.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in SCR 5

IV. ANALYSIS: See Attached Analysis.

Prepared by: Reed Gibby Phone: 266-1652

Division: Planning and Programming Date: 3/15/83

Approved by Commissioner: Date: 3/17/83

Department: Transportation & Public Facilities

Distribution:

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3/8/83

IV. Analysis

The reconstruction of Petersville Road to a standard 28 foot wide gravel road was separated into two road segments for cost estimation purposes. The two road segments are:

1. MP 7 - 19
2. MP 19 - 36 (end of State maintenance)

The segment of the road for MP 0 - 7 is currently constructed to a 28 foot width.

The estimated costs of this project in FY'83 dollars are as follows:

	MP 7 - 19	MP 19 - 36	Total
Preliminary Engineering	$ 675,000	$ 1,309,000	$ 1,984,000
Right-of-Way	100,000	100,000	200,000
Construction	13,715,000	26,615,000	40,330,000
Total	$14,490,000	$28,024,000	$42,514,000

All costs are assumed to inflate at 10% per year over the development of the project.

The preliminary engineering is assumed to require 42 months and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'84	$250,000	$500,000	$750,000
FY'85	250,000	500,000	750,000
FY'86	250,000	500,000	750,000
FY'87	78,000	96,000	174,000

Right-of-way acquisition was assumed to be completed in FY'87 and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'87	$146.4	$146.4	$292.8

The construction phase was assumed to be completed during FY'87 and FY'88 and was allocated as follows:

	MP 7 - 19	MP 19 - 36	Total
FY'87	$12,000,000	$22,000,000	$34,000,000
FY'88	8,888,100	18,663,700	27,551,800

SCR

6

SCR 6: Background

SCR 6, sponsored by Senator Kerttula, requests the Department of Transportation and Public Facilities to assign a high priority to the upgrade of the Old Glenn Highway between the Knik River and the City of Palmer. Senator Kerttula also suggests that funds directed to the State of Alaska by the Federal Highway Administration be used for this upgrade. Proposed improvements would include straightening the road; purchase and readjustment of the right of way; planning and replacement of the bridge spanning the Matanuska River; and resurfacing the highway.

In the early 1970's the Knik River flooded and badly damaged the roadway. As a result of this flooding, the state constructed a dike that would protect the highway in the event of future flooding. However, the highway itself has not been paved or upgraded since the early 1960's and is in deplorable condition. Some 450 residents of the Matanuska-Susitna Borough who live along the Old Glenn have stated precisely this in a petition requesting its upgrade (attached).

Attached is a copy of the minutes of the Senate Transportation Committee hearing of March 17 at which SCR 6 was considered. Senator Kerttula's comments at this hearing are relevent to consideration of this bill.

Attachments

FISCAL NOTE | Revision Date March 17 , 1983

I. REQUEST

Bill/Resolution No.: SCR 6

Title: Encouraging the upgrading and resurfacing of the Old Glenn Hwy from the Knik River to the Matanuska River.

Sponsor: Kerttula

Requestor:

II. FISCAL DETAIL.

Agency Affected: DOT/PF

Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING						
CAPITAL	-	100.0	100.0	100.0	5,277.2	5,472.4
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	100.0	100.0	100.0	5,277.2	5,472.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL TIME						
PART TIME						
TEMPORARY						

II. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified in SCR 6

IV. ANALYSIS: See Attached for Analysis.

Prepared by: Reed Gibby Phone: 266-1652

Division: Planning & Programming Date: 3/15/83

Approved by Commissioner: [signature] Date: 3/17/83

Department: Transportation & Public Facilities

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. Analysis

The estimated costs of this project in FY'83 dollars are as follows:

Preliminary Engineering	$ 327,000
Right of Way Acquisition	111,000
Construction	6,813,000

All costs are assumed to inflate at 10% per year.

The preliminary engineering is assumed to require 42 months and was allocated as follows:

FY'84	$100,000
FY'85	100,000
FY'86	100,000
FY'87	104,700

The Right of Way acquisition was assumed to occur in FY'87 at a cost of $162,500.

The construction phase was assumed to last 2 years and was allocated as follows:

FY'87	$5,000,000
FY'88	5,472,400

The Old Glenn Highway is designated as a Federal-Aid Secondary route, however this analysis assumes that project funding would be from the State General Fund. If federal funding was used approximately 90% of the project costs would be eligible for federal funding. This analysis also assumes that replacement of the bridge across the Matanuska River is not included in the project.

WHEREAS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND
WHEREAS THE POPULATION DENSITY IS INCREASING RAPIDLY IN THIS AREA,
WE THE UNDERSIGNED VOTERS OF THE MATANUSKA-SUSITNA BOROUGH HEREBY PETITION THE STATE OF ALASKA TO RECONSTRUCT THIS HIGHWAY TO SAFE MODERN STANDARDS FROM THE KNIK RIVER BRIDGE TO PALMER AS SOON AS POSSIBLE.

NAME	ADDRESS	DATE
Yes		
William Mrak Jr.	SRB 7553 Palmer AK.	11/25/82
Eleanor Mrak	SRB 7553 Palmer AK	11/25/8
William Mrak	SRB 7553 Palmer AK	11/25/82
Mary Branus	Box 1090 Wasilla AK	11/25/82
Kathy Cowitz	Box 1435 Eagle River AK	11-25/82
2 addrs Sophie Smulich	Eagle River	11/25/82
2 addrs Donna Tussier	PALMER, AK	11/25/82
Norman Casagranda	General Delivery, Wasilla, AK	11/26/82
Marcia Casagranda	General Delivery, Wasilla	11/26/82
D A Bryant	BOX 73 WASILLA, AK	11/29/82
Louis M Rumstadler	POB 1342 Palmer AK	11/30/82
Ron Aklestad Jr	POB 3263 Palmer AK	11-29-82
Ben Magill	P.O. Box 1207 Palmer AK	11-29-82
Damone Aklestad	P.O. Box 3263 Palmer	11-27-8

P = 99645 W = 99687 E.R-99577

WHEREAS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND

WHEREAS THE POPULATION DENSITY IS INCREASING RAPIDLY IN THIS AREA,

WE THE UNDERSIGNED VOTERS OF THE MATANUSKA-SUSITNA BOROUGH HEREBY PETITION THE STATE OF ALASKA TO RECONSTRUCT THIS HIGHWAY TO SAFE MODERN STANDARDS FROM THE KNIK RIVER BRIDGE TO PALMER AS SOON AS POSSIBLE.

NAME	ADDRESS	DATE
Eloise Nesin	Wasilla 99687 S.R. Box 2502-N	1/4/83
Kris Kesanen	SRA Bx 6303 Palmer AK 99645	1/4/83
Gladys Mott	P.O. Box 1710 - Wasilla, 99687	1/4/83
Shelly Weiland	SRB Box 7461 Palmer, AK	1/4/83
David L. Bolton	SR Box 5492 Wasilla, AK	1-4-83
Betty J. Lemke	PO Box 845 WASILLA AK	1-4-83
Christine M. Smith	SRA 6859 Palmer AK	1-4-83
[illegible]	Box 1166 Palmer AK	1-4-83
Helen Haugan	P.O. Box G, Palmer, AK	1-4-83
Judith Aklestad	ST. RT. B. Bx 7557 Palmer	1-4-83
[illegible]	STRB # 7557 Palmer	1-4-83

WHEREAS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND WHEREAS THE POPULATION DENSITY IS INCREASING RAPIDLY IN THIS AREA, WE THE UNDERSIGNED VOTERS OF THE MATANUSKA-SUSITNA BOROUGH HEREBY PETITION THE STATE OF ALASKA TO RECONSTRUCT THIS HIGHWAY TO SAFE MODERN STANDARDS FROM THE KNIK RIVER BRIDGE TO PALMER AS SOON AS POSSIBLE.

NAME	ADDRESS	DATE
address ? Lavere L. Breeden	SRA Box 6155	12-1-82
address ? Gloria J. McKechnie	Box 796	12-1-82
Tom W. Young	Box 1840, Wasilla	12-1-82
Kaye Fegert	Box 2111 Palmer	12-3-82
Robert D. Fegert	Box 2111 Palmer	12-3-82
? St Lester Hall	SRA 6614 Palmer	12-4-82
Harley Tessier	PO Box 537 Palmer	12-7-82
Esther McNeese	Box 552 Palmer	12-8-82
address ? Charles L. Fenster	St Rt B Box 7416	12-13-82
John G. Heminer	Box 866 Palmer	12-16-82
Nile T. DeLand	Box 179 Palmer	12-17-82
Gloria J. DeLand	Box 179 Palmer	12-17-82
? John K. Pinckley	SR A Box 9765A Palmer	12-21-82
Pat Head	P.O. Box 3504 Palmer	12-22-82
Frank W. Sexton Jr.	P.O. Box 492 Palmer	11/29

WHERE AS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND .

WHERE AS THE POPULATION DENSITY IS INCREASING RAPIDLY IN THIS AREA,

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NAME	ADDRESS	DATE
Bobby [illegible]	PO 124 Palmer	11-28-82
[illegible] Belden	P.O. 1741 PALMER	11-28-82
Dan Scogna	P.O. 1025 Palmer	11-28-8[illegible]
Wayne Burkhart	Box 660 PALMER	11-28-[illegible]
Jon [illegible]	Box 7323 Palmer	11-28-[illegible]
Gene A Clark	SRB BOX 7106 PALMER	11-28-8[illegible]
Marilyn J Burt	Box 897 Palmer	11-28-8[illegible]
Sander Henderson	Box 628 Palmer	11-28-82
Sharon Brown	Box 379 Palmer	11-29-82
Becky Vandermeer	SRB 7345 Palmer, AK	11-28-82
Philip D Park	SRB 7381 Palmer AK	11-29-82
Elaine Riddernon	SRB 7437 "	11-29-82
first name? Dock W. Jones	SRB Box 7725 "	11-29-8[illegible]
Jim Symmonds	P.O Box 1691 Palmer	11-29-8[illegible]
Kathleen [illegible]	SRB Box 7333 Palmer	11/29/82

WHERE AS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND .

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NAME	ADDRESS	DATE .
Edward [illegible]	P.O. Box 2517 PALMER	Nov 20 82
? sp. Clinton Melin	STR B Box 7323 Palmer	Nov 20 82
? sp. Allen Mitchell	St B Box 613	Palmer
? sp. Cornelius [illegible]	SRB Box 7363	Palmer
Jeffrey Wemey	SRB Box 7221	Palmer
Scott Sanderson	SRB Box 7228	Palmer
? sp. Clinton Melin	P.O. Box 2789	Palmer
Greg Pearson	P.O Box 2153	PALMER
Teresa C. Andrews	Box 214	Sutton Nov. 20
Kay Johnson	Box 793	Palmer
? sp. [illegible]	Box 1330	Palmer
[illegible]	Box 723	[illegible]
[illegible]	Box 853	Palmer Ak.
[illegible]	BOX 2709	PALMER AK.
Ray Scott	[illegible]	Palmer AK

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NAME	ADDRESS	DATE
? ADDRESS Greg Deiss	Box 3564	21 NOV 1982
? SP Carl Fattori	Box 1621 Palmer Ak 99645	11-21-82
Donald D. Belew	Box 1231 Palmer Ak	11-21-82
? SP G Billo Chiez	4.8 Knik River Road Palmer AK	11-21-82
? SP Carl Tarnershead	SRB Box 7384 Palmer Rodenberg	11-21-82
? SP John Fuller	SRB Box 7274 Palmer, AK	11/21/82
Fred Huggins	SRB-7751 Palmer	11/21/82
Emil Waldal	Mile 44½ old Glen Hiway	11/21/82
Leila Black	SRB-Box 7034 Palmer	11/21/82
JAMES J Kendall Melin	S.T.R. Box 7407	11/21/82
? SP Philip D. Cummings	SRB 7532 Palmer Ak	11/21/82
? address Fred Mattenbrook	SRB Box 7256 Palmer?	11/21/82
? address Ron Becker	Palmer	11/21/82
? address Leonard D. Joplin	Palmer, Ak	11 21-82
Danny L. Michaels	SRB 7365 Palmer	11-21-82

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NAME	ADDRESS		DATE
? address			
George D Park	SRB Box 7381	Palmer ?	11/21/82
Eugene R Plumley	SRB 7665	Palmer	11/21/82
? SP [illegible]	PO Box 2884	Palmer	11-21-82
Charlie Korzenicwski	Box 1862	Palmer	11/21/82
Mark Medard	Box 3142	Palmer	11/21/82
Sally Weiland	Star Rt B-7461	Palmer	11-21-82
? SP Dawayne Walker	PO Box 7531	Palmer	11/21/82
Jessie L Baker	mi 15½ old Glenn Box 1222	Palmer	11/21/82
Lonas D. Leuenberger	PO Box 2063	Palmer	11.22.82
? SP-G (Cache Camper Co.) [illegible]	SRB Box 7333	Palmer	11-22-82
Warren W. "Dit" Wiener	Star Rt B Box 724	Palmer	11-22-82
Lalena McAllister	Box 2486	Palmer	11/22/82
? SP Ethel Mallott	PO Box 2486	Palmer	11/22/82
Mona Robison	P.O Box 1842	Palmer	11/22/82
Butch Jondahn	Box 338	"	11 22 82

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NAME	ADDRESS		DATE
Fred Manley	Maud Rd.		11-22-82
Greg Mortarshead	P.O. Box 5407	Palmer?	11-22-82
Patt O. Monroe	SRB Box 7681	Palmer?	11-22-82
SP Neal D Brown	Box 283	Palmer	11-22-82
Lawrence [illegible]	PO BOX 1789	Palmer	11/22/82
Harold Stang	Box 702	Palmer	11/23/82
SP George Morgan	PO Box 2521	Palmer	11-23/82
SP [illegible]	P.O. BOX 1572	PALMER	11/23/82
Sharon Kern	Box 416	Palmer	11-23-82
SP? [illegible]	Box 2163	Palmer	11-23-82
SP? [illegible]	SRB Box 7278	Palmer	11-23-82
SP? Tamara Chavron	SRB 7341 A	Palmer	11-23-82
Mary E. Stratton	SRB Box 7361	Palmer	11-23-82
G.R. Covington	SRD, Box 9340	PALMER	11/23/82
[illegible]	PO Box 1042	Palmer	11-23-82

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NAME	ADDRESS	DATE
Robert Bowlin	St Rt B Box 7533 Palmer	11-23-82
Kristi Miller	St Rt B Box 7533	11-23-82
Ted Campbell	P.O. Box 1724 Palmer	11-24-82
Pamela A. Campbell	PO Box 1724 Palmer	11/24/82
sp? Dene Inman	SRB 7087 Palmer	11-24-82
Ruth Terrell	P.O. BX 1394 Palmer	11-24-82
Sherry Burns	PO Box 2477 Palmer	11-24-82
Dick Melin	Po Bo. 2789 Palmer	11-24-82
Joel Redlich	P.O. Box 297 Palmer	11-24-82
Chris Hlavac	P.O. Box 2787 Palmer	11-24-82
Frank Phillips	SRB 7550 A Palmer	11-25-82
Lucinda Lords	Box 2978 Palmer	11-25-82
Aaron S. Koppenberg	BOX 1764 Palmer Ak.	11-24-82
Larry Ewing	Box 2303 Palmer Ak	11-24-82
Tim Eacles	Box 288 Palmer AK	11-24-82

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NAME	ADDRESS	DATE
Russell Price	P.O. Box 3018 Palmer A 99645	11-24-82
Janice McDowell	P.O. Box 2972 Palmer AK 99645	11/24/8
Paul Cameron	SRB 7345 PALMER AK 99645	11/24/8
Vicki Campbell	P.O. Box 872 Palmer AK 99645	11/26/8
Gary S. Campbell	PO Box 872 Palmer AK 99645	11/26 82
Jay Thornsley	P.O. Box 434 Palmer AK 99645	11/26 82
Howard Shanks	PO Box 2413 Palmer AK 99645	11/26/82
Henry R. Ferguson	P.O Box 445 Palmer, AK 99645	11/26/82
Arnold R. Hartman	Box 360 Palmer 99645	11/26
Clarence P Clein	SRB Box 7656 Palmer 99645	26/11/82
BRAD A. DEAN	P.O. Box 205 PALMER	11-26-82
Patrick J GLENN	SRB 7458 PALMER	11-26-82
Alan D Maury	GEN DEL PALMER	11-26-82
Norma J Maury	GEN DEL PALMER	11-26-82
[illegible]	SRB BOX 7384 PALMER	11-26-82

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NAME	ADDRESS	DATE
R. Bechara	SRB 7082 Palmer	11/26/82
Milan V. Ilinat	SRB Box 7411 PALMER	11/26/82
Lee A. Matzow	Box M Palmer	11/26/82
James Gohr	P.O. Box 115 Palmer	11/26/82
[illegible]	P.O. Box 2003 Palmer	11-26-82
Marvin Jones	PO Box 3267 Palmer	11-26-82
Freeman Goodwin	Box 111 "	11-28-82
Roxanne Chamberlain	Box 1582 Palmer	11-27-82
Bob [illegible]	SRB 7635 Palmer	11-27-82
Jay Eckel	P.O. Box 3553 Palmer	
Mary Ann Peters	P.O. Box 3525 Palmer	11-27-82
Brenda Snyder	P.O. Box 285 Sutton	11/27/82
Martin Elliot	P.O. Box 194 Sutton AK	11/27/82
Lawrence A. Joslin	Str. Rt. B. Box 7090 Palmer Alaska	11/28/82
Barbara L. Belew	P.O. Box 1231 Palmer Alaska	11/28/82

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NAME	ADDRESS	DATE
Julie Bailey	P.O Box 1161 (Butte) Palmer AK	11/20/8.
Chuck W. Chiritree	ST. RT. B. BOX 7499 (Butte) PALMER. ALASKA 99645	11/2
MARCIA E. Chiritree	ST. Rt. B. Box 7499 (Butte) PALMER. ALASKA 99645	11/20/8.
Tony W Jones	P.O. Box 3595 (Butte) Palmer AK	11/20/82
Shirley Farrell	Mile 10.4 Old Glen Hwy (Butte) Palmer, AK	11/20/8
Tom Willis	SRB-Box 7470 Palmer	11/20/82
Dave Keeler	P.O. Box 859 (Butte) Palmer	11/20/82
Wayne Busby	S.R.B. Box 7329 (Butte) Palmer	11/20/8
Ken Rogers	P.O. BOX 2082 Palmer	11-20-8
Tom Mangum	Box 1284 (Butte) Palmer	11-20-8
Tammy Hackstrasser	SRB. Box 7310 (Butte) Palmer, AK	11-20-82
Linda Lloyd	SRB. Box 7501 (Butte) Palmer, AK	11-20-82
William Considine	SRB Box 7278 Butte, AK	11-20-82
Joan Backlin	Box 1358 (Butte) Palmer AK	11-20-8
Jean A. Stockwell	P.O. Box 3442 (Butte) Palmer, AK	11-20-8
Elise Poirot	P.O. Box 2163 (Butte) Palmer AK	

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NAME	ADDRESS	DATE
Mason Smith	Box 1113 Palmer (Butte)	11-20-82
Norman F. Dietz	SRB Box 7317 Palmer (Butte)	11-20/82
Gary R Beckler	PoB 1358 Palmer (Butte) AK	" "
Ronald H. Buchwalter	SRB, Box 7440, Palmer, Butte) AK	11/20/82
Mary E Lideout	SRB Box 7576 Palmer (Butte Alaska	11/20/8
Carolyn Borchardt	PO Box 1405 Palmer (Butte) AK	11/20/82
Patti Barber	SRB Box 7330 Palmer AK Butte	11/20/82
Scott Sanderson	SRB Box 7228 Palmer AK 99645 Butte	11/20/8
Elmer A Sexton	Box 347 Palmer Alaska Butte	11/20/82
Ramona Frances	SRB 7457 Palmer AK Butte	11/20/82
[illegible]	SRB 7451 Palmer AK Butte	
Richard W Coutts	Box 185 PALMER ALASKA Butte	11/20/82
Phillip E. Allison	BOX 1786 PALMER AK Butte	11/20/82
Stanley M Carter	SRB Box 7331 Palmer, AK Butte	11/20/82
George Hartley	CAROL ANN DR. " " Butte	"

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NAME	ADDRESS	DATE
Forrest G. Williams	SRB Box 7277 Palmer AK 99645	11-20-82
Trina M. Williams	SRB Box 7277 Palmer AK	11-20-82
LES WEHRER	SRA Box 6650 Palmer AK	11-21-82
Fred Lloyd	SRB 7501 Palmer AK	11/21/82
Sally J. DePue	P.O. Box 1239 Palmer AK	11/21/82
Russ Peterson	Mile 41 Glen Hwy	11/21/82
Jon [illegible]	SRB Box 7558 PALMER 99645	11/21/82
Rod Hutchinson	SRB Box 7636 PALMER 99645	11/21/82
Alan Klasser	SRB 7306 Palmer 99645	11/21/82
Wallace R. Dunn	P.O. Box 944 Palmer 99645	11/21/82
Miss Shepherd	St. R. B. Box 7611 Palmer AK 99645	11/21/
Dennis M Hanna	P.O. Box 2691 Palmer	11/21/82
Curtis J Smith	P.O. Box 8205 Palmer	11/21/82
Otto Binder	Bx 1144 PALMER	11/21/82
J L Hoag	SRA Bx 9384 Palmer	11/21/82
Richard Kelse	SRB Box 7297 Palmer	12/3/82

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NAME	ADDRESS	DATE
Carol Kennerson	SRB B7385 Palmer	11/21/82
Howard Kennerson	SRB B 7385 Pal	11-21-8
Robert Boyle	P.O Box 3305 Palmer Ak	11-21-82
[illegible] R. Brown	P.O. Box 3305 Palmer Ak.	11-21-82
Doris Straight	St Rt B - Box 7720 palmer	11-21-8
Lyle W Straight	Mile 6 Knik River Rd	
Veronica A. Bowlin	SRB Box 7534 Palmer	11-21-82
[illegible]	SRB BOX 7339A Palmer Ak	11-2
Daisy A Wynn	SRB Box 7552 Palmer AK.	11-21-82
[illegible]	PO Box 66 Palmer	11/21/82
Cindy Hawley	St Rt B Box 7587A	11/21/82
Ver [illegible]	SR Box 7301 palmer AK	11-21-82
Mark S. [illegible]	PO Box 347 Palmer	11-21-82
Kenneth W. Whatley	STR. B Box 7611	11-21-82
Rodney W. Corbin	SRB Box 7[illegible] Butte	11-21-82

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NAME	ADDRESS	DATE
Joseph B. Cox	Lazy Acres	11-21-82
Debbie A Ross	Lazy Acres	11-21-82
Chris Young	Butte	11-21-82
Allen Smith	Lazenby Subd.	11-21-82
Virgie Thompson	Box 1425 Palmer Butte	11/21/82
Ernie Thompson	" "	" "
Valerie Ouellette	1021 Friendly Ln Anch	11/21/82
Larry Brooks	SRB Box 7516	11-21-82
Vicki Pierson	Box 2604 Butte	11-21-82
[illegible]	Box 3037 PALMER	11/21/82
[illegible] Cory	B SMITH RD.	11/21/82
[illegible]	99645 9999 BOX HHH PALMER	11/21/82
[illegible]	BOX 1316 - PALMER ELK ROAD	11/21/82
Lee Mafzer	Box M Palmer Rd	11/21/82
Larry Weddie	3065 Palmer	11/21/82

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NAME	ADDRESS	DATE
Connie J. Dalton	Mile 35 Knik River Rd.	11-21-82
John N Dalton	Mile 35 Knik River Rd.	11-21-82
Bryan J Mathushead	Mile 41	11-21-82
MIKE CONNER	SRB 7343A PALMER	11-21-8[illegible]
Barbara J Ross	SRB 7332 Palmer	11-21-82
Michael Johnson	SRB 7332 Palmer	11-21-82
Warren M. Guenther	General Del.	11-21-82
Steve W Thomas	SRB Box 7341A	11/21/82
John D Barnhart	SRB Box 7262	11/21/8[illegible]
Nick Lentz	St Rt. B Box 7418	11/21/82
Latha J. Sloan	SRB BOX 7743	11/21/82
Alan R Butts	SRB Box 7743	11/21/82
Darel Zalosa	Mile 41½	11-21-82
Steve Meeker	Plumley Road	11-21-82
Cindy L Hanson	Marth Rd	11-21-82

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NAME	ADDRESS		DATE
Randy Shumate	SRB 7347	Palmer	NOV 21
Brenda Shumate	SRB 7347	Palmer	NOV. 21
Regina Tronow	P.O. Box 3502	PALMER	Nov 21
Larry Olsen	P.O. Box 1701	Palmer	Nov 21
[illegible]	PO Box 7350	PALMER	NOV 21
[illegible]	P.O. Box 1345	Palmer	NOV. 21
Mike Valaske	P.O. Box 3489	Palmer	NOV. 21
Kirsten Valaske	P.O. Box 3489	Palmer	Nov. 21. 82
Pat Dulsbury	P.O. Box 3201	Palmer	Nov 21-82
Deborah M. Dunkle	P.O. Box 1776	Palmer	Nov 21, 82
Elden R Jeffsup	SRB 7284	PALMER	NOV 21, 82
Ann Jeschke	SRB 7378	Palmer	NOV 22, 82
Mark O McGee	SRB 7276	Palmer	NOV 22, 82
Rez McGee	SRB 7276	Palmer	NOV 23, 82
Don Jeschke	SRB 7378	Palmer	NOV 23 82
Jack W Blanchette	R.O. Box 1572	PALMER	12/3/82

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NAME	ADDRESS	DATE
Julia L Jones	PoB 3545 MARth Rd	11/22/82
ROBERT PRESTON ROZIER	P.O. 2173 PALM AK 99645	11/22/82
Lyl Hanor	Plumley Rd Po Box 1915 palmer	11/22/82
Deanna Boggs	SRB, BOX 2347-A2, Palmer Walling Rd - Mile 1	11/22/82
Donald R. Ross	PO Box 3556 Palmer	11/22/82
Craig [illegible]	BOX 215 Palmer	11-22-82
George Steffes	Res. Mile 5, Knik Riv. Rd. P.O. Box 138 Palmer, ak	11-22-82
[illegible]	SRB Box 7323 Palmer, Ak	11-22-82
David C. Brauner	SRB Bx 7456 Palmer Ak.	11-22-82
Pam + Jeff Winslow	P.O. Box 2648 Palmer AK	11-22-82
Jim Klein	GOB 3565 Palmer Ak	11-22-82
Kenneth E. Mason	7710 Knik River Rd Palmer	11/22-82
June B Goedtke	Bodenburg Loop Rd Palmer	11/22/82
[illegible]	Box 7292 Palmer Plumley Rd Butte	11/22/82

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NAME	ADDRESS	DATE
Darcy Sald	SRB Box 7339A Palmer	11-22-82
Eric Ernest	SRB Box 7368 Palmer	11-22-82
Duree Dakutak	PO Box 43 Palmer	11-22-82
Anna K. Shepler	St Rt B Box 7341 Palmer	11-22-82
Debra Nelson	Box 2754 Palmer	11-23-82
Don [illegible]	P.O. Box 1729 Palmer	11/23/82
Kathryn L. Petersen	P.O. Box 588, Palmer	11/23/82
Katherine S. Carlton	SRB 7682, Palmer	11/23/82
Evelyn Rush	SRB Box 7686A Palmer	11/23/82
[illegible]	P.O. Box 3418 Palmer	11-23-82
Jeri Westings	P.O. Box 3418 Palmer	11-23-82
Delfa McCabe	SRB Box 7476 Palmer	11-23-82
Richard Marron	3213 Cassius Ct Anchorage	11-23-82
Jon K. Goodfellow	P.O. Box 2873 Palmer, AK 99645	11-23-82
Nancy Meehan	Box 2474	11-23-82

WHERE AS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND .
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WE THE UNDER SIGNED VOTERS OF THE MATANUSKA-SUSITNA BOROUGH HEREBY PETITION THE STATE OF ALASKA TO RECONSTRUCT THIS HIGHWAY TO SAFE MODERN STANDARDS FROM THE KNIK RIVER BRIDGE TO PALMER AS SOON AS POSSIBLE.

NAME	ADDRESS	DATE
[illegible]	P.O. Box 3261, Palmer - Walling Rd.	11/23/82
Matthew B. Oban	Sr. B Box 7326 Palmer	11/23/82
Jody L Ruch	SRB Box 7326 Palmer	11/23/82
[illegible]	Po. Box 1211 Palmer	11-23/82
Larry [illegible]	PO Box Palmer	11/23/82
Charles McCorkle	PO Box 1883 Palmer	11-23-82
Jack McKechnie	PO Box 3246 Palmer	11/24/82
Gary M. Carson	SRB 7758 Palmer	11-24-82
[illegible]	P.O. Box 1624, Palmer	11/24/82
Jerrold Larson	Gen. Del. Palmer	11/24/82
[illegible]	SRB, Box 7358 Palmer, AK 99645	11/24/82
Tom Koppenberg	Box 9068 Palmer	11/25/82
Ken Barker	Beverly	11/25/82
Kathryn VanGenten	SRB Box 7574 Palmer	11/25/82
Katherine Bishop	SRB Box 7319 Palmer	11-29-82

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NAME	ADDRESS	DATE
Joseph T. Harvey	PO Box 2642 Palmer	11-25-82
Becky E. Caywood	Box 1392 Wasilla	11-26-82
Robert T. Harvey	SRB Box 9896 Palmer (Butte)	11/26/82
Curt L. Schroeder	SRB 7306 Palmer	11/26/82
Eva M. Pope	Box 582 Palmer	11/26/82
Robert R. Henderson	Box 2423 Palmer (Butte)	11/28/8
Hazel Koppenberg	SRD Box 9068 Palmer, Alaska	
Robert Kennerson	Box 1161 Palmer (Butte) AK	
Charles Overby	SRB 7282 Palmer, Alaska	11-28
[illegible]	P.O Box 1996 Palmer AK 99645	11/28/82
Glenda Gilroy	P.O. Box 1996 Palmer Ak. 99645	11/28/82
H. K. Davis	Butte Star Route B Box 367 Palmer 99645 745-2367	11/29/8
Bobby L. Kenney	SRB Box 7531 Palmer AK 99645	11-29-8
Ellen L. Wright	Gen. Del. Wasilla Ak. (Martin Lot)	11-29-8
Chris Thornsley	PO Box 439 Palmer	11-30-8

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NAME	ADDRESS	DATE
Mike Hawley	7587-A Palmer Al	12-2-82
Dave L. Jewell	SR 7603 Palmer	11-30-82
William R White	SRB 7242A Palmer	Dec. 1 82
Shirley Carter	SRB Box 7331 Palmer	12-1-82
Mary Benton	SRB Box 7280 Palmer	12/1/82
Timothy L. Dahtal	P.O. Box 43 Palmer	12-1-82
[illegible]	S.R.B. 7378 PALMER	12-1-82
Marilyn J Burkhart	PO Box 660 Palmer	12/2/82
JoAnne Conner	PO Box 7343-H Palmer	12/2/82
Lisa A. Sandiak	SR-Box 7480 Palmer	12/2/82
Wesley Bennett	P.O. Box 150 Palmer	12-2-82
Ethelwyn A. Couch	SRB Box 7383 Palmer	12-2-82
Robert N Couch	SRB Box 7383 Palmer	12/2/82
Mary Snow	PO Box 3073, Palmer	12/2/82
Donald L. Huseby	SRB Box 7296 Palmer	12/2/82

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NAME	ADDRESS	DATE
Timothy H. Johnson	SRB Box 7270	11/29/82
William [illegible]	PO Box 1417	11/29/82
[illegible]	PO Box 2823 - Palmer	11-29-82
Don Evans	PO Box 2823 Palmer	"
William H. Hand	SRB Box 7070	Palmer
LeRoy Eckman	PO Box 2244	Palmer
Hayden E. McClure	Box 612 Palmer	11-30-82
Dayle S. McComb	SRB Box 7404 Palmer	11-30-82
Suzanne Osmun	SRA Box 6912-P Palmer	11-30-82
Ronald L. Richmond	PO Box 3455 Palmer	11/30/82
GREGORY D. CLARK	SRB BOX 7387	12/1/82
Frank W. Ostrowski	P.O.B. 2925 PALMER, AK	12/1/82
Sharon J. Allen	Box 3129, Palmer, AK	12/2/82
Mason Smith	Box 1143 Palmer AK	12-2-82
Charles T. Fox	PO Box 65 Palmer ak	12-2-8

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NAME	ADDRESS	DATE
Rafael Ryder	P.O. Box 1213 Palmer Ak.	11-2-82
Delmette D. Cottini	SRA Box 6755 - Palmer	11-2-82
[illegible]	PO Box 3361 Palmer	11-4-82
[illegible]	Box 9196 Bay Mt. Palmer	12-6-82
Lynn Woods	Box 37 Sutton, AK	99674 12-6-82
Wm Woods	Box 37 Sutton Ak	99674-12-6-82
Kenneth Crump	PO Box [illegible] Palmer, AK	99645-
Lloyd C. Wood	P.O Box 6515 Palmer	Ak 12-10-82
Clifford A Campbell	PO Box 269 Palmer	Ak 12-10-82
[illegible]	Box 567 Palmer	AK 12-10-82
R Brown	P O Box 2585 Palmer	AK 12-10-82
Robert M Burrows	PO Box 3203	Palmer, AK 12/10/82
[illegible]	P.O. Box 3518	PALMER, AK 12/10/82
Gerald C Deems	PO Box 2096	Palmer Ak 12/11/82
John Shue	S.R.B. Box 7636	Palmer Alaska 12/13/82

WHERE AS THE OLD GLENN HIGHWAY FROM THE KNIK RIVER BRIDGE TO THE CITY OF PALMER IS IN AN UNSAFE, DEPLORABLE CONDITION FOR THE HEAVY TRAFFIC LOAD AND .
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NAME	ADDRESS	DATE
Gordon Ahlestad	BOX 196 Palmer	12-18-82
Harry W. Kendricks	P.O. Box 2773, Palmer	12-24-8
[illegible]	P.O. Box 1295 Palmer	12/24/8
Donald R. Hopps	P.O.B. 3512 Palmer	12/24
Tom Manoz	SRO Box 9152 Palmer	12-29-82
[illegible]	Box 966 Palmer	12-29-82
Phil Bernola	SRB, Box 7539 Palmer	12-29-8
[illegible]	P.O. Box 3221 Palmer	12-29-83
Ed DePriest	Box 988 Palmer	12/28/82
Jack L. Simpson	Box 2453 Palmer Ak	12-28-82
Nancy Lawrence	SRC Box 8515 Palmer Ak	12-29-8
Roy D. Lanneme	SRC Box 8515 Palmer, Ak.	12-29-82
Chris Aoki	SRB, Box 7564 PALMER AK	12-30-82
Henry Alaszko	Box 745 Palmer Ak	12/30/8
Walter Graham	Box 189 Palmer, Ak.	12/30/82

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NAME	ADDRESS	DATE
Dan Carian	BOX 3542 PALMER	12/30/82
John Fuller	Box 1995 Palmer	12/30/82
Douglas R Hall	Box 1411 Palmer	12/30/82
Bruce N Axtell	PO Box 3509 Palmer	12/30/82
Clint Stearns	P.O. Box 547 Palmer	12/31/82
Jane L Aklestad	P.O. Box 196 Palmer	12/31/82
Tim Warren	PO Box 3238 Palmer	1/4/83
Mike Sweeney	S.R.B Box 7495 Palmer	1/4/83
Kenneth E Schumer	SRD Box 9117 Palmer	1-4-83

SCR

7

BACKGROUND INFORMATION: SB 6/SCR 7

SB 6 appropriates $39 million for extension of the four lane Parks/Glenn Highway across the Eklutna Flats. SCR 7 directs the Department of Transportation and Public Facilities to assign a high priority to the four lane extension and to utilize Federal Highway Administration matching funds for that purpose.

The Parks/Glenn Highway north out of Anchorage is one of the most heavily traveled roads in Alaska. It is the only road to travel north beyond Eklutna. The Matanuska-Susitna Borough is the most rapidly growing area of the state settled by persons who wish to live in the country but still commute to Anchorage for employment. In 1981, the average daily traffic on the highway at Mirror Lake was 8,456 each way, north and south. In 1983, the average daily traffic count was 13,664 - an increase of 61.6% over 1981 traffic figures.

The four lane highway that extends from Anchorage to Eklutna is able to handle this traffic pressure. However, significant problems arise when the four lanes are reduced to two as the Parks/Glenn crosses the Eklutna Flats to the Palmer-Wasilla "Y". The intersection of the four lane section of the highway with the present two lane funnels traffic. When road conditions are poor, during winter months, this is the scene of several accidents each year, primarily autos sliding off the road. At present this cannot be demonstrated statistically; however, anyone who travels between the Mat-Su Valley and Anchorage would be impressed with

this. Over 200 accidents ocurred from 1979 to 1983 in the two lane portion of the highway.

To further impact traffic movement on the Glenn Highway, the Eklutna Flats and the Knik and Matanuska River floodplains are prime moose habitats supporting large populations. These animals create a hazard to motorists which would be reduced somewhat if a four lane divided highway was constructed.

Attached is additional data on traffic counts and accident rates and types for the Glenn Highway provided by the Department of Public Safety.

Glenn Highway: Eklutna - Parks Highway Junction

Built In 1965-1966

Normal Traffic: 1981 ADT 7,400-8,000 no winter counts are available on this segment of the road. (ADT - AVERAGE DAILY TRAFFIC)

Variance between morning and evening:

Station		SB		NB		
Eklutna Bridge	AM	3133	(43%)	2236	(31%)	7/14/82
Eklutna Bridge	PM	4103	(57%)	4749	(69%)	7/14/82
Eklutna Bridge	day	7238		6975		7/14/82
Glenn - S. of Parks Hwy.	AM	2566	(42%)	1826	(30%)	7/14/82
"	PM	3481	(58%)	4190	(70%)	7/14/82
"	day	6047		6016		7/14/82

Both Ways

Old Glenn Junct.	AM	4306	35%	July (13-15), 1982
	PM	7697	65%	
	day	12157	100%	

Park Traffic: At scale house - no data available for subject segment.

State Fair - Friday 8/20/82
NB 16,021
SB 15,006

Labor Day - Saturday 9/4/82 (Scale house)
SB 16,715 (Into town) ANCHORAGE
NB 18,845

Time Road Closed:

one lane - 3 days last summer/repair of bridge
two lanes - 3 days - 3 years ago/repair R.R. crossing

No data available for road closures due to accicents.

Accicents: Should have accident data tomorrow.

ACCIDENTS FOR TWO-LANE PORTION OF THE PARKS/GLENN HIGHWAY

	1979	1980	1981	TOTAL
ONTH				
JAN	9	5	2	16
FEB	3	1	3	7
MAR	1	1	3	5
APR	2	1	3	6
MAY	2	1	2	5
JUNE	3	1	0	4
JULY	4	2	3	9
UG	7	7	2	16
SEPT	2		1	9
OCT	2	2	3	7
NOV	4	2	3	9
DEC	5	1	3	9

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

OFFICE OF THE COMMISSIONER

March 13, 19[illegible]

The Honorable Jalmar Kerttula
Senate President
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

At the outset, please accept my apologies for the delay in responding to your letter of February 21, 1984 related to traffic accidents along the Glenn Highway between Anchorage and the Matanuska Valley. The statistical data you requested took longer to obtain and collate as a result of a printer run error.

Your concern was traffic information related to the Glenn Highway from Eklutna Flats, the termination of the four lane highway, to the junction of the Glenn and Parks Highways.

In order to provide some comparable basis, included in the traffic statistics are the number and type of accidents that occurred during the same periods for the area from Boniface intersection to Eklutna.

The statistical information contained in Attachment 1 reflects the total number of accidents, fatalities, injuries, and monetary figures of damages that occurred from 1977 through 1983 along the Glenn Highway between the two aforementioned areas.

Attachment 2 reflects the type of accident codes for those accidents reflected in Attachment 1 for the years 1982 and 1983. As a part of the attachment, also enclosed is a copy of the State of Alaska Police Accident Report Code Sheet, on which the lower right hand corner depicts the description of code numbers indicated.

Attachment 3 indicates the traffic count of vehicles that traveled past the scalehouse on the Glenn Highway for the years 1981 through 1983 as well as the traffic count at Mile 151.5 (Mirror Lake) for 1981 through 1983. It should be pointed out that the counts are average daily counts for

each year and reflect totality of the movement of traffic in both directions.

It is hoped that the information provided meets your needs. As I am sure you are aware, this Department does not collate accident statistic data other than fatalities. The information is collected and collated by the Department of Transportation and Public Facilities, the source from which the enclosed information was obtained.

Sincerely,

Robert J. Sundberg
Commissioner

Attachments: a/s

Attachment 1

GLENN HIGHWAY

Boniface to Eklutna

	1977	1978	1979	1980
Fatalities	8	5	4	2
Injuries	139	115	125	107
Damage	$546,270	$382,716	$438,726	$371,299
Accident Total	305	213	257	312

	1981	1982	1983	Total 1977 to 1983
Fatalities	2	4	5	30
Injuries	125	151	147	909
Damage	$517,743	$734,378	$877,472	$3,868,604
Accident Total	251	345	301	1,884

Eklutna to Parks Highway

	1977	1978	1979	1980
Fatalities	3	0	1	0
Injuries	37	23	21	20
Damage	$157,044	$100,450	$ 77,051	$ 61,296
Accident Total	39	37	45	31

	1981	1982	1983	Total 1977 to 1983
Fatalities	0	4	1	9
Injuries	16	40	49	206
Damage	$ 84,733	$200,650	$159,000	$840,724
Accident Total	28	63	52	295

Attachment 2

BONIFACE TO EKLUTNA

YEAR	TYPE	FATAL	INJURY	TOTAL ACCIDENTS
1983	01	1	4	5
	04			2
	05		16	58
	06	2	8	5
	07	1	30	73
	08		14	43
	11		1	1
	12		8	12
	13		1	2
	16		1	1
	17	1	15	22
	18		2	2
	20			1
	21		1	2
	22			2
	23			1
	24			2
	25		9	8
	26			1
	27		8	12
	30		1	2
	40		27	41
	50		1	3
		5	147	301

BONIFACE TO EKLUTNA

YEAR	TYPE	FATAL	INJURY	TOTAL ACCIDENTS
1982	01		4	4
	05		19	79
	06		4	3
	07	1	40	70
	08	1	19	53
	10			1
	12		3	12
	13		1	1
	14			1
	17		22	40
	18		2	4
	21		1	3
	22			5
	23		1	1
	25		8	8
	26			1
	27		4	14
	30		1	5
	40	2	22	38
	41			1
	60			1
		4	151	345

EKLUTNA TO PARKS HIGHWAY

YEAR	TYPE	FATAL	INJURY	TOTAL ACCIDENTS
1983	01		1	1
	05		3	8
	06		12	4
	07		6	9
	08		7	8
	09			1
	10	1	3	1
	12			1
	13			2
	17		1	1
	18		1	1
	25		1	1
	27		1	4
	30		2	1
	40		10	8
	50		1	1
		1	49	52

EKLUTNA TO PARKS HIGHWAY

YEAR	TYPE	FATAL	INJURY	TOTAL ACCIDENTS
1982	04			1
	05		8	13
	06	1	1	2
	07		3	6
	08	2	11	17
	09	1	3	1
	10		1	1
	13		2	2
	16		1	1
	17		7	6
	21			1
	25		1	4
	27			3
	40		2	3
	42			1
	50			1
		4	40	63

STATE OF ALASKA
Police Accident Report
12-208 Revised 9/77

* EXPLAIN IN ACCIDENT DESCRIPTION

IF A QUESTION DOES NOT APPLY, ENTER A DASH (-).

IF AN ANSWER IS UNKNOWN, ENTER AN 'X'

INTERSECTION RELATED
1. At Intersection
2. Not At Intersection

PEDESTRIAN ACTION
1. Crossing With Signal
2. Crossing Against Signal
3. Crossing, No Signal, Marked Crosswalk
4. Crossing, No Signal or Marked Crosswalk
5. Walking Along With Traffic
6. Walking Along Against Traffic
7. Emerging In front of/behind parked vehicle
8. Child Getting On/Off School Bus
9. Getting On/Off Vehicle Other than School Bus
10. Pushing/Working On Car
11. Parking in Roadway
12. Playing in Roadway
13. Other Actions in Roadway *
14. Not in Roadway (Indicate) *
15. Alcohol Involvement

TRAFFIC CONTROL
1. None
2. Traffic Signal
3. Stop Sign
4. Flashing Light
5. Yield Sign
6. Officer/Flagman/Guard
7. No Passing Zone
8. RR Crossing Sign
9. RR Crossing Flashing Light
10. RR Crossing Gates
20. Other *

LAND USAGE OF ACCIDENT LOCALITY
1. School/Playground
   If No School/Playground, Select One Below
2. One/Two Family Residential
3. Apartment Residential
4. Business/Shopping
5. Industrial/Manufacturing
6. Agricultural/Undeveloped
7. Recreational/Park/Camping

ROADWAY CHARACTER
1. Straight and Level
2. Straight and Grade
3. Straight and Hillcrest
4. Curve and Level
5. Curve and Grade
6. Curve at Hillcrest

ROADWAY SURFACE CONDITION
1. Dry
2. Wet
3. Muddy
4. Snow/Ice
5. Slush
10. Other *

LIGHT
1. Daylight
2. Twilight
3. Dark, Streetlight
4. Dark

WEATHER
1. Clear
2. Cloudy
3. Rain
4. Snow
5. Sleet/Hail Freezing Rain
6. Fog/Smog/ Smoke/Ice Fog
10. Other *

SIGNED TEMPERATURE INDICATION (°F)

WHICH VEHICLE OCCUPIED
Enter Vehicle No. 1 - 99 or B, P, O
B. Bicyclist
P. Pedestrian
O. Other *

POSITION IN/ON VEHICLE
1. Driver
2-7 Passengers
8. Riding/Hanging On Outside

SAFETY EQUIPMENT USED
1. No Restraint Used
2. No Restraint Available
3. Lap Belt
4. Harness
5. Lap Belt and Harness
6. Child Restraint
7. Motorcycle Helmet
10. Other *

EJECTION FROM VEHICLE
1. Not Ejected
2. Partially Ejected
3. Ejected

Birth Date

Sex M F

APPARENT CONTRIBUTING FACTORS
1. None

HUMAN
2. Alcohol Test Given
3. Alcohol-No Test Given
4. Alcohol Suspected Not Proven
5. Backing Unsafely
6. Driver Inattention (Indicate) *
7. Driver Inexperience (Indicate) *
8. Drugs (Illegal)
9. Failure to Yield
10. Fell Asleep
11. Following too Closely
12. Illness
13. Lost Consciousness
14. Passenger Distraction
15. Passing or Lane Usage Improper
16. Pedestrian Error/ Confusion
17. Physical Disability
18. Prescription Medication
19. Traffic Control Device Disregarded
20. Turning Improperly
21. Unsafe Speed
22. Other *

VEHICLE
41. Accelerator Defective
42. Brakes Defective
43. Headlights Defective
44. Other Lighting Defects
45. Overloaded Vehicle
46. Steering Failure
47. Tire Failure/Inadequate
48. Tow Hitch Defective
49. Windshield Inadequate
50. Other *

ENVIRONMENTAL
61. Animal's Action
62. Glare
63. View Obstructed/Limited
64. Other *

ROADWAY
71. Lane Marking Improper/ Inadequate
72. Construction Debris
73. Pavement Deteriorated
74. Pavement Slippery
75. Shoulders
76. Signs Missing/Inoperative
77. Traffic Signal Inoperative
80. Other *

Vehicle 1
Vehicle 1
Vehicle 2
Driver 1 Alcohol Test Result
Driver 2 Alcohol Test Result

Direction Of Travel

NW N NE W E SW S SE

Vehicle 1
Vehicle 2

PRE-ACCIDENT VEHICLE ACTION
1. Going Straight Ahead
2. Making Right Turn
3. Making Left Turn
4. Making U-Turn
5. Starting from Parking
6. Starting in Traffic
7. Slowing or Stopping
8. Stopped in Traffic
9. Entering Parked Position
10. Parked
11. Avoiding Object in Roadway
12. Changing Lanes
13. Overtaking
14. Merging
15. Backing
16. Skidding
17. Out of Control
20. Other *

Vehicle 1
Vehicle 2

LOCATION OF FIRST EVENT
1. On Roadway
2. Off Roadway

TYPE OF ACCIDENT
Collision With
1. Pedestrian
2. Pedacycle
3. Train
4. Animal
5. Moose

MV in Transport
6. Head On
7. Rear End
8. Angle

MV in Other Road-Way
9. Head On
10. Rear End
11. Angle

Fixed Object
13. Bridge/Overpass
14. Building
15. Culvert
16. Curb/Wall
17. Ditch
18. Divider
19. Parking Meter
20. Traffic Light
21. Light Support
22. Sign Post
23. Utility Post
24. Other Support
25. Embankment
26. Fence
27. Guard Rail
28. Machinery
29. Tree/Shrub
30. Other Object
31. Aircraft

Parked MV
32. Parked

Non Collision
40. Overturn
41. Fire/ Explosion
42. Immersion
43. Gas Inhalation
50. Other *

First Event
Vehicle
Second Event
Vehicle

Victim's Physical And Emotional Status
1. Apparent Death
2. Unconscious
3. Semiconscious
4. Incoherent
5. Shock
6. Conscious

Location of Most Severe Physical Complaint
1. Head
2. Face
3. Eye
4. Neck
5. Chest
6. Back
7. Shoulder/Upper Arm
8. Elbow/Lower Arm-Hand
9. Abdomen/Pelvis
10. Hip/Upper Leg
11. Knee/Lower Leg-Foot
12. Entire Body
13. None

Type of Physical Complaint
1. Amputation
2. Concussion
3. Internal
4. Minor Bleeding
5. Severe Bleeding
6. Minor Burn
7. Moderate Burn
8. Severe Burn
9. Fracture-Dislocation
10. Contusion-Bruise
11. Abrasion
12. Complaint of Pain
13. None Visible

Injured Taken To:
1. Hospital
2. Clinic
3. Residence
4. Mortuary
5. Other
6. Unknown

Injured Taken By
1. Surface Ambulance
2. Air Ambulance
3. Police (Reg. Veh)
4. Private Vehicle
5. Airplane
6. Helicopter
7. Other
8. Unknown

Telephone

| | | |

Attachment 3

Average Daily Traffic Count

Glenn Highway

	1981	1982	1983
Scale House (Mile 138.4)	18,575	22,920	27,954
Mirror Lake (Mile 151.5)	8,456	10,769	13,664

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-185)
PHONE: 266-1462

April 2, 1984

Re: Glenn Highway Traffic
and Accident Data

The Honorable Jalmar Kerttula
Senate President
Alaska State Legislature
Pouch V
Juneau Alaska 99811

APR 1984

Dear Senator Kerttula:

Commissioner Knapp has requested that I respond to your request for traffic volume and accident data on the Glenn Highway between Eklutna and the Parks Highway.

Traffic Volume

The 20 year average historical traffic growth rate on this highway has been 3.5%. However, the traffic volume on this portion of the Glenn Highway has increased dramatically since 1980 to a 1983 average annual daily traffic of approximately 13,700 vehicles. This traffic volume changes mirror the population changes in the Matanuska - Susitna Borough and Anchorage. The following annual traffic volume percentage changes over the last few years indicate the volatile change in traffic volume over this highway:

Year	Approximate ADT at Mirror Lake	% Change
1983	13,700	27%
1982	10,800	29%
1981	8,400	12%
1980	7,500	-3%
1979	7,750	-2%
1978	7,900	

Compounding the impact of the traffic volume increases on the highway is the 80%/20% directional distribution of this traffic. The distribution places a heavy traffic load on the southbound lane in the morning and the northbound lane in the evening.

Level of Service

In 1983 the increased traffic volume on the existing two lane highway reduced the level of service (LOS) on this highway from "C" to "D". Level of Service "C" is

defined as stable flow while LOS "D" is defined as approaching unstable flow. If the traffic volume increases during 1984 at the rate of the previous 1982 and 1983 increase, the LOS on the existing highway may decrease to an "E" rating during 1984. Level of Service "E" is defined as unstable flow.

At the average 20 year historical growth rate of 3.5% assuming the current 80%/20% directional split, a four lane highway is expected to reach a LOS of "C" by 1998.

Accident Data

We currently have accident data through 1982. The accident statistics for the most recent three years follow:

SEGMENT ALONG GLENN HWY	YEAR	# OF ACCIDENTS	ACCIDENT RATE (per million vehicle miles)
Eklutna to Old Glenn Hwy	1980	13	2.47
	1981	5	0.84
	1982	10	1.49
Old Glenn Hwy to Parks Hwy	1980	18	1.20
	1981	22	1.27
	1982	43	2.13

Due to the traffic volume growth rate and the uneven directional distribution on this highway segment, we expect to initially widen this portion of the highway to four lanes and will incorporate provisions for its eventual expansion to a six lane highway.

We expect the project right-of-way acquisition, utility relocation and critical design elements of the project, such as bridge support structures, to be compatible with the eventual requirements for a six lane highway. Funding has been obligated to initiate preliminary engineering on this project.

If you have additional questions on this matter, please contact me.

Sincerely,

William R. Snell
Director

RM/bjf

cc: Richard S. Armstrong, Director, D&C, Central Region
Ray Gillispie, Legislative Assistant, Office of the Governor
David W. Haugen, Deputy Commissioner, Central Region
R. J. Knapp, Commissioner, DOT&PF
Dan Malick, Acting Deputy Commissioner, Statewide Programs, Juneau
Paula Ramsey, Budget Analyst/Legislative Liaison, Statewide Programs, Juneau
Robert J. Sundberg, Commissioner, Department of Public Safety

Bill Sheffield, Governor

DEPARTMENT OF TRANSPORTATION
and PUBLIC FACILITIES
CENTRAL REGION PLANNING & PROGRAMMING
Director's Office

4111 AVIATION AVENUE, POUCH 6900
ANCHORAGE 99502 (TELEX 25-183)
PHONE: 266-1462

April 3, 1984

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

This letter is in response to your aide's request for traffic count information for the Farm Loop Road and the Old Glenn Highway in addition to the Department's plans for these roads.

Farm Loop Road has an average daily traffic (ADT) count of 180 vehicles. Due to the relatively low traffic volume, improvements to this road are considered a lower priority than for other collector roads with higher traffic volumes, such as Pittman Road and Clark-Wolverine Road. The Department has no current projects planned for Farm Loop Road.

The average ADT on the Old Glenn Highway between the Knik Bridge and Palmer varies from approximately 1000 ADT at the Knik Bridge to 6000 ADT at the junction with South Valley Way. The Department has begun the preliminary engineering and environmental analysis for reconstruction of this highway between the Knik River and Palmer.

The current schedule for this project is:

1.	Complete Draft Location Study Report	11/84
2.	Complete Draft Environmental Document	9/85
3.	Hold Location Public Hearing	10/85
4.	Final Location Study Report and Environmental Document	12/85
5.	Obtain Federal Location Approval	1/86

After obtaining federal location approval, additional funding tentatively estimated at $350,000 will need to be obligated by the Federal Highway Administration for the design of the project, including a materials analysis. This design work is estimated to require approximately 9 months of additional time. At this time, there is no construction funding authorization for the project.

Thank you for the opportunity to provide you this information. Please contact me if I can provide additional information.

Sincerely,

William R. Snell
Director

RM/bjf

cc: Richard S. Armstrong, Director, D&C, Central Region
Ray Gillispie, Legislative Assistant, Office of the Governor
David W. Haugen, Deputy Commissioner, Central Region
Paula Ramsey, Budget Analyst/Legislative Liaison, Statewide Programs

SCR

9

Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SCR 9

TITLE: Requesting that the Farm Loop Road in the Mat-Su Borough be upgraded

APPROVED: R. J. Knapp
Commissioner

DATE: April 9, 1984

The Department of Transportation and Public Facilities (DOT&PF) would have no problem in upgrading the Farm Loop Road if the $2.53 million in funding was appropriated by the Legislature. Due to the relatively low traffic volume (average daily count of 180 vehicles), improvements to this road are considered by the DOT&PF to be a lower priority than for other collector roads in the Mat-Su Borough with higher traffic volumes such as Pittman Road and Clark-Wolverine Road.

For more information, contact Paula Ramsey at 465-3900

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SCR 9
Title: Upgrade Farm Loop Road

Sponsor: Senator Kerttula
Requestor:
Date of Request: 4/9/84

FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Transportation

BRU, Program or Subprogram(s) Affected:
Design & Construction

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING			35.0	35.0	35.0	35.0
CAPITAL		2,530.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		2,530.0	35.0	35.0	35.0	35.0
FEDERAL FUNDS						
OTHER						
TOTAL		2,530.0	35.0	35.0	35.0	35.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not provided by the sponsor.

ANALYSIS: Attach a separate page for any Analysis

Prepared By: William R. Snell
Phone: 266-1462
Division: Central Region Planning
Date: 4/9/84

Approved by Commissioner:
Date:
Agency:

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS FOR SCR 9

1. Analysis of the fiscal impact on existing programs.

   The DOT&PF could absorb the design and construction functions of this project without fiscal impact on existing programs.

2. Analysis of fiscal impact on new programs or activities.

   None

3. Analysis of how the figures in the fiscal note were delivered.

   An FY'83 cost estimate by our Design and Construction Division was updated to FY'85 figures. This would provide a paved, 28' wide road, 3 miles in length.

4. Additional information necessary to explain the fiscal note.

   There are no funds identified in association with SCR 9. Due to the relatively low traffic volume on this road, the DOT&PF considers improvements to this road a lower priority than for other collector roads in the area with higher traffic volumes.

SENATE CONCURRENT RESOLUTION # 9: JUSTIFICATION

SCR 9 was introduced in an effort to have the Farm Loop Road in the Matanuska Susitna Valley upgraded by the Department of Transportation and Public Facilities. Farm Loop Road is a state maintained road which is receiving increased traffic pressure due to settlement in the area over the past few years.

The road, one of the original Matanuska Valley Colony roads constructed in 1935, is one of the more scenic routes through the farming area of the Valley near Palmer. Tourist traffic on the road has increased because of the vistas of the mountains and historic farmsteads and cropland.

The Average Daily Traffic on the Farm Loop Road was 180 in 1981. This has increased by 28% to 249 in 1983. Improvements would include widening the road to 28 feet. At present the traffic on the road is two-way; however, in effect, the road is not wide enough to safely carry two-way traffic. The road would further be improved by adding to the sub-base.

The improvements would extend the length of the 2.9 mile road at a cost of $3,004,100 payable through fiscal year 1987.

DOT/PF Central Region Maintenance and Operations has assigned the upgrade a priority. If improvements are made, maintenance costs will be reduced.

SCR

20

December 21, 1983

Mr. Peter McDowell, Director
Office of Budget and Management
Pouch A
Juneau, Alaska 99811

Dear Mr. McDowell:

The Glen Alps Board of Supervisors has been working with Senator Jan Faiks on a project aimed at upgrading Upper DeArmoun Road, located on the upper Hillside within the Glen Alps Service area - a district that covers over ten miles of roads. Major upgrading of Upper DeArmoun from Hillside Drive to View Heights Drive, a one-mile stretch, has been established as the Glen Alps Board of Supervisor's number one capital improvement priority for 1984. Senator Faiks requested that we write you regarding this project.

This one-mile section has a very poor roadbed in addition to an inadequate drainage system. During the winter season, severe glaciation frequently develops along this route, causing considerable problems not only for residential traffic, but emergency vehicle and school bus traffic as well.

A rapid increase in residential traffic has developed in the area due to new home construction. Upper DeArmoun also handles a great deal of traffic heading directly to Chugach State Park. This route provides direct access to the Rabbit Creek Valley area of the park in which Rabbit Lake is situated.

At certain times of the year, park traffic exceeds residential traffic in this area. As a result, the road deteriorates faster and residents must bear the burden of additional road maintenance.

The most effective use of capital improvement funds would be for upgrading the roadbed as opposed to piece-meal capital improvement of a sub-standard road base. The existing roadbed is of extremely poor quality and the situation will only grow worse with increasing use of this route by park visitors and additional residential traffic in years to come.

According to municipal officials, approximately $875,000 would be necessary for the complete re-building of Upper DeArmoun and the elimination of severe glaciation problems. This figure does not include paving.
Although many residents prefer pavement, many would be satisfied with an upgrade to a high standard gravel surface.

We believe upgrading of this road is long overdue. Other Hillside roads providing access to the park have been paved. Several years ago Upper O'Malley was paved, two years ago Upper Huffman was upgraded and paved. The time has now come for upgrading of this route.

The Glen Alps Board of Supervisors urges the Municipality and State to act in such a manner that would expedite upgrading of Upper DeArmoun.

The Board of Supervisors decided Upgrading of Upper DeArmoun is more important at this time than upgrading of other roads in the area due to the reasons explained above. Perhaps the most extensive long-term project in the service area will be the complete or partial relocation of the road to Upper Glen Alps, Toilsome Hill Drive. Park traffic on this road is extremely heavy and sections of this route arevery steep and narrow.

Although no major work is expected on any relocation project for several years, our Board believes that various route alternatives should be addressed soon. We understand that Chugach State Park has been working on route alternatives, but the overall picture is clouded by right-of-way problems.

The relocation of this road could be one of the most extensive road projects undertaken on the Hillside since the upgrading of Rabbit Creek Road.

In the meantime, Upper DeArmoun is our most pressing needs. The first one-mile section targeted for upgrading has the highest residential traffic of any road in the service area. Traffic will continue to increase as new houses are built nd an increasing amount of Anchorage residents use the park for summer and winter recreational purposes.

The Glen Alps Board of Supervisors held a meeting in mid-October at the O'Malley Elementary School for residents of the service area to discuss road improvements in the area. Those in attendance were unanamously in favor of upgrading Upper DeArmoun. All but one person present favored paving. However, everyone said they would be satisfied with a major upgrading to a high standard gravel surface.

In addition, residents of the Glen Alps service area spoke out in favor of the upgrading of Upper DeArmoun at the Municipality of Anchorage Capital Improvement Projects meeting for the Hillside at Service High School October 25. Written testimony was also submitted at this meeting.

Outside of the $875,000 needed for improving Upper DeArmoun, additional funds are required for annual maintenance of other roads within the district. We have specific needs for improvements, too, such as additional fill, culverts and

and drainage work to Canyon Road and Toilsome Hill Drive. Such improvements include widening of certain steep and dangerous sections of these two roads and the installation of guard rails.

Please find enclosed a resolution adopted by the Board concerning our top priority and other information relating to upgrading of Upper DeArmoun.

Sincerely,

Glen Alps Board of Supervisors

Judy Burtner, Chairman (345-1593)
SRA Box 2393 M
Anchorage, Ak. 99516

Brooks Wade (345-2282)
SRA Box 7381 R
Anchorage, Alaska 99516

Carl Portman (345-1807)
SRA Box 379 P
Anchorage, Alaska 99516

Bob Kean (345-2098)
SRA Box 382 V
Anchorage, Ak. 99516

Niel Thomas (345-1552)
SRA Box 2393 L
Anchorage, Ak. 99516

cc: Glen Alps board members, Senator Jan Faiks, Emil Notti, Lou Mesloh, Representatives John Cowdery and Sam Pestinger

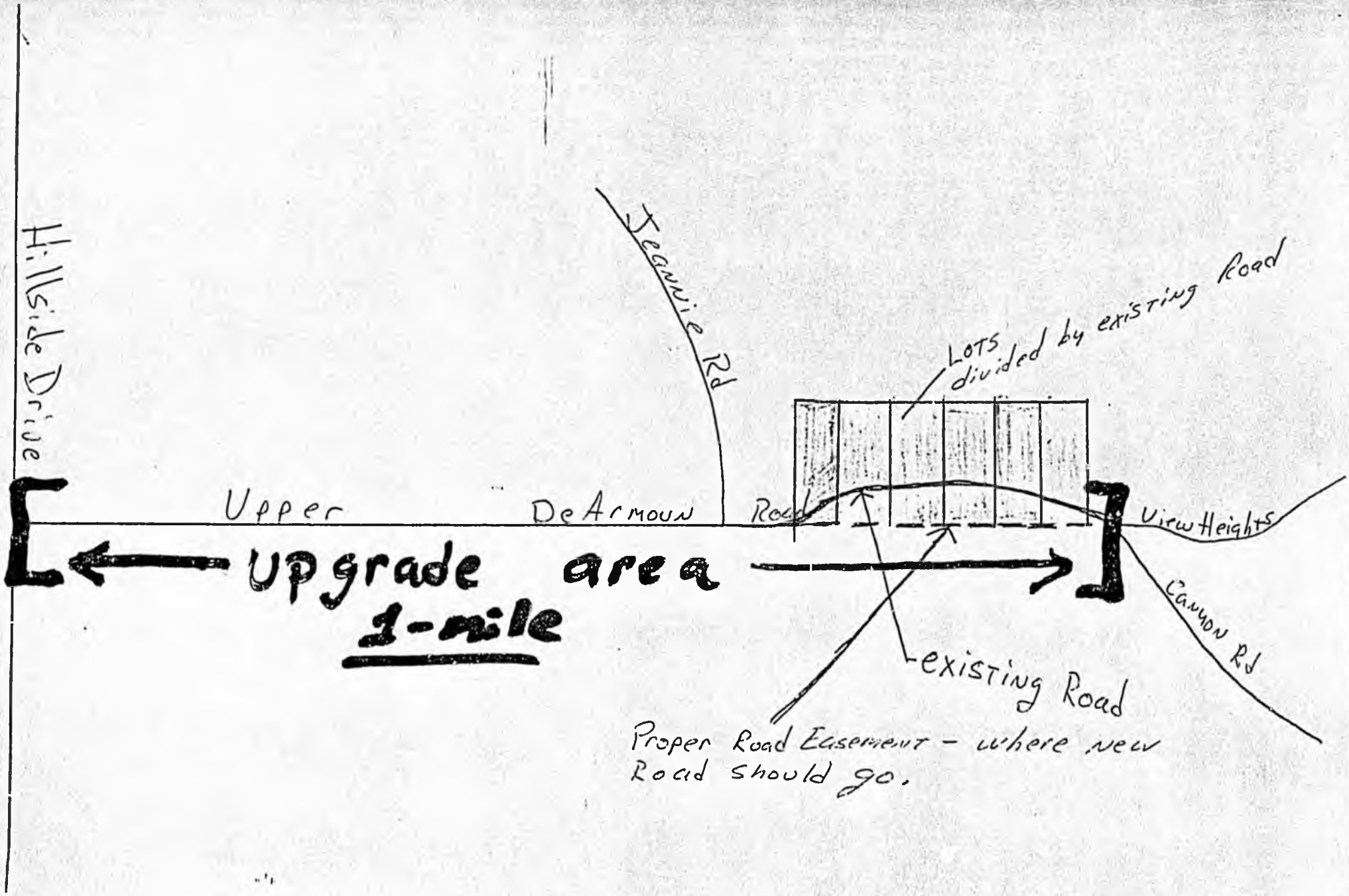
Enclosures

Please Note: After January, send all correspondence to Brooks Wade or Carl Portman.

UPPER DEARMOUN UPGRADING ESTIMATES

Item #1	Cleaning/grubbing	$ 3,000.00
Item #2	excavation of unusable materials	137,500.00
Item #3	Marify	26,000.00
Item #4	Classified fill	417,600.00
Item #5	18" CMP	16,000.00
Item #6	Leveling Course	71,200.00
	Subtotal	$671,300.00
	Engineering & Consulting costs	$203,700.00
	TOTAL ESTIMATE	$875,000.00

Estimates were prepared by Lon Mesloh of the Municipality of Anchorage.


Hillside Drive
Jeannie Rd
LOTS divided by existing Road
Upper
DeArmoun
Road
View Heights
Upgrade area
1-mile
Canyon Rd
existing Road
Proper Road Easement - where new Road should go.

RESOLUTION
OF THE
GLEN ALPS BOARD OF SUPERVISORS

WHEREAS, Upper DeArmoun Road is located within the Glen Alps Service Area, a district that covers over ten miles of roads on the upper Hillside.

WHEREAS, the first one-mile section of this road has a very poor roadbed in addition to an inadequate drainage system. During the winter season, severe glaciation frequently develops along this route, causing considerable problems not only for residential traffic, but emergency vehicle and school bus traffic as well.

WHEREAS, A rapid increase in residential traffic has developed in the area due to new home construction. Upper Armoun also handles a great deal of traffic heading ectly to Chugach State Park. This route provides direct access to the Rabbit Creek Valley area of the park in which Rabbit Lake is situated.

WHEREAS, at certain times of the year, park traffic exceeds residential traffic in this area. As a result, the road deteriorates faster and residents must bear the burden of additional road maintenance.

WHEREAS, the most effective use of capital improvement funds would be for upgrading the roadbed as opposed to piece-meal capital improvement of a sub-standard road base. The existing roadbed is of extremely poor quality and the situation will only grow worse with increasing use of this route by park visitors and additional residential traffic in years to come.

Glen Alps Resolution

WHEREAS, upgrading of this road is long overdue.

Other Hillside roads providing access to the park have been either paved or substantially upgraded. Several years ago Upper O'Malley was paved, two years ago Upper Huffman was upgraded and paved. The time has now come for upgrading of this route.

NOW THEREFORE BE IT RESOLVED, that major upgrading of Upper DeArmoun Road from Hillside Drive to View Heights Drive, a one-mile stretch, has been established as the Glen Alps Board of Supervisor's number one capital improvement priority for 1984. Such upgrading need not include paving.

BE IT FURTHER RESOLVED THAT the Municipality of Anchorage and the State of Alaska establish this route on the priority list for Hillside road improvements.

AND BE IT FURTHER RESOLVED THAT the Glen Alps Board of Supervisors urge the Municipality and State to act in such a manner that would expedite upgrading of Upper DeArmoun.

Dated: December 21, 1983

By Glen Alps Board of Supervisors

Judy Burtner

Judy Burtner,
Chairman

Glen Alps Service Area

Overview

The Glen Alps Service Area covers over ten miles of roads on the upper Hillside. The service area is divided into three main districts, Upper Glen Alps, Central and Canyon.

Upper Glen Alps is the Hillside's highest housing subdivision area at an elevation of approximately 2,400 feet. The area is situated at the base of Flattop Mountain and is above timberline. Access is provided by Toilsome Hill Road which branches off Upper Huffman. This steep gravel road extends 2.7 miles beyond the pavement of Upper Huffman to Chugach State Park and the housing area one-quarter mile beyond the park entrance. Winter is usually two months longer in this area and high winds cause special winter maintenance problems. Average snowfall is double that of Anchorage.

The Central district covers Jeannie, Michael and Ginami Roads as well as Spendlove Drive and View Heights Drive. These streets, with the exception of View Heights, are situated between Upper Huffman and Upper DeArmoun. Jeannie Road is the major route connecting Upper Huffman and Upper DeArmoun at a point three-quarters of a mile above Hillside Drive. Upper DeArmoun, east of Jeannie, is within the Central district. The three-quarter mile section of Upper DeArmoun west of Jeannie is likely to be annex into the Central district next month.

The Canyon district covers Canyon Road, an extension of Upper DeArmoun. This road leads deep into Rabbit Creek Valley and much of this route rises above timberline. High winds and heavy snow also cause special problems in the Canyon area.

The Glen Alps Service Area handles a great deal of park traffic. Two Chugach State Park access routes are in this area. Both Toilsome Hill Drive and Upper DeArmoun-Canyon Road provide direct access to the park. However, park officials do not recognize Upper DeArmoun-Canyon Road as a designated entrance, despite the ever-increasing use of this road for access into the Rabbit Creek Valley area of the park.

Frequently, park traffic far exceeds residential traffic in these areas. As a result, the roads deteriorate faster and residents must bear the burden of additional road maintenance.

Maintenance

Our general maintenance includes a contractor's budget and an intergovernmental budget. The contractor is Edmund Schuster of Upper Glen Alps. His contract has been extended to October 1, 1984. Originally the contractor was responsible for only snow removal, but now his duties have been expanded to include sanding, grading and thawing.

This summer some long-needed repairs were accomplished on some of our roads through a $50,000 state grant. Improvements basically consisted of replacing several culverts, other drainage improvements, additional gravel fill in low spots and improvement of Toilsome Hill Road near a dangerous switchback.

FUTURE IMPROVEMENTS

Major upgrading of Upper DeArmoun from Hillside Drive to View Heights Drive is our top priority for next year. This one-mile section of road has a very poor roadbed in addition to an inadequate drainage system. During the winter season, severe glaciation frequently develops along this route. Any major upgrading would first begin with the replacement of the original roadbed and the construction of drainage ditches.

$875,000 According to Municipal officials and the contractor, a ~~$500,000~~ appropriation would be necessary for the complete re-building of Upper DeArmoun and the elimination of severe glaciation problems. The board believes a major improvement of Upper DeArmoun is long overdue as traffic along this route is rapidly increasing due to new housing in the area and the increase use of this road for access to Chugach State Park.

Perhaps the most extensive long-term project in the service area will be the complete or partial relocation of the road to Upper Glen Alps. As mentioned earlier in this report, the only access to the Upper Glen Alps entrance of Chugach State Park is Toilsome Hill Road. Park traffic on this road is extremely heavy and the parking lot at the Chugach entrance often overfills with over two hundred cars. The road is extremely narrow and steep and accidents are frequent during the winter months.

Although no major work is expected on any relocation project for several years, our Board believes that various

route alternatives should be addressed soon. The relocation of this road could be one of the most extensive road projects undertaken on the Hillside since the upgrading of Rabbit creek Road.

Our Board has found the Municipal Street Maintenance Division helpful and responsive to our special road needs. We appreciate their assistance and willingness to work with us on various problems.

Glen Alps Board of Supervisors

Upper DeArmoun Upgrading
-Glen Alps Service Area-

Testimony Presented to
Municipality of Anchorage
Capital Improvement Projects Meeting
Service High School

October 25, 1983

The Glen Alps Board of Supervisors request that Upper DeArmoun Road be included on the Municipality of Anchorage priority list for Hillside road improvements.

Upper DeArmoun is located within the Glen Alps Service Area, a district that covers over ten miles of roads on the upper Hillside. Major upgrading of Upper DeArmoun from Hillside Drive to View Heights Drive, a one-mile stretch, has been established as the Glen Alps Board of Supervisor's number one capital improvement priority for 1984.

This one-mile section has a very poor roadbed in addition to an inadequate drainage system. During the winter season, severe glaciation frequently develops along this route, causing considerable problems not only for residential traffic, but emergency vehicle and school bus traffic as well.

A rapid increase in residential traffic has developed in the area due to new home construction. Upper DeArmoun also handles a great deal of traffic heading directly to Chugach State Park. This route provides direct access to the Rabbit Creek Valley area of the park in which Rabbit Lake is situated.

At certain times of the year, park traffic exceeds residential traffic in this area. As a result, the road deteriorates faster and residents must bear the burden of additional road maintenance.

The most effective use of capital improvement funds would be for upgrading the roadbed as opposed tc piece-meal capital improvement of a sub-standard road base. The existing roadbed is of extremely poor quality and the situation will only grow worse with increasing use of this route by park visitors and additional residential traffic in years to come.

According to Department of Transportation officials, approximately $850,000 would be necessary for the complete re-building of Upper DeArmoun and the elimination of severe glaciation problems. This figure does not include paving. Although many residents prefer pavement, many would be satisfied with an upgrade to a high standard gravel surface.

We believe upgrading of this road is long overdue. Other Hillside roads providing access to the park have been paved. Several years ago Upper O'Malley was paved, two years ago Upper Huffman was upgraded and paved. The time has now come for upgrading of this route.

The Glen Alps Board of Supervisors urge the Municipality to act in such a manner that would expedite upgrading of Upper DeArmoun.

Thank you.

Upper DeArmoun Upgrading Estimate

Item #1	Cleaning/grubbing	$ 3,000.00
Item #2	excavation of unusable materials	137,500.00
Item #3	Marify	26,000.00
Item #4	Classified fill	417,600.00
Item #5	18" CMP	16,000.00
Item #6	Leveling Course	71,200.00
	Subtotal	$671,300.00
	Engineering & Consulting costs	$203,700.00
	TOTAL ESTIMATE	$875,000.00

Estimates were prepared by Lan Meslow of the Municipality of Anchorage.

Glen Alps contacts: Judy Burtner, 345-1598, Robert Kean, 349-6431, Carl Portman, 345-1807. Brook Wade

SCR

27

Introduced: 5/13/83
Referred: Transportation

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 27 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the designation of three sites for the application of high float emulsion asphalt.

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

WHEREAS a substantial portion of the state's money is spent on the rehabilitation and rebuilding of our highways; and

WHEREAS the present road building techniques are extremely expensive and may not be the most cost effective method for northern climate highways; and

WHEREAS the Yukon Territory Department of Highways and Transportation has had success with a less expensive and more durable surfacing technique known as high float emulsion asphalt; and

WHEREAS the climate and highway demands of Alaska are very similar to the climate and highway demands of the Yukon Territory; and

WHEREAS there are highway surfaces in the Interior region, the Southcentral region, and the Southeast region that are in need of rehabilitation and could therefore be designated as test sites for an alternate surfacing technique;

BE IT RESOLVED by the Alaska State Legislature that the governor is respectfully requested to direct the commissioner of transportation and public facilities to designate a representative site in each of the Interior, the Southcentral and the Southeast regions to be used as a test application site for high float emulsion asphalt; and be it

FURTHER RESOLVED that the Department of Transportation and Public Facilities document the cost effectiveness of the test applications and

engineering and construction considerations

STATE OF ALASKA
FISCAL NOTE

I. REQUEST
Bill/Resolution No.: SR 6/SCR 27
Title: Re. designation of 3 sites/asphalt
Sponsor: Transportation Committee
Requestor: Ray

II. FISCAL DETAIL
Agency Affected: DOT&PF
Program Category Affected: Research
BRU, Program or Subprogram(s) Affected:
Interior Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		8.0	2.5	2.5	2.5	2.5
200 TRAVEL		2.6	.9	.9	.9	.9
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		10.6	3.4	3.4	3.4	3.4
CAPITAL		80.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		90.6	3.4	3.4	3.4	3.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Billy Connor
Phone: 479-2281
Division: Research
Date: 5/17/83

Approved by Commissioner: H. Glenzer, Jr.
Date: 5/17/83
Department: DOT&PF

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV ANALYSIS

Operating Funds

FY 84

100 personal services		
2 researchers 10 days $800/day		$ 8,000
200 travel		
1 trip to Haines	$1,600	
1 trip to Soldotna	1,000	
		2,600
TOTAL FY 84		$10,600

FY85-88

1 trip to each location

100 personal services	$ 2,500
200 travel	850
TOTAL	$ 3,350

Estimate of Costs

Central		
Asphalt: 35 X $250	$8,750	
Aggregate: 328 X $12	3,940	
Reconditioning:	7,920	
Subtotal		$20,610
Interior		
Asphalt: 35 X $250	8,750	
Aggregate: 328 X $18	5,900	
Reconditioning:	7,920	
Subtotal		$22,570
SE		
Asphalt: 35 X $250	8,750	
Aggregate: 328 X $18	5,900	
Reconditioning:	7,920	
Subtotal		$22,570
		$65,750
20% mobilization		13,150
TOTAL		$78,900

STATE OF ALASKA
FISCAL NOTE

I. REQUEST

Bill/Resolution No.: SR 6/SCR 27
Title: Re. designation of 3 sites/asphalt
Sponsor: Transportation Committee
Requestor: Ray

II. FISCAL DETAIL

Agency Affected: DOT&PF
Program Category Affected: Research
BRU, Program or Subprogram(s) Affected: Interior Region

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		8.0	2.5	2.5	2.5	2.5
200 TRAVEL		2.6	.9	.9	.9	.9
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		10.6	3.4	3.4	3.4	3.4
CAPITAL		80.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		90.6	3.4	3.4	3.4	3.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Billy Connor
Phone: 479-2281
Division: Research
Date: 5/17/83

Approved by Commissioner: H. Glenzer, Jr.
Date: 5/17/83
Department: DOT&PF

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Copy to Requestor (if different from Sponsor)

3/8/83

IV ANALYSIS

Operating Funds

FY 84

100 personal services		
2 researchers 10 days $800/day		$ 8,000
200 travel		
1 trip to Haines	$1,600	
1 trip to Soldotna	1,000	
		2,600
TOTAL FY 84		$10,600

FY85-88

1 trip to each location

100 personal services	$ 2,500
200 travel	850
TOTAL	$ 3,350

Estimate of Costs

Central		
Asphalt: 35 X $250	$8,750	
Aggregate: 328 X $12	3,940	
Reconditioning:	7,920	
Subtotal		$20,610
Interior		
Asphalt: 35 X $250	8,750	
Aggregate: 328 X $18	5,900	
Reconditioning:	7,920	
Subtotal		$22,570
SE		
Asphalt: 35 X $250	8,750	
Aggregate: 328 X $18	5,900	
Reconditioning:	7,920	
Subtotal		$22,570
		$65,750
20% mobilization		13,150
TOTAL		$78,900

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P. O. BOX 1467
JUNEAU, ALASKA 99802

April 29, 1983

RE: Meeting with Yukon Territory Highway and Transportation Officials

FILE: 1302



Honorable Randy E. Phillips
Representative
Alaska State Legislature
Transportation Committee
Pouch V
Juneau, AK 99811

THROUGH: Fred Seeger, Deputy Commissioner

Dear Representative Phillips:

Attached for your information is a copy of the trip report by Department representatives who visited Yukon Territory highway officials on April 21 and April 22, 1983.

Although I was originally scheduled to make the trip, I was unable to go for medical reasons. I have talked to Mr. Larry Blackman in Whitehorse over the telephone several times. We have extended to him the courtesy of reciprocating information exchange trips whenever he sees the need. In fact, since the meeting in Whitehorse, Mr. Blackman has asked for copies of our truck size and weight statutes and regulations. Apparently, they intend to require the same limitations on the Canadian portion of the Klondike Highway from Whitehorse to Skagway that we do.

In regard to the High Float Emulsion Surface treatments that were investigated during the trip, I have also spoken to Mr. Tom Neunaber of the local Federal Highway Administration and Mr. Coley Wycoff of Chevron, USA.

Mr. Neunaber was one of the FHWA representative on the "Shakwak" project on which the Alaska Highway in Canada is being upgraded and surfaced. He has personal experience with High Float emulsion surface treatments that were done on the highway by contractor forces. He has a slide show which reveals many of the "tricks of the trade" in placing this material.

After viewing these slides as narrated by Mr. Neunaber, I am convinced that we could place this material successfully if we can utilize his experience and/or

that of Yukon Territory representatives to get the contractor started off right.

Mr. Wycoff is somewhat skeptical of our chances of success with this material. He stated that Chevron made High Float emulsion several years ago. This practice was discontinued because of the lack of success with it. He also cites several failures with it in British Columbia and claims that they have discontinued its use in favor of a cationic medium-set emulsion (CMS) which has given excellent results.

I think that one of the keys to success with High Float emulsion may be strict compliance to temperature and weather limitations and a knowledge of the "do's" and "don'ts" in placing the material. Another is experience, which is pointed out in the report.

My recommendation would be that we try two projects in different Regions with the High Float emulsion and a CMS emulsion for comparison. We are arranging to have Mr. Wycoff travel to Juneau and Fairbanks to discuss his product now.

As a final note, Mr. Neunaber's slides and the on-site inspection confirm the fact that many of the road sections in the Yukon where High Float emulsion was used have very shallow side ditches. Some are on the order of one foot or less. Our standards require a minimum of a three-foot ditch which would provide vastly improved drainage. Hardly anything is worse for a paved surface than water in the subgrade, so we should have some advantage in this respect.

Sincerely,

John J. Simpson, Acting Director
Standards and Technical Services Division

cc: Fred Seeger, Deputy Commissioner, Standards and Statewide Programs
Jon Scribner, Acting Deputy Commissioner, Southeast Region
H. Glen Glenzer, Deputy Commissioner, Interior Region
Dave Haugen, Deputy Commissioner, Central Region
Ray Miller, Materials Engineer, Southeast Region
Paul Misterek, Materials Engineer, Interior Region
Ben Harding, Special Staff Assistant, Office of the Governor
Emil Notti, Legislative Liaison, Office of the Governor
Representative Mitch Abood
Representative Bob Bettisworth
Representative Bette Cato
Representative Milo Fritz
Senator Don Gilman
Representative Niilo Koponen
Representative Jack McBride
Senator Pappy Moss
Representative Richard Schultz

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities
SOUTHEASTERN REGION

TO: John Simpson
Director, S & TS
Southeastern Region

DATE: April 26, 1983

FILE NO: 244E-1802

TELEPHONE NO. (907) 789-0841, Ext. 215
(907) 452-1911

FROM: Ray D. Miller
Materials Engineer
Southeastern Region

Paul Misterek
Materials Engineer
Southeastern Region

SUBJECT: Surface Treatments, Yukon Territory

Presented, herewith, are the observations made by the writers during their April 21 and 22 visit to Whitehorse, Yukon Territory, the purpose of which was to meet with officials of the Yukon Department of Highways and Transportation and discuss primarily their use of High Float Emulsion Asphalt with well graded aggregate on surface treatments.

A meeting was held in the office of the Department of Highways and Transportation at Whitehorse on the afternoon of April 21, 1983. Those in attendance were:

L.W. Blackman, P.E. Deputy Minister, Yukon Territory
Colin Farr, Director of Highways, Yukon Territory
Raymond Magnuson, Manager of Maintenance Branch, Yukon Territory
Ray Miller, Alaska Department of Transportation
Paul Misterek, Alaska Department of Transportation

The meeting was very cordial and discussion centered around Yukon Territory's use of High Float Emulsion Surface Treatments, typical projects where used, problems associated with and possible avoidance of same. A schedule was set up for the following day to visit typical projects where this type surface treatment has been used. Following is a summary of observations noted during the discussion and site visits:

I. DESCRIPTION OF PROCESS

High float (HF) is a medium setting anionic emulsion that has a quality imparted by the addition of certain chemicals that prevent the emulsion from breaking immediately on contact with the aggregate. The surface treatment reacts to surface rolling by allowing the emulsion to migrate within the aggregate. While the regular asphalts have a tendency to flow, or migrate, at 60° C (140° the high floats are designed to stay in place up to 70° C (160° F). As a result, the HF residues are less susceptible to changes in temperature and are harder in the summer and do not harden as much in the winter. The high content of petroleum solvent enables the HF

to penetrate through a heavy application of sand and gravel. Consequently, the final surface may be many stones thick while it provides the advantage of resisting flushing or bleeding better than a standard emulsion.

The fact that HF emulsions set up a slower rate can be a disadvantage when it is necessary to get the road back into service as soon as possible, such as in the case on major highways.

While HF asphalts are being used for the treatment of a large number of roads in areas of scattered populations with low traffic volumes, there is a general feeling within the industry that they are not adequate for Bituminous Surface Treatment's carrying high traffic volumes on major main roads.

II. TYPICAL USES BY YUKON TERRITORY

1. The process is used as an interim surfacing on new construction where the subgrade has been reconstructed to current standards

2. The application is used with minimal upgrading of the existing roadway where traffic volume does not warrant a higher level of surfacing, such as pavement. Generally a base course is placed prior to application of the surface treatment.

3. It is used as a substitution for other dust palliatives until reconstruction. The treatment is applied on the existing surface materials, which have been reshaped and re-compacted.

It should be noted that this application has not been placed over existing pavement, but this is being contemplated, using a smaller size (½ inch minus) aggregate.

III. COST ESTIMATES

During the 1982 season, Yukon Territory incurred costs of $22,500* (Canadian) for surface treatments with a twenty-six foot width. This includes costs for labor, equipment, and materials and utilizing their own forces. It does not include any base preparation costs.

During 1981, Public Works of Canada awarded contracts for work of this type. Costs were approximately 25 percent higher than those incurred using their own forces. This higher cost recognizes the risk factor, as well as the fact that the State forces worked continuously on the same type of work all season and gained a high degree of proficiency.

*Cost per mile in length

IV. DESIGN CONSIDERATIONS

1. Yukon Territory officials consider this treatment to have a five year life expectancy, although in low traffic problem areas over a good base, a longer use period is anticipated.

2. A four percent crown is recommended. Experience in Yukon Territory has shown that the texture of the surface slows drainage, and the greater crown is desirable, especially at near-freezing temperatures.

3. Yukon Territory does not use a prime coat, but officials there feel it would be beneficial, especially for maintaining a surface prior to application of the treatment.

4. Gradation of the surfacing aggregate used by Yukon Territory approximates our Base Course D-1 specification, and it is felt that this gradation could be used.

5. The surfacing aggregate should be slightly moist at the time of application. Specifications should require moisture content of two percent minimum to four percent maximum.

6. Only emulsified asphalt of grade HF-350S has been used by Yukon Territory. For initial projects, specifications should be developed using that grade of asphalt or a product very similar.

7. Weather limitations noted in the example specifications from Yukon Territory should be strictly enforced. Yukon Territory officials credit this with their high success rate. During adverse or marginal weather, the crew can be diverted to advance preparation activities such as aggregate stockpiling. A copy of the Canadian specifications are attached for your information.

8. Application rates found to be desirable are:

Asphalt	0.50 gal./sq. yd.
Aggregate	40 lb./sq. yd. max.

It has been found that too much aggregate can have an adverse effect on the product.

V. CONSTRUCTION TECHNIQUES

1. Experienced personnel are mandatory for a high degree of success. Mr. Blackman emphasized that he felt that surfacing treatment is 80 percent art and 20 percent science.

2. Adequate equipment is essential. Yukon Territory has new equipment with duplication to assure a continuous operation (i.e., two distributors, adequate trucks, etc.)

3. Specifications regarding traffic control and opening of the newly constructed roadway to traffic should be strictly observed.

Initially, Yukon Territory crews placed approximately two miles of 26 foot width surface treatment per day. As the techniques improved this increased to a maximum of approximately ten miles of 26 foot width under very good conditions.

VI. PERFORMANCE AND MAINTENANCE EVALUATION

1. During 1982, Yukon Territory incurred costs of $6000 per kilometer without the surfacing and $4000 per kilometer with the treatment for maintaining roadway sections.

2. Maintenance of the surface is critical. Small holes must be patched as they develop. Asphalt emulsion and chips can be used, but a cold mix is preferable for small areas and potholes.

3. The surface texture is rougher than normal pavement or a two coat surface treatment. At regular highway speeds, there is a noticeable increase in noise level and a somewhat rougher ride, however, not so much as to be objectionable. At reduced speeds, neither is noticeable.

Traffic tends to knead the aggregate and with time produces a tight compact surface.

4. Most of the surface treatments observed during this visit were relatively new in age, that is, less than five years old. Conditions varied from excellent to poor with poor subgrade and inadequate drainage most likely a contributing factor in those areas appearing less than acceptable. Again, as stated in the Design Considerations, this process is interim in nature and life expectancy is five years.

VII. SUMMARY

Yukon Territory will have projects under construction adjacent to the Alaska border on the Klondike and Alaska Highways. It is recommended that personnel of Alaska Department of Transportation involved in design, construction, and maintenance should be allowed to observe these projects. A copy of Yukon's surface treatment schedule is attached.

It is recommended that a project should be designed and constructed using this process in Alaska. The initial project should be monitored and necessary revisions made to project specifications prior to proceeding with additional contracts. The Interior Region has tentatively selected a road project; Southeast might consider its use on a small airport, possibly Haines or Skagway.

Yukon officials have expressed an interest in our adoption of this surfacing method and may be available to advise us during construction and it is recommended they be extended an invitation to participate.

Also, it should be noted that discussions with Chevron Asphalt Company (USA) have indicated that Anionic Emulsified Asphalt products are not now available nor have they been available for quite some time (± 15 years). Consequently, the HF350S may be difficult to obtain in the United States.

The visit, we believe, will prove very beneficial to both Yukon and Alaska as many items of mutual interest were discussed. The communication door is now open and a closer association between the two departments will provide both with the opportunity to exchange ideas in the field of highway design, construction and maintenance. Should you have any further questions regarding this process, please feel free to contact Mr. Misterek or Mr. Miller.

RDM/PM/cln

Attachments: As stated

cc: Charles Matlock
Director/S.E. Region
Design & Construction

Steve Sisk
Director/Interior Region
Design & Construction

PART 1 - GENERAL

1.1 Description

.1 This section specifies requirements for applying sin application of emulsified asphalt and aggregate to a granular base in accordance with these specification

1.2 Related Work Specified Elsewhere

.1 Weight Scales: Section HC01155
.2 Aggregates - General: Section HC02225
.3 Granular Base: Section HC02229

1.3 Samples

.1 Submit to Engineer following material samples at lea 4 weeks prior to commencement of work:

.1 10 kg of aggregate

.2 Two 4 litres plastic containers of Asphalt Mater

1.4 Measurement for Payment

.1 Asphalt Surface Treatment Aggregate - Production, Hauling and Application: To be measured in tonnes of material incorporated into work.

.2 Asphalt Surface Treatment Aggregate - Hauling and Application: To be measured in tonnes of material incorporated into work.

.3 Asphalt Material: To be measured in litres at 15 deg. C., supply and delivery according to Prime Cost Sum (General Instructions, Section 01015, Article 13). Application will be paid for in litres separately under applicable Unit Price Item.

PART 2 - PRODUCTS

2.1 Materials

.1 Asphalt Material: To CGSB 16-GP-5M grade MF-350S. Transported, stored and handled in accordance with Asphalt Institute Publication CL-21.

.2 Aggregates:

.1 General Requirements: Crushed stone or gravel, clean, tough, durable fragements, free from an excess of flat, elongated, soft or disintegrate pieces and free from stone coated with dirt or other objectionable matter. Flat and elongated particles are those whose greatest dimension exceeds four times their least dimension

PART 2 - PRODUCTS CONT'D

2.1 Materials (Cont'd)

.2 Aggregates: (Cont'd)

.2 Physical Properties:

AGGREGATE GRADING

Sieve Size		% Passing by Ma
ASTM	METRIC EQUIVALENT	
3/4 inch	19.0 mm	100
1/2 inch	12.7 mm	65 - 90
3/8 inch	9.51 mm	55 - 80
No. 4	4.76 mm	35 - 55
No. 10	2.00 mm	15 - 35
No. 40	0.420 mm	5 - 20
No. 200	0.074 mm	0 - 5

.3 Los Angeles Abrasion AASHTO T96-70: Max. loss by mass 45%.

.4 Crushed fragments: Material reta on No. 4 (4.760 mm) sieve to have least 1 fractured face: percent by weight 60.

.5 Thin and elongated particles: max mass 5%.

PART 3 - EXECUTION

3.1 Equipment

.1 Pressure distributor:

.1 Distributor to be so designed, equipp maintained, and operated that asphalt material at even heat may be applied uniformly on variable widths of surfac to 5 m at readily determined and contr led rates from 0.3 to 5.5 litres per square metre, with uniform pressure, a

PART 3 - EXECUTION (CONT'D)

3.1 Equipment (Cont'd)

.1 Cont'd

.2 Capable of distributing asphalt material in a uniform spray without atomization at rate specified and at temperature require

.3 Equipped with a tachometer registering metres per minute visibly located enablin truck driver to maintain constant speed required for application at specified rat

.4 Pump equipped with a tachometer registeri litres per minute passing through nozzles and readily visible to operator. Pump to operate by a separate power unit indep endent of truck power unit. Have full circulating system that includes spray ba

.5 Equipped with an easily read, accurate an sensitive device which registers tempera- ture of liquid in reservoir. Equipped with heating system to bring emulsion to proper spray application temperature.

.2 Mechanical aggregate spreader: A self-propelled unit of approved design, supported t at least four wheels equipped with pneumatic tires on two axles. Aggregate spreader to be equipped with positive controls so that requir amount of material will be deposited uniform over full width of asphalt material.

.3 Rollers: Self-propelled pneumatic tired rolle weighing not less than 11 tonnes, equipped wit not less than seven wheels staggered back and front, and tires inflated to 415 kPa.

.4 Power Broom: Self-propelled pneumatic tired unit, capable of vertical and horizontal angular adjustment.

3.2 Preparation

.1 Grade granular base to specified grade and cross-section. Blade smooth, and compact. Remove foreign material as necessary immediately before asphalt binder is applied.

3.3 Application

.1 Apply treatment only when existing surface is slightly damp, when atmospheric temperature in shade is above 10 deg. C and rising or about 15 deg C if falling, and when weather is not foggy or rainy. Apply light spray application of water to surface before treatment when requested by Engineer.

.2 Schedule work to approval of Engineer. If directed, treat one lane at a time.

.3 Spread a protective covering of building paper or other acceptable material over width of surface, and for a sufficient distance back so that spraying nozzles are fully operative when surface to be treated is reached.

.4 Apply materials within following ranges. Engineer will direct quantities of asphalt material and aggregate to be supplied.

.1 Single Surface Treatment:

Asphalt binder, litres per square metre	2.77 to 3.75
Kg. of aggregate per square metre	~~34.0~~ 46.0 to ~~59.0~~

Note: 40 Kg/m² worked in very well. JA

.5 Apply liquid asphalt at spraying temperature specified in applicable CGSB standard for grade used and at rate specified per square metre using approved pressure distributor.

3.3 Application (Cont'd)

.6 Remove used protective covering and dispose of by acceptable means.

.7 Apply aggregate immediately following applicat of asphalt material. Apply no more aggregate than can be thoroughly incorporated into and absorbed by asphalt. Local areas of excess asphalt to be spread uniformly by hand or remo prior to aggregate application. Aggregate to be applied at a rate and manner that shall min mize the displacement of asphalt material.

.8 Rates of application of asphalt and aggregate will be adjusted by Engineer, if needed, durin course of work.

.9 Apply aggregate in such a manner that tires of approved aggregate spreader at no time contact uncovered and newly applied asphalt material.

.10 Immediately after aggregate is spread, cover any deficient areas with additional material.

.11 Roll immediately after aggregate is spread, making at least 6 passes with pneumatic tired roller, until cover material is tied, or to approval of Engineer.

.12 After completing rolling, lightly broom or otherwise maintain as directed for a period of 4 days. Maintenance to include distribution o aggregate, to absorb free asphalt and to cover any areas deficient in aggregate material. Repair to satisfaction of Engineer areas of improper or deficient surface treatment produc

.13 Conduct maintenance in manner not to displace imbedded material. Sweep loose material from entire surface by rotary brooms at time determined by Engineer.

3.4 Traffic Control

.1 Direct traffic through project with warning signs, flaggersons and pilot truck in a manner that provides maximum safety for workman and least interruption of work.

.2 Keep traffic off freshly sprayed asphalt.

.3 If necessary to route traffic over new treatment, restrict speed to 10 km/h or less, until rolling is completed and asphalt has taken initial set.

.4 After initial set, restrict traffic to 40 km/h or less, until Engineer directs end of traffic control.

1983 - 84 B.S.T. SCHEDULE

PLACE	DATE
Watson Lake - km 1045.9 - 1055	June 1st - 4th
Swift River - km 1203 - 1240	June 7th - 17th
Teslin - km 1265 - 1273	June 20th - 21st
Beaver Creek - km 1886 - 1968.7	June 28th - July 22nd
Teslin - km 1293 - 1308	Aug. 23rd - 26th
Patching - Alaska Highway	July 23rd - 29th

Capital Projects

Klondike Hwy. - km 146 - 159 (Skagway Road)	June 22nd - 24th
Klondike Hwy. - km 701 - 716 (Dawson)	Aug. 1st - 5th
Stewart Crossing - 1 km	Aug. 8th
Pelly - 1 km	Aug. 9th
Carmacks - km 308 - 346	Aug. 10th - 22nd

Resurfacing

Swift River	April 26th - May 27th
Beaver Creek	April 26th - June 24th
Mule Creek	June 27th - July 22th
Carcross	June 27th - July 15th
Carmacks	July 18th - Aug. 5th
Dawson	June 6th - July 15th
Stewart/Mayo	July 18th - Aug. 30th
Dempster (4-1 HC)	June 1st - Sept. 30th

PART ONE:

UNDERSTANDING ASPHALT EMULSIONS

CHAPTER I

INTRODUCTION

1.01 BASIC TYPES OF PAVING ASPHALTS

Virtually all asphalts used in the United States are products of the distillation of crude petroleum. Asphalt is produced in a variety of types and grades ranging from hard and brittle solids to almost water-thin liquids. Asphalt cement is the basis of all of these products. It can be made fluid for construction uses by heating, by adding a solvent, or by emulsifying it. When a petroleum solvent, such as naphtha or kerosene, is added to the base asphalt to make it fluid, the product is called a cutback. When asphalt is broken into minute particles and dispersed in water with an emulsifier it becomes an asphalt emulsion. The tiny droplets of asphalt remain uniformly suspended until the emulsion is used for its intended purpose.

When combined with a cutback, the asphalt is dissolved in the liquefying agent. In an emulsion, an electrochemical action keeps the particles in suspension in the liquid phase. When either type is used in the field, the liquefying agent evaporates. In the case of the emulsion, the remaining chemicals combine with the base asphalt to enhance its properties so it will perform its functions of cementing and waterproofing.

1.02 ASPHALT EMULSION IN THE PAST

The use of asphalt emulsions for road construction and maintenance is not new. Emulsions were first developed in the early 1900s. It was not until the 1920s, however, that emulsions, as we know them today, came into being. Their early use was confined largely to spray applications and use as a dust palliative. The growth in the use of asphalt emulsions was relatively slow. It was limited by the types available and a lack of knowledge as to how they should be used. Continuing development of new types and grades, coupled with improved construction equipment and practices, now gives a broad range of choices, with which virtually any roadway requirement can be met. Judicious selection and use can yield significant economic benefits.

Use records reveal a slow but steady increase in the amount of emulsions used between 1930 and the mid 1950s. Following World War II, traffic loads and volumes increased so much that roadway designers began to curtail the use of these materials. Instead, they specified high-type hot plant mixes requiring the use of asphalt cement. While the volume of asphalt cement used has shown a rapid increase since 1955, the combined use of other asphalt products has remained almost constant. But one interesting trend is worthy of note—there has been a steady rise in the volume of asphalt emulsions used.

The major uses of asphalt emulsion in the United States are:

— Surface treatments

— Patching and thin overlays

— Stabilization

— Slurry sealing

Asphalt emulsions also are used in base and surface course mixes.

In the past few years several factors have contributed to a nationwide interest in the use of asphalt emulsions, namely:

— The energy crisis of the early 1970s that prompted conservation measures by the Federal Energy Administration. Asphalt emulsion does not require a petroleum solvent to make it liquid. (However, some medium-setting grades contain limited amounts of solvent to enhance mixing qualities.) Also, asphalt emulsion can be used (in most cases) without additional heat. Both of these contribute to energy savings.

— Reduced atmospheric pollution. There are little or no hydrocarbon emissions from asphalt emulsions.

— The ability of certain types of asphalt emulsion to coat damp aggregate surfaces, which is another energy saving feature.

— Availability of a greater number of emulsion types, coupled with improved laboratory procedures, to satisfy design and construction requirements.

— Potential cost savings by the use of less fuel.

Two major environmental factors—energy conservation and atmospheric pollution—caused grave concern and a realization that some type of Federal action was needed. Our nation suddenly became aware that energy needs soon could exceed supply unless conservation laws were enacted promptly. In one of the early actions, the Federal Highway Administration issued FHWA Notices N5080.2 and N5080.5, respectively. These notices directed attention to fuel savings that can be realized by using asphalt emulsions instead of cutback asphalts. They estimated that a huge amount of petroleum solvents could be saved annually by such substitution. While the substitution was not mandatory, it was strongly suggested that it be considered. At that time at least 42 states were substituting, or allowing the substitution of, asphalt emulsions for other types of asphalts. It is probable that the number of agencies permitting this substitution has increased since that time.

1.03 LOOKING AHEAD

Despite conservation pressures, the demand for energy-related materials—especially asphalts — will remain. An American Association of State Highway and Transportation Officials (AASHTO) survey has revealed that the United States has about 3.8 million miles (6.1 million km) in the roadway network. The survey also showed that of the 1.8 million miles (2.9 million km) of paved highways, about 93 percent have asphalt paved surfaces. A 1977 survey made by the Federal Highway Administration estimated that 285,000 miles (459,000 km) of highways and streets needed resurfacing. Another 140,000 miles (225,000 km) needed widening, and almost 500,000 miles (805,000 km) required either reconstruction or widening. In addition, most of the remaining 2 million miles (3.2 million km) were in need of some type of improvement. Any attempt to meet these highway needs will require a large amount of energy-related paving materials.

The number of registered vehicles and number of licensed drivers have shown a sharp increase yearly for the past 30 years. Highway planners predict that by 1990 we will have 170 million vehicles on the highways. There will be 161 million licensed drivers—85 percent of everyone over 15 years of age. Thus the need for an extensive and well-maintained roadway network will remain high, and the demand for asphalt materials will remain correspondingly high. Yet, at the

same time, every attempt should be made toward energy conservation. The forecast, therefore, is for a sharp increase in the use of asphalt emulsions.

A clear understanding of the "why and how" of using asphalt emulsions offers a promise of reduced energy consumption and less atmospheric pollution. The proper use of these materials can result in high performance pavements and thrifty, but versatile, maintenance systems. This manual is directed toward those ends.

As an aid in understanding technical terms that may not be familiar, a glossary is provided as Appendix A.

CHAPTER II

THE CHEMISTRY OF ASPHALT EMULSIONS

A. GENERAL

2.01 EMULSIONS

There are many types of emulsion products that we use in our daily lives. Some of the more common are mayonnaise, paints, hair dyes [illegible]e cream. In each case, certain mechanical and chemical processes are involved that permit the combining of two or more materials that, under normal conditions, will not mix. An entire scientific field is devoted to the study of emulsification. You don't have to understand how an internal combustion engine works to operate an automobile. Neither do you have to understand complex emulsion chemistry to obtain high quality results with asphalt emulsion. The key is to select the right emulsion for the aggregate and construction system involved. Throughout this text when the term "emulsion" is used it is intended to mean "asphalt emulsion."

2.02 COMPOSITION OF ASPHALT EMULSIONS

An asphalt emulsion consists of three basic ingredients: asphalt, water, and an emulsifying agent. On some occasions the emulsifying agent may contain a stabilizer.

It is well known that water and asphalt will not mix, except under carefully controlled conditions using highly specialized equipment and chemical additives. The blending of asphalt cement and water is somewhat akin to an auto mechanic trying to wash grease from his hands with water only. It is not until a detergent or soapy agent of some type is used that grease can be successfully removed. The soap particles surround the globules of grease, break the surface tension that holds them, and allow them to be washed away. Some of the same physical and chemical principles apply in the formulation, production, and use of asphalt emulsion.

The object is to make a dispersion of the asphalt cement in water, stable enough for pumping, prolonged storage, and mixing. Furthermore, the emulsion should break down quickly after contact with aggregate in a mixer, or after spraying on the roadbed. Upon curing, the residual asphalt retains all of the adhesive, durability, and water-resistant properties of the asphalt cement from which it was produced.

2.03 CLASSIFICATION

Asphalt emulsions are divided into three categories: anionic, cationic, and nonionic. In practice, the first two types are ordinarily used in roadway construction and maintenance. Nonionics, however, may be more widely used as emulsion technology advances. The anionic and cationic classes refer to the electrical charges surrounding the asphalt particles. This identification system stems from one of the basic laws of electricity — like charges repel one another and unlike charges attract. When two poles (an anode and a cathode) are immersed in a liquid and an electric current is passed through, the anode becomes positively charged and the cathode becomes negatively charged. If a current is passed through an emulsion containing negatively charged particles of asphalt they will migrate to the anode. Hence, the emulsion is

referred to as anionic. Conversely, positively charged asphalt particles will move to the cathode and the emulsion is known as cationic. With nonionic emulsions, the asphalt particles are neutral and, therefore, do not migrate to either pole.

Emulsions are further classified on the basis of how quickly the asphalt will coalesce; i.e., revert to asphalt cement. The terms RS, MS, and SS have been adopted to simplify and standardize this classification. They are relative terms only and mean rapid-setting, medium-setting, and slow-setting. The tendency to coalesce is closely related to the mixing of an emulsion. An RS emulsion has little or no ability to mix with an aggregate, an MS emulsion is expected to mix with coarse but not fine aggregate, and an SS emulsion is designed to mix with fine aggregate.

The emulsions are further subdivided by a series of numbers related to viscosity of the emulsions and hardness of the base asphalt cements. The letter "C" in front of the emulsion type denotes cationic. The absence of the "C" denotes anionic or nonionic. For example, RS-1 is anionic or nonionic and CRS-1 is cationic.

Three grades of high-float medium-setting anionic emulsions, designated HFMS, have been added to standard ASTM specifications. These grades are used primarily in cold and hot plant mixes, coarse aggregate seal coats, and road mixes. High float emulsions have a specific quality that permits a thicker film coating without danger of runoff.

A quick-set type of emulsion (QS) has been developed for slurry seals. Its use is rapidly increasing as the unique quick-setting property solves one of the major problems associated with the use of slurry seals.

Standard specifications for quick-set emulsions are under development. Additionally, some emulsions are made with the water dispersed in asphalt, usually a cutback. As these so-called "inverted emulsions" are seldom used, they are not discussed at all.

2.04 SPECIFICATIONS

AASHTO and ASTM have developed standard specifications for the following grades of emulsions:

EMULSIFIED ASPHALT	CATIONIC EMULSIFIED ASPHALT
RS-1	CRS-1
RS-2	CRS-2
MS-1	—
MS-2	CMS-2
MS-2h	CMS-2h
HFMS-1	—
HFMS-2	—
HFMS-2h	—
SS-1	CSS-1
SS-1h	CSS-1h

The "h" that follows certain grades simply means that a harder base asphalt is used. The "HF" preceding some of the MS grades indicates high-float, as measured by the Float Test (AASHTO T 50 or ASTM D 139). High-float emulsions have a quality, imparted by the addition of certain chemicals, that permits a thicker asphalt film on the aggregate particles with minimum probability of drainage. Some user agencies specify an additional cationic sand-mixing grade designated CMS-2s, which contains more solvent than other cationic grades. All grades in this lengthy list of emulsions cannot be stocked by most producers. Communication and planning between user and producer helps facilitate service and supply of a given grade.

The specifications for emulsified asphalts (AASHTO M 140 and ASTM D 977) make no mention of a solvent in the emulsion. CRS- and CMS- cationic emulsion specifications (AASHTO M 208, ASTM D 2397), on the other hand, permit solvent but restrict the amount.

General guidelines for use as contained in "Standard Practice for Selection and Use of Emulsified Asphalts," ASTM D 3628, are given in Table V-1, Chapter V. Standard specifications for emulsified asphalts carry AASHTO Designations M 140 and M 208 and ASTM Designations D 977 and D 2397. For convenience, the basic requirements of these specifications are given in Tables II-1 and II-2.

2.05 VARIABLES AFFECTING ASPHALT EMULSION

There are many factors that affect the production, storage, use, and performance of an asphalt emulsion. It would be hard to single out any one as being most significant. But, among the variables having a significant effect are:

- Chemical properties of the base asphalt cement
- Hardness and quantity of the base asphalt cement
- Asphalt particle size in the emulsion
- Type and concentration of the emulsifying agent
- Manufacturing conditions such as temperatures, pressures, and shear
- The ionic charge on the emulsion particles
- The order of addition of the ingredients
- The type of equipment used in manufacturing the emulsion
- The property of the emulsifying agent
- The addition of chemical modifiers.

The above factors can be varied to suit the available aggregates or to suit construction conditions. It is always advisable to consult the emulsion supplier with respect to a particular asphalt-aggregate combination as there are few absolute rules that will work the same under all conditions. Therefore, making asphalt emulsions appears to be a combination of art and science.

An examination of the three main constituents—asphalt, water, and emulsifier—is essential to an understanding of why asphalt emulsions work as they do.

B. EMULSION INGREDIENTS

2.06 ASPHALT

Asphalt cement is the basic ingredient of asphalt emulsion and, in most cases, it makes up from 55 to 70 percent of the emulsion. Tables II-1 and II-2 show the asphalt content specified for various types of emulsions.

Because asphalt cement is such a complex material, only those properties that significantly affect emulsions are discussed. There is not an exact correlation, however, between the properties and the ease with which the asphalt can be emulsified. Although hardness of base asphalt cements may be varied as desired, most emulsions are made with asphalts in the 100—250 penetration range. On occasion, climatic conditions may dictate that a harder or softer base asphalt be used. In any case, compatibility of the emulsifying agent with the asphalt cement is essential for production of a stable emulsion.

Asphalt is a colloid composed of several fractions, the major ones being asphaltenes and maltenes. The colloidal make-up of the asphalt depends on the chemical nature and percentage of these fractions and their relationship to each other.

TABLE II-1 REQUIREMENTS AND TYPICAL APPLICATIONS FOR EMULSIFIED ASPHALT

Type	Rapid-Setting				Medium-Setting						Medium-Setting						Slow-Setting			
	RS-1		RS-2		MS-1		MS-2		MS-2h		HFMS-1		HFMS-2		HFMS-2h		SS-1		SS-1h	
Grade	min	max	min	max	min	max	min	max	min	max	min	max	min	max	min	max	min	max	min	max
Tests on emulsions:																				
Viscosity, Saybolt Furol at 77°F (25°C), s	20	100			20	100	100		100		20	100	100		100		20	100	20	100
Viscosity, Saybolt Furol at 122°F (50°C), s			75	400																
Settlement,[a] 5-day, %		5		5		5		5		5		5		5		5		5		5
Storage stability test,[b] 24-h, %		1		1		1		1		1		1		1		1		1		1
Demulsibility,[c] 35 ml, 0.02 *N* $CaCl_2$, %	60		60																	
Coating ability and water resistance:																				
Coating, dry aggregate					good		good		good		good		good		good					
Coating, after spraying					fair		fair		fair		fair		fair		fair					
Coating, wet aggregate					fair		fair		fair		fair		fair		fair					
Coating, after spraying					fair		fair		fair		fair		fair		fair					
Cement mixing test, %																		2.0		2.0
Sieve test, %		0.10		0.10		0.10		0.10		0.10		0.10		0.10		0.10		0.10		0.10
Residue by distillation, %	55		63		55		65		65		55		65		65		57		57	
Tests on residue from distillation test:																				
Penetration, 77°F (25°C), 100 g, 5 s	100	200	100	200	100	200	100	200	40	90	100	200	100	200	40	90	100	200	40	90
Ductility, 77°F, (25°C), 5 cm/min, cm	40		40		40		40		40		40		40		40		40		40	
Solubility in trichloroethylene, %	97.5		97.5		97.5		97.5		97.5		97.5		97.5		97.5		97.5		97.5	
Float test, 140°F (60°C), s											1200		1200		1200					
Typical applications[d]	surface treatment, penetration macadam, sand seal coat, tack coat, mulch		surface treatment, penetration macadam, coarse aggregate seal coat (single and multiple)		cold plant mix, road mix, sand seal coat, crack treatment, tack coat		cold plant mix, coarse aggregate seal coat (single and multiple), crack treatment, road mix, tack coat, sand seal coat		cold plant mix, hot plant mix, coarse aggregate seal coat (single and multiple), crack treatment, road mix, tack coat		cold plant mix, road mix, sand seal coat, crack treatment, tack coat		cold plant mix, coarse aggregate seal coat (single and multiple), crack treatment road mix, tack coat, and seal		cold plant mix, hot plant mix, coarse aggregate seal coat (single and multiple), crack treatment road mix, tack coat		cold plant mix, road mix, slurry seal coat, tack coat, fog seal, dust layer, mulch			

[a] The test requirement for settlement may be waived when the emulsified asphalt is used in less than 5 days time; or the purchaser may require that the settlement test be run from the time the sample is received until the emulsified asphalt is used, if the elapsed time is less than 5 days.

[b] The 24-h storage stability test may be used instead of the 5-day settlement test.

[c] The demulsibility test shall be made within 30 days from date of shipment.

[d] These typical applications are for use only as a guide for selecting and using the emulsion for pavement construction and maintenance.

The American Society for Testing and Materials takes no position respecting the validity of any patent rights asserted in connection with any item mentioned in this standard. Users of this standard are expressly advised that determination of the validity of any such patent rights, and the risk of infringement of such rights, is entirely their own responsibility.

TABLE II-2 REQUIREMENTS AND TYPICAL APPLICATIONS FOR CATIONIC EMULSIFIED ASPHALT

ASTM D 2397

Type	Rapid-Setting				Medium-Setting				Slow-Setting			
Grade	CRS-1		CRS-2		CMS-2		CMS-2h		CSS-1		CSS-1h	
	min	max	min	max	min	max	min	max	min	max	min	max
Test on emulsions:												
Viscosity, Saybolt Furol at 77°F (25°C), s									20	100	20	100
Viscosity, Saybolt Furol at 122°F (50°C), s	20	100	100	400	50	450	50	450				
Settlement,[a] 5-day, %		5		5		5		5		5		5
Storage stability test,[b] 24-h, %		1		1		1		1		1		1
Classification test[c]	passes		passes									
or												
Demulsibility,[d] 35 ml 0.8 % sodium dioctylsulfosuccinate, %	40		40									
Coating, ability and water resistance:												
Coating, dry aggregate					good		good					
Coating, after spraying					fair		fair					
Coating, wet aggregate					fair		fair					
Coating, after spraying					fair		fair					
Particle charge test	positive		positive		positive		positive		positive		positive	
Sieve test, %		0.10		0.10		0.10		0.10		0.10		0.10
Cement mixing test, %										2.0		2.0
Distillation:												
Oil distillate, by volume of emulsion, %		3		3		12		12				
Residue, %	60		65		65		65		57		57	
Tests on residue from distillation test:												
Penetration, 77°F (25°C), 100 g, 5 s	100	250	100	250	100	250	40	90	100	250	40	90
Ductility, 77°F (25°C), 5 cm/min, cm	40		40		40		40		40		40	
Solubility in trichloroethylene, %	97.5		97.5		97.5		97.5		97.5		97.5	
Typical applications[e]	surface treatment, penetration macadam, sand seal coat, tack coat, mulch		surface treatment, penetration macadam, coarse aggregate seal coat (single and multiple)		cold plant mix, coarse aggregate seal coat (single and multiple), crack treatment, road mix, tack coat, sand seal coat		cold plant mix, hot plant mix, coarse aggregate seal coat (single and multiple), crack treatment, road mix, tack coat		cold plant mix, road mix, slurry seal coat, tack coat, fog seal, dust layer, mulch			

[a] The test requirement for settlement may be waived when the emulsified asphalt is used in less than 5 days time; or the purchaser may require that the settlement test be run from the time the sample is received until the emulsified asphalt is used, if the elapsed time is less than 5 days.

[b] The 24-h storage stability test may be used instead of the 5-day settlement test.

[c] Material failing the classification test will be considered acceptable if it passes the demulsibility test.

[d] The demulsibility test shall be made within 30 days from date of shipment.

[e] These typical applications are for use only as a guide for selecting and using the emulsion for pavement construction and maintenance.

The asphaltenes are the dispersed phase in the asphalt whereas the maltenes are the continuous phase. The asphaltenes are thought to furnish hardness while the maltenes are believed to provide the adhesive and ductile properties of the asphalt. The maltenes present have an influence on the viscosity, or flow properties, of the asphalt. The complex interaction of the different fractions makes it almost impossible to predict accurately the behavior of an asphalt to be emulsified. For this reason, constant quality control is maintained on emulsion production to detect and correct any tendency of the asphalt to affect adversely the performance of the resulting emulsion.

Several systems of asphalt analysis are in use today to separate and evaluate the fractions. There is no absolute agreement among technologists as to how each fraction affects field performance. Nor is there total agreement about the ease with which an asphalt cement can be emulsified.

Each emulsion manufacturer has his own formulations and production techniques. They have been developed to achieve optimum results with the asphalt cement and emulsifying chemicals that he uses.

2.07 WATER

The second largest ingredient in an asphalt emulsion is water. Its contribution to the desired properties of the finished product cannot be minimized. Water wets and dissolves; it adheres to other substances; and, it moderates chemical reactions. These are all important factors that can be favorable to the production of a satisfactory emulsion. On the other hand, water may contain minerals or other matter that affect the production of stable asphalt emulsions.

Water found in nature may be unfit because of impurities, either in solution or colloidal suspension. Of particular concern is the presence of calcium and magnesium ions, which can affect the properties of the emulsion.

Water containing foreign matter should not be used in emulsion production. It may result in an imbalance of the emulsion components that can adversely affect performance or cause premature breaking.

In summary, water used to produce asphalt emulsions should be reasonably pure and free from foreign matter and should be considered an important item.

2.08 EMULSIFYING AGENTS

Properties of an asphalt emulsion depend greatly upon the chemical used as the emulsifier. That chemical is a surface-active agent, commonly called surfactant, that determines whether the emulsion will be classified as anionic, cationic, or nonionic. The emulsifier also keeps the asphalt droplets in stable suspension and permits breaking at the proper time. The surfactant changes the surface tension at the interface, i.e., the area of contact between the asphalt droplets and the water. A great many chemical emulsifiers are available. Each must be appraised for compatibility with the asphalt cement being used.

In the early days of asphalt emulsion production, such materials as ox-blood, clays, and soaps were used as emulsifying agents. As the demand for emulsions increased, new and more efficient emulsifying agents were found. Several chemical emulsifiers now are commercially available.

The most often used anionic emulsifiers are fatty acids, which are wood-product derivatives such as tall oils, rosins, and lignins. Anionic emulsifiers are saponified (turned into soap) by reacting with sodium hydroxide or potassium hydroxide.

Most cationic emulsifiers are fatty amines (diamines, imidazolines, amidoamines, to name three). The amines are converted into soap by reacting with acid, usually hydrochloric. Another type of emulsifying agent, fatty quarternary ammonium salts, is used to produce cationic

emulsions. They are water-soluble salts as produced and do not require the addition of acid to make them water-soluble. They are stable, effective cationic (positively charged) emulsifiers.

It is important to remember that the pH value of the asphalt emulsion is unrelated to its identification as cationic or anionic. Acidity or alkalinity does not determine the sign of the charge. This sign is determined only by the type of emulsifier.

see page 26 f.n.

Each manufacturer has his own procedure for using his agent in asphalt emulsion production. In most cases, the agent is combined with the water before introduction into the colloid mill. In other cases, however, it may be combined with the asphalt cement just before it goes into the colloid mill.

C. PRODUCING THE EMULSION

2.09 EMULSIFYING EQUIPMENT

Basic equipment to prepare an emulsion includes a high-speed, high-shear mechanical device (usually a colloid mill) to divide the asphalt into tiny droplets. Also needed are an emulsifier solution tank, heated asphalt tank, pumps, and flow-metering gauges. The colloid mill has a high-speed rotor that revolves at 1,000–6,000 rpm (17—100 Hz) with mill-clearance settings in the range of about 0.01 to 0.02 in. (0.25 to 0.50 mm). Such settings yield emulsions with asphalt droplet sizes smaller than the diameter of a human hair [about 0.001 to 0.005 in. (0.025 to 0.125 mm)]. There is a slight variation in mill clearance settings and, thus, asphalt droplet sizes depend upon the equipment used. Some emulsion mills have fixed clearances with no latitude for variation. Although simple mixers can be used to produce low viscosity cutback asphalt, normally they are not used to produce emulsions.

Separate pumps are used to meter asphalt and the emulsifier solution into the colloid mill. Because the emulsifier solution can be highly corrosive, it is necessary to use a pump made of corrosion resistant materials.

A schematic diagram of a typical asphalt emulsion manufacturing plant is shown in Figure II-1.

2.10 THE EMULSIFYING PROCESS

In the general method of emulsifying asphalts, concurrent streams of molten asphalt cement and treated water are directed by positive displacement pumps into the intake of the colloid mill. The asphalt and emulsifying water are subjected to intensive shear stresses as they pass through the colloid mill. The newly-formed emulsion may then be pumped through a heat exchanger. The excess heat is used to raise the temperature of the incoming emulsifying water just before it reaches the colloid mill. From the heat exchanger the emulsion is pumped into bulk storage tanks. These tanks sometimes are equipped with some type of stirring device to keep the product uniformly blended.

Heated asphalt cement the base of the asphalt emulsion, is fed into the colloid mill where it is divided into tiny droplets. At the same time, water containing the emulsifying agent is fed into the colloid mill. The asphalt, as it enters the colloid mill, is heated to ensure a low viscosity, and the water temperature is adjusted accordingly. These temperatures vary; they depend upon the emulsification traits of the asphalt cement and the compatibility between the asphalt and the emulsifying agent. Extremely high asphalt temperatures are not used because the temperature of the emulsion leaving the mill must be below the boiling point of water.

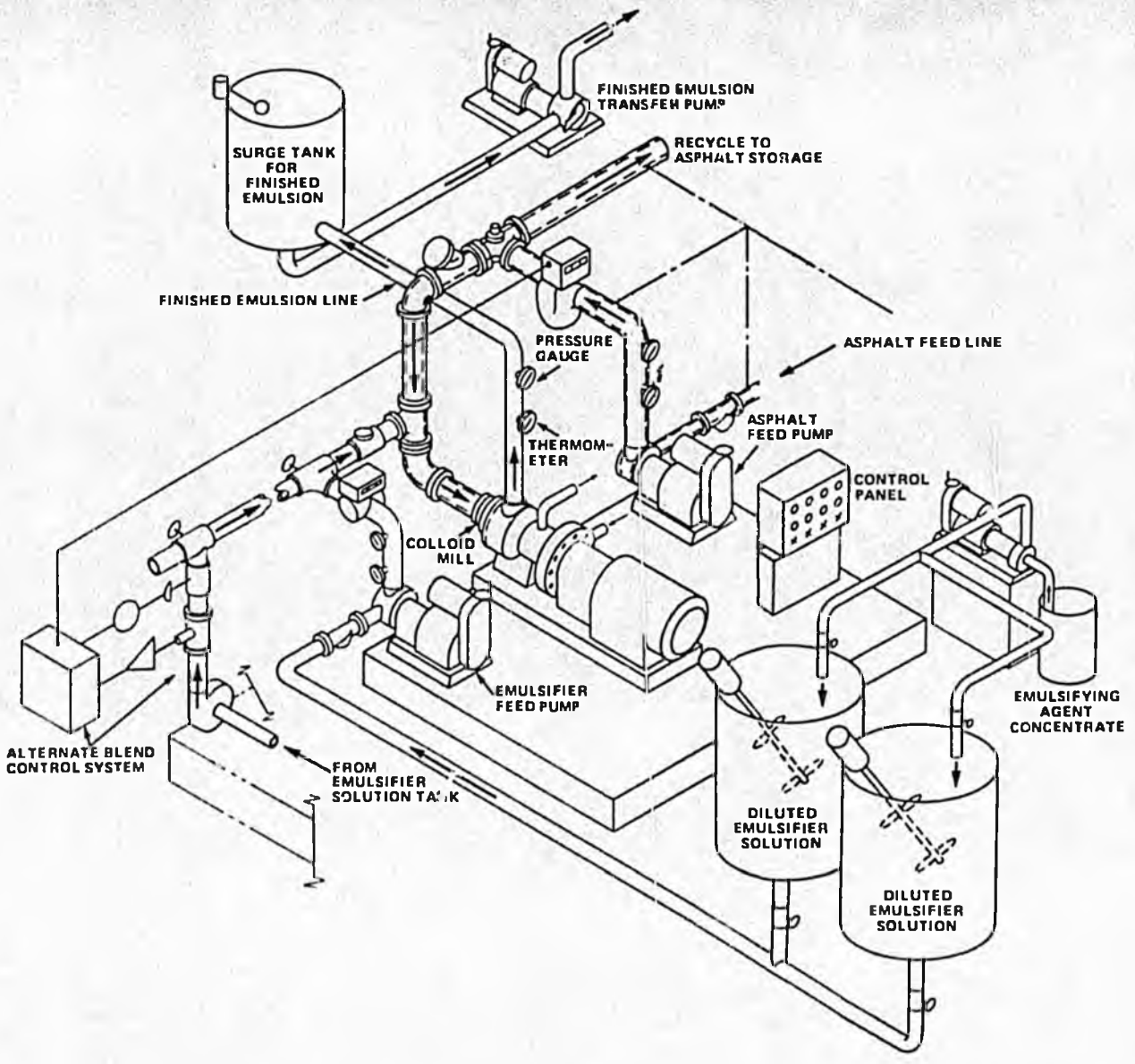

Figure II-1. Diagram of an asphalt emulsion manufacturing plant.

Courtesy Chemicolloid Laboratories, Inc.

The method of adding the emulsifier to the water varies according to the maker's procedure. Some emulsifiers, such as amines, must be mixed and reacted with an acid, such as hydrochloric, to attain water solubility. Others, such as fatty acids, must be mixed and reacted with an alkali, such as sodium hydroxide, to attain water solubility. Mixing is most typically done in a batch mixer. The emulsifier is introduced into warm water containing acid or alkali and agitated until completely dissolved.

Asphalt and emulsifier solution can be proportioned accurately. It can be done by monitoring the temperature of each phase and the mill discharge, or with meters. If the temperature regulation method of proportioning is used, the outlet temperature of the finished emulsion can be calculated from the temperatures of the various emulsion ingredients.

Asphalt particle size is a vital factor in making a stable emulsion. A microscopic photograph of a typical emulsion reveals the following average particle sizes:

Smaller than 0.001 mm (1μm)	28 percent
0.001–0.005 mm (1–5μm)	57 percent
0.005–0.010 mm (5–10μm)	15 percent

These microscopic-sized asphalt droplets are dispersed in water in the presence of the chemical surface-active emulsifier (surfactant). The surfactant causes a change in the surface tension at the contact area between the asphalt droplets and the surrounding water, and this permits the asphalt to remain in a suspended state. The particles, all having a similar electrical charge, repel each other, which also aids in their remaining in a suspended state. Figure II-2 is a photomicrograph showing the sizes and distribution of the asphalt particles.

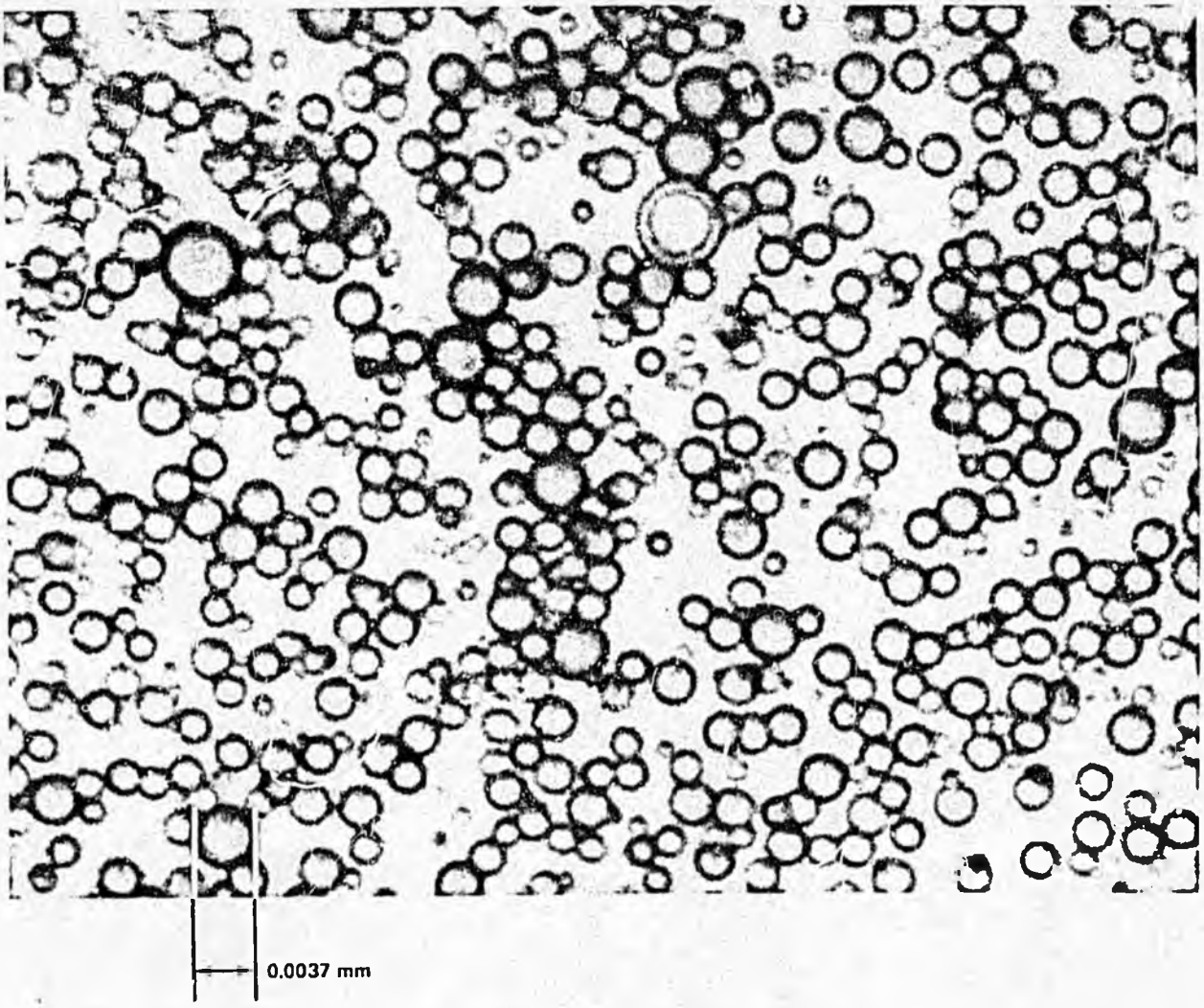

Figure II-2. Relative sizes and distribution of asphalt particles in an emulsion.
Courtesy Chevron U.S.A. Inc.

D. BREAKING AND CURING

2.11 BREAKING

If the asphalt emulsion is to perform its ultimate function of cementing and waterproofing, the asphalt must separate from the water phase. For surface treatments and seals, emulsions are formulated to break upon contact with a foreign substance such as aggregate or a pavement surface. The asphalt droplets coalesce and produce a continuous film of asphalt on the aggregate or pavement. For dense mixtures, more time is needed to allow for mixing and laydown. Therefore, emulsions used for mixtures are formulated for delayed breaking. Asphalt coalescence is commonly referred to as breaking, or setting. The rate at which the asphalt globules separate from the water phase is referred to as breaking or setting time. For example, a rapid-set emulsion will break within one to five minutes after being applied, whereas a medium- or slow-set material may take considerably longer.

The rate of breaking is controlled primarily by the specific type and concentration of the emulsifying agent used, as well as atmospheric conditions.

The fact that different aggregate types have different rates of absorption means that breaking is also related to the relative absorption characteristics of the aggregate used. Those with higher absorption rates tend to accelerate the breaking of the emulsion due to the more rapid removal of the emulsifying water.

In asphalt emulsion-aggregate mixtures, gradation and surface area of the aggregate also are significant factors in the rate of breaking. As the surface area changes, the breaking characteristic of the medium also changes because of the altered adsorption of the emulsifying agent by the aggregate. In order to achieve optimum results, it is necessary to control the sizing of the aggregate or to adjust the emulsion formulation to meet the specific requirements of the aggregate.

2.12 CURING

For paving uses, both anionic and cationic asphalt emulsions depend on the evaporation of water for development of their curing and adhesion characteristics. Water displacement can be fairly rapid under favorable weather conditions but high humidity, low temperatures, or rainfall soon after application can deter proper curing. Although surface and atmospheric conditions are less critical for cationic emulsions, these types still depend somewhat on weather conditions for optimum results. Perhaps the principal advantage of the cationics is their willingness to give up their water a little faster.

Traditional theory holds that anionic emulsions (with a negative charge on the asphalt droplets) perform best with aggregates having mostly positive surface charges—limestone and dolomite are examples. The theory also holds that cationic emulsions (with a positive charge on the asphalt droplets) perform best with aggregates having mostly negative surface charges—some examples are siliceous or granitic aggregates. Presently, there is not complete agreement on the subject of electrical charges on aggregate surfaces. Recent studies have challenged the traditional theories. The theories presented in this manual follow the line of traditional usage, which may change in the future.

When using either the anionic or cationic rapid-set emulsion the initial deposition of asphalt develops through an electrochemical phenomenon. But the main bond of strength between the asphalt film and the aggregates comes after the loss of emulsifying water. This water film can be

displaced by evaporation, pressure (rolling), or by absorption. In actual use, breaking is usually a function of the combination of these three factors.

Medium- and slow-set emulsions, being more heavily stabilized, depend less on the aggregate type although the same basic principles of electrical charges with respect to selection of emulsion type still apply. When the MS and SS grades are used for paving mixes, the use of slightly damp aggregates facilitates the mixing and coating process. The development of strength in the SS types depends mainly on dehydration and absorption with removal of water by either of these mechanisms breaking the emulsion. Solvent-free CMS and CSS emulsions require that the moisture on the aggregate be at or near optimum for proper mixing and coating.

Some types of emulsions contain slight amounts of petroleum solvent to aid in the mixing and coating process. While the solvent does not enter directly into the breaking mechanism, provisions must be made for the evaporation of the solvent in order for the mixture to be properly cured. Where multiple courses are to be placed, a successive course should not be applied until the water (and solvent, if applicable) has been removed from the preceding course.

2.13 FACTORS AFFECTING SETTING RATE

In general, some of the factors that affect setting rate of an asphalt emulsion are as follows:

1. The rate that water is absorbed by the aggregate. A rough-textured, porous aggregate speeds the setting time by absorbing water from the emulsion.
2. Moisture content of the aggregate prior to mixing.
3. Weather conditions—temperature, humidity, and wind velocity all have a bearing on rate of set.
4. Mechanical forces brought to bear by rolling and by traffic. Roller pressure, to a limited extent, forces the water from the materials.
5. Size distribution and mineral composition of aggregate. Fine aggregate mixes tend to break faster because they possess greater surface area than an equal weight of coarse aggregate. The mineral composition also affects the speed at which the asphalt emulsion breaks. There may be some type of chemical reaction between the emulsifier and the aggregate surface. Also, dirty aggregate or excessive fines may accelerate breaking and retard curing.
6. The type and amount of emulsifying agent used.
7. Intensity of charge on aggregate versus intensity of emulsifier charge, in combination with surface area, is a major setting-rate determinant.
8. Chemical coagulation. The emulsion becomes unstable because of a decreased water content.

The above factors must be considered in determining working time after the emulsion has been sprayed or mixed with the aggregate in the field.

CHAPTER III

STORING, HANDLING, AND SAMPLING ASPHALT EMULSIONS

3.01 GENERAL

The storage and handling of asphalt emulsions require precaution beyond that used for other types of asphalt materials. Improper handling or storage of the emulsion, or both, may cause premature breaking, thereby making it useless. The Asphalt Institute, in recognition of these necessary precautions, has issued a Construction Leaflet, *Storing and Handling of Emulsified Asphalts* (CL-21), outlining some of the safeguards that must be followed. Failure to follow even a single one of them may cause the material to be unsatisfactory at the time of use. Careful study of each item is therefore suggested. Sticking to these simple rules will save time and money by having the material ready for use when needed. The safeguards listed in the Asphalt Institute leaflet are repeated below to help those who have had little or no experience with asphalt emulsions. However, it is not intended to give the impression that asphalt emulsions are so delicate as to limit their field use. The use of almost any other material would have a long list of admonitions for the uninitiated.

3.02 STORING ASPHALT EMULSIONS

Emulsified asphalt, being a dispersion of fine droplets of asphalt cement in water, has both the advantages and disadvantages of the carrier medium, water. When storing emulsified asphalts:

DO store as you would fluid water—between 50° F (10° C) and 185° F (85° C), depending on the use.

DO use hot water as the heating medium for storage tanks with heating coils. Low pressure or waste steam also may be used, with temperature controlled on the coil surface to not more than 185° F (85° C).

DO store at the temperature specified for the particular grade. For spray applications, the emulsions are stored at higher temperatures than for mixing with aggregate. For example, the higher viscosity rapid-set spray grades are stored at 125° F to 185° F (50° C to 85° C) since they are usually applied in this temperature range. The lower viscosity grades are stored at lower temperatures. Table III-1 shows the normal storage temperature ranges. Store the mixing grades at the lower end of the temperature ranges as shown in Table III-1.

DO NOT permit the emulsified asphalt to be heated above 185° F (85° C). Elevated temperatures evaporate the water, resulting in an increase in viscosity and an asphalt layer in the tank. The materials can no longer be used as intended and it will be difficult to empty the tank.

DO NOT let the emulsion freeze. This breaks the emulsion, separating the asphalt from the water. The result will be two layers in the tank, neither suited for the intended use, and the tank will be difficult to clean.

DO NOT allow the temperature of the heating surface to exceed 205° F (96° C). This will cause premature breakdown of the emulsion on the heating surface.

DO NOT use forced air to agitate the emulsion. It may cause the emulsion to break.

TABLE III-1 STORAGE TEMPERATURES FOR EMULSIFIED ASPHALTS

Grade	Temperature, °F (°C)	
	Minimum	Maximum
RS-1	70° (20°)	140° (60°)
RS-2, CRS-1, CRS-2	125° (50°)	185° (85°)
SS-1, SS-1h, CSS-1, CSS-1h, MS-1, HFMS-1	50° (10°)	140° (60°)
CMS-2, CMS-2h, MS-2, MS-2h, HFMS-2, HFMS-2h	125° (50°)	185° (85°)

3.03 STORAGE FACILITIES

For protection from freezing and best utilization of heat, storage tanks should be insulated. A skin of asphalt can form on the surface of emulsions when exposed to air. It is best, therefore, to use tall, vertical tanks as they expose the least amount of surface area to the air. Most fixed storage tanks are vertical but horizontal tanks are often used for short-term field storage. Skinning can be reduced by keeping horizontal tanks full to minimize the area exposed to air.

Side-entering propellers located about three feet (one metre) up from the tank bottom may be used to prevent surface skin formation. Large diameter, slow-turning propellers are best and should be used to roll the material over. Avoid overmixing. Secondly, tanks may be circulated top to bottom with a pump. Avoid over-pumping. In tanks not equipped with propellers, or a circulating system, a very light film of kerosene or oil on the surface can reduce skin formation. Emulsions that are rolled or circulated generally do not require a layer of kerosene or oil on the surface. Cathodic protection should be provided to avoid possible corrosion of tank walls and heating coils.

3.04 HANDLING EMULSIFIED ASPHALTS

DO when heating emulsified asphalt agitate it to eliminate or reduce skin formation.

DO protect pumps, valves, and lines from freezing in winter. Drain pumps or fill them with anti-freeze according to the manufacturer's recommendations.

DO blow out lines and leave drain plugs open when they are not in service.

DO use pumps with proper clearances for handling emulsified asphalt. Tightly fitting pumps can cause binding and seizing.

DO use a mild heating method to apply heat to the pump packing or casing to free a seized pump. Discourage the use of propane torches.

DO warm the pump to about 150° F (65° C) to ease start-up.

DO when a pump is to be out of service for even a short period of time, fill it with No. 1 fuel oil to ensure a free start-up.

DO when diluting grades of emulsified asphalt, check the compatibility of the water with the emulsion.

DO if possible, use warm water for diluting and always add the water slowly to the emulsion (not the emulsion to the water).

DO avoid repeated pumping and recycling, if possible, as the viscosity may drop and air may become entrained, causing the emulsion to be unstable.

DO guard against mixing different classes, types, and grades of emulsified asphalt in storage tanks, transports, and distributors. For example, if cationic and anionic emulsified asphalts are mixed, the blend will break and separate into water and coagulated asphalt that will be difficult to remove. Because it is hard to determine visually the difference between various emulsified asphalts, always make a trial blend of the newly-delivered emulsion and the stored emulsion before pumping off. Check the trial blend for compatibility.

DO place inlet pipes and return lines at the bottom of tanks to prevent foaming.

DO pump from the bottom of the tank to minimize contamination from skinning that may have formed.

DO remember that emulsions with the same grade designation can be very different chemically and in performance.

DO haul emulsion in truck transports with baffle plates to prevent sloshing.

DO mix by circulation, or otherwise, emulsions that have been in prolonged storage.

DO NOT use tight-fitting pumps for pumping emulsified asphalt; they may "freeze."

DO NOT apply severe heat to pump packing glands or pump casings. The pump may be damaged and the asphalt may become even harder.

DO NOT dilute rapid-setting grades of emulsified asphalt with water. Medium and slow setting grades may be diluted, but always add water slowly to the asphalt emulsion. Never add the asphalt emulsion to a tank of water when diluting.

DO NOT recirculate emulsified asphalts for too many cycles. They tend to lose viscosity when subjected to pumping. Also, air bubbles may become entrained which would render the emulsion unstable.

DO NOT load emulsified asphalt into storage tanks, tank cars, tank transports, or distributors containing remains of incompatible materials. See Tables III-2 and III-3.

TABLE III-2 GUIDE FOR CONDITION OF EMPTIED TANKS BEFORE LOADING EMULSIFIED ASPHALTS

	LAST PRODUCT IN TANK					
PRODUCT TO BE LOADED	Asphalt Cement (includes Industrial Asphalt)	Cutback Asphalt	Cationic Emulsion	Anionic Emulsion	Crude petroleum and residual fuel oils	Any product not listed above
Cationic Emulsion	Empty to no Measurable Quantity	Empty to no Measurable Quantity	OK to load	Empty to no Measurable Quantity	Empty to no Measurable Quantity	Tank must be cleaned
Anionic Emulsion	Empty to no Measurable Quantity	Empty to no Measurable Quantity	Empty to no Measurable Quantity	OK to load	Empty to no Measurable Quantity	Tank must be cleaned

NOTE: All tanks to be emptied to 0.5 percent or less of capacity. Pump section, unloading line, and all piping must be drained.

TABLE III-3 POSSIBLE CAUSES OF CONTAMINATION OF ASPHALT MATERIAL OR SAMPLES AND SUGGESTED PRECAUTIONS

HAULERS AND HAULING VEHICLES

Field observations and studies of test results have indicated that contamination of materials during transportation often occurs.

Possible Causes	*Precautions*
(a) Previous load not compatible with material being loaded.	Examine the log of loads hauled or check with the supplier to determine if previous material hauled is detrimental. If it is, make sure vehicle tanks, unloading lines, and pump are properly cleaned and drained before being presented for loading. Provide a ramp at the unloading point at the plant that will ensure complete drainage of vehicle tank while material is still fluid.
(b) Remains of diesel oil or solvents used for cleaning and flushing of tanks, lines, and pump.	When this is necessary, make sure all solvents are completely drained.
(c) Flushing of solvents into receiving storage tank or equipment tanks.	Do not allow even small amounts to flush into storage tank as entire contents may be contaminated

(Continued on next page)

TABLE III-3 (con't.)

MIX PLANT STORAGE TANK AND EQUIPMENT

Many investigations and test results point to mix plant storage tanks and associated equipment as the source of contamination.

Possible Causes	*Precautions*
(a) Previous material left over in tank when changing to another material	Any material allowed to remain must be compatible with new material; and the amount remaining in the tank must be insufficient to cause new material to become out-of-specification. If in doubt, check with your supplier. To be on the safe side, tank should be drained or cleaned prior to using tank for each different type or grade of asphalt. Be sure discharge line connects at low point of storage tank to ensure complete emptying when changing type or grades of asphalt or cleaning tank.
(b) Solvents used to flush hauling vehicle tank discharged into storage tank.	Observe unloading operations, caution driver about flushing cleaning materials into storage tank. If possible, provide place for hauler to discharge cleaning materials.
(c) Flushing of lines and pump between storage tank and hot-plant with solvents and then allowing this material to return to tank.	If necessary to flush lines and pump, suggest providing bypass valves and lines to prevent solvents from returning to tank. A better solution is to provide insulated, heated lines and pump, thereby eliminating the necessity of flushing.
(d) Cleaning of distributor tank, pump, spray bar, and nozzles with solvents.	Be sure all possible cleaning material is drained off or removed prior to loading. Do not take sample from nozzle until sufficient material has been discharged to guard against taking a contaminated sample.
(e) Dilutions from hot oil heating systems.	Check reservoir on hot oil heating system. If oil level is low, or oil has been added, check system for leakage into the asphalt supply.

NON-REPRESENTATIVE OR CONTAMINATED SAMPLE

Test results are greatly dependent upon proper sampling techniques. Extra care, on the part of the sampler, to obtain samples that are truly representative of the material being sampled will do much to eliminate the possibility of erroneous test results by reason of improper sampling. Make sure samples are taken only by those authorized persons who are trained in sampling procedures.

Possible Causes	*Precautions*
(a) Contaminated sampling device (commonly called a "sample thief").	If sampling device (of type described in AASHTO T 40 or ASTM D 140) is cleaned with diesel oil or solvent, make sure that it is thoroughly drained and then rinsed out several times with material being sampled prior to taking sample.
(b) Samples taken with sampling device from top of tank where, under certain conditions, contaminants can collect on the surface.	In taking a sample from the top of a tank lower sampling device below the extreme top before opening. Note: This sample may come from the top one-third of the tank.

(Continued on next page)

TABLE III-3 (Con't.)

Possible Causes	*Precautions*
(c) Contaminated sample container.	Use only new clean containers. Never wash or rinse a sample container with solvent. Glass or polyethylene containers should be used.
(d) Sample contaminated after taking.	**DO NOT** submerge container in solvent or even wipe outside of container with solvent-saturated rag. If necessary to clean spilled material from outside of container, use a clean dry rag. Make sure container lid is tightly sealed prior to storage or shipment. Ship to testing laboratory promptly.
(e) Samples taken from spigot in lines between storage tank and hot-plant.	If sampling spigot is in suction line between tank and pump, this necessitates stopping pump prior to taking sample. Samples thus taken are by gravity and only representative of material localized in the pipe area of the spigot. Rather, the spigot should be in lines between pump and return line discharge, thereby allowing slow withdrawal of material during circulation. **DO NOT** take sample while hauling vehicle is pumping into storage tank. **DO NOT** take sample without allowing sufficient time for circulation and thorough mixing of material. **DO** drain off sufficient material through spigot prior to taking sample to ensure removal of any contaminant lodged in spigot. **DO** take sample slowly during circulation to be more representative of material being used.
(f) Samples taken from unloading line of hauling vehicle.	Drain off sufficient material through spigot prior to taking sample to ensure removal of any contaminant lodged there. Sample should be taken after one-third and not more than two-thirds of the load has been removed. Take sample slowly to be sure it is representative of the material being used.

3.05 SAMPLING ASPHALT EMULSIONS

The purpose of any sampling method is to obtain samples that will show the true nature and condition of the material. The general procedure is described in the following articles. The standard procedure is detailed in "Standard Methods of Sampling Bituminous Materials," AASHTO T 40 or ASTM D 140.

3.06 SAMPLE CONTAINERS

(1) Containers for anionic emulsified asphalt samples shall be one-gallon wide-mouth jars or bottles made of glass or plastic.

(2) Containers for cationic emulsified asphalt samples shall be one-gallon wide-mouth jars or bottles made of plastic or wide-mouth plastic-lined cans with lined screw caps, or plastic-lined triple-seal friction-top cans.

(Bare metal cans are corroded by emulsified asphalts, particularly the cationic type. They also may cause the emulsion to break.)

3.07 SIZE OF SAMPLES

The size of samples shall correspond to the required sample containers.

3.08 SAMPLES

Whenever practicable, the emulsified asphalt shall be sampled at the point of manufacture or storage. If that is not practicable, samples shall be taken from the shipment immediately upon delivery. Three samples of the emulsified asphalt shall be taken. The samples shall be sent to the laboratory for testing as soon as possible.

3.09 SAMPLING PRECAUTIONS

(1) Sample containers shall be new. They shall not be washed or rinsed. If they contain evidence of solder flux or if they are not clean and dry they shall be discarded. Top and container shall fit together tightly.

(2) Care shall be taken to prevent the samples from becoming contaminated. The sample container shall not be submerged in solvent, nor shall it be wiped with a solvent saturated cloth. Any residual material on the outside of the container shall be wiped with a clean, dry cloth immediately after the container is sealed and removed from the sampling device.

(3) The sample shall not be transferred into another container.

(4) The filled sample container shall be tightly and positively sealed immediately after the sample is taken.

3.10 SAFETY PRECAUTIONS

(1) Safety precautions are mandatory at all times when handling asphalt materials. These safety precautions include, but are not limited to, the ones that follow.

(2) Gloves shall be worn and sleeves shall be rolled down and fastened over the gloves at the wrist while sampling and while sealing containers.

(3) Face shields should be worn while sampling.

(4) There shall be no smoking while sampling asphalts.

(5) The sampler shall stand on the windward side when taking the sample.

(6) During sealing and wiping the container shall be placed on a firm level surface to prevent splashing, dropping or spilling the material.

3.11 PROTECTION AND PRESERVATION OF SAMPLES

(1) Immediately after filling, sealing, and cleaning the sample containers shall be properly marked for identification with a wick marking pencil on the container itself, not on the lid. Linen tags also may be used for identification if they can be securely fastened to the container in such a manner as to ensure that they will not be lost in transit.

Linen tags shall not be attached to containers by using the lids to secure them.

(2) Samples of emulsions shall be packaged, labeled, and shipped in such a manner as to protect them from freezing.

(3) All samples should be packaged and shipped to the laboratory the same day they are taken. The containers, tightly sealed, should be packed in absorbent material, such as sawdust, excelsior, or vermiculite, to reduce the probability of damage during shipment.

(4) Each sample shall be identified with at least the following information:

(a) Shipper's name and bill of lading or loading slip number.

(b) Date sampled.

(c) Sampler's name.

(d) Product grade.

CHAPTER IV

EMULSIFIED ASPHALT TESTS

4.01 REASONS FOR TESTING ASPHALT EMULSIONS

Proper interpretation of laboratory test results can greatly aid in determining the traits of an asphalt emulsion. As advances in asphalt emulsion technology have been made through the years, corresponding advances in emulsion testing have evolved. Some of these tests are designed to measure performance qualities. Others deal mainly with the manufacturing process.

Laboratory tests are normally performed for one of four purposes:

1. To measure properties related to handling, storage, and field use.
2. To control the quality and uniformity of the product during manufacturing and use.
3. To provide reference procedures for specifications.
4. To predict or control field performance.

Table IV-1 is a useful summary of most of the tests.

A review of emulsion specifications used across the United States reveals a wide variety of requirements. Many are directly related to the emulsions produced by specific manufacturers. Because it is impracticable to discuss the multitude of requirements and test methods, this chapter is confined to the methods in AASHTO Test Method T 59 and ASTM Method D 244.

4.02 ASPHALT EMULSION TESTS

Asphalt emulsions are made by taking asphalt cement, and by special formulation, converting it to a liquid form. That makes the asphalt easy to apply, mix, or handle before it reverts to its original state. Test methods for evaluating properties of asphalt cement are well known. Among them are penetration, ductility, and solubility in trichloroethylene, tests that apply also to the residual asphalt in the emulsion after the water has evaporated. The primary purpose of this chapter is to consider the tests that apply to asphalt emulsion, rather than the base asphalt cement. The major emulsion tests are briefly discussed, with details of each test method presented in Appendix B. Most of the tests are standard procedures and are outlined in "Testing Emulsified Asphalts," AASHTO Method T 59 and ASTM Method of Test D 244.

4.03 RESIDUE BY DISTILLATION

The relative proportions of asphalt cement and water in the emulsion can be determined by a distillation test. Additional tests may be made on the asphalt cement residue when the emulsifed asphalt contains an oil distillate. A micro-distillation test or residue-by-evaporation test also can be performed to determine the amount of this material in the emulsion.

The distillation test procedure for asphalt emulsion is closely akin to that for cutback asphalt. The main difference is that an aluminum alloy still and ring burners are used instead of the glass flask and Bunsen Burner (note Figure IV-1). The equipment is designed to prevent trouble from

TABLE IV-1 SUMMARY OF EMULSION TESTS

Property	*Factor*	*Requirement*		*Test*
CONSTANCY	A) Uniformity	Product must have the same handling, mixing and setting characteristics from shipment to shipment.	*Residue:	Proportions of asphalt & water. (Indication of uniformity of manufacture.) Residue is measured by dehydrating the emulsion by evaporation or distillation.
	B) Storage Stability	Product must be capable of storage without excessive damage or change.	*Sieve:	Amount of oversize particles, shot and slugs retained on #20 mesh sieve.
			*Settlement: *Storage Stability:	Amount of settlement of asphalt particles in 5 days — one day for storage stability test. The difference in residue between top and bottom is measured.
			Freeze-Thaw:	Most emulsions are damaged by freezing.
CLASSIFICATION	A) Differentiate mixing grade product from rapid set types. (Select proper grade)		*Demulsibility:	Amount of coagulation on addition of a salt-calcium chloride with anionic emulsion; Aerosol OT with cationic emulsion.
	B) Differentiate cationic from anionic emulsions. (Prevent mixing of grades which could result in breakdown)		*Particle Charge Test:	Deposition of asphalt on an electrode.
			pH:	Cationics are acid with a pH of less than 7. Anionics are alkaline with a pH greater than 7. Water has a pH=7.
CONSTRUCTION CHARACTERISTICS	A) Handling	Product must be safe to handle and capable of being pumped and sprayed without breakdown or run-off.	*Consistency:	Emulsion viscosity.
			Pumping Stability:	No test in current specifications.
	B) Rate of Set	The product must break rapidly and hold aggregate under the action of traffic.	Dehydration:	Amount of water lost in 96 hours at 100°F.
				(Note: Improved test method for Rate of Set is needed.)
	C) Mixing Stability	The product must mix with water and aggregate without balling or breakdown. Once mixed, the mix must cure rapidly to an asphalt film.	*Cement Mixing:	Emulsion mixed with cement.
			*Stone Coating-Water Resistance:	Job (or reference) aggregate is mixed with the emulsion to determine coating and early rain resistance.
			Miscibility With Water:	Ability to mix with water without coagulation.
DURABILITY	A) Traffic Densification	Properly designed pavements must not bleed under repeated* load application by heavy traffic.	*Penetration: *Float Test: *Residue:	Consistency of base asphalt after laboratory distillation.
	B) Resistance to Stripping	Mixes must not strip when in prolonged contact with water.	Adhesion Test:	Made on job aggregate or a reference aggregate.
	C) Long-Term Service Life	Asphalt must remain flexible at cold temperatures and not deteriorate on long-term weathering in a pavement.	*Penetration & Ductility After Laboratory Distillation: Specification Tests On Original Asphalt:	
ASPHALT PURITY	A) Ensure Presence of Asphalt	Keep to a minimum the additives, emulsifiers and fillers used to emulsify the asphalt.	*Solubility Of The Asphalt After Laboratory Distillation:	

*Included in AASHTO T 59 and ASTM D 244

Courtesy Chevron U.S.A., Inc.

see page 11 for

foaming of the emulsified asphalt as it is being heated to a maximum of 500° F (260° C).

The usual test method, however, is not necessarily preferred for recovery of the asphaltic residue and for defining the properties of the asphalt base stock used in the emulsion. Properties of the asphalt base can be altered substantially by:

— Concentration of inorganic salts from the aqueous phase in the asphaltic residue.

— Concentration of emulsifying agents and stabilizers (if present) in the asphaltic residue. These materials frequently undergo thermal decomposition during the distillation test and the resulting degradation products may or may not be soluble in the asphalt. This alters the asphalt properties by increasing the percentage of insoluble matter, thus lowering ductility and increasing or decreasing the penetration and viscosity of the asphalt base.

Thermally-induced changes do not occur in actual usage because the applied emulsion is allowed to break either electrochemically or by evaporation of the water. In field use, the temperature of the system never approaches that observed in the distillation test. Therefore, the real purpose of the test—to determine accurately the amount of asphalt cement in the emulsion—is not always realized. Evaporation of the water at subatmospheric pressure and at lower temperatures (AASHTO T 59 or ASTM D 244) provides a more realistic means for defining the properties of the asphalt after it is cured on the pavement surface. Similar procedures are now recognized and used by many agencies and emulsified asphalt producers.

4.04 OIL DISTILLATE

The oil distillate, percent by volume of the original emulsion sample, is obtained from the amount of oil in the cylinder at the end of the test for residue by distillation.

4.05 RESIDUE BY EVAPORATION

This test is designed to measure the percentage of asphalt cement in the emulsion by evaporating the water. The residue derived from this procedure can be used for other tests but lower penetration and ductility than in the residue from distillation usually results.

4.06 PARTICLE CHARGE TEST

The particle charge test is made to identify cationic emulsions. It is performed by immersing a positive electrode (anode) and a negative electrode (cathode) into a sample emulsion and connecting them to a controlled direct-current electrical source, Figure IV-2. At the end of a specified period, the electrodes are observed to determine if the cathode has an appreciable layer of asphalt deposited on it. Most cationic asphalt emulsion particles will be attracted by the cathode.

4.07 VISCOSITY

Viscosity is defined as a fluid's resistance to flow. In the case of emulsified asphalts the Saybolt Furol viscosity test (Figure IV-3) is used as a measure of consistency. Results are reported in Saybolt Furol seconds. For convenience and for testing accuracy, two testing temperatures, which cover the normal working range, are used. These temperatures are 77° F (25° C) and 122° F (50° C).

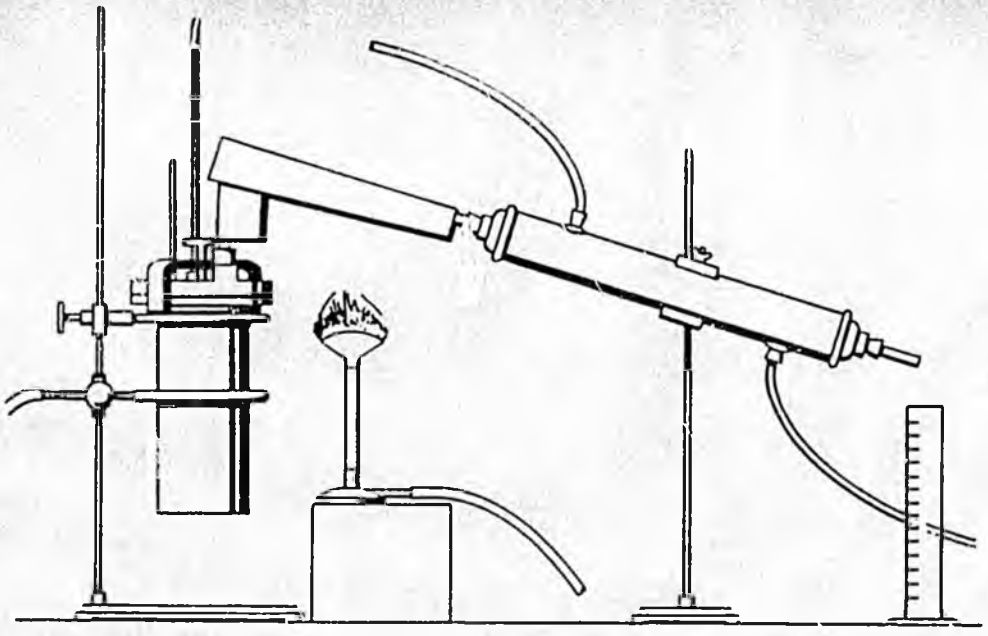

Figure IV-1. Distillation test for emulsified asphalts.

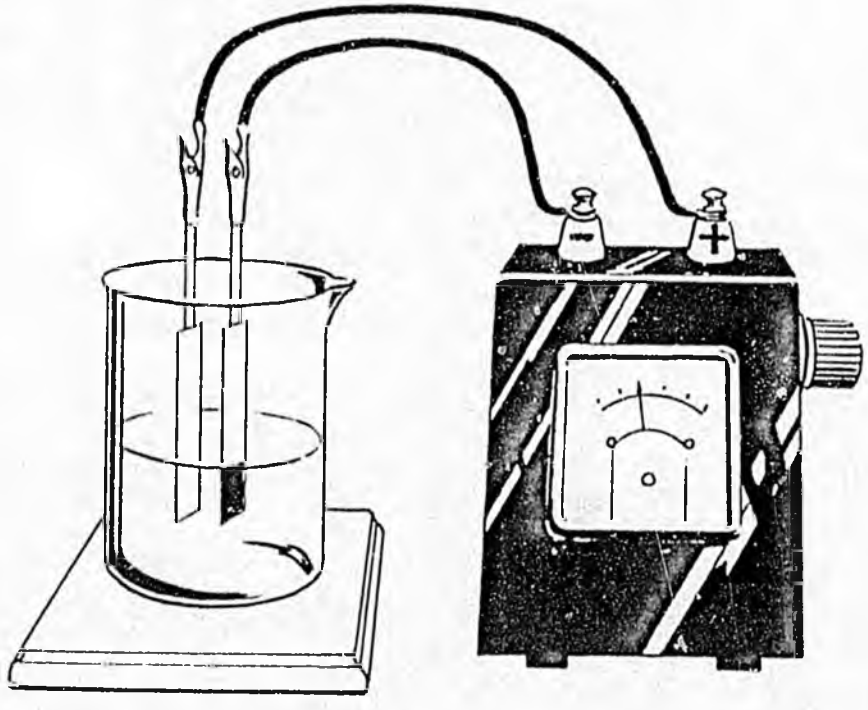

Figure IV-2. Particle charge test.

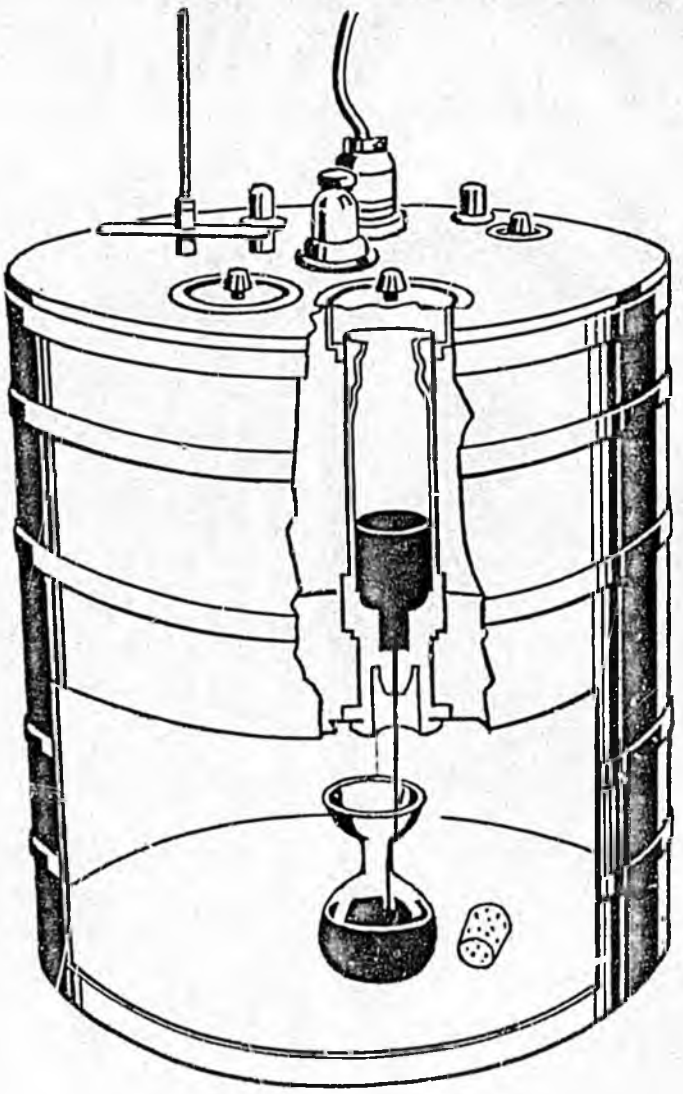

Figure IV-3.
Saybolt Furol viscosity test.

4.08 DEMULSIBILITY

The demulsibility test indicates the relative rate at which the colloidal asphalt globules in the rapid-setting type of emulsified asphalts will break when spread in thin films on soil or aggregate. Calcium chloride causes the minute asphalt globules present in these emulsified asphalts to coalesce. In the test, a solution of calcium chloride and water is thoroughly mixed with emulsified asphalt; then it is poured over a sieve to determine how much the asphalt globules coalesce.

In testing rapid-setting (RS) emulsions, a very weak solution of calcium chloride and water is employed. But, in testing cationic rapid-setting (CRS) emulsions, dioctyl sodium sulfosuccinate solution is used instead of calcium chloride. Specifications prescribe the concentration of the solution and the minimum amount of asphalt to be retained on the sieve. A high degree of "demulsibility" is required of this type of emulsified asphalt. It is expected to break almost immediately upon contact with the aggregate on which it is applied.

4.09 SETTLEMENT

The settlement test indicates the emulsion's stability in storage. It detects the tendency of asphalt globules to settle during storage. This test also serves as an indicator of quality even if the emulsion is not to be stored for a period of time. Failure of the settlement test indicates that something is wrong or out of balance in the emulsification process.

A prescribed volume of emulsion is allowed to stand in a graduated cylinder for a specified number of days (usually five). Small samples are then taken from the top and bottom parts. Each sample is placed in a beaker and weighed. The sample is then heated until all water evaporates; then the residue is weighed. The weights obtained are used to find the difference, if any, between the asphalt cement content in the upper and lower portions of the cylinder. This provides a measure of settlement.

When the asphalt emulsion is to be used promptly, most agencies will accept the storage stability test (one-day settlement), Article 4.14, in lieu of the settlement test.

4.10 CEMENT MIXING

The cement mixing test does the same for slow-setting (SS) emulsified asphalts as the demulsibility test for rapid-setting grades. The SS grades are used with fine materials and dusty aggregates. They are normally unaffected by calcium chloride solution as used in the demulsibility test.

In the cement mixing test, a sample of emulsified asphalt is mixed with finely-ground portland cement and the mixture washed over a 1.40 mm (No. 14) sieve. Specifications usually limit the amount of material that may be retained on the sieve.

The cement mixing reaction for cationic and noncationic emulsions is quite different. The cationic emulsion reacts to portland cement because of surface area; the noncationic, particularly the anionic type, reacts chemically with portland cement constituents, forming a water-insoluble salt.

4.11 SIEVE TEST

The sieve test complements the settlement test and has a somewhat similar purpose. It is used to find the amount of asphalt in the form of rather large globules that may not have been detected in the settlement test and could clog the spraying equipment. Such globules will not provide thin and uniform coatings of asphalt on the aggregate particles.

In the sieve test, a representative sample of emulsified asphalt is poured through a 850 μm (No. 20) sieve. For anionic emulsions, the sieve and retained asphalt are then rinsed with a mild sodium oleate solution and finally with distilled water. For cationic emulsions, distilled water only is used for rinsing. After rinsing, the sieve and asphalt are dried in an oven and the amount of retained asphalt determined by weighing.

4.12 MISCIBILITY WITH WATER

This test finds if medium-setting or slow-setting emulsions can be mixed with water. It is *not* applicable to rapid-setting asphalt emulsions. After adding and stirring distilled water, the emulsion sample is allowed to stand for two hours. It is then examined for any appreciable coagulation of the asphalt droplets in the emulsion.

The test is a quality measure in addition to indicating whether the emulsion is capable of mixing with, or being diluted with, water. Quite often there will be a deposit of heavy emulsion

in the bottom of the beaker. If the deposit in the beaker is minimal, it signifies that the emulsion is properly formulated and that the dispersed particles are in the desired size range.

4.13 COATING ABILITY AND WATER RESISTANCE

This test has a threefold purpose. It determines the ability of an asphalt emulsion to: (1) coat the aggregate thoroughly, (2) withstand mixing action while remaining as a film on the aggregates and (3) resist the washing action of water after completion of mixing. The test is primarily intended to identify medium-setting asphalt emulsions suitable for mixing with coarse-graded calcareous aggregates. Other aggregates may be used in the test if calcium carbonate is omitted throughout the method. This test is *not* adaptable to rapid-setting or slow-setting asphalt emulsions.

The job aggregate is coated with calcium carbonate dust and then mixed with the emulsified asphalt. About one-half of the mixture is then placed on absorbent paper for a visual inspection of the surface area of aggregate coated by the emulsified asphalt. The remainder of the mixture is sprayed with water and rinsed until the rinse water runs clear. This material is then placed on absorbent paper and inspected for coating.

Another sample of job aggregate is similarly coated with calcium carbonate dust. A given quantity of water is then mixed with the dust-coated aggregate. Emulsified asphalt is added and thoroughly mixed. Inspections are made as described above for the dry-coated aggregates.

4.14 STORAGE STABILITY

The storage stability test is used to determine the ability of an emulsified asphalt to remain as a uniform dispersion during storage. It is a measure of the permanence of the dispersion as related to time.

A measured representative sample is placed in each of two glass cylinders. They are stoppered and allowed to stand at laboratory temperature for 24 hours. A 50g sample from each cylinder is siphoned from the top. The samples are placed for a set time in an oven heated to a prescribed temperature. Then they are removed, allowed to cool, and weighed. After the top sample is removed, all but a small portion of the asphalt emulsion remaining in each cylinder is siphoned off. A 50g sample of the portion that is left is put through the same procedure as for the top samples.

The storage stability is expressed as the numerical difference between the average percentage of residue in the top samples and the bottom samples.

4.15 EXAMINATION OF RESIDUE

The same desirable characteristics in the base asphalt cement should show up in the residual asphalt after emulsification and coalescence. The most common tests run on the residue include penetration, solubility, ductility, float test, and specific gravity. These tests are described in detail in AASHTO Methods T 49, T 44, T 51, T 50, and T 228 (ASTM Methods D 5, D 2042, D 113, D 139 and D 70) respectively.

The penetration test is an empirical test of consistency. It has been carried over in some viscosity-based asphalt specifications to ensure that materials of an undesirably low penetration are precluded from use. This test measures the depth of penetration in units of 0.1 mm of a standard needle under a load of 100g for exactly five (5) seconds when the asphalt sample is at a temperature of 77°F (25°C). Lower test temperatures are sometimes checked when the asphalt is to be used in an area where very low temperatures are prevalent.

The solubility test is a measure of the "purity" of the asphalt cement. The portion of the asphalt cement that is soluble in specified solvents represents the active cementing constituents.

Only such inert matter as salts, free carbon, or nonorganic contaminants, such as clay or finely divided mineral matter, are insoluble. Solubility is determined by dissolving the asphalt cement in the solvent and separating the soluble and insoluble portions by filtering.

The ductility of an asphalt cement is its ability to be extended or pulled into a narrow thread. In many applications, it is an important characteristic of asphalt cements. The presence or absence of ductility, however, is usually of more significance than the actual degree of ductility. This test is made by molding a briquette of asphalt cement under standard conditions and dimensions. The asphalt briquette is then brought to a standard test temperature in a water bath. It is pulled at a specified rate of speed until the thread connecting the two ends breaks. The elongation, in centimeters, at which the thread of material breaks is designated as ductility.

The float test is performed on the residue from distillation of HFMS emulsified asphalts. The test is a measure of consistency of the material being examined.

In the test, illustrated in Figure IV-4, a plug of asphalt residue is solidified in a brass collar by cooling to 41°F (5°C). The collar is then screwed into the bottom of an aluminum float which is placed into a testing bath of water heated to 140°F (60°C). The time required for the water to break through the plug is determined. Values are limited by specifications for the HFMS emulsified asphalts (see Table II-1, Chapter II). The test is prescribed in AASHTO Method of Test T 50 and ASTM Method of Test D 139.

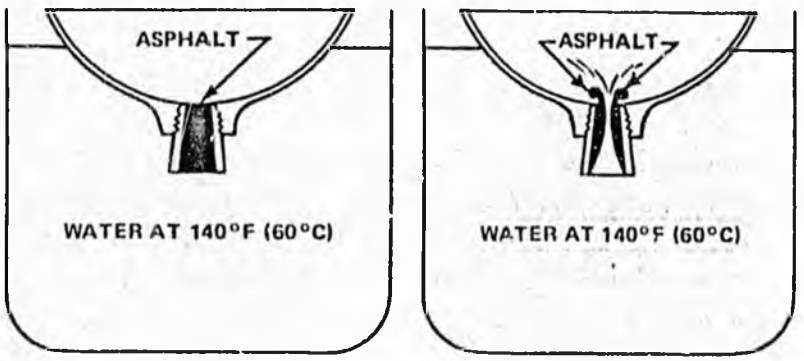

Figure IV-4. Float test.

4.16 CLASSIFICATION TEST FOR RAPID-SETTING CATIONIC ASPHALT EMULSIONS

This test identifies rapid-setting cationic asphalt emulsions by their failure to coat a specific Ottawa sand-portland cement (Type III) mixture. Following a 2½ minute mixing period, an estimate is made of the amount of uncoated and coated areas in the mixture. An excess of uncoated area over a coated area is considered as a passing rating for rapid-setting cationic emulsions.

4.17 FIELD COATING TEST

This test is used at the project site to determine:

- The ability of an asphalt emulsion to coat the job aggregate.
- The ability of the emulsion to withstand mixing.
- The water resistance of the emulsion-coated aggregate.

Measured amounts of the job aggregate and job emulsion are hand mixed. The ability of the emulsion to remain as a coating during a five-minute cycle is observed. The resistance of the coating to wash-off is determined by repeated filling with water and emptying a container of the

coated aggregate five times. The coating of the aggregate is visually rated as good, fair, or poor. A rating of good means that the aggregate is fully coated (except for pinholes and sharp edges). A rating of fair indicates an excess of coated over uncoated aggregate area. A rating of poor indicates an excess of uncoated aggregate over coated area.

4.18 WEIGHT PER GALLON

This test is used to determine the weight per gallon (litre) of asphalt emulsion. This unit weight is computed by finding the weight of an asphalt emulsion in a standard measure of known volume. Results are reported in pounds per gallon (kilograms per litre) to the nearest 0.01 lb (0.005 kg) at 77°F (25°C).

4.19 SPECIFIC GRAVITY

Finding the specific gravity of asphalt cement is not normally a specification item. It can be helpful, however, in making volume corrections at elevated temperatures and determining necessary quantities. Asphalt cements fall within a specific gravity range of about 1.0 to 1.05. This means that they weigh 1.0 to 1.05 times as much as the same volume of water under the same test conditions. The specific gravity is usually determined with a pycnometer.

4.20 SPECIAL TEST — ZETA POTENTIAL

The measurement of zeta potential is a relatively new test for evaluating asphalt emulsions and is not an AASHTO or ASTM test. It measures stability in a colloid system with a laboratory device known as a zeta meter. The zeta meter measures the speed of movement of individual asphalt droplets of an emulsion that is placed in an electrical field. This test has particular value in evaluating cationic emulsions. The level of zeta potential is a general indication of the setting characteristics of the emulsion.

PART TWO:

USING ASPHALT EMULSIONS

CHAPTER V

SELECTING THE RIGHT TYPE OF ASPHALT EMULSION

5.01 GENERAL

Asphalt emulsions can be used for almost any purpose for which cutback asphalts are used. Furthermore, they have a broader range of uses that include many not suited to cutbacks. That does not mean that they can be used indiscriminately. Successful performance of asphalt emulsions requires selecting the proper type for the intended use. Guidelines presented in this chapter should help select the specific grade and type of emulsion to be used.

5.02 CONSIDERATIONS FOR SELECTION

The first consideration in picking the right type of emulsion is the type of construction in which it will be used. Is it a seal coat or a plant mix (central or mixed-in-place)? Is it some type of surface application only? Is it for maintenance? Once this decision is made other project variables must then be considered. Some other factors that affect the selection are:

— Climatic conditions anticipated during construction: The selection of emulsion grade, design of mix or treatment, and construction equipment depend upon this factor.

— Aggregate type and availability.

— Construction equipment availability.

— Geographical location: hauling distance, and in some cases, water availability.

— Traffic control: can traffic be detoured?

— Environmental considerations.

While general guidelines can be given for selecting emulsions, laboratory testing is strongly recommended. There is no good substitute for a laboratory evaluation of the emulsion and the aggregate to be used. Different types and quantities of emulsion should be tried with the aggregate to find the best combination for the intended use. An experienced technician can determine the type and amount of emulsion to be used. He can also determine if additional water must be added, and the amount of time for breaking to occur.

5.03 GENERAL USES

Each grade of asphalt emulsion is designed for specific uses. They are described in general terms in the following paragraphs.

— *Rapid-Setting Emulsions:*
The rapid-setting grades are designed to react quickly with aggregate and revert from the emulsion state to asphalt. The RS grades produce a relatively heavy film. They are

used primarily for spray applications, such as aggregate (chip) seals, sand seals, surface treatments, and asphalt penetration macadam. The RS-2 and CRS-2 grades have high viscosities to prevent runoff.

— *Medium-Setting Emulsions:*

The medium-setting grades are designed for mixing with coarse aggregate. Because these grades do not break immediately upon contact with aggregate, mixes using them remain workable for a few minutes. They are used extensively in travel plants. The CMS grades have high viscosities to prevent runoff.

A newly standardized type of medium-setting asphalt emulsion, identified as high float, is anionic in nature. The major difference between this emulsion and the conventional medium-setting type is the high float characteristic, measured on the asphalt residue by the Float Test, AASHTO T 50 or ASTM D 139. It reportedly gives better aggregate coating and asphalt retention under extreme temperature conditions. While regular asphalts have a tendency to flow, or migrate, at about 140°F (60°C), the high float residues are designed to stay in place up to about 160°F (71°C). Therefore, high float residues are less susceptible to changes in temperature. They soften less in summer and do not harden as much in winter.

In 1977, the American Society for Testing and Materials standardized three types of high-float emulsions — HFMS-1, HFMS-2, and HFMS-2h. Their specifications are contained in ASTM D 977 (see Table II-1).

— *Slow-Setting Emulsions:*

The slow-setting grades are designed for maximum mixing stability. They are used with high fines content, dense-graded aggregates. The SS grades have long workability times to ensure good mixing with dense-graded aggregates. All slow-setting grades have low viscosities that can be further reduced by adding water. These grades, when diluted, can also be used for tack coats, fog seals, and dust palliatives. The SS type of emulsion depends entirely upon evaporation of the water for coalescence of the asphalt particles. If a faster setting rate is needed in mixtures, portland cement or hydrated lime can be added. The SS emulsions are generally used for dense-graded aggregate-emulsion bases, soil-asphalt stabilization, asphalt surface mixes, and slurry seals.

Table V-1 shows the general uses of standard emulsion types and grades.

5.04 ADHESIVE PROPERTIES

Success with any aggregate-emulsion combination depends greatly on the electrical surface charges of the asphalt droplets and the aggregate. The probability of good adhesion is diminished if the charges are similar. Conversely, the probability of good adhesion is greatly improved if the charges are different. The predominating charge on the aggregate surface determines whether anionic or cationic emulsion will produce the best results. The only way to be sure is to test in the laboratory.

5.05 GUIDELINES FOR SELECTION

In summary, success with any type of asphalt emulsion system is best ensured by adherence to each of the following steps:

1. Laboratory testing using the actual aggregate and emulsion that is to be used on the project.
2. Selection of grades in conformance with Table V-1 and Article 5.02. Table V-2 may be helpful also.
3. Strict adherence to the specifications and guides for usage.
4. Careful handling of the emulsion to prevent contamination, settlement of the asphalt droplets, or premature coalescence.
5. Consultation with the emulsion manufacturer's representative when special or unusual problems occur.

Asphalt emulsions as an alternative for use in paving and maintenance operations are now a reality. Following proper procedures will produce a system that should provide a high level of service.

TABLE V-1 GENERAL USES OF EMULSIFIED ASPHALT

ASTM D 3628

NOTE—Only those grades of emulsified asphalt in general use have been indicated herein. It is possible that under certain variations of aggregates, or climatic conditions, or both, additional selections might be appropriate. Where the use of emulsified asphalt for applications other than those listed in the table are contemplated, the emulsion supplier should be consulted.

Type of Construction[A]	Specification D 977							Specification D 2397 (Cationic)					
	RS-1	RS-2	MS-1, HFMS-1	MS-2, HFMS-2	MS-2h, HFMS-2h	SS-1	SS-1h	CRS-1	CRS-2	CMS-2	CMS-2h	CSS-1	CSS-1h
Bituminous-aggregate mixtures:													
For pavement bases and surfaces:													
Plant mix (hot) (D 3515)	...	...	...	...	X[B]	...	...	...	...	...	...	...	...
Plant mix (cold)													
Open-graded aggregate	...	...	...	X	X	...	...	...	...	X	X	...	...
Dense-graded aggregate	...	...	...	...	...	X	X	...	...	...	...	X	X
Sand	...	...	...	...	...	X	X	...	...	...	...	X	X
Mixed-in-place:													
Open-graded aggregate	...	...	X	X	X	...	...	...	...	X	X	...	...
Dense-graded aggregate	...	...	...	...	...	X	X	...	...	...	...	X	X
Sand	...	...	...	...	...	X	X	...	...	...	...	X	X
Sandy soil	...	...	...	...	...	X	X	...	...	...	...	X	X
Slurry seal	...	...	...	...	...	X	X	...	...	...	...	X	X
Bituminous-aggregate applications:													
Treatments and seals:													
Single surface treatment (Chip Seal)	X	X	...	...	...	...	..	X	X	...	...	...	...
Multiple surface treatment	X	X	...	...	...	...	...	X	X	...	...	...	...
Sand seal	X	X	X	...	...	...	...	X	X	...	...	...	...
Penetration macadam:													
Large voids	...	X	...	...	...	...	...	...	X	...	...	...	...
Small voids	X	...	...	...	...	...	...	X	...	...	...	...	...
Bituminous applications:													
Fog seal	...	...	X[C]	...		X[D]	X[D]	...	...	...	...	X[D]	X[D]
Prime coat for penetrable surface	...	...	...	...	...	X[D]	X[D]	...	...	...	...	X[D]	X[D]
Tack coat	...	...	X[C]	...	...	X[D]	X[D]	...	...	...	...	X[D]	X[D]
Dust binder	...	...	...	...	...	X[D]	X[D]	...	...	...	...	X[D]	X[D]
Mulch treatment	...	...	...	...	...	X[D]	X[D]	...	...	...	...	X[D]	X[D]
Crack filler	...	...	...	X	X	X	X	...	...	X	X	X	X
Maintenance mix:													
Immediate use	...	...	X	X	X	...	...	...	...	X	X	...	...

[A] For definitions of terms used in this table, refer to Section 3.

[B] Specification D 3515 permits the use of other emulsion grades by note, "Grades of emulsion other than MS-2h may be used where experience has shown that they give satisfactory performance."

[C] Diluted with water by the manufacturer.

[D] Diluted with water.

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TABLE V-2 EMULSIFIED ASPHALT SEAL COATS AND SURFACE TREATMENTS

System	*Description and Uses*	*Emulsified Asphalt*	*Construction Hints*
SAND SEAL	Restores uniform cover. In city street work, improves street sweeping, traffic line visibility. Enriches dry, weathered pavements; reduces raveling.	CRS-1 or RS-1	Spray-applied with sand cover. Roll with pneumatic roller. Avoid excess binder.
CHIP SEAL	Single most important low cost maintenance method. Produces an all-weather surface, renews weathered pavements, improves skid resistance, lane demarcation, seals pavement.	CRS-2 or RS-2	Spray-applied. Many types of textures available. Key to success: Coordinate construction, use hard, bulky grained, clean aggregate, and have properly calibrated spray equipment.
DOUBLE SEAL	Similar to chip seal except the second chip application uses a small sized stone. Durable, provides some leveling, available in a number of textures.	CRS-2 or RS-2	See Chip Seal.
TRIPLE SEAL	Three applications of binder and 3 sizes of chips are applied. Provides up to a 2 cm thick, flexible pavement. Levels as well as providing a seal, tough wearing surface.	CRS-2 or RS-2	Spray-applied in three lifts. Drag broom between lifts to provide leveling.
DRAG SEAL	Low cost method of improving the riding quality of rough pavements. A rain-resistant medium-set emulsified asphalt is applied followed by chips. The pavement is drag-broomed to level spots and depressions. A second application of binder followed by a choke aggregate or sand is applied.	CMS-2	The CMS-2 tolerates more mixing and drag-brooming than the rapid-set emulsions. Use a wetting agent in the steel wheel roller to reduce pickup.
SLURRY SEAL	Used in airport and city street maintenance where loose aggregate cannot be tolerated. Seals, fills minor depressions, provides an easy-to-sweep surface. Made with crushed aggregate mixed with quick-set emulsified asphalt. The liquid slurry is machine-applied with a sled-type box containing a rubber-edged strike-off blade.	QS* grades	Pretest the aggregate and emulsion mix to achieve desired workability, setting rate, and durability. Calibrate equipment prior to starting the project.
CAPE SEAL	Combines a single chip seal with a slurry seal. Provides the rough, knobby surface of a chip seal to reduce hydroplaning yet has a tough sand matrix for durability.	CRS-2 and QS* grades, SS-1, SS-1h, CSS-1, or CSS-1h	Apply a large aggregate single chip seal. Broom and apply slurry seal. Have the strike-off ride on the rock surface to form the matrix.
	Test track data indicate better studded tire damage resistance than a chip seal.		Avoid excess slurry as this destroys the knobby stone texture desired.

**Not Standardized*